



**REGULAR MEETING AGENDA**

**Date:** 11/9/2021  
**Time:** 5:00 p.m.  
**Location:** [Zoom.us/join](https://zoom.us/join) – ID# 998 8073 4930

**NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE**

Consistent with Government Code section 54953(e), and in light of the declared state of emergency, the meeting will not be physically open to the public and all members will be teleconferencing into the meeting via a virtual platform. To maximize public safety while still maintaining transparency and public access, members of the public can listen to the meeting and participate using the following methods.

- How to participate in the meeting
  - Submit a written comment online up to 1-hour before the meeting start time:  
[jaherren@menlopark.org](mailto:jaherren@menlopark.org) \*  
Please include the agenda item number you are commenting on.
  - Access the meeting real-time online at:  
[Zoom.us/join](https://zoom.us/join) – Meeting ID 998 8073 4930
  - Access the meeting real-time via telephone at:  
(669) 900-6833  
Meeting ID 998 8073 4930  
Press \*9 to raise hand to speak

\*Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.

- Watch meeting:
  - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:  
Channel 26
  - Online:  
[menlopark.org/streaming](https://menlopark.org/streaming)

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website [www.menlopark.org](http://www.menlopark.org). The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information ([menlopark.org/agenda](https://menlopark.org/agenda)).

According to City Council policy, all 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.

**Closed Session ([Zoom.us/join](https://zoom.us/join) – ID# 998 8073 4930)**

**A. Call To Order**

**B. Roll Call**

**C. Agenda Review**

Agenda Review provides advance notice to members of the public and City staff of any modifications to the agenda order and any requests from City Councilmembers under City Councilmember reports.

**D. Closed Session**

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

D1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Case number: 21-CIV-01717

D2. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9: (One case)

**E. Adjournment**

**Regular Session ([Zoom.us/join](https://zoom.us/join) – ID# 998 8073 4930)**

**F. Call To Order**

**G. Roll Call**

**H. Report from Closed Session**

**I. Presentations and Proclamations**

I1. Proclamation: Recognizing United Against Hate Week November 14 – 20, 2021 ([Attachment](#))

I2. Proclamation: Recognizing November 2021 as National American Indian Heritage Month ([Attachment](#))

I3. Proclamation: Recognizing Ruby Bridges Walk to School Day as November 17, 2021 ([Attachment](#))

I4. Presentation: Independent Redistricting Commission update ([Presentation](#))

**J. Study Session**

J1. Provide direction on Federal Emergency Management Agency Building Resilient Infrastructure and Communities grant opportunity to fund a portion of the Strategy To Advance Flood Protection, Ecosystems And Recreation along the San Francisco Bay project ([Staff Report #21-218-CC](#)) ([Presentation](#))

- J2. Provide direction on the use of below market rate housing funds for MidPen Housing, Inc. to create a community land trust as part of their proposed request of \$3.6 million to build 12 ownership units at 335 Pierce Road ([Staff Report #21-219-CC](#)) ([Presentation](#))

[Web form public comment on item J2.](#)

## **K. Public Comment**

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

## **L. Consent Calendar**

- L1. Accept the City Council meeting minutes for October 12 and 26, 2021 ([Attachment](#))
- L2. Adopt Resolution No. 6684 modifying the remainder of the 2021 City Council’s regular meeting start time to 7 p.m. ([Staff Report #21-215-CC](#))
- L3. Library Commission work plan 2021-2022 ([Staff Report #21-217-CC](#))
- L4. Adopt Resolution No. 6685, adopting amendments to Resolution No. 6682 to continue conducting the City’s Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings ([Staff Report #21-220-CC](#))

## **Recess**

## **M. Regular Business**

- M1. Introduction of Ordinance No. 1079 repealing Chapter 7.04 [Garbage and Rubbish Disposal] of Title 7 [Health and Sanitation] and enacting Chapter 7.04 [Solid Waste, Recyclables, and Organic Waste Disposal] ([Staff Report #21-216-CC](#)) ([Presentation](#))

## **N. Informational Items**

- N1. City Council agenda topics: November - December 7, 2021 ([Staff Report #21-214-CC](#))

## **O. City Manager's Report**

## **P. City Councilmember Reports**

## **Q. 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 by request by emailing the city clerk at [jaherren@menlopark.org](mailto:jaherren@menlopark.org). 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: 11/4/2021)

# United Against Hate Week November 14-21, 2021

**WHEREAS**, the United States is a nation of immigrants, whose strength comes from its diversity; and

**WHEREAS**, the Constitution enshrines equality on all individuals, regardless of race, gender, religion, or political views; and

**WHEREAS**, across the United States there exists alarming and frequent displays of hatred, as well as divisive and discriminatory rhetoric, which serve to deepen divisions and normalize hateful and racist discourse and other bigoted views by emboldened hate groups and individuals; and

**WHEREAS**, education, compassion, and cooperation are key to unlocking understanding and embracing differences between people; and

**WHEREAS**, the City of Menlo Park is committed to promoting tolerance, equity, and inclusion where it comes to respectful discourse, quality of life, representation, and access to resources for all residents and community members; and

**WHEREAS**, the City of Menlo Park seeks to join other Bay Area, California and communities across the country in this United Against Hate Week as an important step in bridging divisions, declaring our commitment to inclusivity, and strengthening our communities; and

**NOW THEREFORE, BE IT RESOLVED** that I, Drew Combs, Mayor of the City of Menlo Park, on behalf of the City Council and the City, do hereby proclaim November 14-21, 2021 as "United Against Hate Week."

DocuSigned by:

*Drew Combs*

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Drew Combs, Mayor  
November 9, 2021

# Proclaiming November 2021 as National American Indian Heritage Month

**WHEREAS**, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

**WHEREAS**, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

**WHEREAS**, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

**WHEREAS**, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November, as National American Indian Heritage Month; and

**WHEREAS**, in honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational, and historical activities have been planned; and

**NOW THEREFORE, BE IT RESOLVED** that I, Drew Combs, Mayor of the City of Menlo Park, on behalf of the City Council and the City, do hereby proclaim November 2021 as "American Indian Heritage Month."

DocuSigned by:

*Drew Combs*

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Drew Combs, Mayor  
November 9, 2021

# Proclaiming November 17, 2021 as Ruby Bridges Walk to School Day

**WHEREAS**, Ruby Bridges is an icon of the American civil rights movement who at the age of six years old in 1960, became the youngest member to integrate public schools in the American South; and

**WHEREAS**, segregation continued to exist in various states despite the Supreme Court of the United States' 1954 ruling in *Brown v. Board of Education* barring any state laws allowing racial segregation in public schools; and

**WHEREAS**, Ruby Bridges was the lone student of her group of African-American students to integrate William Frantz Elementary School in the City of New Orleans on November 14, 1960, being escorted by four federal agents while bravely walking amongst protesters full of vitriol; and

**WHEREAS**, the San Mateo County Board of Education adopted a resolution in 2019 that November 14, or the following Wednesday should it fall on a weekend, be henceforth annually known as Ruby Bridges Walk to School Day in the County of San Mateo to celebrate the spirit of inclusivity; and

**WHEREAS**, the California State Senate adopted a resolution in 2021 that November 14, or the following Wednesday should it fall on a weekend, be henceforth annually known as Ruby Bridges Walk to School Day in the State of California to recognize Ruby Bridges' role in the civil rights movement; and

**WHEREAS**, the City of Menlo Park Safe Routes to School program encourages children to bicycle and walk to school to develop life-long skills and independence in their community; and

**WHEREAS**, the City of Menlo Park will participate in its third annual Ruby Bridges Walk to School Day, partnering with local schools and the community in promoting walking to school and inclusive communities.


**NOW THEREFORE, BE IT PROCLAIMED** that I, Drew Combs, Mayor of the City of Menlo Park, on behalf of the City Council, do hereby proclaim Wednesday, November 17, 2021 as Ruby Bridges Walk to School Day in the City of Menlo Park.

DocuSigned by:

*Drew Combs*


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Drew Combs, Mayor  
November 9, 2021



# Independent Redistricting Commission (IRC)

Presentation – November 9, 2021







## IRC formation

- City Council Resolution No. 6659
- Initial actions
  - 15 applications received
  - Applicants attested to compliance with all criteria in Resolution No. 6659, Section 7 “qualifications and restrictions”
  - November 4 – City Clerk randomly selected first 3 Commissioners: Caio Arellano, Brian Gilmer, Dave Wolter
- Next actions
  - 3 Commissioners conduction interviews this week with remaining 12 applicants
  - November 18 – Commissioners Arellano, Gilmer, and Wolter select 4 additional IRC commissioners and 2 alternates
  - Commission orientation and governance procedures





## Selection process

November 18 – Public meeting to select additional 4 commissioners and 2 alternate commissioners considering:

- Competency
- Impartiality and non-partisan
- Familiarity with neighborhoods
- Appreciation of diverse demographics
- Ability to work cooperatively
- Relevant civic or volunteer activities





## First business meeting – November 18

- Select 4 commissioners and 2 alternates
- Select chair and vice chair
- Adopt administrative procedures
  - Meeting conduct
  - Media relations
  - Financial and internal controls
- Adopt regular meeting schedule
  - Adopt tentative community meeting and public hearing dates
- Training
  - Brown Act
  - Public Records Act
  - Public Reform Act
  - AB 1234 ethics training (online course avail.)
  - SB 1343 preventing sexual harassment and abusive conduct in the workplace (online course avail.)





## Second business meeting – December 9 (tentative)

- Demographer presentation
- Mapping tool
- Timelines and milestones
- Public engagement





## More information

- [menlopark.org/redistricting](https://menlopark.org/redistricting)
- [menlopark.org/notifyme](https://menlopark.org/notifyme)





**THANK YOU**



**STAFF REPORT**

**City Council**

**Meeting Date:**

**11/9/2021**

**Staff Report Number:**

**21-218-CC**

**Study Session:**

**Provide direction on Federal Emergency Management Agency Building Resilient Infrastructure and Communities grant opportunity to fund a portion of the Strategy To Advance Flood Protection, Ecosystems And Recreation along the San Francisco Bay project**

**Recommendation**

Staff recommends that the City Council provide direction on a grant opportunity from the Federal Emergency Management Agency (FEMA) Building Resilient Infrastructure and Communities (BRIC) program for a portion of the Strategy to Advance Flood protection, Ecosystems and Recreation along the San Francisco Bay (SAFER Bay) project, including:

- Confirm the City's role and responsibilities as the grant applicant and project lead;
- Direct staff to return with a resolution accepting the grant funds and a memorandum of understanding between the project partners documenting roles, responsibilities and obligations;
- Direct staff to return during the midyear budget review with a request for anticipated resource needs including the addition of a provisional, full-time employee for an initial three-year term; and
- Direct staff to return with options during the fiscal year 2022-23 budget process for the project to maintain positive cash flow while awaiting receipt of FEMA grant reimbursements.

**Policy Issues**

This project is a portion of SAFER Bay, which is consistent with land use element goal LU-7, "promote the implementation and maintenance of sustainable development, facilities and services to meet the needs of Menlo Park's residents, businesses, workers and visitors." The SAFER Bay project is specifically identified as program LU-7.G, "coordinate with the SAFER Bay process to ensure that the Menlo Park community's objectives for sea level rise/flood protection, ecosystem enhancement, and recreational trails are adequately taken into consideration." This project is also consistent with the City's adopted 2030 climate action plan action item No. 6 to develop a climate action adaptation plan to protect the community from sea level rise and flooding, and was included in the City Council's 2021 work plan.

**Background**

SAFER Bay feasibility report and other planning studies

In 2016, the San Francisquito Creek Joint Powers Authority (SFCJPA) lead the development of a feasibility report to assess alternatives for flood and sea level rise protection along the Menlo Park and East Palo Alto shorelines, SAFER Bay (Attachment A.) Menlo Park alone has approximately 7.1 miles of San Francisco Bay shoreline that will require flood mitigation measures in order to provide tidal flood protection to all residents and businesses within the City north of Highway 101. Once the overall SAFER Bay project is completed, it is anticipated that a substantial portion of the Bayfront area will be eligible for removal from the

## FEMA 100-year coastal flood maps.

In 2019, the project area was expanded into Santa Clara County to include the Palo Alto shoreline. The design criteria identified in SAFER Bay includes protection from a FEMA 100-year water and wave event (an event that has a one percent annual chance of occurring), plus approximately three feet of tidal elevation to account for sea level rise with a margin of safety known as freeboard. In total, these criteria represent an elevation approximately 10 feet above today's daily high tide. The project is divided into 11 geographic areas, called "levee reaches" or simply "reaches." A map of the "reaches" is included in Attachment B.

The feasibility report identifies options for each "reach" including engineered and natural features, such as levees (traditional and ecotone), flood walls, flood gates, and habitat enhancements and restoration along the shoreline. In total, the project will create approximately 31 acres of tidal marsh transition zone on the bayside slopes of flood control levees and create long-term, resilient, high-quality habitat and enhance approximately five acres of western snowy plover breeding habitat by placing oyster shells within Pond R3 in the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge.) Additional benefits could include expanded recreational access to the established Menlo Park and East Palo Alto Baylands priority conservation area by an increase in the length of existing Bay Trail segments, as well as allow for work to commence on restoring natural tidal activity to ponds R1/R2 in the Refuge.

In addition to SAFER Bay, the Metropolitan Transportation Commission, Bay Area Regional Collaborative, OneShoreline, the SFCJPA, the cities of Menlo Park and East Palo Alto, and many other stakeholders have collaborated on subsequent efforts to advance sea level rise protection and resiliency. Such related projects along the San Francisco Bay shoreline are summarized further and presented on a map linked in Attachment C.

### FEMA BRIC grant opportunity

The FEMA BRIC program offers up to \$50 million of federal funds for projects that reduce risks from disasters and natural hazards. The program requires that grant applications come from eligible government agencies (such as local governments) and that applicants provide a minimum of 25 percent of the total project expenses, known as local match funds.

In fall 2020, the City, the SFCJPA, PG&E and Meta (formerly Facebook) began collaborating to pursue an application to the FEMA BRIC grant program. The scope of the project includes funding for public outreach, design, environmental documentation, permitting, and construction for a portion of the SAFER Bay project within Menlo Park, from approximately the north side of the Dumbarton Bridge to the southeast side of Bedwell Bayfront Park. This area corresponds to "reaches" 3 and 4, as well as to portions of "reaches" 2 and 5, in the SAFER Bay feasibility report, representing approximately 3.7 miles (or 52 percent of the total shoreline distance in Menlo Park.)

PG&E's Ravenswood Substation, a transmission-level electrical substation, is located within this portion of the Menlo Park shoreline along the north side of State Route 84 near the western approach to Dumbarton Bridge. PG&E has committed \$10 million of local match funding for the project (Attachment D.) PG&E's Ravenswood Substation is part of critical power supply infrastructure providing electricity to portions of eight cities, including Menlo Park, serving approximately 300,000 residents within the Substation's service area. If flooded, the substation must be de-energized until floodwaters recede, and repair and maintenance activities must be completed before re-energizing the substation, which could take several days in a major storm event. The geographic area served by the Ravenswood Substation that would benefit from resiliency of electricity supply is shown in Attachment E and generally extends from Palo Alto to San Mateo. Meta's Classic Campus located at 1 Hacker Way is also within this portion of the Menlo Park shoreline on the



bayside of State Route 84. Meta committed to provide up to \$7.808 million in additional local match funding (Attachment F.)

In total, the \$17.808 million in committed funds from PG&E and Meta as a local match allows the City to access the maximum \$50 million in federal funds for an application from the FEMA BRIC program resulting in a total project cost of \$67.808 million. This represents over 50 percent of the funds needed to implement the entire SAFER Bay project in Menlo Park and East Palo Alto, with a total cost estimate of approximately \$130 million. A two-page summary of the project is included as Attachment G.

Major milestones in the development, application and award of grant funds to date include:

- November 2020 – City Council received a project summary and an update on the development of the grant application. City Council authorized a project letter of support on behalf of the City (Attachment H.)
- December 2020 – City submitted the grant application package to the California Office of Emergency Services (Cal OES) for review.
- February 2021 – Cal OES informed the City that they had reviewed the project grant application and determined it was eligible for submission to FEMA for review and funding consideration.
- July 2021 – Cal OES informed the City that FEMA had selected the Menlo Park SAFER Bay project for further review. Based on published FEMA guidance, an application selected for further review “*is eligible (or potentially eligible pending some additional information) and there is available funding under the applicable subtotals.*” In other words, of the \$500 million allocated for all proposed BRIC projects nationwide, \$50 million is available for the Menlo Park SAFER Bay project pending further review. This is not a guarantee of receiving the funding, but it is a significant milestone in the process.
- October 2021 – The City received its first request for information from FEMA via Cal OES, due on November 17. Based on experience with other recent FEMA grants, staff anticipates several requests for clarifying and/or supplemental information prior to an official commitment of funds from FEMA. In general, if responses to the requests are satisfactory, the application is more likely to be awarded funds.

## Analysis

### City role and responsibilities

The City, as the applicant to FEMA, would be required to administer the project and ensure that grant requirements are completed satisfactorily. In assuming this role, the City’s responsibilities would include:

- Lead role in preparation of the project-level environmental documents
- Oversee design, construction, and operations and maintenance responsibilities, including holding the contracts for design and construction
- Lead, in collaboration with SFCJPA, acquisition of certain property rights, such as temporary construction and access easements needed to construct and operate and maintain the project
- Project management, oversight, and grant administration

Staff is seeking City Council confirmation on the City’s lead role in this portion of the SAFER Bay project within Menlo Park and the FEMA BRIC grant opportunity. Pending City Council direction, staff would return to City Council with a resolution authorizing the City to accept the FEMA BRIC funds, if awarded, and designate a primary point of contact, and confirming the City’s role to lead the project.

### Memorandum of understanding

In order to document the project purpose and the roles and responsibilities of each partner, a memorandum of understanding (MOU) between the parties has been drafted (Attachment I.) The MOU also formalizes the funding commitments to the project by PG&E and Meta, according to the letters of commitment

(Attachments D and F) each partner prepared prior to the City’s submitting the grant application. Since the City is reliant on outside funding sources to meet its local match funding obligation, the MOU should be approved and executed before accepting any federal grant award.

Key topics covered in the MOU are summarized in Table 1.

| Table 1: Summary of key MOU provisions |  |
|--|--|
| Section                                | Summary  |
| 3. Effectiveness                       | MOU would become effective upon (i) execution by all parties and (ii) City receives notification from FEMA of BRIC grant funding award. If FEMA BRIC grant funds are not awarded prior to October 1, 2024, each party may withdraw from the agreement.   |
| 4. General role of each party          | The City would be the lead for most aspects of the project. The SFCJPA would provide technical support in coordination with the overall SAFER Bay project. PG&E and Meta would contribute funds, as previously committed, and provide design input about project elements adjacent to their facilities.  |
| 6. Funding, budgeting and cash flow    | Commits PG&E and Meta’s contributions to the project, with 20 percent of the matching funds due once the MOU becomes effective. This initial contribution would be used to advance the initial design and environmental tasks. Since the FEMA grant reimburses the City for expenses on a quarterly basis, obtaining reimbursement can take up to six months, so maintaining a fund balance is needed to keep the project advancing while FEMA processes reimbursements. Partners would make pro-rata contributions throughout the design phase, with the balance of contributions due at the beginning of project construction. The project cash flow and impacts are discussed further below |
| 12. Operations and maintenance         | Establishes the City’s role in long-term operations and maintenance, for which a plan must be in place prior to awarding a construction contract. Potential long-term operations and maintenance could include strategies such as an assessment district for properties that benefit from the improvements, a community facilities district, a property tax measure, the City’s Bayfront Mitigation fund, or partnering with other regional stakeholders, such as OneShoreline, with a role in flood protection and sea level rise resiliency.   |

Staff is seeking City Council feedback on the draft MOU and direction to return at a future meeting with the MOU for approval. Currently, staff anticipates returning for approval of the MOU in late January 2022.

Resource needs

A project of this complexity, size and scope will require adequate project management resources to ensure its successful completion. Staff has analyzed two options for project management resources: 1) consultant contract resources and 2) additional staffing. Staff reached out to professional services firms with which the City has master agreements for engineering services and project management support in summer and fall 2021 to inquire about a potential contract project manager assigned to support this project. No current firms with master agreements with the City had the necessary skills, expertise, and available resources to assist. Further, some firms expressed concerns that assisting with project management tasks under contract with the City would preclude them from pursuing the design or future professional services contracts for this project based on conflict of interest regulations.

A second option analyzed to provide project management resources was for a provisional staff position for a term commensurate with the anticipated duration of the project. Staff recommends this option, for the following reasons:

- Development of working relationships with key project partners, community members, permit agencies, other city departments, and stakeholders is critical to the success of a project of this scale.

- As the project begins design, permitting and environmental clearance and then advances to construction, it is expected to require a full-time person to be assigned to manage the work and needed coordination.
- The City's recent experience securing and delivering a project under a related FEMA program, the hazard mitigation grant program for the Chrysler pump station reconstruction, have shown the level of effort and complexity required for grant administration under these programs.

Currently, the project is anticipated to be a five-year effort to complete design, permitting and construction. Staff recommends the City Council consider the addition of a provisional full-time position. At this time, staff recommends the position be for an initial three-year term, which would translate to the project initiation, design, environmental clearance and the development of a firmer project construction schedule once FEMA grant funds are committed to the project. As the project progresses, the term of the provisional position could be extended annually commensurate with the project schedule and construction activity during the City Council's annual budget review and approval.

Staff is seeking City Council direction to return with a staffing request for a provisional, full-time employee for an initial three-year term, to be considered for extension annually thereafter until project completion. Staff would return with this request as part of the mid-year 2021-22 budget review, currently anticipated in December, if directed by the City Council.

#### Cash flow

Section 6 of the draft MOU between the project partners outlines the timing of required contributions of the local matching funds from PG&E and Meta. As noted above, FEMA grants reimburse the City for expenses on a quarterly basis and obtaining reimbursement can take at least six months. Therefore, managing the project's cash flow is an important component of delivering a project of this scale. In short, the City must keep enough funding on hand to continue to pay its monthly invoices for professional services and construction activities while awaiting reimbursements from FEMA on past expenditures. The MOU commits the funding partners to provide 20 percent of their contributions up-front, at the time the MOU becomes effective, and to make pro-rata contributions during the design and environmental clearance phase of the project. This allows the City to maintain a cash balance of approximately \$1 million during the design and environmental clearance phase in case of further delays in reimbursements or unanticipated expenses.

The balance of the funding partners' contributions would be paid in lump sum at the beginning of construction. This is anticipated to be approximately \$5.5 and \$7.3 million, for Meta and PG&E, respectively. Even with these lump-sum commitments, however, staff anticipates that a significant amount of funding will be needed to ensure a minimum cash flow balance is on-hand during construction. Exhibit D to the MOU provides estimates of the expenditures by quarter during project delivery and the anticipated timing for reimbursement from FEMA. At the peak of construction activity in 2026, a maximum of approximately \$14.7 million is expected to be needed to maintain positive cash flow.

Staff recommends the City Council direct staff to return as part of the fiscal year 2022-23 budget and capital improvement program development to consider potential sources of funds to loan the project to maintain positive cash flow. All funds would be returned to the original source once FEMA grant reimbursement payments are received for the project.

#### Next steps

Table 2 summarizes the proposed schedule and next steps for the project, pending direction from the City Council as part of this agenda item.

| Table 2: Project schedule and next steps  |  |
|---|--|
| Task  | Anticipated schedule   |
| Staff responds to request for information #1 from FEMA on grant application                     | Due November 17, 2021  |
| City Council considers mid-year budget review for staffing request                              | Tentatively December 7, 2021   |
| City Council adopts resolution accepting grant funds and authorizes city manager to execute MOU | January 2022   |
| FEMA award letter   | TBD, currently anticipated no sooner than January 2022                     |
| Design, environmental clearance and permitting  | 24 months from FEMA award letter   |
| Procurement/construction contract award   | 6 months from completion of design, environmental clearance and permitting |
| Construction  | 36 months from contract award  |
| Earliest potential construction completion date   | July 2027  |

**Impact on City Resources**

The 2021-22 capital improvement program budget included \$250,000 in funding for the staff time and expenses associated with the initial grant administration and project design development. If awarded grant funding from the FEMA BRIC program, project expenses will be recuperated on a reimbursement basis. As described above, staff recommends additional project management and financial resources will be needed to deliver this project successfully.

**Environmental Review**

The SFCJPA plans to develop a programmatic EIR for the entire SAFER Bay project. If the City is successful in securing grant funding for additional SAFER Bay reaches through this grant opportunity, it may be possible to include a detailed project-level assessment in the SFCJPA’s ongoing effort, depending on timing. Alternatively, a standalone, project-level EIR may be prepared.

**Public Notice**

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

**Attachments**

- A. Hyperlink – SAFER Bay project, including 2016 feasibility report: [sfcjpa.org/safer-bay-project](http://sfcjpa.org/safer-bay-project)
- B. Figure – Menlo Park SAFER Bay reach map
- C. Summary of related sea level rise protection efforts, including hyperlink map: [arcg.is/qnuuq0](http://arcg.is/qnuuq0)
- D. PG&E letter of funding commitment
- E. Figure - PG&E Ravenswood Substation outage map
- F. Meta (formerly Facebook) letter of funding commitment

Staff Report #: 21-218-CC

- G. Project summary
- H. Menlo Park letter of support for FEMA BRIC application
- I. Draft MOU between City, SFCJPA, PG&E and Meta

Report prepared by:  
Eric Hinkley, Associate Engineer  
Nikki Nagaya, Public Works Director

Report reviewed by:  
Justin Murphy, Deputy City Manager



SOURCE: ESA, 2021; HDR, 2021; HT Harvey & Associates, 2021; Google Earth, 2021

NOTES: 1. Reaches to be evaluated at a project-level of detail are shown in solid lines; reaches to be evaluated at a program-level of detail are shown as dashed lines.  
 2. While program-level transition zones are indicated, additional areas that are not yet determined will be evaluated in the EIR. This figure does not reflect proposed improvements to western snowy plover habitat in Pond R3.  
 3. Water control structures will affect ecotone levee arrangement. Water control structures are/will be located between Ponds R5 and S5 and S5 and R3.

SAFER Bay Project

**Figure 1**  
 Project Location and Components



November 4, 2021

**To: City Manager Starla Jerome-Robinson  
Deputy City Manager Justin Murphy**  
**From: Associate Engineer Eric Hinkley  
Public Works Director Nikki Nagaya**  
**RE: Summary of current flood protection and sea level rise resiliency  
projects in the Bayfront area**

The purpose of this memo is to summarize the ongoing project activities in the Bayfront area related to flood protection and sea level rise to provide context for the City Council study session scheduled on November 9, related to the SAFER Bay project and potential for a FEMA BRIC grant opportunity.

***One Shoreline (formerly the San Mateo County Flood and Sea Level Rise Resiliency District)***

OneShoreline's mission is to address sea level rise, flooding, coastal erosion, and large-scale stormwater infrastructure improvements through integrated regional planning, design, permitting, project implementation, and long-term operations and maintenance to create a resilient San Mateo County shoreline. The Bayfront Canal and Atherton Channel Flood Protection and Ecosystem Restoration project, for which the District is lead agency, is an example of this multijurisdictional approach to large-scale infrastructure improvements to address flooding. As the organization matures, it is anticipated that it will assist in identifying, prioritizing, and coordinating projects countywide, as well as present a unified approach to flooding and sea level rise that can be leveraged for state and federal funding.

***Related project efforts***

A map summarizing these projects is also available, and project numbers referenced in the memo below correspond with this map: <https://arcg.is/qnuq0>. The portion of SAFER Bay that could be funded by the FEMA BRIC program is project 5 on the map.

***1. Chrysler Stormwater Pump Station improvements***

This is a City capital improvement project to replace the existing pump station, located on Chrysler Drive, with a new facility that will increase the level of service and flood protection from the 10-year to the 100-year storm event. Three new 150 horsepower (HP) pumps are designed with the ability to handle the 100-year storm event and to pump against up to 2 feet of sea level rise. In addition; the new building that will house the pumps will sit 2 feet above the base flood elevation, complying with zoning regulations associated with sea level rise. The project is anticipated to

advertise for bids in fall 2021 and begin construction in mid-2022. This project is partially funded by a \$5 million FEMA Hazard Mitigation Program grant.

## *2. South Bay Salt Pond Restoration*

The South Bay Salt Pond Restoration Project is the largest tidal wetland restoration project on the West Coast. When complete, the restoration will convert 15,100 acres of commercial salt ponds at the south end of San Francisco Bay to a mix of tidal marsh, mudflat and other wetland habitats. In July 2021, the City Council granted a utility easement to the US Fish and Wildlife Service across the Bedwell Bayfront Park access road related to this work.

## *6. Dumbarton Bridge West Approach + Adjacent Communities Resilience Study*

The project developed a phased sea level rise adaptation strategy for the west approach of the Dumbarton Bridge and adjacent communities that provides near-term, mid-term, and long-term sea level rise resilience for the critical infrastructure, vulnerable communities, and valuable habitat within the study area. The project was guided by a project management team comprising representatives from MTC, Caltrans, City of East Palo Alto, City of Menlo Park, San Francisquito Creek Joint Powers Authority, Bay Conservation and Development Commission, California Coastal Conservancy, and Bay Area Regional Collaborative. A subsequent grant application for Caltrans Sustainable Planning Grant program funded by SB1 was submitted in fall 2021 to focus on the remaining gap in SAFER Bay, including the Dumbarton Bridge.

## *7. Bayfront Canal and Atherton Channel Flood Protection and Ecosystem Restoration*

This project is a collaboration between the San Mateo County Flood and Sea Level Rise Resiliency District (the lead agency), County of San Mateo, Redwood City, Atherton, and the City and will address chronic flooding in Menlo Park and Redwood City. The flooding is caused by stormwater conveyance issues in Bayfront Canal and Atherton Channel associated with the capacity of the canal during large storm events as well as flow restrictions when tide levels in the Bay are high. The project will construct underground concrete box culverts, across the entrance to Bedwell Bayfront Park, to route excess storm flows from Bayfront Canal and Atherton Channel into managed ponds R5 and S5 of the Refuge, thus providing increased temporary storage capacity for stormwater flows during high tide events. Based on design criteria, the project is anticipated to mitigate flooding for 25-year storm events and below. The project is currently under construction and is anticipated to be completed in 2022.

## *8. East Palo Alto portion of SAFER Bay*

East Palo Alto partnered with the SFCJPA on a grant application for a similar FEMA grant opportunity to construct flood protection levees in East Palo Alto along alignments designated as SAFER Bay reaches 8 and 9, as well as a portion of reach



7. The collaborative effort successfully secured \$17 million in federal funding, with East Palo Alto committing to \$5.5 million in local matching funds. The scope of work includes the development of a programmatic environmental impact report (EIR) for the project alignment. The EIR process is anticipated to begin in early 2021 with construction planned to begin in 2024.



**Debbie Powell**  
Vice President, Asset, Risk Management  
and Community Wildfire Safety Program

77 Beale Street  
San Francisco, CA 94105

November 10, 2020

Dear members of Menlo Park City Council,

PG&E is proud to support the Menlo Park SAFER (Strategy to Advance Flood protection, Ecosystems, and Recreation) Bay Project, which is seeking funding from FEMA's Building Resilient Infrastructure and Communities grant program to build coastal flooding and sea level rise resilience for critical infrastructure and surrounding communities in Menlo Park. The project would protect segments of California State Route 84 and PG&E's Ravenswood Substation, which are anchors for power service and transportation to the area. The project will also increase recreational access to the Bay shoreline; and, by leveraging nature-based design, enable habitat restoration work in sections of the Don Edward San Francisco Bay National Wildlife Refuge. PG&E's support for the project includes funding work needed to complete the FEMA application, including benefit-cost analysis, and a \$10 million commitment if the project wins FEMA federal funding.

California has demonstrated strong leadership in climate mitigation through the state's advancement of policies and technologies that reduce greenhouse gas emissions while fostering innovation and economic growth. The state's recent history also reveals its exposure to climate change hazards—such as wildfires, heat waves, and sea level rise—that are projected to increase in frequency and severity in the coming decades. The Menlo Park SAFER Bay project demonstrates how climate mitigation and adaptation can go hand in hand: nature-based solutions are being utilized to protect critical electric and transportation infrastructure from sea level rise, which in turn will support Menlo Park's and neighboring communities' efforts to meet their Climate Action Plans and decarbonization efforts. Amid projections for increasing electric vehicle usage and building decarbonization, it is imperative for communities to have safe and reliable electric service as a cornerstone of climate action.

The project will also help to fill a growing resiliency gap in California by protecting and engaging with local disadvantaged communities, educating the public about climate change, and creating jobs. Climate change disproportionately impacts disadvantaged communities, and the Menlo Park SAFER Bay project will protect these communities from debilitating flooding and interruptions in critical electric service and transportation access.

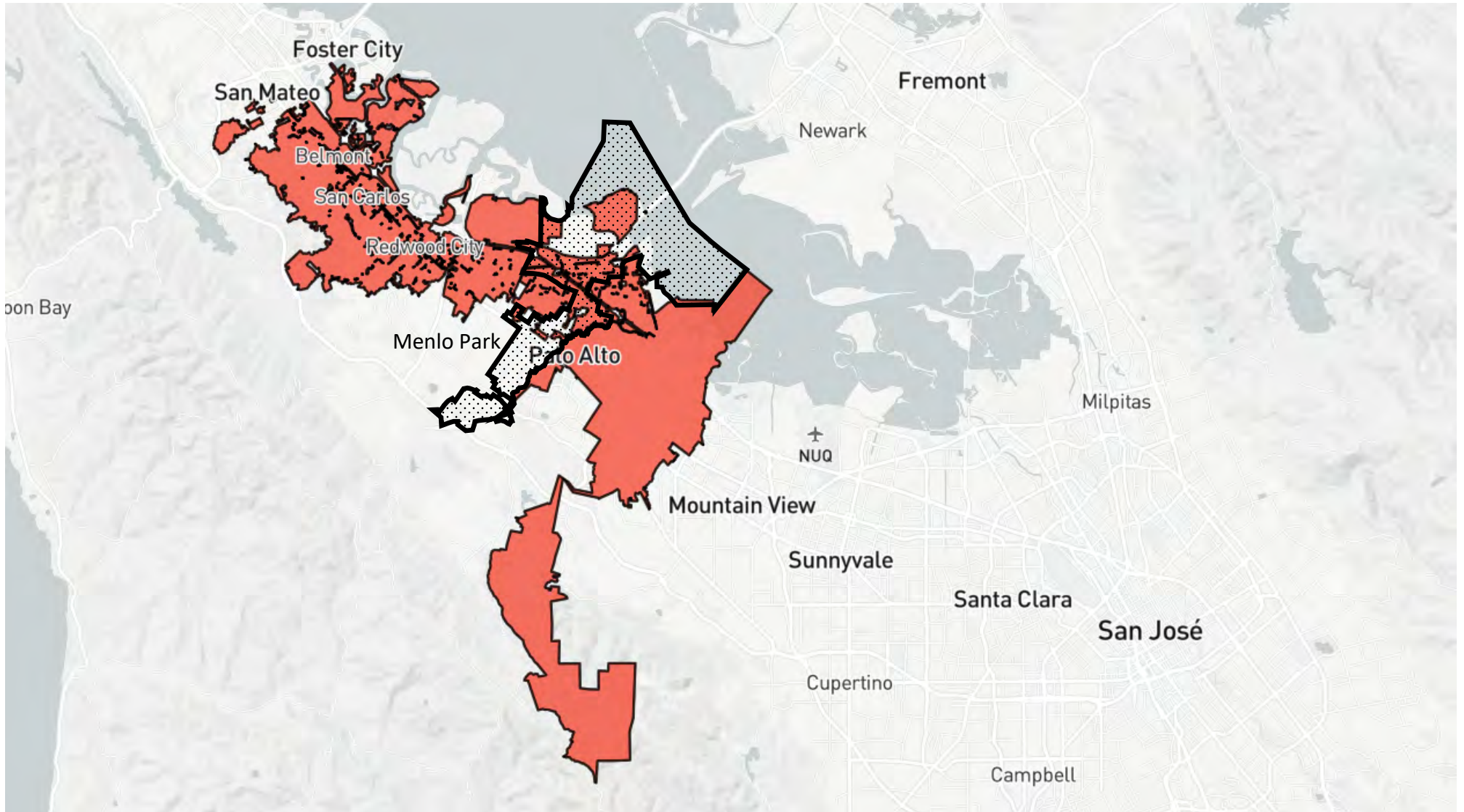
PG&E is proud to be a key project funder and stakeholder and is optimistic that the application will win FEMA funding.

Sincerely,

A handwritten signature in cursive script that reads 'Debbie Powell'.

Debbie Powell  
Vice President, Asset, Risk Management, and Community Wildfire Safety Program

# PG&E Ravenswood Substation - Outage Map



FACEBOOK

1 Hacker Way  
Menlo Park, CA  
94025

December 1, 2020

Dear members of Menlo Park City Council,

Facebook is proud to support the Menlo Park SAFER (Strategy to Advance Flood protection, Ecosystems, and Recreation) Bay Project, which is seeking funding from FEMA's Building Resilient Infrastructure and Communities grant program to build coastal flooding and sea level rise resilience for critical infrastructure and surrounding communities in Menlo Park. The project would protect segments of California State Route 84 and PG&E's Ravenswood Substation, which are anchors for power service and transportation to the area. The project will also increase recreational access to the Bay shoreline and, by leveraging nature-based design, enable habitat restoration work in sections of the Don Edwards San Francisco Bay National Wildlife Refuge. Facebook's support for the project includes funding work needed to complete the FEMA application, including a benefit-cost analysis and \$7.808 million commitment if the project wins FEMA federal funding.

California has demonstrated strong leadership in climate mitigation through the state's advancement of policies and technologies that reduce greenhouse gas emissions, while fostering innovation and economic growth. The state's recent history also reveals its exposure to climate change hazards—such as wildfires, heat waves, and sea level rise—that are projected to increase in frequency and severity in the coming decades. The Menlo Park SAFER Bay project demonstrates how climate mitigation and adaptation can go hand in hand by utilizing nature-based solutions to protect critical electric and transportation infrastructure from sea level rise, which in turn will support Menlo Park's and neighboring communities' efforts to meet their Climate Action Plans and decarbonization efforts. Amid projections for increasing electric vehicle usage and building decarbonization, it is imperative for communities to have safe and reliable electric service as a cornerstone of climate action.

The project will also help to fill a growing resiliency gap in California by protecting and engaging with local disadvantaged communities, educating the public about climate change, and creating jobs. Climate change disproportionately impacts disadvantaged communities, and the Menlo Park SAFER Bay project will protect

these communities from debilitating flooding and interruptions in critical electric service and transportation access.

Facebook is proud to be a key project funder and stakeholder and is optimistic that the application will win FEMA funding.

Sincerely,

Lauren Swezey  
Digitally signed  
by Lauren  
Swezey  
Date: 2020.12.02  
09:55:49 -08'00'

Lauren Swezey  
Sustainability and Landscape Project Lead  
Facebook

FACEBOOK

# Menlo Park SAFER Bay Project

## Partners



## FACEBOOK



The project team includes a cross-section of local partners, including federal, state and local government agencies, non-profits and the private sector.

The team has come together to apply for a competitive, pre-disaster mitigation grant from FEMA to cover up to 75% of the project costs.

## Working together to protect critical infrastructure

The Menlo Park SAFER (Strategy to Advance Flood protection, Ecosystems, and Recreation) Bay Project has applied for a FEMA grant to protect critical infrastructure amid growing threats of climate change. This project represents wide-ranging local, state, and federal interests. If funded, the project will construct a series of levees to protect critical electrical supply infrastructure and advance the ultimate goal of protecting Menlo Park, East Palo Alto, and Palo Alto from projected coastal flooding and sea-level rise. Using nature-based solutions, the levee will allow for habitat restoration of over 550 acres of former salt ponds, and it will increase public recreational access. Construction of the project will also create jobs and engage local communities at every step.



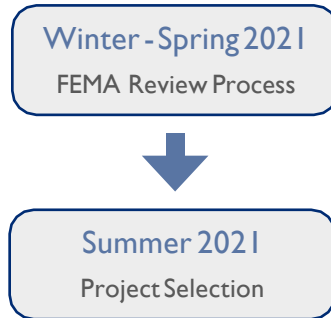
This map shows the complete SAFER Bay project alignment. Highlighted in yellow, the Menlo Park SAFER Bay project will design and construct sea level rise protection for reaches 3 and 4, and portions of reaches 2 and 5.

## To ensure Menlo Park's resilience against sea level rise, this project will:

- Support Menlo Park's climate action plans and local electricity grid by protecting PG&E's Ravenswood Substation.
- Construct extensive portions of the SAFER Bay alignment to advance the ultimate goal of protecting Menlo Park, East Palo Alto, and Palo Alto from coastal flooding and sea level rise.
- Engage local, disadvantaged communities in building climate-smart infrastructure.
- Generate local jobs and economic opportunities as the state prepares for climate adaptation.
- Create needed transition-zone habitat in the San Francisco Bay, and facilitate salt pond restoration goals.
- Enhance public access and create recreational opportunities along the San Francisco Bay shoreline.

# Menlo Park SAFER Bay Project

## Application Timeline



## About FEMA’s grant program

“Building Resilient Infrastructure and Communities” (BRIC) is a new pre-disaster mitigation program administered by FEMA. The BRIC program provides competitive grants to states, local communities, tribes, and territories, to undertake hazard mitigation projects that will increase resilience and disaster preparedness in the context of climate resilience and adaptation. Learn more at [fema.gov/bric](https://fema.gov/bric).

### BRIC seeks to support programs that:

- are cost-effective
- increase resilience and public safety
- reduce injuries and loss of life
- reduce damage and destruction to property, critical services, facilities, and infrastructure.

## Key Criteria for Successful Application

The Menlo Park SAFER Bay Project meets many of the criteria FEMA seeks, including:

### Support the project

Strong outreach and partnership are key qualitative criteria used to assess applications. If you are interested in demonstrating your support for the project or have further questions, please email Eric Hinkley at [EMHinkley@menlopark.org](mailto:EMHinkley@menlopark.org)

| Criterion                               | Project  |
|---|--|
| Infrastructure Project                  | Ecotone and traditional levees   |
| Uses nature-based solutions             | Ecotone levee mimics a natural transition zone that protects habitats and promotes restoration |
| Increased non-federal cost share        | PG&E and Facebook providing up to 26% of costs   |
| Mitigates risk to one or more lifelines | Protects PG&E Ravenswood substation (power)  |
| Provides community-wide benefits        | In addition to protecting infrastructure, provides habitat and recreational benefits           |
| Leverages partners                      | Nine partners representing cross-section of local, state, and federal interests                |



November 30, 2020

Kayed Lakhia  
Director, Hazard Mitigation Assistance Division, Mitigation Directorate  
Federal Insurance and Mitigation Administration  
Federal Emergency Management Agency  
400 C Street, SW.  
Washington, DC 20472

**RE: Support for FEMA BRIC subapplication for Menlo Park SAFER Bay project**

Dear Mr. Lakhia,

As Mayor of Menlo Park, and on behalf of my fellow city council members, I am writing in support of the Menlo Park SAFER Bay project, a Building Resilient Infrastructure and Communities (BRIC) proposal submitted by the City of Menlo Park.

The Menlo Park SAFER (Strategy to Advance Flood protection, Ecosystems, and Recreation) Bay Project is seeking funding from FEMA's BRIC grant program to build mitigation measures that provide increased protection from coastal flooding and resilience to sea level rise for the residents and businesses in Menlo Park and neighboring communities, including our Belle Haven neighborhood which is designated a community of concern by the Metropolitan Transportation Commission. The project would also protect critical infrastructure serving our community, including the Pacific Gas and Electric Company's Ravenswood Substation and segments of California State Route 84, which are Critical Lifelines for power service and transportation to the area. The project will also provide an opportunity for increased recreational access to the Bay shoreline; and, by leveraging nature-based design, enable habitat restoration work in sections of the Don Edwards San Francisco Bay National Wildlife Refuge.

California has demonstrated strong leadership in climate mitigation through the state's advancement of policies and technologies that reduce greenhouse gas emissions while fostering innovation and economic growth. The state's recent history further reveals its exposure to climate change hazards—such as wildfires, heat waves, and sea level rise—that are projected to increase in frequency and severity in the coming decades. The Menlo Park SAFER Bay project demonstrates how climate mitigation and adaptation can go hand in hand: nature-based solutions are being utilized to protect critical electric and transportation infrastructure from sea level rise,



which in turn will support Menlo Park's and neighboring communities' efforts to meet their Climate Action Plans and efforts to attain carbon neutrality. Amid projections for increasing electric vehicle usage and building electrification, it is imperative for communities to have safe and reliable electric service as a cornerstone of climate action.

The project will also help to fill a growing resiliency gap in California by protecting and engaging with local disadvantaged communities, educating the public about climate change, and creating jobs. Climate change disproportionately impacts disadvantaged communities, and the Menlo Park SAFER Bay project will protect these communities from debilitating interruptions in critical electric service and transportation access. This project is a step in the right direction, and we look forward to embarking on the next steps that are necessary to protect all our residential neighborhoods that are subject to risk of sea level rise and coastal flooding. We very much appreciate your consideration of this timely and important proposal and encourage your full support.

Sincerely,

DocuSigned by:  
  
4A373F6C54BE48A...

Cecilia Taylor  
Mayor

## MEMORANDUM OF UNDERSTANDING

**AMONG THE CITY OF MENLO PARK, SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY, PACIFIC GAS AND ELECTRIC COMPANY, AND META PLATFORMS, INC. IN CONNECTION WITH THE MENLO PARK PORTION OF THE SAFER BAY PROJECT**

This MEMORANDUM OF UNDERSTANDING (this **MOU** or **Agreement**) is dated for convenience [REDACTED], 2021, to be effective as of the Effective Date (defined below), among the CITY OF MENLO PARK, a municipal corporation (**Menlo Park** or **City**), the SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY, an entity comprised of the cities of East Palo Alto, Palo Alto, and Menlo Park, the San Mateo County Flooding and Sea Level Resiliency District and the Santa Clara Valley Water District for the purpose of exercising special powers to lead projects that mitigate the risk of flooding along the San Francisquito Creek and the Bay (**SFCJPA** or **JPA**), PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (**PG&E**) and META PLATFORMS, INC., a Delaware corporation (**Meta**) formerly known as Facebook, Inc., individually referred to as a **Party** and collectively referred to as the **Parties** and is for the purpose of collaborating on the Menlo Park portion of the SAFER Bay Project.

## RECITALS

WHEREAS: The SFCJPA has released two Public Draft Feasibility Reports (**Feasibility Studies**) for a Strategy to Advance Flood protection, Ecosystems and Recreation along San Francisco Bay, referred to as the **SAFER Bay Project**; an October 2016 Feasibility Study with respect to portions of the SAFER Bay Project in East Palo Alto and Menlo Park; and a June 2019 Feasibility Study with respect to portions of the SAFER Bay Project in Palo Alto; and

WHEREAS: The Menlo Park portion of the SAFER Bay Project is a portion of the overall SAFER Bay Project in Menlo Park comprised of 3.7 miles of engineered levees and floodwalls that would protect segments of California State Route 84 and PG&E's Ravenswood Substation, which are anchors for power service and transportation to the area, and would include construction of new levees surrounding the Meta classic campus (formerly referred to as the east campus) (**Classic Campus**), along an alignment known as SAFER Bay Reach 4 and along Bayfront Expressway (Reaches 2 and 3) as depicted in the Vicinity Map attached as part of Exhibit A. The Menlo Park portion of the SAFER Bay Project will also increase recreational access to the Bay shoreline; and, by leveraging nature-based design, enable habitat restoration work in sections of the Don Edward San Francisco Bay National Wildlife Refuge; and

WHEREAS: The Parties acknowledge and agree that an overall San Francisco Bay flood control and sea level rise resiliency project is critical to the long term viability of the Parties' and the region's operations and facilities. For example, the networked infrastructure located within and serving residents of the City, which contains roads and highways, electric substations, and wastewater treatment plants that are essential to day-to-day community and economic functions and a complex grid of

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08241-0003

services means that sea level rise could adversely affect regional businesses and residents. Thus, a flooded highway, wastewater treatment plant or electrical substation could temporarily shut-down businesses, close roads and lead to many community wide disruptions; and

WHEREAS: The goals of the Menlo Park SAFER Bay Project include protection of the PG&E Ravenswood Substation, a critical power supply for over 300,000 people, as well as the construction of flood control elements designed to provide a 100-year level of coastal flood protection and 3.5 feet of sea level rise adaptation; and

WHEREAS: In planning the SAFER Bay Project, the Parties recognize the importance of both "mitigation" and "adaptation" as strategies to reduce overall vulnerability to the adverse effects of flooding and sea-level rise; and

WHEREAS: In September 2020, PG&E expressed a desire to plan, design, and construct a flood control and sea level rise resiliency project around PG&E's Ravenswood electrical substation located adjacent to 2005 Willow Road in Menlo Park, corresponding to a portion of Reach 5 identified in the SFCJPA's SAFER Bay Project Feasibility Studies; and

WHEREAS: Menlo Park agreed to assume the role of applicant for the purpose of submitting an application for the Federal Emergency Management Agency (**FEMA**) fiscal year 2020 Building Resilient Infrastructure and Communities (**BRIC**) grant opportunity on behalf of a project for a portion of the overall SAFER BAY Project within Menlo Park (**Menlo Park SAFER Bay Project or Project**); and

WHEREAS: PG&E offered to contribute \$10 million to meet the grant program's 25% minimum local match funding requirement and for flood control and sea level rise resiliency facilities around its Ravenswood electrical substation; and

WHEREAS: The SFCJPA, being familiar with the proposed project scope of work due to developing the SAFER Bay Project Feasibility Study, agreed to become a project partner; and

WHEREAS: Meta offered to contribute an additional \$7.808 million of local match funding to expand the proposed Project scope of work to include measures regarding its approximately 56.9 acre "Classic Campus" (including Buildings 10-19) located at 1 Hacker Way in Menlo Park; and

WHEREAS: The proposed Project scope of work was expanded to include a portion of Reach 2, a portion of Reach 5 and all of Reaches 3 and 4, all as described in the Feasibility Studies; and

WHEREAS: The Parties worked collaboratively to develop a complete Project grant application for submittal to FEMA; and

WHEREAS: On the basis of PG&E and Meta's assurances of their support for the Project, Menlo Park confirmed in the BRIC grant application that it has secured the grant program's 25% minimum local match funding requirement; and

WHEREAS: On January 29, 2021, the Parties received notification that the Menlo Park SAFER Bay Project application was accepted by FEMA for review and funding consideration; and

WHEREAS: On July 2, 2021, the Parties received notification that the Menlo Park SAFER Bay Project application was selected by FEMA for further review; and

WHEREAS: In anticipation of FEMA awarding Menlo Park \$50 Million in BRIC grant funding for the Menlo Park SAFER Bay Project and subject to such award, the Parties wish to enter into this MOU to establish a framework for funding, planning, permitting, designing, constructing, and operating and maintaining the Project.

NOW, THEREFORE, the parties hereby agree as follows:

1. **Definitions.**

Capitalized terms not defined elsewhere in this MOU shall have the following meanings:

**AHJ's** means all federal, state, regional and local authorities having jurisdiction.

**Applicable Laws** mean all applicable federal, state, regional and local statutes, ordinances, laws, rules, regulations, orders and other laws, including without limitation all BRIC grant and AHJ requirements.

**City** is defined in the Preamble.

**Contractor** means any contractor, designer, consultant, supplier, vendor, manufacturer, or other third party hired by any of the Parties to perform any of the services or work in connection with the Project which is paid for, in whole or in part, with any Project funds.

**Council** means the City's City Council.

**Effective Date** is defined in Section 3.

**Meta** is defined in the Preamble.

**O&M** means long-term operations and maintenance of the completed Project.

**Phase** is a Project phase more particularly described in Section 5.

**PG&E** is defined in the Preamble.

**Project EIR** is defined in Section 8.

**Programmatic EIR** is defined in Section 8.

2. **Purpose of MOU.** This MOU establishes a framework for funding, planning, permitting, designing, constructing, and operating and maintaining the Project, and establishes certain contractual obligations concerning, inter alia, commitment to pay promised local matching funds between and among the Parties in connection with the Project.

3

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3. **Effectiveness.** This MOU is effective (**Effective Date**) immediately upon mutual execution by all Parties. The obligations of this MOU (with the exception of this Effectiveness provision) do not become legally enforceable until the date Menlo Park receives assurance adequate to the City Council or its designee and the Parties that an adequate level of FEMA grant funding, currently anticipated to be \$50 million, has been committed to this Project (“Assurance”). If by October 1, 2024, such Assurance has not been received, then at any time thereafter and prior to transmittal of such Assurance, any Party may terminate this Agreement by giving written notice to the other Parties.
4. **General Role of Each Party.** As more specifically described in this MOU, the general roles and responsibilities of each Party for the Project are as follows:
- (a) **Menlo Park.**
    - (i) “Applicant” under the BRIC grant.
    - (ii) “Lead Agency” for the Project EIR.
    - (iii) “Lead” for certain property rights acquisition.
    - (iv) “Lead” for Project design and construction, including being the “Owner” (i.e., holder) of the Project consulting, design, and construction contracts.
    - (v) Subject to Section 12, responsibility for long-term Project O&M.
  - (b) **SFCJPA.**
    - (i) Provide technical support to Menlo Park under the BRIC application.
    - (ii) “Lead Agency” for the Programmatic EIR.
    - (iii) “Lead” for certain property rights acquisition.
  - (c) **PG&E.**
    - (i) Funding supporter of \$10,000,000 when, as, and subject to applicable conditions in this MOU.
    - (ii) Provider of review, comment, input and suggestions (as applicable) to whatever other aspects of the Project around the Ravenswood substation it chooses.
    - (iii) Contributor (without additional cost to the Project and subject to California Public Utilities Commission approval pursuant to a Public Utilities Code Section 851 process,) of all mutually agreed upon, reasonably required and operationally feasible rights to Ravenswood electrical substation lands required for the Project facilities to be constructed, operated and maintained on Ravenswood substation land, so long as the easements and rights of access do not adversely impact PG&E’s operations, in PG&E’s reasonable discretion. Land rights are currently anticipated to be mutually

agreed upon easements or rights of entry and/or access for levees – contingent / predicated upon environmental review / preliminary designs. This clause presumes the existing levee will remain in relatively the same position to protect the Ravenswood electrical substation and enable restoration. However, ecotone and t-zone area may be moved off of PG&E property at the discretion of Saltpond Project Management Team and Refuge, so long as this new location protects the Ravenswood Substation.

- (iv) Following Project completion (i.e., during the O&M phase), having the same rights and responsibilities of any other private landowner within the Project area, e.g., in the event a special assessment district is formed, PG&E will be treated in the same manner as other property owners within the special assessment district.
- (v) The obligations of this subsection will survive any withdrawal from this MOU by PG&E as long as the Project proceeds, except that the obligations of this subsection will not survive if this Agreement is terminated pursuant to Section 3.

(d) Meta.

- (i) Funding supporter of \$7,808,000 when, as, and subject to applicable conditions in this MOU.
- (ii) Provider of review, comment, input and suggestions (as applicable) to whatever other aspects of the Project it chooses. Meta will not, however, have any obligation to provide any review, comment, input or suggestions.
- (iii) Contributor (without additional cost to the Project) of incidental easements, licenses, and/or rights of access over the Classic Campus that are reasonably required for the Project facilities to be constructed, operated and maintained, so long as the easements, licenses, and/or rights of access do not adversely impact Meta's operations, in Meta's reasonable discretion.
- (iv) Following Project completion (i.e., during the O&M phase), having the same rights and responsibilities of any other private landowner within the Project area, e.g., in the event a special assessment district is formed, Meta will be treated in the same manner as other property owners within the special assessment district.
- (v) The obligations of this subsection will survive any withdrawal from this MOU by Meta, as long as the Project proceeds, except that the obligations of this subsection will not survive if this Agreement is terminated pursuant to Section 3.

- (e) There remain subjects that the Parties may require further refinement as to their respective responsibilities, as provided in more detail in Section 7 below.

- (f) Nothing in this MOU or the Project will alter or modify any pre-existing obligations of:
  - (i) PG&E to maintain the flood gate/wall in front of its Ravenswood electrical substation; and
  - (ii) Meta for infrastructure on its Classic Campus under its pre-existing conditional development permit with Menlo Park; provided, however, that if the existing levees protecting Classic Campus are made obsolete by the Project, then the City agrees to cooperate with Meta to remove its obligation under the conditional development permit for the Classic Campus to maintain the existing levees.

In the event of any conflict between any provision of this Section 4 and any other provision of this MOU, the provisions of this Section 4 will control.

**5. Project Description and Phases.**

- (a) The current Project description is attached as Exhibit A. Exhibit A will be revised from time to time as provided in this MOU. The Project may not be revised in a manner that adversely impacts Meta's property without Meta's prior written approval or in a manner that adversely impacts PG&E's property without PG&E's prior written approval.
- (b) For planning and budgeting purposes, the Project is expected to proceed in the following general Phases. Phases may run concurrently:
  - (i) Phase 1. Includes generally:
    - (1) CEQA/NEPA.
    - (2) Permitting.
    - (3) Project budgeting.
    - (4) Seeking additional funding sources.
    - (5) Pre-design and preliminary design.
    - (6) Initial property rights acquisition.
    - (7) Initial development of mitigation and monitoring plan.
    - (8) Initial development of O&M-related matters.
  - (ii) Phase 2. Includes generally:
    - (1) Final property rights acquisition.
    - (2) Final design.

- (3) Procurement and construction.
  - (4) Construction phase mitigation and monitoring activities.
  - (5) Final development of O&M-related matters.
- (iii) Phase 3. Includes generally:
- (1) O&M.
  - (2) Post-construction mitigation and monitoring activities.

**6. Funding, Budgeting and Cash Flow.**

- (a) Concurrently with its approval of this MOU, the Council has adopted a Resolution accepting the BRIC grant funding.
- (b) The current Project funding sources and uses and timeline are attached hereto as Exhibit B and Exhibit C, respectively. The Parties will update Exhibit B and Exhibit C in a mutually agreed upon manner as further information becomes available.
- (c) The current Project Cash Flow Projections are attached hereto as Exhibit D. The Parties will update Exhibit D in a mutually agreed upon manner as further information becomes available.
- (d) PG&E and Meta will contribute their agreed \$10,000,000 and \$7,808,000, respectively, when and as required by the agreed Exhibit B and Exhibit C. PG&E and Meta will contribute 20% of their agreed contributions within thirty days of the date Assurance is received, then make pro rata contributions with the City throughout the design phase of the Project, then make the balance of their respective agreed contributions upon the commencement of Project construction. The obligations of this subsection will survive any withdrawal from this MOU by PG&E or Meta, as long as the Project proceeds.
- (e) The City and SFCJPA or other public partners will be responsible for seeking any and all grant funding and other funding sources to be used for the Project. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts.
- (f) Parties to align on engagement and outreach for this portion and future portions of the overall SAFER Bay Project.
- (g) The Parties acknowledge and agree that PG&E and Meta are not responsible for providing funding above the agreed respective \$10,000,000 and \$7,808,000 amounts.
- (h) If final Project costs are less than the amounts raised, the Parties will discuss uses of remaining funds for O&M and other costs.



7. **Subsequent Agreements.** As the Project progresses, the Parties anticipate developing further memoranda of understanding or agreements between some or all of them, including:

- (a) Permitting including potential timing and coordination between Programmatic EIR and Project EIR (see Section 8);
- (b) Procurement: In-kind contributions for the Project (such as, for example, surplus soil or equipment);
- (c) Real estate acquisition: Allocation of specific Project property rights acquisition; it is presently anticipated that SFCJPA will take the lead on initial outreach, communication, collaboration, and stakeholder coordination for property / easement / right of entry acquisition and that the City will undertake any eminent domain proceedings where necessary;
- (d) Responsibility, oversight and management of design and construction phases;
- (e) Responsibilities for review and approval of Project designs;
- (f) Creation of a special district(s) or other regional solution(s) to perform or pay for long-term O&M;
- (g) Ultimate ownership of Project facilities: Identifying specific owner(s) (public or otherwise), e.g., One Shoreline, of actual Project facilities, currently anticipated to be City and/or JPA;
- (h) Agreements with other potential Project stakeholders;
- (i) Project Administration; and
- (j) Negotiation cost and design of potential relocation of existing PG&E transmission / distribution facilities (if required by Project).

Neither Meta nor PG&E will be obligated to participate in or contribute to any of the preceding subjects.

8. **Environmental Review.**

- (a) SFCJPA will serve as the Lead Agency for the CEQA self-mitigating programmatic EIR for the entire SAFER Bay Project (**Programmatic EIR**). The current timetable for the Programmatic EIR is attached as on Exhibit E. SFCJPA will update Exhibit E in a mutually agreed upon manner as further information becomes available.
- (b) Menlo Park will serve as the Lead Agency for the CEQA Project-specific (non-programmatic) EIR (**Project EIR**). The current timetable for the Project EIR is attached as Exhibit F. Menlo Park will update Exhibit F in a mutually agreed upon manner as further information becomes available

**9. Project Definition and Contracts.**

- (a) The Parties intend that except for specific CEQA/NEPA or other (if any) matters for which SFCJPA is the Lead Agency, Menlo Park will hold all third-party contracts to accomplish the Phase 1 and Phase 2 portions of the Project. As for Phase 3, the Parties intend that Menlo Park will hold all third-party contracts, except to the extent O&M responsibilities can be assumed by a third party. Contracting responsibility includes responsibility for requiring other parties to maintain reasonable and appropriate insurance, any to pay prevailing wages if otherwise required by Applicable Law. However, nothing herein will require Menlo Park or SFCJPA to enter into any contract unless it has reasonable assurances of available funds.
- (b) Subject to Section 6(g), the City and SFCJPA or other public partners will be responsible for seeking any and all grant funding and other funding sources to be used for the Project in addition to the funds contributed by Meta and PG&E pursuant to this Agreement. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts.
- (c) Until final construction completion of the Project and for three years thereafter, City and SFCJPA shall maintain in accordance with their standard record retention procedures (and require any Contractor to maintain) all such records concerning expenditures of Project funds relating to the funding, planning, permitting, designing, constructing, and operating and maintaining the Project. The preceding shall include correspondence, internal memoranda, calculations, books and accounts, accounting records, and invoices, payrolls, records and all other data related to matters covered by this MOU and as may be required by FEMA or its designee(s). Upon the City's request, Meta and PG&E shall provide evidence of payment of the funds they have contributed to the Project pursuant to this Agreement.

**10. Project Permits, Entitlements and Approvals.**

- (a) Subject to the specifically agreed "lead" and other responsibilities of Menlo Park and the SFCJPA (as applicable), the City and SFCJPA will cooperate to obtain and/or provide all mutually agreed upon and reasonably required entitlements, permits and approvals for the Project and that do not unreasonably interfere with operational requirements. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts.

**11. Project Design and Construction.**

- (a) The City and SFCJPA will cooperate to obtain approval of all project designs and applicable construction requirements. Meta and PG&E agree to continue to collaborate and provide non-monetary support for such efforts. All Project designs for facilities on PG&E or Meta's properties will be subject to PG&E or Meta's (as applicable) reasonable approval, so long as it is consistent with prior approvals.

**12. Project O&M.**

- (a) Concurrently with its approval of this MOU, and consistent with the BRIC grant documents, the Council has adopted a Resolution undertaking a commitment to provide for the Project's long term operations and maintenance expenses.
- (b) Menlo Park and SFCJPA will, with input from PG&E and Meta, have responsibility for developing a long-term O&M plan in compliance with all applicable laws and subject to approval of all AHJ's, ideally before final design is completed and construction contracts are let.
- (c) As for O&M funding, Menlo Park and SFCJPA and other regional stakeholders will cooperate to develop other, citywide or regional-based solutions, such as a potential assessment district. PG&E and Meta will be encouraged to provide meaningful input in developing the solutions. PG&E and Meta acknowledge that any solution may require them to make Project-related payments in addition to those described elsewhere in this MOU. However, provided that the final regional solution does not treat PG&E or Meta differently than any other similarly situated private property owner within the Project area, and PG&E and Meta have been given a reasonable opportunity to provide meaningful input, PG&E and Meta will not assert this MOU as a basis for different treatment than any other similarly situated private property owner within the Project area.
- (d) Nothing in this MOU or the Project will alter or modify any pre-existing obligations of:
  - (i) PG&E to maintain the flood gate/wall adjacent to its Ravenswood electrical substation [as required or necessary based on design of project]; and
  - (ii) Meta for infrastructure under its pre-existing conditional development permit for the Classic Campus (except as set forth in Section 4(f)(ii)).

Commented [A1]: Add resolution number at time of approval to ease future tracking.

**13. Term and Termination/Withdrawal.**

- (a) This MOU will be effective as of the Effective Date, and will unless terminated earlier by the Parties or superseded by other agreements will be effective until five years after construction of the Project is completed and accepted.
- (b) PG&E and Meta may withdraw from this MOU (subject to Section 13(c)) upon 120 days written notice to the other Parties.
- (c) The following obligations will survive expiration or termination of this MOU or withdrawal by a party: (i) PG&E and Meta agreements regarding their \$10,000,000 and \$7,808,000 contributions, respectively; and (ii) PG&E and Meta obligations under Section 4(c)(iii) and Section 4(d)(iii) respectively. Notwithstanding the preceding, if this MOU is terminated pursuant to Section 3 then all of PG&E's and Meta's obligations will also terminate and PG&E and Meta will not be obligated to make any further contributions to the Project.

**14. General Conditions.**

- (a) Project Communications and Meetings. Throughout the Project, the Parties, will reasonably communicate with each other in all matters relating to the Project. The Parties will agree on schedule of periodic meetings to apprise the Parties and other Project stakeholders regarding overall Project statues, funding, design and construction, etc.
- (b) Revisions to Exhibits and Schedules. All Exhibits and Schedules to this MOU are subject to revision and updating from time to time. The Parties will reasonably cooperate in such revisions.
- (c) No Consequential Damages. The Parties hereby agree that, in the event of default, any damages awarded or arising under this MOU shall be exclusively limited to actual direct damages incurred and which have been demonstrated with substantial certainty. In no instance shall the Parties be entitled to special, incidental, indirect, consequential or punitive damages, lost profits or attorney's fees. By acceptance and execution of this MOU, the Parties hereby agree that the only monetary damages contemplated by them as arising from this MOU are actual or direct damages. The Parties specifically agree that damages suffered by Menlo Park as a result of PG&E or Meta's failure to pay their monetary contributions when and as required are actual and direct damages.

**15. Representations and Warranties.**

Each Party represents, warrants and covenants to the other parties as follows:

- (a) Authority. The Party has the legal power and authority to execute and deliver this MOU and to perform its obligations under this MOU.
- (b) Due Authorization. The approval, execution, and delivery of this MOU, and the performance by such Party of its obligations under this MOU, have been authorized by all requisite actions of the Party.
- (c) Due Execution and Delivery. The persons executing this MOU on behalf of the Party are duly authorized to execute and deliver this MOU on behalf of the Party.
- (d) No Conflict. The approval, execution, delivery and performance of this MOU does not conflict with any other agreement to which the Party is a party and does not violate or require any action which has not been taken under any law, statute, rule, regulation, ordinance, general plan, tribal law, specific plan or court order or decree applicable to the Party.

**16. Miscellaneous.**

- (a) Indemnification. Pursuant to Government Code Section 895.4, Menlo Park and SFCJPA agree to fully indemnify, defend, and hold the other Parties (including their appointed and elected officials, officers, employees, and agents) harmless and free from any damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or

willful misconduct of the indemnifying Party, its appointed or elected officials, officers, employees, or agents, under or in connection with any work, authority, or jurisdiction delegated to such Party under this MOU. Neither Menlo Park nor SFCJPA, nor any appointed or elected official, officer, employee, or agent thereof, shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of any other Party, its appointed or elected officials, officers, employees, or agents, under or in connection, with any work, authority, or jurisdiction delegated to such other Party under this MOU. Menlo Park and SFCJPA, while conducting their respective activities set forth above in Section 4 above shall each procure, carry, and maintain, in full force and effect, at all applicable times during the term of this MOU, such insurance and bonds to protect the Parties, inclusive of causing each Contractor to indemnify and defend the Parties and name the Parties as additional insureds in any contracts entered into to effectuate this MOU.

- (b) Further Assurances. The Parties shall cooperate with each other and execute such instruments or documents and take such other actions as may reasonably be requested from time to time in order to carry out, evidence or confirm their rights or obligations under this MOU.
- (c) Amendments. Any mutually agreed changes, modifications, revisions or amendments to this MOU shall be incorporated by written instrument, and effective when executed and signed by all Parties.
- (d) Severability. If any provision of this MOU shall be held to be invalid, void, or unenforceable, the validity, legality, or enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.
- (e) Applicable Law. The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of California applicable to contracts executed and wholly performed within that state. The courts of the State of California shall have jurisdiction over any action arising out of this MOU, with venue in San Mateo County.
- (f) Construction of Agreement. In the event of a dispute between the Parties as to the language of this MOU or any amendment to this MOU or the construction or meaning of any term contained in this MOU or any amendment to this MOU, this MOU or any amendment to this MOU shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against, or in favor of, any Party based on the preparation or negotiation of this MOU or any amendment to this MOU.
- (g) Notices. All notices, demands and other formal communications hereunder shall be deemed given if: (a) delivered personally or by courier, (b) sent by overnight express delivery, (c) mailed by registered or certified mail (return receipt requested), postage prepaid, or (d) sent by email in PDF format (**Email Notification**); provided that (i) notice received after 5:00 p.m. on a business day or on a non-business day shall be deemed received on the next business day, and (ii) any sender of an Email Notification also delivers the notice by one of the methods listed in (a)-(c) (**Secondary Notice**) (provided that if the recipient of the

Email Notification responds with an email acknowledgement of receipt (an automatic "read receipt" does *not* constitute acknowledgement), Secondary Notice is not required), to a party at its respective address(es) set forth below (or at such other address as shall be specified by the party by like notice given to the other party(ies):

|   |   |   |  |
|---|---|---|--|
| <b>To:</b><br>City of Menlo Park<br>Starla Jerome-<br>Robinson<br>City Manager<br>City Hall, 2nd Floor<br>701 Laurel St<br>Menlo Park, CA 94025 | <b>To:</b><br>San Francisquito Creek<br>Joint Powers Authority<br>Margaret Bruce<br>Executive Director<br>2100 Geng Road,<br>Suite 210<br>Palo Alto, CA 94303 | <b>To:</b><br>Pacific Gas and<br>Electric Company<br>Heather Rock<br>Chief of Staff for<br>Engineering,<br>Planning and<br>Strategy<br>300 Lakeshore Drive<br>Oakland, CA 94612 | <b>To:</b><br>Meta Platforms, Inc.<br>Lauren Swezey<br>Sustainability &<br>Landscape Project<br>Lead<br>1 Hacker Way<br>Menlo Park, CA 94025 |
|---|---|---|--|

- (h) Entirety of Agreement. This MOU, including Exhibits A through F, represents the entire and complete agreement among the Parties with respect to the subject matter hereof and supersedes any prior negotiations, representations and agreements, whether written or oral.
- (i) Debt Limitation. Menlo Park and SFCJPA are subject to laws or policies which limit their ability to incur debt in future years. Nothing in this MOU shall constitute an obligation of future governing bodies of the Parties to appropriate funds for the purpose of this MOU.
- (j) Conflict of Interest. The Parties shall undertake reasonable efforts to avoid conflicts of interest in the performance of this MOU and shall immediately notify the other Parties should a conflict of interest arise that would prohibit or impair the ability to perform under this MOU.
- (k) Disputes. The Parties agree that, with regard to all disputes or disagreements arising under this MOU that are not resolved informally at the staff level after a good faith attempt, the Parties may, at their sole and mutual discretion, agree to engage in mediation, and the costs of any such mediation shall be divided equally among the Parties involved in the mediation.
- (l) Non-Discrimination. Each Party shall comply with its own non-discrimination policies and practices and laws applicable to it.
- (m) Counterparts. This MOU may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.
- (n) Facsimile and Electronic Signatures. Facsimile or electronic signatures may be used in place of original signatures on this MOU. Each Party intends to be bound by the signatures on the facsimile or electronic document, is aware that the other Parties will rely on the facsimile or electronic signatures, and hereby waives any

defenses to the enforcement of the terms of this MOU based on the use of a facsimile or electronic signature.

- (o) Exhibits and Schedules. The following Exhibits and Schedules are attached and incorporated into this MOU:
  - (i) Exhibit A: Project Description and Vicinity Map
  - (ii) Exhibit B: Project Funding Sources and Uses
  - (iii) Exhibit C: Project Timeline
  - (iv) Exhibit D: Cash Flow Projections
  - (v) Exhibit E: Programmatic EIR Timetable
  - (vi) Exhibit F: Project EIR Timetable
- (p) Signatures. In witness whereof, the Parties, through their respective duly-authorized representatives, have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

**[Signature Blocks Follow on Next Page]**

**IN WITNESS WHEREOF**, the Parties hereto, by their duly authorized representatives, have executed this Memorandum of Understanding.

**CITY OF MENLO PARK**

\_\_\_\_\_  
Starla Jerome-Robinson, City Manager

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Judi Herren, City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Nira Doherty, City Attorney

\_\_\_\_\_  
Date

**SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY**

\_\_\_\_\_  
**[Name, Title]**

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
**[Name]**, Agency Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
**[Name, Title]**

\_\_\_\_\_  
Date



**PACIFIC GAS AND ELECTRIC COMPANY**

\_\_\_\_\_  
*[Name, Title]*

\_\_\_\_\_  
Date

**META PLATFORMS, INC.**

\_\_\_\_\_  
*[Name, Title]*

\_\_\_\_\_  
Date

## **EXHIBIT A**

### **PROJECT DESCRIPTION**

#### **Menlo Park SAFER Bay Project Scope of Work**

The proposed Menlo Park SAFER Bay Project involves preparation of environmental documentation, permitting, public outreach, field investigation, design, and construction for solutions to tidal and sea-level rise flooding along an approximately 3.7-mile alignment of the southeast San Francisco Bay shoreline near the City of Menlo Park (Attachment 1). The flood control elements will be designed to provide a 100-year level of flood protection in addition to 3.5 feet of sea-level rise adaptation.

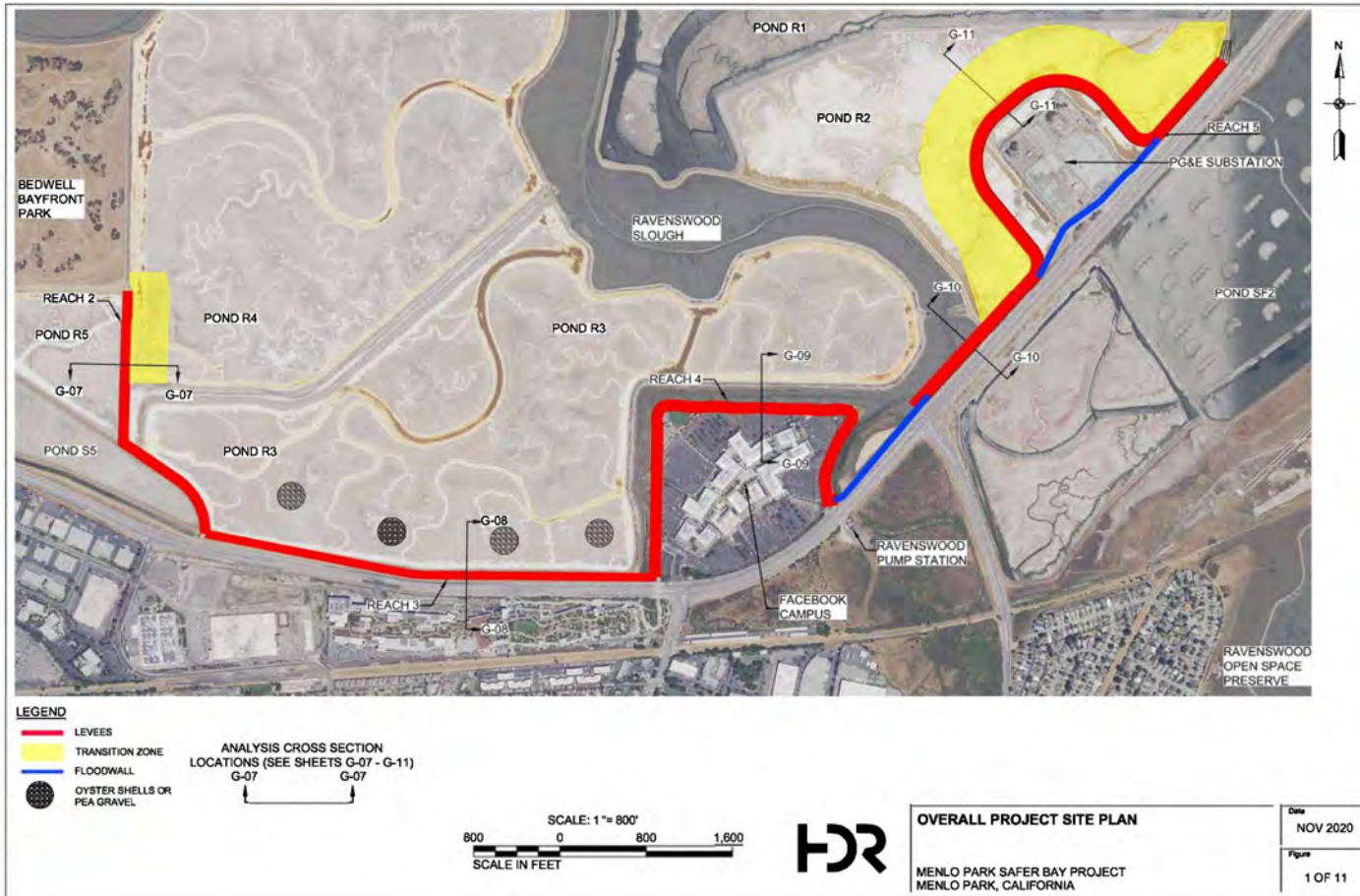
The proposed Project will incorporate nature-based solutions and habitat enhancements. In total, the project will create approximately 31 acres of tidal marsh transition zone on the bayside slopes of multiple flood control levees. By extending the transition zones to elevations that account for 100-year storm events, in addition to 3.5 feet for sea level rise adaptation, the proposed project will create long-term, resilient, high-quality habitat and high tide refuge. The Project also proposes to enhance approximately 5 acres of western snowy plover breeding habitat in Pond R3 by placing oyster shells or pea gravel to enhance the breeding habitat of endangered bird species.

A primary focus of the proposed project is flood protection of Pacific Gas and Electric Company's (PG&E) Ravenswood Substation, which is part of critical power supply infrastructure to eight cities and nearly 300,000 people. The substation is sited at the margin of San Francisco Bay, and is at risk of tidal flooding and sea-level rise. When flooded, the substation must be de-energized until flood waters recede, and repair and maintenance activities must be completed before re-powering the substation. Hydrologic and infrastructure analysis has shown that flooding of the substation would result in an interruption of power supply for between 5 and 15 days to the project impact area, negatively impacting many community lifelines that are critical for human health and safety and to economic security.

The Project would be developed in phases. Phase 1 would include procurement of environmental and engineering services, public outreach, environmental permitting, and design to the 90% level. Phase 2 would include final design, procurement for construction management and contracting services, and construction activities.

The proposed Project is a significant portion of the overall SAFER Bay alignment that, when completed, will provide the additional benefit of protecting the communities of Menlo Park, East Palo Alto and others from tidal and sea level rise flooding.

OAK #4877-8378-4193 v2  
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OAK #4877-8378-4193 v2  
08241-0003

**EXHIBIT B**

**PROJECT FUNDING SOURCES AND USES**

| <b>Funding Sources</b> | <b>Amount</b>        |
|------------------------|----------------------|
| FEMA BRIC grant        | \$ 50,000,000        |
| PG&E                   | \$ 10,000,000        |
| Facebook               | \$ 7,808,000         |
| <b>Total</b>           | <b>\$ 67,808,000</b> |

| <b>Funding Uses</b>  | <b>Amount</b>        |
|--|----------------------|
| Pre-award Cost   | \$ 190,000           |
| <b>Phase 1</b>   |                      |
| Task 1.1 - Procurement for Design and Environmental Services | \$ 26,000            |
| Task 1.2 - Project Management including Kick-Off Meeting     | \$ 150,000           |
| Task 1.3 - Public Outreach                                   | \$ 63,000            |
| Task 1.4 - Environmental Permits                             | \$ 1,178,000         |
| Task 1.5 - Right-of-Way Acquisition Negotiations             | \$ 540,000           |
| Task 1.6 - Engineering and Design                            | \$ 3,150,000         |
| <b>Phase 2</b>   |                      |
| Task 2.1 - Project Management                                | \$ 208,000           |
| Task 2.2 - Public Outreach                                   | \$ 75,000            |
| Task 2.3 - Final Design                                      | \$ 198,000           |
| Task 2.4 - Procurement for Construction Management Service   | \$ 26,000            |
| Task 2.5 - Construction Bidding                              | \$ 42,000            |
| Task 2.6 - Engineering During Construction                   | \$ 233,000           |
| Task 2.7 - Construction Management                           | \$ 3,752,000         |
| Task 2.8 - Construction Activities                           | \$ 57,844,087        |
| <b>Operation &amp; Maintenance</b>                           |                      |
| O&M (5 years)  | \$ 1,050,000         |
| <b>Total</b>   | <b>\$ 68,725,087</b> |

OAK #4877-8378-4193 v2  
08241-0003

**EXHIBIT C**  
**PROJECT TIMELINE**

**Estimated Project Timeline**

|                            | Q1<br>Oct-Dec 21 | Q2<br>Jan-Mar 22 | Q3<br>Apr-Jun 22 | Q4<br>Jul-Sep 22 | Q5<br>Oct-Dec 22 | Q6<br>Jan-Mar 23 | Q7<br>Apr-Jun 23 | Q8<br>Jul-Sep 23 | Q9<br>Oct-Dec 23 | Q10<br>Jan-Mar 24 | Q11<br>Apr-Jun 24 | Q12<br>Jul-Sep 24 | Q13<br>Oct-Dec 24 | Q14<br>Jan-Mar 25 | Q15<br>Apr-Jun 25 | Q16<br>Jul-Sep 25 | Q17<br>Oct-Dec 25 | Q18<br>Jan-Mar 26 | Q19<br>Apr-Jun 26 | Duration |            |
|----------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|----------|------------|
| <b>Phase 1</b>             |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |                   |                   |                   |                   |                   |                   |                   |                   |                   |          | =21 months |
| <b>FEMA NEPA Review</b>    |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |                   |                   |                   |                   |                   |                   |                   |                   |                   |          | =11 months |
| <b>FEMA Phase 2 Review</b> |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |                   |                   |                   |                   |                   |                   |                   |                   |                   |          | =8 months  |
| <b>Phase 2</b>             |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |                   |                   |                   |                   |                   |                   |                   |                   |                   |          | =23 months |
| <b>Total Duration</b>      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                   |                   |                   |                   |                   |                   |                   |                   |                   |                   |          | =57 months |

\* Dates are subject to change as the project evolves

## EXHIBIT D CASH FLOW PROJECTIONS

### Cash Flow Forecast

- Scenario: • Maintain minimum of \$1 M cash balance through completion of Phase 1  
 • 25% of local match contribution applied  
 • Local match contribution on project basis through completion of Phase 1  
 • Remainder of local match contribution at beginning of Phase 2

| Description  | Q1<br>Jan-Mar-21   | Q2<br>Apr-Jun-21   | Q3<br>Jul-Sep-21   | Q4<br>Oct-Dec-21   | Q5<br>Jan-Mar-22   | Q6<br>Apr-Jun-22   | Q7<br>Jul-Sep-22   | Q8<br>Oct-Dec-22    | Q9<br>Jan-Mar-23    | Q10<br>Apr-Jun-23   | Q11<br>Jul-Sep-23   | Q12<br>Oct-Dec-23   | Q13<br>Jan-Mar-24   | Q14<br>Apr-Jun-24   | Q15<br>Jul-Sep-24   | Q16<br>Oct-Dec-24   | Q17<br>Jan-Mar-25   | Q18<br>Apr-Jun-25   | Q19<br>Jul-Sep-25   | Q20<br>Oct-Dec-25   | Q21<br>Jan-Mar-26   | Q22<br>Apr-Jun-26   | TOTAL               |                     |             |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|-------------|
| <b>Expenditures</b>  |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| <b>Pre-award Cost</b>  |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| FEMA BAC submittal preparation                               | (100,000)          |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     | (100,000)           |             |
| <b>Phase 1</b>   |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 1.1 - Procurement for Design and Environmental Services | (20,000)           |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     | (20,000)            |             |
| Task 1.2 - Project Management including kick-off Meeting     | (70,000)           | (60,000)           | (60,000)           | (60,000)           | (60,000)           | (60,000)           | (60,000)           | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)            | (60,000)    |
| Task 1.3 - Public Outreach                                   | (15,000)           | (8,000)            | (8,000)            | (8,000)            | (8,000)            | (8,000)            | (8,000)            | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)             | (8,000)     |
| Task 1.4 - Enhancement of Permit                             | (200,000)          | (200,000)          | (200,000)          | (200,000)          | (200,000)          | (200,000)          | (200,000)          | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)           | (200,000)   |
| Task 1.5 - Right-of-Way Acquisition Negotiation              | (80,000)           | (80,000)           | (80,000)           | (80,000)           | (80,000)           | (80,000)           | (80,000)           | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)            | (80,000)    |
| Task 1.6 - Engineering and Design                            | (184,900)          | (1,251,000)        | (1,100,000)        | (1,100,000)        | (1,100,000)        | (1,100,000)        | (1,100,000)        | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000)         | (1,100,000) |
| <b>FEMA NEPA Review</b>                                      |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| <b>Phase 2</b>   |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.1 - Project Management                                |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.2 - Public Outreach                                   |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.3 - Final Design                                      |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.4 - Procurement for Construction Management Service   |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.5 - Construction Bidding                              |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.6 - Engineering During Construction                   |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.7 - Construction Management                           |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Task 2.8 - Construction Activities                           |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| <b>TOTAL EXPENDITURES</b>                                    | <b>(734,900)</b>   | <b>(1,774,000)</b> | <b>(1,408,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  |             |
| <b>Payments</b>  |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| FEMA Reimbursement (FPA expenditures less 25% retention)     |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| FEMA Retention Release (25%)                                 |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Local Match Contribution - FEMA                              |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| Local Match Contribution - Facebook                          |                    |                    |                    |                    |                    |                    |                    |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |                     |             |
| <b>TOTAL PAYMENTS</b>  | <b>(3,000,000)</b> | <b>(3,000,000)</b> | <b>(3,000,000)</b> | <b>(3,000,000)</b> | <b>(3,000,000)</b> | <b>(3,000,000)</b> | <b>(3,000,000)</b> | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  | <b>(3,000,000)</b>  |             |
| <b>NET QUARTERLY CASH FLOW</b>                               | <b>(2,265,100)</b> | <b>(1,774,000)</b> | <b>(1,408,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b> | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  | <b>(1,040,000)</b>  |             |
| <b>NET QUARTERLY CASH BALANCE</b>                            | <b>(2,265,100)</b> | <b>(4,039,100)</b> | <b>(5,447,100)</b> | <b>(6,487,100)</b> | <b>(7,527,100)</b> | <b>(8,567,100)</b> | <b>(9,607,100)</b> | <b>(10,647,100)</b> | <b>(11,687,100)</b> | <b>(12,727,100)</b> | <b>(13,767,100)</b> | <b>(14,807,100)</b> | <b>(15,847,100)</b> | <b>(16,887,100)</b> | <b>(17,927,100)</b> | <b>(18,967,100)</b> | <b>(20,007,100)</b> | <b>(21,047,100)</b> | <b>(22,087,100)</b> | <b>(23,127,100)</b> | <b>(24,167,100)</b> | <b>(25,207,100)</b> | <b>(26,247,100)</b> | <b>(27,287,100)</b> |             |

FPA% percentage share of local match - 56.15% of 25%

OAK #4877-8378-4193 v2  
08241-0003

**EXHIBIT E**  
**PROGRAMMATIC EIR TIMETABLE**  
**(Provided by SFCJPA)**

| <b>TASK</b>                                | <b>ANTICIPATED DATE</b> |
|--|-------------------------|
| Notice of Preparation (NOP)<br>Publication | Dec '21                 |
| NOP Public Comment Period                  | Dec '21 – Jan '22       |
| Project Description                        | Mar '22 – Jun '22       |
| Administrative Draft EIR                   | Jun '22 – Jan '23       |
| Publish Draft EIR                          | Feb '23                 |
| Final EIR Certified                        | Aug '23                 |

\*These dates are subject to change as the project evolves

**EXHIBIT F**  
**PROJECT EIR TIMETABLE**  
**(Provided by City of Menlo Park)**

| <b>TASK</b>                     | <b>ANTICIPATED DATE</b> |
|---------------------------------|-------------------------|
| Project Description             | Dec '21 – Feb. '22      |
| Notice of Preparation / Scoping | Feb '22 – May '22       |
| Draft EIR                       | May '22 – Feb '23       |
| Final EIR                       | Oct '22 – Feb '23       |
| Notice of Determination         | Feb '23 – Mar '23       |

\*These dates are subject to change as the project evolves





# SAFER Bay Project and FEMA BRIC Grant Opportunity

Study Session – November 9, 2021

# AGENDA

- Strategy to Advance Flood Protection, Ecosystems and Recreation along San Francisco Bay (SAFER Bay) project
- FEMA BRIC grant funding for a portion of SAFER Bay project
- Memorandum of understanding
- Anticipated resources for project delivery
- Next steps
- Example project timeline



# Recommendation

- Confirm City's role as grant applicant and project lead
- Direct staff to return with resolution accepting the grant funds and a MOU between the project partners
- Direct staff to return during the mid-year budget review with a staffing request
- Direct staff to return with options during the fiscal year 2022-23 budget development to maintain positive cash flow while awaiting receipt of FEMA grant reimbursements



# SAFER Bay Project Overview

- Initiated by San Francisco Creek Joint Powers Authority (SFCJPA)
- Background
- Goals
- Progress to-date



# Menlo Park portion of SAFER Bay Project

- Portion of overall SAFER Bay project – 3.7 miles of engineered levees and floodwalls
- Protection of PG&E Ravenswood Substation – critical power supply for +300,000 people
- Designed to provide 100-year level of coastal flood protection plus 3.5 feet sea level rise adaptation



## Collaborative Partnership & Roles

- Partnership between Menlo Park, SFCJPA, PG&E, and Meta (formerly Facebook)
- Menlo Park is project lead and responsible for project delivery
- SFCJPA providing technical expertise and project support
- Local match funding commitments:
  - PG&E: \$10 M
  - Meta: \$7.808 M



## FEMA BRIC Grant

- Submitted application for FEMA Building Resilient Infrastructure and Communities grant – requested \$50 M in federal funding
- Required to provide local match minimum 25% of total project costs
- Total BRIC project cost estimated at \$67.68 M (SAFER Bay project costs approx. \$130 M)
- City notified in July 2021 by FEMA, project has been *Selected for Further Review*
- City currently responding to request for additional information from FEMA



## Memorandum of Understanding

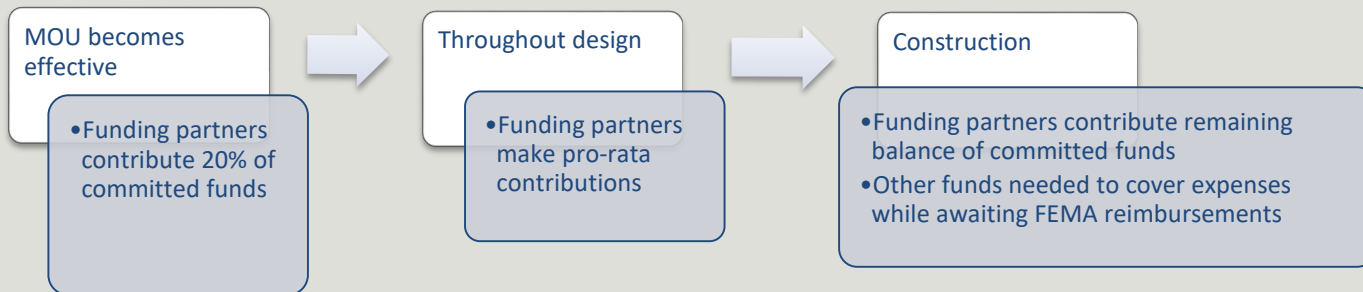
- Framework for funding, planning, permitting, designing, constructing, operating and maintaining of the project in anticipation of being awarded \$50m in FEMA BRIC grant funding
- Establishes general role of each party
- Secures the local match funding commitment (\$17.808 total)
- Additional agreements anticipated to further refine respective responsibilities





## Anticipated Resources for Project Delivery

- Staffing for project management, considered two options:
  - Contract assistance
  - Additional provisional full-time staff
- Cash flow (approx. \$15 M at peak)
- Operations and maintenance funding (approx. \$210,000 annually)



# Recommendation

- Confirm City's role as grant applicant and project lead
- Direct staff to return with resolution accepting the grant funds and a MOU between the project partners
- Direct staff to return during the mid-year budget review with a staffing request
- Direct staff to return with options during the fiscal year 2022-23 budget development to maintain positive cash flow while awaiting receipt of FEMA grant reimbursements

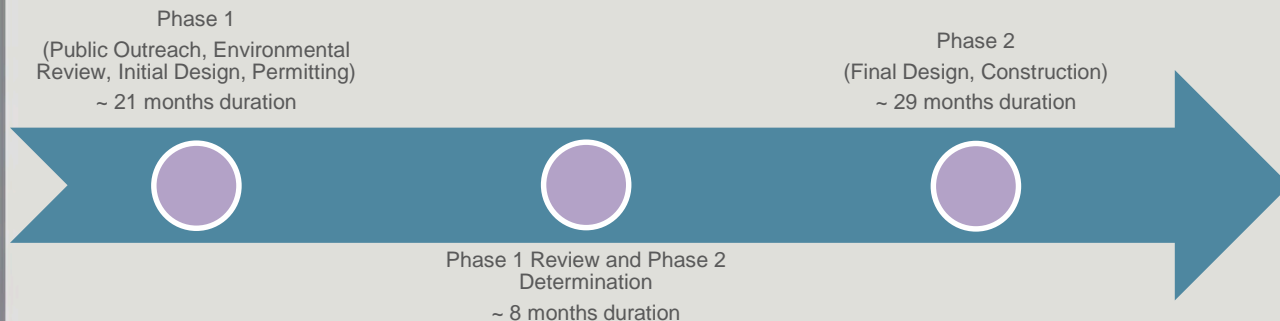


## Next Steps

- Return with final MOU for City Council approval
- City Council to adopt a Resolution accepting BRIC grant funds, if awarded, and confirm the City's commitment to lead the project, including performance of long-term operations and maintenance.
- Return with request for a provisional, full-time employee for an initial three-year term, with extension annually for project duration. Part of mid-year 2021-22 budget review.
- Identify potential funding sources to maintain positive cash flow during project construction. Part of fiscal year 2022-23 budget and capital improvement program development.
- Additional agreements, if necessary, will be brought to City Council for review and approval.

## Example Project Timeline

- Phase 1 (Public Outreach, Environmental Review, Initial Design, Permitting)
  - ~ 21 months duration
- FEMA Phase 1 Review and Phase 2 Determination
  - ~ 8 months duration
- Phase 2 (Final Design, Construction)
  - ~ 29 months duration
- Total project duration: ~ 58 months





**THANK YOU**



## STAFF REPORT

### City Council

Meeting Date:

11/9/2021

Staff Report Number:

21-219-CC

### Study Session:

**Provide direction on the use of below market rate housing funds for MidPen Housing, Inc. to create a community land trust as part of their proposed request of \$3.6 million to build 12 ownership units at 335 Pierce Road**

### Recommendation

Provide direction on the use of below market (BMR) rate housing funds for:

1. MidPen Housing, Inc. (MidPen) to create a community land trust (CLT) as part of their notice of funding availability (NOFA) proposal of \$3.6 million for the redevelopment of two contiguous parcels at 335 Pierce Road to build 12 attached single family homes targeted to low income homebuyers; and
2. Initial disbursement of \$200,000 to MidPen Housing, Inc. for exploratory work expected to fund community outreach and organizational and legal costs of establishing a CLT.

Potential zoning changes necessary for the project to move forward are not being reviewed as part of this study session. Pending City Council direction on the above items, staff would return to City Council.

### Policy Issues

Forming a CLT is not an explicitly defined use of BMR housing funds under the existing BMR guidelines. However, dependent on City Council direction the use could be seen as acceptable due to the creation of affordable housing units that would result from the proposed project. Any modifications to the City's BMR housing program guidelines require City Council approval.

Additionally, the City Council retains sole discretion to award available monies from the BMR housing fund collected in accordance with Menlo Park Municipal Code Chapter 16.96. As an impact fee, the City's use of the BMR housing in-lieu fee funds is subject to state laws governing impact fees, California Government Code §§ 66000- 66025 (the "Mitigation Fee Act"), as amended by Assembly Bill (AB) 518 and Senate Bill (SB) 1693, which require that impact fees be expended or encumbered within five years of collection. Funding authorization is not required as an action of this study session; however, dependent on City Council direction staff may return for funding approval.

### Background

On November 18, 2020, a NOFA of approximately \$10 million from the BMR housing fund was released to support the preservation or production of permanent affordable housing. Project eligibility requirements are outlined in the NOFA application (Attachment A.) Qualified projects include the preservation of existing affordable housing, acquisition or new construction of permanent affordable rental or ownership housing for extremely low, very low or low income households. Funding is intended to fill the financing gap between the expected total project costs and other available funding sources.

The City’s BMR housing fund is a separate special fund, with no impact to the City’s general fund. Revenue contributed to the BMR housing fund is primarily derived from development impact fees. Due to the high costs associated with housing production and preservation in the Bay Area, local affordable housing developers will utilize multiple funding sources to ensure proposed projects have adequate resources to advance. The City received three NOFA applications before the application due date. The City Council already approved two out of the three projects, shown in Table 1 below.

| Table 1: 2020 NOFA applications            |                            |   |  |
|--|----------------------------|---|--|
| Organization                               | Type of activity           | Description   | Amount requested                                   |
| HIP Housing Development Corporation        | Preservation/Acquisition   | Acquisition of a 14 unit apartment building for conversion to deed restricted BMR rental housing (6-8 Coleman Pl) | \$5,500,000 <i>City Council approved 2/23/2021</i> |
| Habitat for Humanity Greater San Francisco | Homeownership preservation | Rehabilitation of existing housing owned by lower income seniors and families (Belle Haven)                       | \$1,200,000 <i>City Council approved 5/11/2021</i> |
| MidPen Housing, Inc. (MidPen)              | New construction           | Formation of a CLT, development of 12 new BMR ownership townhouses, and partnership with CLT (335 Pierce Road)    | \$3,600,000 <i>pending City Council approval</i>   |
| <b>Total requested</b>                     |                            |   | <b>\$10,300,000</b>                                |

MidPen submitted an application (Attachment B) proposing the development and sale of townhomes, affordable to low income, first-time homebuyers at 335 Pierce Road, located in the Belle Haven neighborhood of Menlo Park. Funding from the NOFA will be used to finance the formation of a CLT and the gap between total development costs and the public subsidy needed to make the townhomes affordable for low income buyers. In 2015, MidPen purchased the 335 Pierce Road site, a 14,949 square foot lot comprised of two parcels: a vacant lot and an occupied 4-plex. Before commencing any construction, MidPen is expected to ensure existing residents of the 4-plex are safely and successfully relocated. MidPen will also evaluate relocated residents to determine if these households will qualify and/or receive a preference to purchase a home on the redeveloped site.

On March 4, 2020, the Menlo Park Housing Commission approved a recommendation (Attachment C) for \$3.6 million from the BMR housing fund to MidPen to support development of new affordable ownership housing at 335 Pierce Road. This action included an additional \$300,000 from the BMR Housing Fund be allocated to fully fund the three eligible applications received by the City; therefore, increasing the total funds available from \$10 million to \$10.3 million as part of the 2020 BMR housing fund NOFA. As currently envisioned, the redevelopment of the 335 Pierce Road site proposes the creation of 12 attached two-bedroom for-sale homes at BMR. The homes would be affordable to first-time homebuyers in the low income category. As defined by the California Department of Housing and Community Development (HCD) for San Mateo County, low income is more accurately classified as 51 percent to 80 percent of the area median income (AMI) as shown in Table 2 below.

**Table 1: 2021 California State income limits for San Mateo County**

| Household size | 51% AMI   | 80% AMI   | Area median |
|----------------|-----------|-----------|-------------|
| 2-Persons      | \$74,542  | \$117,100 | \$119,700   |
| 3-Persons      | \$83,859  | \$131,750 | \$134,650   |
| 4-Persons      | \$93,177  | \$146,350 | \$149,600   |
| 5-Persons      | \$100,631 | \$158,100 | \$161,550   |

**Analysis**

MidPen’s proposal for 335 Pierce Road includes the formation of a CLT that would be focused in the Belle Haven neighborhood and require representation from Belle Haven residents. According to MidPen’s NOFA application, through extensive community outreach, including Sequoia Belle Haven at 1221 Willow Road, Gateway Family at 1345 Willow Road and 335 Pierce Road, MidPen has learned that there is strong interest in affordable homeownership opportunities and a desire for local control over any new development occurring in the Belle Haven neighborhood.

In a study from January 2020 by the UC Berkeley Center for Community Innovation (Attachment D), the median household income in the Belle Haven neighborhood was \$58,274. The report also stated that 57 percent of households in Belle Haven are renter occupied compared to only 40 percent for San Mateo County. Acknowledging there may have been wage growth since the time the report was published, staff would still expect to find a large percentage of renter households living in the Belle Haven neighborhood to be cost burdened, paying more than 35 percent of their income to housing costs. According to the California Housing Partnership’s 2021 Affordable Housing Needs Report for San Mateo County (Attachment E), 56 percent of low income renter households throughout San Mateo County are cost burdened and the figures climb dramatically for very low and extremely low income households to over 85 percent being cost burdened. With the median sales prices for homes in the Belle Haven neighborhood being over one million dollars, the possibility of owning a home is therefore out of reach for many households.

The CLT’s role for ownership properties is to own the land forever and serve as the steward of the land. In support of local government agencies, land trusts act as a partner to support achieving affordable housing needs. Similar to the City’s existing BMR ownership program, qualified homeowners are required by the land trust to sign deed restrictions that ensure affordability is shared with future owners of the property. With a neighborhood centered approach, MidPen’s proposed CLT will preserve affordability and allow households to build equity through ownership. MidPen provides additional background about their proposal to form a CLT in a letter to staff (Attachment F.)

The BMR Housing Fund is generated from in lieu and impact fees from both residential and commercial development projects. It is a separate City fund set aside for the specific purpose of assisting the development of housing that is affordable to very low, low, and moderate income households and is to be used solely for this purpose. Section 13.3 of the BMR housing program guidelines identifies eligible uses of the funds, such as providing BMR financing for homebuyers, assistance with costs associated with development or purchase of very low, low, or moderate income housing, rehabilitation of inhabitable structures for very low, low, or moderate income housing, rent subsidies to reduce the cost of rent for households with limited incomes, etc. (Attachment G.) Use of BMR funds for the formation of a CLT does not cleanly fall within the eligible uses of those funds.



### Summary

As defined in section 13.3 of the BMR housing program guidelines, there are multiple, eligible uses outlined to support affordable housing production and preservation. However, the guidelines do not explicitly include a use of funds for the creation of a CLT, and therefore staff needs City Council direction as to whether this could be considered an eligible use of funds. If the project were successful, pending items such as full funding approval and zoning amendments, a net gain of low income ownership units would be produced.

The City's BMR housing fund is a separate special fund, with no impact to the City's general fund. Revenue contributed to the BMR housing fund is primarily derived from development fees. Due to the high costs associated with housing production and preservation in the Bay Area, local affordable housing developers will utilize such funding sources to ensure proposed projects have adequate financial resources. MidPen already owns the two contiguous parcels located at 335 Pierce Road, which makes the opportunity to redevelopment the site feasible at the requested funding level. The acquisition and/or conversion of existing market rate sites would otherwise increase the expected project costs.

The City Council can direct staff to return with a funding request for the \$200,000 that expends dollars from the general fund or BMR housing fund. The use of BMR housing funds could require amendments to the BMR guidelines, unless City Council finds the current guidelines do capture the use, and may set a precedent for future affordable housing development requests. Staff wants to ensure the City Council has an opportunity to study this proposal prior to returning with a recommended action. If staff is directed to return, staff may propose the full \$3.6 million request be conditionally approved with the initial disbursement of \$200,000 being allocated first, and the remaining \$3.4 million being disbursed pending zoning amendments and successful creation of a CLT.

### **Impact on City Resources**

If City Council directs the \$3.6 million proposal to exclusively use BMR housing funds, there is no impact to the general fund. If City Council directs staff not to use BMR housing funds for the proposed initial disbursement for the formation of a CLT, there would be a \$200,000 impact to the general fund, with the remaining \$3.4 million still utilizing the BMR housing fund.

### **Environmental Review**

The City Council is not taking any action at this time. Should the item return, any future report(s) will include determination regarding the California Environmental Quality Act (CEQA.)

### **Public Notice**

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

### **Attachments**

- A. Hyperlink – NOFA application staff report: [menlopark.org/DocumentCenter/View/26722/I2-20201117-CC-BMR-NOFA](https://menlopark.org/DocumentCenter/View/26722/I2-20201117-CC-BMR-NOFA)
- B. Hyperlink – MidPed Housing NOFA application packet dated January 22, 2021: [menlopark.org/DocumentCenter/View/29999/Att-B-335-Pierce-MidPen-NOFA-Application](https://menlopark.org/DocumentCenter/View/29999/Att-B-335-Pierce-MidPen-NOFA-Application)
- C. Hyperlink – Housing Commission staff report: [menlopark.org/DocumentCenter/View/27517/D4-Staff-Report-21-006-HC-NOFA-Applications](https://menlopark.org/DocumentCenter/View/27517/D4-Staff-Report-21-006-HC-NOFA-Applications)

- D. Hyperlink – UC Berkeley Center for Community Innovation report:  
[menlopark.org/DocumentCenter/View/25939/Housing-Inventory-and-Supply-Study?bidId](https://menlopark.org/DocumentCenter/View/25939/Housing-Inventory-and-Supply-Study?bidId)
- E. Hyperlink – California Housing Partnership, 2021 Housing Needs Report for San Mateo County:  
[1p08d91kd0c03rixhmtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2021/05/San-Mateo\\_Housing\\_Report.pdf](https://1p08d91kd0c03rixhmtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2021/05/San-Mateo_Housing_Report.pdf)
- F. MidPen letter regarding CLT formation
- G. Hyperlink - BMR housing program guidelines: [menlopark.org/DocumentCenter/View/1495/Below-Market-Rate-Housing-Program-Guidelines?bidId](https://menlopark.org/DocumentCenter/View/1495/Below-Market-Rate-Housing-Program-Guidelines?bidId)

**Report prepared by:**

Mike Noce, Acting Housing Manager

**Reviewed by:**

Justin Murphy, Deputy City Manager



Justin Murphy, Deputy City Manager  
 City of Menlo Park  
 701 Laurel Street  
 Menlo Park, CA 94025

November 2, 2021

**RE:** 335 Pierce Road – Affordable Homeownership Proposal

Dear Mr. Murphy,

Just as we were when we submitted our NOFA proposal in January, MidPen Housing remains excited about the prospect of offering affordable homeownership opportunities in Menlo Park. In particular, because we have heard a lot of interest supporting affordable homeownership from the Belle Haven community from prior community outreach in the neighborhood, we feel the best use for this site, which MidPen currently owns, is to provide such an opportunity, rather than leaving it vacant or putting it back on the market for an undetermined use.

Homeownership is the most important wealth-building vehicle for families and one of few paths to build generational wealth and financial security. With the City's support, our proposal will offer affordable, for sale townhomes to 12 low-income families (up to 80% AMI). To implement this plan, we would like to request working in partnership with the City on two critical path tasks concurrently: setting up a Belle Haven Community Land Trust (CLT) and adding an affordable ownership housing overlay on this property through the Housing Element process.

Setting up a community-controlled CLT is crucial in our proposed ownership model. CLT's are nonprofit organizations whose sole purpose is to facilitate affordable housing. They do so by owning the land underneath homes, thereby taking the speculative component out of real estate and keeping the homes on CLT's affordable permanently. The Y-PLAN recognized that CLT's help mitigate community disinvestment; a CLT gives community control over the housing asset, with direct representation from Belle Haven residents on the CLT Board.

We see forming such a CLT as a necessary first step to our proposal, as necessary as a Phase I environmental study or a civil engineering boundary survey. We would be thrilled to partner with the City to work on this homeownership development via a NOFA award. And we would like to request the City release \$200,000 in pre-development funds from the NOFA for community engagement, legal formation of the CLT, and initial conceptual design. We would also like to request the City recognize forming this Belle Haven CLT as an acceptable use of such pre-development funds. That would allow us to outreach to the Belle Haven community and begin the process (legal formation of CLT expected to take at least 12 months).



Building Communities. Changing Lives.

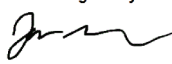
Concurrently, we would also like to request an affordable ownership housing overlay for the subject property through the current Housing Element process. The overlay would leave the existing zoning in place, while allowing an affordable ownership development to proceed forward with increased density, making 12 townhomes on this site possible. These 12 affordable homes would all count toward the City's RHNA goals in the low-income category, while offering the community homeownership and asset-building opportunities permanently.

The proposed affordable homeownership development meets many of the NOFA priorities:

- Housing units that will remain affordable through deed restrictions for at least 55 years, and through the CLT in perpetuity;
- Consistent with the goals and objectives of the City's Housing Element and General Plan, to provide affordable housing while maintaining the neighborhood character;
- Soundly underwritten at reasonable costs, feasible with City NOFA support;
- Project is "ready to go," given MidPen ownership of the land, which will be transferred to the Belle Haven CLT;
- Provides dual benefits by development affordable housing and creating a substantial improvement over an old apartment building and vacant lot;
- Incorporates green building practices and materials;
- Within walking distance to transit, services, and amenities convenient for families;
- Provides ownership housing targeted at low income households;
- Contains larger units (2-bedrooms) targeting families;
- MidPen has demonstrated experience with successful track record and demonstrated capacity and commitment to work cooperatively with communities in the design and development of projects.

We believe the proposed affordable homeownership development is a special opportunity that will bring great community benefits to the Belle Haven neighborhood, create new capacity and infrastructure to develop more affordable ownership homes, and provide generations of future homeowners the gift of housing stability and asset building opportunities. We sincerely hope to partner with the City to bring this unique vision to reality.

Thank you for your consideration.

DocuSigned by:  
  
44296B7BFAAD4D5...

Jan M. Lindenthal  
Chief Real Estate Development Officer  
MidPen Housing Corporation

Agenda item J2  
Pam D. Jones, resident

Mayor Combs, Vice Mayor Nash, Councilmembers Taylor, Wolosin, Mueller and Staff,

MidPen Housing Inc. worked with the Belle Haven neighborhood on the number of units, height, and architectural design for their Menlo Gateway (1317-1385 Willow Road) project.

The current project is a result of meetings MidPen held with residents in 2018. At that time, they were unable to commit to a home-buying program, but they agreed with the value homeownership brings to a community. This project addresses the community need and desire of ownership to prevent further displacement of residents.

What is most important is MidPen's proposal is creating a land trust that will be community controlled. A Belle Haven Community Land Trust will enable Menlo Park to have transparent land preservation program and prevent further displacement. MidPen's step-by-step partnership is based on their long history of developing affordable housing and now affordable homeownership.

Details such as offering units to residents who have been displaced over the past number years, will need to be addressed. If we begin working with people in the community now, there will be a large pool of residents prepared to become homeowners in the neighborhood where many have lived for decades.

This is a significant opportunity that will begin to change the lives of future generations.

I strongly urge the Council to do what ever is necessary to move this request forward and ensure its success.

Respectfully,  
Pam D. Jones

J2-STAFF PRESENTATION



# 335 PIERCE ROAD HOUSING PROPOSAL

Study Session

# AGENDA

- Staff introduction
- MidPen Housing presentation
- Questions
- Feedback and direction to staff



## NOFA BACKGROUND

- **November 2020:** City released \$10 million notice of funding availability (NOFA)
- **January 2021:** City receives three NOFA proposals
- **February 2021:** \$5.5 million approved for purchase of 6-8 Coleman Place by HIP Housing
- **May 2021:** \$1.2 million approved for a homeownership preservation program by Habitat for Humanity
- **November 2021:** pending \$3.6 million toward 12 new townhomes for BMR ownership by MidPen Housing



## 335 PIERCE ROAD PROPOSAL HIGHLIGHTS

- MidPen owns two parcels at 335 Pierce Road
  - one vacant parcel, one 4 unit apartment building
- Proposal to build 12 townhomes for low income, first time homebuyers
  - Current zoning only allows up to 4 units
- MidPen proposing the creation of a community land trust (CLT)
  - Land trust allows affordable ownership in perpetuity
  - CLT board includes community members
- Funding approval of the project, to be determined at later date, would be conditional based on:
  - zoning amendments as part of Housing Element Update; and
  - successful creation of a community land trust (CLT)

## BELOW MARKET RATE (BMR) GUIDELINES

- Section 13.3 of the BMR housing program guidelines outline eligible uses of the BMR housing funds
  - Creation of a CLT is not specifically listed in section 13.3
- First CLT funding proposal the City has received
  - City Council direction on this item would set a precedent for future CLT proposals
- Proposal at 335 Pierce Rd. would produce an increased amount of BMR housing units
  - 4 existing rental units; tenants would be relocated and considered for purchase opportunity
  - 12 new “low” income ownership units; majority of City’s ownership portfolio at moderate income
- Formation of CLT could be considered eligible use if directed by City Council

## CITY COUNCIL DIRECTION

1. Use of funds for MidPen to create a CLT as it relates to approved uses of the BMR housing funds (section 13.3 of the BMR housing program guidelines)
2. Initial disbursement of \$200,000 in BMR housing funds to MidPen to support legal formation of a CLT and community engagement
  - Staff would return to City Council with specific recommended actions based on the direction of the above items.



**THANK YOU**



## **335 PIERCE ROAD**

# **AFFORDABLE OWNERSHIP PROPOSAL**

MENLO PARK CITY COUNCIL

NOVEMBER 9, 2021



# PROPOSAL OVERVIEW

- 335 Pierce Road is an existing 4-plex and vacant lot
- Proposed to be replaced by 12 two-bedroom for sale townhomes
- Affordable to Low Income Residents
- Community Control via Community Land Trust
- Replicable and scalable model
- Simple financing strategy



# WHY NOW?

## Timing is Right

- MidPen can relocate current residents to the new Gateway Rising on Willow Road
- Housing Element Process

## Policy Alignment

- Y Plan
- Jan 2020 Housing Inventory and Supply Study
- 2021 Housing Commission Work Plan



# HOW IT WORKS

| Resources               | Community Benefits  |
|-------------------------|---|
| NOFA Funding of \$3.6MM | <ul style="list-style-type: none"><li>• Turns 4 affordable homes in to 12 affordable homes</li><li>• Supports the formation of a Belle Haven controlled CLT</li><li>• Establishes Proof of concept</li></ul>  |
| Community Land Trust    | <ul style="list-style-type: none"><li>• Community self determination</li><li>• Community control of land = asset building</li><li>• A permanently affordable community asset</li><li>• Increased affordability via reduced property tax obligation</li><li>• Mitigates displacement</li></ul>   |
| Homeownership           | <ul style="list-style-type: none"><li>• Purchase price can support development cost less land</li><li>• Wealth Building via:<ul style="list-style-type: none"><li>• Principle over time</li><li>• Controlled equity return</li><li>• Mortgage Interest Tax Deduction</li></ul></li><li>• Homeowners become community stewards</li></ul> |



# ZONING

|                           | <b>Current<br/>R-3 (DB)</b>      | <b>Proposed<br/>R-4-S (AHO)</b> |
|---------------------------|----------------------------------|---------------------------------|
| <b>Density</b>            | 13.1 du/ac                       | 30 du/ac                        |
| <b>Front Yard Setback</b> | 15%; 20 ft. min.                 | 10 ft.                          |
| <b>Side Setback</b>       | 15 ft.                           | 10 ft.                          |
| <b>Rear Setback</b>       | 15%; 15 ft. min.                 | 10 ft.                          |
| <b>Maximum Height</b>     | 35 ft.                           | 40 ft.                          |
| <b>Maximum FAR</b>        | 35% to 75%                       | 60% to 90%                      |
| <b>Parking</b>            | 2 spaces per unit<br>(1 covered) | 2 spaces per unit               |
| <b>Number of Homes</b>    | <b>8</b>                         | <b>12</b>                       |



# NEXT STEPS

- Commitment of seed funding from City of Menlo Park to fund legal and organizing costs to form Belle Haven CLT
- Community outreach and engagement to identify leaders interested in helping to form CLT, potential future board members, etc. and assess support for rezoning site and affordable homeownership model
- Coordinate with Menlo Park on rezoning via the Housing Element
- In 2023, begin entitlement process, construction, and delivery of homes



**THANK YOU**



**BUILDING COMMUNITIES. CHANGING LIVES.**



MidPen has a well-established and successful working relationship with the City of Menlo Park. We look forward to continuing our partnership with the City to explore this innovative new model for scalable affordable homeownership.

# FINANCING

## GOALS

- Support Low-Income households
- Minimize the additional funding needed
- Minimize the City investment

## HOME PRICES & TERMS

- Price of \$636,500
- Buyers at 80% AMI (\$125,280 annual income)
- Household size: 3+ person households
- 5% down payment (\$31,825)
- 4.0% fixed rate 30-year mortgage
- All homes currently assumed as 2-Beds

| Total Development Cost     |   |
|----------------------------|---|
| Land & Acquisition         | \$3,269,715                                     |
| Relocation                 | \$10,000  |
| Hard Costs                 | \$5,944,860                                     |
| Architecture & Engineering | \$510,000                                       |
| Soft Costs                 | \$1,083,322                                     |
| Developer Fee              | \$420,000                                       |
| <b>Total</b>               | <b>\$11,237,897</b><br><i>(\$936K per unit)</i> |

| Funding Sources       |   |
|-----------------------|---|
| Sales Proceeds        | \$7,637,897                                     |
| Menlo Park NOFA Funds | \$3,600,000<br><i>(\$300K per unit)</i>         |
| <b>Total</b>          | <b>\$11,237,897</b><br><i>(\$936K per unit)</i> |



**REGULAR MEETING MINUTES – DRAFT**

**Date:** 10/12/2021  
**Time:** 5:00 p.m.  
**Location:** Zoom

**Closed Session**

**A. Call To Order**

Mayor Combs called the meeting to order at 5:06 p.m.

**B. Roll Call**

Present: Combs, Mueller, Nash, Taylor (exited the meeting at 6:50 p.m.), Wolosin  
Absent: None  
Staff: City Manager Starla Jerome-Robinson, Assistant City Attorney Greg Rubens, City Clerk Judi A. Herren

**C. Agenda Review**

The City Council continued items D1. and D3. to a future meeting.

**D. Closed Session**

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

- D1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with unrepresented management; City Attorney and; City Manager

Attendees: City Manager Starla Jerome-Robinson, Assistant City Manager Nick Pegueros, City Attorney Nira F. Doherty, Legal Counsel Charles Sakai, Interim Human Resources Manager Kristen Strubbe

- D2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code § 54956.9)

Michael Zeleny v. Rob Bonta, et al (Case No. 17-cv-07357-RS)

Claimant: Michael Zeleny

Agency Claimed Against: City of Menlo Park

- D3. Closed session conference pursuant to Government Code §54957(b)(1) regarding public employee performance evaluation of the City Attorney

**E. Adjournment**

Mayor Combs adjourned to the closed session at 5:08 p.m.

**Regular Session**

**F. Call To Order**

Mayor Combs called the meeting to order at 5:24 p.m.

**G. Roll Call**

Present: Combs, Mueller, Nash, Taylor (exited the meeting at 6:50 p.m.), Wolosin  
Absent: None  
Staff: City Manager Starla Jerome-Robinson, Assistant City Attorney Greg Rubens, City Clerk Judi A. Herren

**H. Report from Closed Session**

No reportable actions.

**I. Presentations and Proclamations**

I1. Proclamation: Recognizing Hispanic Heritage Month (Attachment)

Mayor Combs read the proclamation (Attachment).

I2. Proclamation: Domestic Violence Awareness Month (Attachment)

Web form public comment on item I2 (Attachment).

Mayor Combs read the proclamation (Attachment).

Legal Advocacy Coordinator Shabana Ansari accepted the proclamation.

I3. Presentation: Update on the Menlo Park Community Campus Project (Presentation)

Acting Library and Community Services Supervisor Rondell Howard made the presentation (Attachment).

- Pam Jones spoke in support of the updates provided in the presentation.

**J. Study Session**

J1. Provide direction on purchasing options for renewable microgrid, electric vehicle charging, and solar thermal pool heating for the Menlo Park Community Campus project (Staff Report #21-203-CC) (Presentation)

Web form public comment on item J1 (Attachment).

Sustainability Manager Rebecca Lucky made the presentation (Attachment).

The City Council discussed benefits of City funding a direct purchase versus a power purchase agreement contract with a preferred vendor for a renewable microgrid, electric vehicle (EV) charging, and solar thermal pool heating. The City Council received clarification on purchase funding options, and directed staff to negotiate and pursue a direct purchase contract for the clean energy package (microgrid, EV charging, and solar thermal pool heating) at the MPCC project for up to \$5.2 million from the general fund.

**K. Public Comment**

None.

Web form public comment on item K (Attachment).

**L. Consent Calendar**

- L1. Accept the City Council meeting minutes for September 8, 14, and 20, 2021 (Attachment)
- L2. Authorize the Mayor to sign the City’s response to the San Mateo County’s Civil grand jury report: “Building Greater Trust Between the Community & Law Enforcement via the Racial and Identity Profiling Act” (Staff Report #21-191-CC)
- L3. Adopt Resolution No. 6672 supporting the City’s shuttle program for application for the sustainable transportation planning grant fiscal year 2022-23 (Staff Report #21-189-CC)
- L4. Award a construction contract to Casey Construction, Inc. for the 2021 water main replacement project for Haven Avenue (Staff Report #21-190-CC)
- L5. Waive the second reading and adopt Ordinance No. 1078 repealing and replacing Menlo Park Municipal Code Section 16.86.025 (Staff Report #21-192-CC)
- L6. Adopt Resolution No. 6673 authorizing the city manager to accept a grant for fiscal years 2021-2023 of up to \$350,000 from County of San Mateo to implement the Big Lift at the Belle Haven Child Development Center and to execute a contract to enhance services to complete the scope of work (Staff Report #21-193-CC)
- L7. Adopt Resolution No. 6675 authorizing the city manager to enter into a memorandum of understanding with the South Bayside Waste Management Authority to implement Senate Bill 1383 Short-Lived Climate Pollutants regulations (Staff Report #21-200-CC)
- L8. Adopt Resolution No. 6676 to authorize the city manager to enter in a memorandum of understanding with the County of San Mateo for the establishment of an Edible Food Recovery Program (Staff Report #21-201-CC)
- L9. Receive and file the annual inflation protection adjustment of \$0.50 per hour for an approved local minimum wage effective January 1, 2022 of \$15.75 per hour (Staff Report #21-199-CC)
- L10. Receive and file climate action plan progress report, reporting methodology and goal clarity going forward, and Environmental Quality Commission recommendations (Staff Report #21-198-CC) (Presentation)

Web form public comment on item L10.

Vice Mayor Nash reported from the Climate Action Plan Subcommittee the request to include measuring furnaces, water heaters, and electric vehicles.

**ACTION:** Motion and second (Nash/ Combs), to approve the consent calendar, passed unanimously.

The City Council reordered the agenda.

## **N. City Council Initiated Items**

- N1. Engage an outside consultant to conduct an Independent 360 degree evaluation of the city attorney and an independent analysis of legal billings for the current and past three fiscal years (Staff Report #21-197-CC)

Assistant City Attorney Greg Rubens was recused from the item and exited the meeting.

Mayor Combs introduced the item.

The City Council received clarification on a process or procedure on future evaluations and who would be charged select the consultant.

**ACTION:** Motion and second (Combs/ Mueller), direct the city manager to assemble resources to prepare a staff report to further consider hiring a consultant to conduct an Independent 360-degree evaluation of the city attorney and hire a consultant for an independent comparative analysis of legal billings for the current and past three fiscal years, failed 2-3 (Nash, Taylor, Wolosin dissenting).

Assistant City Attorney Greg Rubens rejoined the meeting.

## **M. Regular Business**

- M1. Adopt Resolution No. 6671 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public (Staff Report #21-194-CC)

City Clerk Judi Herren introduced the item.

The City Council discussed in-person meetings.

**ACTION:** Motion and second (Nash/ Combs), to adopt Resolution No. 6671 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public, passed unanimously.

- M2. Request for a subdivision ordinance variance to reduce the front setback requirement for a single-family residential property at 491 Middle Court (Staff Report #21-202-CC) (Presentation)

Assistant Planner Chris Turner and TJH Applicant Anna Felver made the presentation (Attachment).

- Property owner Sidart Deb spoke in support of the variance.

The City Council received clarification on other variances on Middle Court and neighborhood outreach.

**ACTION:** Motion and second (Mueller/ Wolosin), to adopt Resolution No. 6677 to approve the request for a variance to modify the subdivision ordinance front setback to allow the construction of a new two-story, single-family residence in the R-1-S (Single Family Suburban Residential) zoning district, at 491 Middle Court, passed 4-0 (Taylor absent).



**M3. Adopt the Transportation Management Association feasibility study final report (Staff Report #21-184-CC) (Presentation) – continued from September 21, 2021**

Transportation Demand Management Coordinator Nick Yee made the presentation (Attachment).

- Adina Levin spoke in support of the staff recommendations.

The City Council received clarification on joining the Manzanita Works coalition this year and the benefits of joining the consortium.

**ACTION:** Motion and second (Wolosin/ Nash), adopt staff recommendations and direct staff to prepare an assessment of joining Manzanita Works, including the cost and benefits to the City, passed 4-0 (Taylor absent).

**M4. Approve an update to the Complete Streets Commission 2021-22 work plan and adopt Resolution No. 6674 to support Seamless Transit Principles (Staff Report #21-196-CC) (Presentation)**

Senior Transportation Engineer Kevin Chen and Complete Streets Commission Chair Adina Levin made the presentation (Attachment).

The City Council received clarification on Seamless Transit principle commitments.

**ACTION:** Motion and second (Wolosin/ Nash), to approve an update to the Complete Streets Commission 2021-22 work plan and adopt Resolution No. 6674 to support Seamless Transit Principles as recommended by the Complete Streets Commission, passed 4-0 (Taylor absent).

**O. Informational Items**

- O1. City Council agenda topics: October – November 2021 (Staff Report #21-195-CC)

**P. City Manager's Report**

None.

**Q. City Councilmember Reports**

City Councilmember Mueller spoke in memory of Grace Steinmetz.

Vice Mayor Nash reported on the Peninsula Clean Energy meeting.

**R. Adjournment**

Mayor Combs adjourned the meeting at 9:01 p.m.

Judi A. Herren, City Clerk

## NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

Consistent with Government Code section 54953(e), and in light of the declared state of emergency, the meeting will not be physically open to the public and all members will be teleconferencing into the meeting via a virtual platform. To maximize public safety while still maintaining transparency and public access, members of the public can listen to the meeting and participate using the following methods.

- How to participate in the meeting
  - Submit a written comment online up to 1-hour before the meeting start time:  
[menlopark.org/publiccommentOctober12\\*](https://menlopark.org/publiccommentOctober12*)
  - Access the meeting real-time online at:  
[Zoom.us/join](https://zoom.us/join) – Meeting ID 998 8073 4930
  - Access the meeting real-time via telephone at:  
(669) 900-6833  
Meeting ID 998 8073 4930  
Press \*9 to raise hand to speak  
Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.
  
- Watch meeting:
  - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:  
Channel 26
  - Online:  
[menlopark.org/streaming](https://menlopark.org/streaming)

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website [www.menlopark.org](http://www.menlopark.org). The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information ([menlopark.org/agenda](https://menlopark.org/agenda)).

According to City Council policy, all 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.



**REGULAR MEETING MINUTES – DRAFT**

**Date:** 10/26/2021

**Time:** 5:00 p.m.

**Location:** Zoom

**Regular Session**

**A. Call To Order**

Mayor Combs called the meeting to order at 5:07 p.m.

**B. Roll Call**

Present: Combs, Mueller (arrived at 5:45 p.m.), Nash, Taylor, Wolosin (arrived at 5:11 p.m.)

Absent: None

Staff: City Manager Starla Jerome-Robinson, City Attorney Nira Doherty, City Clerk Judi A. Herren

**C. Agenda Review**

The City Council pulled item F6. for discussion.

**D. Presentations and Proclamations**

**D1. Proclamation: Recognizing Children's Environmental Health Month (Attachment)**

Mayor Combs read the proclamation (Attachment).

Katie Huffling from California Alliance of Nurses for Healthy Environments (ANHE) accepted the proclamation.

**E. Public Comment**

- Deputy County Manager Justin Mates invited everyone to get involved in the San Mateo County redistricting process.

**F. Consent Calendar**

**F1. Accept the City Council meeting minutes for September 21, October 5, 12, and 13, 2021 (Attachment)**

**F2. Adopt Resolution No. 6682 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public (Staff Report #21-211-CC)**

**F3. Authorize the Mayor to sign the City's response to the San Mateo County's grand jury report: "California's Ground Zero for Sea Level Rise" (Staff Report #21-207-CC)**

- Lynne Bramlett spoke on concerns about the response letter.

The City Council received clarification on the response letter, its intention, and response due date.

- F4. Adopt Resolution No. 6680 to amend the tenant assistance program administered by Samaritan House to increase program funding with the use of American Rescue Plan funds in the amount of \$250,000 and expand program guidelines to include mortgage assistance (Staff Report #21-208-CC)
- F5. Adopt Resolution No. 6681 authorizing the removal of the left turn restriction at 105-125 Constitution Drive (Staff Report #21-209-CC)

Mayor Combs was recused from item F5., due to Facebook being his employer and exited the meeting.

- Pam Jones spoke in opposition of the removal of the left turn restriction at 105-125 Constitution Drive.

The City Council received clarification on the Compete Streets Commission discussion of the removal of the left turn restriction at 105-125 Constitution Drive and safety concerns.

The City Council requested a six month check-in on current and upcoming pedestrian safety measures.

**ACTION:** Motion and second (Wolosin/ Taylor) to adopt Resolution No. 6681 authorizing the removal of the left-turn restriction to the 105-125 Constitution Drive driveway and to direct staff to return in six months with a report out with a safety analysis within the area, passed 3-0 (Combs recused and Mueller absent).

Mayor Combs rejoined the meeting.

- F6. Award vehicle purchase contracts to National Auto Fleet Group, Altec Industries, Tesla, and Volvo Construction Equipment and Services for the purchase and modifications of electric and hybrid police vehicles, medium/heavy-duty trucks, and a towable compressor; approve the purchase of Tesla police patrol electric vehicles as a pilot program; and approve an appropriation from the unassigned general fund balance for the fiscal year 2021-2022 vehicle purchase (Staff Report #21-213-CC)

- Lynne Bramlett requested clarification on the number of miles the police department patrol vehicles drive, concerns with electric vehicles and the power grid and on the pilot timing.
- Pam Jones spoke on concerns related to the purchase of Teslas and the pilot program and in support of spending those funds to support the needs in Menlo Park.
- Nicola Diolaiti spoke on concerns related to Tesla repair costs.

The City Council received clarification on vehicles recommended to purchase, vehicle disposal, budget implications, safety of all-electric vehicles, staffing needs for the pilot, Environmental Quality Commission recommendations, impact to police resources, and replacement of other City vehicles (e.g., shuttles).

The City Council discussed tracking the experiences, costs of the vehicles purchased, and bifurcating police vehicles from the medium/heavy-duty trucks and towable compressor.

**ACTION:** Motion and second (Combs/ Mueller), to award vehicle purchase contracts to National Auto Fleet Group, Altec Industries, and Volvo Construction Equipment and Services for approximately \$1.544 million,

plus a contingency of \$15,000, for the purchase and modification of seven electric and hybrid police vehicles, five medium/heavy-duty trucks, and one towable compressor; award a purchase contract to Tesla and approve the purchase of three Tesla Model Y electric vehicles for a police patrol decarbonization pilot program; and approve a \$409,000 appropriation from the general fund's unassigned fund balance for the fiscal year 2021-22 vehicle purchase, passed 3-2 (Taylor and Wolosin dissenting.)

F7. Adopt Resolution No. 6683 modifying the City Council's regular meeting schedule to include November 16 and December 7, 2021 (Staff Report #21-212-CC)

**ACTION:** Motion and second (Wolosin/ Taylor), to approve item F1. with the removal of the October 13, 2021 minutes, items F2., F3., F4., and F7., passed 4-0 (Mueller absent).

## **G. Public Hearing**

G1. Resolution No. 6679: Consider adoption of a Resolution of Necessity and authorize the initiation of eminent domain proceedings to acquire property interests necessary for the Menlo Park Community Campus Project (Staff Report #21-206-CC)

Mayor Combs was recused from item G1., due to Facebook being his employer and exited the meeting.

Deputy City Manager Justin Murphy made the presentation (Attachment).

Vice Mayor Nash opened the public hearing.

Vice Mayor Nash closed the public hearing.

**ACTION:** Motion and second (Mueller/ Wolosin) to adopt Resolution No. 6679 to determine the necessity to acquire property and an emergency vehicle and emergency access easement by eminent domain for the construction of the Menlo Park Community Campus Project; to authorize the commencement of litigation to acquire the property and emergency vehicle and emergency access easement by eminent domain; and to seek an order of possession (Code of Civil Procedure section 1245.220), 4-0 (Combs recused).

Mayor Combs rejoined the meeting.

## **H. Regular Business**

H1. Adopt Resolution No. 6678 to ratify a successor agreement between the City of Menlo Park and Menlo Park Police Officers' Association expiring August 31, 2024 (Staff Report #21-204-CC)

Assistant City Manager Nick Pegueros made the presentation.

The City Council noted the modernization of the arbitrator selection process and inclusion of a new provision to discuss police reform actions. .

**ACTION:** Motion and second (Mueller/ Combs), to adopt Resolution No. 6678 to ratify a successor agreement between the City of Menlo Park and the Menlo Park Police Officers' Association expiring August 31, 2024, passed unanimously.

The City Council reordered the agenda.

## **K. City Councilmember Reports**

City Councilmember Mueller, with the support of Mayor Combs, requested a future agenda item asking the city attorney to add the identification of Menlo Park parks to the Menlo Park Municipal Code.

City Councilmember Taylor reported out on the City Manager Recruitment, Menlo Park Community Campus, Reimagining Policing, and Community Amenities Subcommittees meetings and SFO Airport/Community Roundtable and City/County Association of Governments (C/CAG) meetings.

City Councilmember Wolosin reported out on City Manager Recruitment Subcommittee meeting and the upcoming Rail Subcommittee meeting on November 15, 2021 at 5 p.m.

Mayor Combs reported out on the recent resignations from the Community Engagement and Outreach Committee (CEOC).

Vice Mayor Nash reported on the grand opening of Bon Marché.

## **J. City Manager's Report**

City Manager Starla Jerome-Robinson provided updates to the Chilco Street median project.

## **I. Informational Items**

### **I1. City Council agenda topics: November 2021 (Staff Report #21-205-CC)**

- Adina Levin spoke on how park lines are defined related to the housing element timeline.
- Karen Grove spoke on the deadline for park identification related to the housing element.

The City Council took a recess at 7:17 p.m.

The City Council reconvened at 7:38 p.m.

### **H2. Consider land use strategy options to meet the City's Housing Element Regional Housing Needs Allocation for the planning period 2023-2031, and identify a preferred land use scenario for further evaluation as part of the environmental review process (Staff Report #21-210-CC) (Presentation)**

Web form public comment on item H2.

Assistant Community Development Director Deanna Chow and M-Group representatives Geoff Bradley and Sung Kwon made the presentation (Attachment).

- Sue Connelly expressed concern about the equitability of the distribution of residential units and identifying the SRI project as a pipeline project
- Kalisha Webster spoke in support of additional affordable and low income housing with an emphasis on housing for persons with disabilities.
- Lynne Bramlett spoke in support of District 1 housing being considered in the Regional Housing Needs Allocation (RHNA) cycle 5, the need for community strategic planning, and concerns about the missing District 1 CEOC surveys.

- Andrew Bielack requested clarification on site feasibility and the assumptions.
- Jenny Michel spoke in support of Option D.
- Michal Bortnik provided information and details related to the proposed assumptions.
- Ken Chan spoke in support of gaining input from the development community on site locations.
- Karen Grove spoke in support for higher densities, policies for affordable housing, pursuing Senate Bill 10 simultaneously, and housing in District 5
- Brittani Baxter spoke on concerns related to the development ratios and favored density bonuses.
- Kelsey Banes spoke in support of the Housing Commission recommendation and studying all options on the table.
- Misha Silin spoke in support of new housing Citywide and concerns on displacement.
- Adina Levin spoke in support of a thorough review of the sites and Option D as a base and transportation policies supporting the housing element and reviewing development for housing sites.
- Pam Jones spoke in support of a policy statement embracing below market rate units, the need for incentives to builders, working with staff to portray the need for 1,400 below market rate units, and a Citywide zoning policy.
- Nicola Diolaiti spoke in support of analyzing the City's lifestyle after development, taking into account impacts to schools and traffic.
- Gail Gorton spoke on concerns about equitable distribution of housing and suggested reducing units in District 3 with more units in Sharon Heights.
- Cynthia Harris spoke in support of Option D, but also not limiting options, and would like to see site feasibility analysis and incentives, and affirmatively furthering fair housing.
- Shanda Bahles spoke in support of increased low income housing, utilizing a holistic approach, and infill opportunities with incentives could be below market rate housing in Sharon Heights.

The City Council received clarification on deadlines, State legislation, the notice of preparation schedule, default density, downzoning in District 1, including pipeline projects in District 1 in the RHNA cycle 5, identification of sites and sites analysis, environmental impact report timeline and impacts with site selection and number of housing units, Citywide land use policies, and an update on the paper surveys collected by former CEOC member Victoria Robledo.

The City Council also made comments regarding the feasibility of sites such as the venture capital offices in District 5, bifurcating the safety element from the housing element, and zoning and policies, including the need for work on objective standards for SB 9. There was general support for additional information regarding the potential sites and the appropriate number of units to study as part of the project description to release the notice of preparation for the environmental impact report.

The City Council took a recess at 9:56 p.m.

The City Council reconvened at 10:37 p.m.

**ACTION:** By acclamation, the City Council extended the meeting to 11:30 p.m.

The City Council directed this item be returned on a future agenda. City Councilmembers indicated that they would provide follow-up comments and questions via e-mail to the project team no later than Monday, November 1, 2021.

**M. Adjournment**

Mayor Combs adjourned the meeting at 11:25 p.m.

Judi A. Herren, City Clerk



## NOVEL CORONAVIRUS, COVID-19, EMERGENCY ADVISORY NOTICE

Consistent with Government Code section 54953(e), and in light of the declared state of emergency, the meeting will not be physically open to the public and all members will be teleconferencing into the meeting via a virtual platform. To maximize public safety while still maintaining transparency and public access, members of the public can listen to the meeting and participate using the following methods.

- How to participate in the meeting
  - Submit a written comment online up to 1-hour before the meeting start time:  
[menlopark.org/publiccommentOctober26\\*](https://menlopark.org/publiccommentOctober26)
  - Access the meeting real-time online at:  
Zoom.us/join – Meeting ID 998 8073 4930
  - Access the meeting real-time via telephone at:  
(669) 900-6833  
Meeting ID 998 8073 4930  
Press \*9 to raise hand to speak  
Written public comments are accepted up to 1-hour before the meeting start time. Written messages are provided to the City Council at the appropriate time in their meeting.
  
- Watch meeting:
  - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:  
Channel 26
  - Online:  
[menlopark.org/streaming](https://menlopark.org/streaming)

Note: City Council closed sessions are not broadcast online or on television and public participation is limited to the beginning of closed session.

Subject to Change: Given the current public health emergency and the rapidly evolving federal, state, county and local orders, the format of this meeting may be altered or the meeting may be canceled. You may check on the status of the meeting by visiting the City's website [www.menlopark.org](http://www.menlopark.org). The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information ([menlopark.org/agenda](https://menlopark.org/agenda)).

According to City Council policy, all 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.



## STAFF REPORT

### City Council

**Meeting Date:** 11/9/2021  
**Staff Report Number:** 21-215-CC

**Consent Calendar:** **Adopt Resolution No. 6684 modifying the remainder of the 2021 City Council's regular meeting start time to 7 p.m.**

### Recommendation

Staff recommends that the City Council adopt Resolution No. 6684 (Attachment A) modifying the remainder of the 2021 City Council's regular meeting start time to 7 p.m.

Staff also recommends updating the Menlo Park Municipal Code (MPMC) Section 2.04.010 Regular meetings—Days and time (Attachment B) start time to 7 p.m. from 5 p.m.

### Policy Issues

Ordinance No. 1074 (Attachment C) allows the City Council to adopt a different meeting schedule by resolution.

### Background

On December 15, 2020, the City Council unanimously voted to introduce Ordinance No. 1074. At the January 12, 2021 City Council, the unanimously voted to waive the second reading and adopt Ordinance No. 1074. This ordinance codified the City Council's current practice of conducting regular meetings on the second and fourth Tuesday of every month with a 5 p.m. start time. The 5 p.m. start time was selected due to the heightened risk of the COVID-19 pandemic and the flexibility of schedules to meet at an earlier start time. Pre-COVID-19, the regular City Council meeting start time was 7 p.m.

Subsequently, the City Council has amended, by resolution, the City Council regular meeting schedule at their July 20 and October 26, 2021 meetings to include scheduled "special" meeting as "regular meetings."

### Analysis

The first action recommended by staff is to adopt Resolution No. 6684 modifying November 16, December 7 and December 14, 2021 City Council's regular meeting time to 7 p.m.

The second recommendation is for City Council direction on updating the MPMC Section 2.04.010 Regular meetings—Days and time to 7 p.m. from 5 p.m. It has been noted that the 5 p.m. start time is difficult due to increased work commitments with the COVID-19 restrictions decreasing within some organizations. Also, there is limited flexibility in the code to update regular meeting days and times outside of the beginning of a calendar year.

The recommended update to this ordinance would be updating the language from paragraph four of Ordinance No. 1074:

“A regular meeting of the City Council shall be held on the second and fourth Tuesday of every month commencing at ~~five~~ seven p.m., unless the City Council adopts a different schedule by resolution ~~at the beginning of the year.~~”

If the City Council directs staff to update the MPMC with the 7 p.m. start time, an ordinance will be drafted and presented as a first reading at the November 16, 2021 City Council meeting. If approved, the second reading and adoption will be brought to the City Council December 14, 2021. If adopted, this will ensure that the start of calendar year 2022 will have regular meetings commencing at 7 p.m. The City Council will still be asked to adopt a regular 2022 meeting schedule at the December 14, 2021 City Council meeting.

### **Impact on City Resources**

There is no impact on City resources.

### **Public Notice**

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

### **Environmental Review**

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

### **Attachments**

- A. Resolution No. 6684
- B. Hyperlink – MPMC Section 2.04.010 Regular meetings—Days and time:  
[codepublishing.com/CA/MenloPark/#!/MenloPark02/MenloPark0204.html#2.04.010](http://codepublishing.com/CA/MenloPark/#!/MenloPark02/MenloPark0204.html#2.04.010)
- C. Ordinance No. 1074

Report prepared by:  
Judi A. Herren, City Clerk

Report reviewed by:  
Nira Doherty, City Attorney

**RESOLUTION NO. 6684**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
UPDATING THE REGULAR MEETING START TIME TO 7 P.M. FOR THE  
REMAINDER OF THE 2021 CALENDAR YEAR**

WHEREAS, the City of Menlo Park ("City") wishes to update the regular City Council meeting start time to 7 p.m. for the remainder of the 2021 calendar year.

WHEREAS, Ordinance No. 1074 allows the modification of the approved City Council meeting scheduled through the adoption of a resolution;

WHEREAS, Section 2.04.010 of the Menlo Park Municipal Code reads as follows:

2.04.010. Regular Meetings – Days and time. \*\*

A regular meeting of the City Council shall be held on the second and fourth Tuesday of every month commencing at five p.m., unless the City Council adopts a different schedule by resolution at the beginning of the year. A regular meeting of the City Council may be canceled (i) by notice at a prior City Council meeting, or (ii) by notice to all of the City Council members of not less than twenty-four (24) hours prior to the meeting and by posting a notice of cancellation at all locations where public notices are regularly posted by the City.

WHEREAS, Ordinance No. 1074 establishes that regular meetings of the City Council shall occur on the second and fourth Tuesday of every month commencing at 5 p.m.

WHEREAS, in order to ensure greater participation by the City Council and the public, the City Council wishes to adopt a Resolution which provides that all City Council meetings for the remainder of the 2021 calendar year commence at 7 p.m. rather than 5 p.m.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MENLO PARK HEREBY RESOLVES:

The remainder of the City Council 2021 calendar year regular City Council meetings will commence at 7 p.m.

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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 ninth day of November, 2021, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this \_\_\_ day of November, 2021.

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Judi A. Herren, City Clerk

**ORDINANCE NO. 1074**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MENLO PARK AMENDING SECTION 2.04.010 OF CHAPTER 2.04 (CITY COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE MENLO PARK MUNICIPAL CODE**

WHEREAS, the City of Menlo Park ("City") wishes to change the time when the City Council holds its regularly scheduled meetings and the methods for canceling a City Council meeting.

THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Section 2.04.010 of the Menlo Park Municipal Code is amended to read as follows:

2.04.010. Regular Meetings – Days and time. \*\*

A regular meeting of the City Council shall be held on the second and fourth Tuesday of every month commencing at five p.m., unless the City Council adopts a different schedule by resolution at the beginning of the year. A regular meeting of the City Council may be canceled (i) by notice at a prior City Council meeting, or (ii) by notice to all of the City Council members of not less than twenty-four (24) hours prior to the meeting and by posting a notice of cancellation at all locations where public notices are regularly posted by the City.

\*\* For state law as to council meetings, see Gov. Code sections 36805 to 36808, 54950 to 65960.

SECTION 2. EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect 30 days after adoption. The city clerk shall cause publication of the ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city or, if none, the posted in at least three public places in the city. Within 15 days after the adoption of the ordinance amendment, a summary of the amendment shall be published with the names of the City Councilmembers voting for and against the amendment.

INTRODUCED on the fifteenth day of December, 2020.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the twelfth day of January, 2021 by the following vote:

AYES: Mueller, Taylor, Wolosin, Nash, Combs

NOES: None

ABSENT: None


ABSTAIN: None

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Ordinance No. 1074  
Page 2 of 2

ATTEST:

DocuSigned by:  
  
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Judi A. Herren, City Clerk

APPROVED:

DocuSigned by:  
  
52C1D491348F4A3...  
Drew Combs, Mayor



## STAFF REPORT

### City Council

Meeting Date: 11/9/2021

Staff Report Number: 21-217-CC

Consent Calendar: Library Commission work plan 2021-2022

### Recommendation

Staff recommends that the City Council receive and file the Library Commission work plan 2021-2022.

### Policy Issues

The Library Commission advises and makes recommendations to the City Council about Library policies and services in alignment with City Council priorities and goals. City Council Policy CC-21-004 (Attachment A) was updated in June 8, 2021 and outlines the procedures, roles and responsibilities of the City Council-appointed advisory bodies for optimal functioning.

### Background

City Council Policy CC-21-004 requires commissions to develop an annual work plan and then report on the status of that work plan to the City Council. The City Council on November 19, 2019 received and filed the Library Commission's previous work plan for 2019-20 (Attachment B.) The normal cycle of work plan creation and approval was interrupted by pandemic and its impacts. The Library Commission on August 16, 2021 updated and unanimously approved a work plan for 2021-2022 (Attachment C.)

### Analysis

The work plan guides the Library Commission's work for the coming year. The work plan seeks to align itself with City Council goals, the library and community services departmental strategic plan, and the needs of the Menlo Park community. The Library Commission's current primary goal continues to be to support the Menlo Park Community Center (MPCC) project per City Council direction. The MPCC project is a City Council top five priority for 2021.

Since the last update the City Council in November 2019, the Library Commission has:

- Engaged with staff on the return to on-site services
- Continued to review library policies
  - Meeting room policy
  - Reviewed and recommended changes to the library use guidelines
- Reviewed and recommended updates to the library and community services department strategic plan

The Library Commission on August 18, 2021 added items to their work plan related to: library services and programs in response to the COVID-19 pandemic, and ensuring equitable community access to library services during emergencies.



### **Impact on City Resources**

There is no impact on City resources.

### **Environmental Review**

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

### **Public Notice**

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

### **Attachments**

- A. City Council Policy CC-21-004
- B. Hyperlink – Library Commission work plan 2019-2020:  
[menlopark.org/DocumentCenter/View/21776/LC\\_WP\\_2019\\_2020](http://menlopark.org/DocumentCenter/View/21776/LC_WP_2019_2020)
- C. Library Commission work plan approved at the August 16, 2021 Library Commission meeting

Report prepared by:

Nick Szegda, Assistant Director of Library Services

Reviewed by:

Sean Reinhart, Director of Library and Community Services

# COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Procedure #CC-21-004  
 Effective 6/08/2021  
 Resolution No. 6631

ATTACHMENT A



|   |
|---|
| <p><b>Purpose</b></p>   |
| <p>To define policies and procedures and roles and responsibilities for Menlo Park appointed commissions and committees.</p>  |
| <p><b>Authority</b></p>   |
| <p>Upon its original adoption, this policy replaced the document known as “Organization of Advisory Commissions of the City of Menlo Park.”</p>   |
| <p><b>Background</b></p>  |
| <p>The City of Menlo Park currently has eight active Commissions and Committees. The active advisory bodies are: Community Engagement and Outreach Committee, Complete Streets Commission, Environmental Quality Commission, Finance and Audit Committee, Housing Commission, Library Commission, Parks and Recreation Commission, and Planning Commission. Those not specified in the City Code are established by City Council ordinance or resolution. Most of these advisory bodies are established in accordance with Resolution 2801 and its amendments. Within specific areas of responsibility, each advisory body has a primary role of advising the City Council on policy matters or reviewing specific issues and carrying out assignments as directed by the City Council or prescribed by law.</p> <p>Seven of the eight commissions and committees listed above are advisory in nature. The Planning Commission is both advisory and regulatory and organized according to the City Code (Ch. 2.12) and State statute (Government Code 65100 et seq., 65300-65401).</p> <p>The City has an adopted Anti-Harassment and Non-Discrimination Policy (CC-95-001), and a Travel and Expense Policy (CC-91-002), which are also applicable to all advisory bodies.</p>   |
| <p><b>Policies and Procedures</b></p>   |
| <p><u>Relationship to City Council, staff and media</u></p> <ul style="list-style-type: none"> <li>• Upon referral by the City Council, the commission/committee shall study referred matters and return their recommendations and advise to the City Council. With each such referral, the City Council may authorize the City staff to provide certain designated services to aid in the study.</li> <li>• Upon its own initiative, the commission/committee shall identify and raise issues to the City Council's attention and from time to time explore pertinent matters and make recommendations to the City Council.</li> <li>• At a request of a member of the public, the commission/committee may consider appeals from City actions or inactions in pertinent areas and, if deemed appropriate, report and make recommendations to the City Council.</li> <li>• Each commission/committee is required to develop an annual work plan which will be the foundation for the work performed by the advisory body in support of City Council annual work plan. The plan, once finalized by a majority of the commission/committee, will be formally presented to the City Council for direction and approval no later than September 30 of each year and then reported out on by a representative of the advisory body at a regularly scheduled City Council meeting at least annually, but recommended twice a year. The proposed work plan must align with the City Council's adopted work plan. When modified, the work plan must be taken to the City Council for approval. The Planning Commission is exempt from this requirement as its functions are governed by the Menlo Park municipal code (Chapter 2.12) and State law (Government Code 65100 et seq, 65300-65401).</li> <li>• Commissions and committees shall not become involved in the administrative or operational matters of City departments. Members may not direct staff to initiate major programs, conduct large studies or establish department policy. City staff assigned to furnish staff services shall be available to provide general staff assistance, such as preparation of agenda/notice materials and minutes, general review of department programs and activities, and to perform limited studies, program reviews, and other services.</li> </ul> |

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

2

of a general staff nature. Commissions/Committees may not establish department work programs or determine department program priorities. The responsibility for setting policy and allocating scarce City resources rests with the City's duly elected representatives, the City Council.

- Additional or other staff support may be provided upon a formal request to the City Council.
- The staff liaison shall act as the commission/committee's lead representative to the media concerning matters before the commission/committee. Commission/Committee members should refer all media inquiries to their respective liaisons for response. Personal opinions and comments may be expressed so long as the commission/committee member clarifies that his or her statements do not represent the position of the City Council.
- Commission/Committee members will have mandatory training every two years regarding the Brown Act and parliamentary procedures, anti-harassment training, ethics training, and other training required by the City Council or State Law. The commission/committee members may have the opportunity for additional training, such as training for chair and vice chair. Failure to comply with the mandatory training will be reported to the City Council and may result in replacement of the member by the City Council.
- Requests from commission/committee member(s) determined by the staff liaison to take one hour or more of staff time to complete, must be directed by the City Council.

### Role of City Council commission/committee liaison

City Councilmembers are assigned to serve in a liaison capacity with one or more city commission/committee. The purpose of the liaison assignment 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 commission/committee meetings periodically to observe the activities of the advisory body or simply maintain communication with the commission/committee chair on a regular basis.

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

Typically, assignments to commission/committee liaison positions 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 various committees, boards, and commissions which City Councilmembers will represent as a liaison. In the rare instance where more than one City Councilmember wishes to be the appointed liaison to a particular commission, a vote of the City Council will be taken to confirm appointments.

### City Staff Liaison

The City has designated staff to act as a liaison between the commission/committee and the City Council. The City shall provide staff services to the commission/committee which will include:

- Developing a rapport with the Chair and commission/committee members
- Providing a schedule of meetings to the City Clerk's Office and commission/committee members, arranging meeting locations, maintaining the minutes and other public records of the meeting, and preparing and distributing appropriate information related to the meeting agenda.
- Advising the commission/committee on directions and priorities of the City Council.
- Informing the commission/committee of events, activities, policies, programs, etc. occurring within the scope of the commission/committee's function.
- Ensuring the City Clerk is informed of all vacancies, expired terms, changes in offices, or any other changes to the commission/committee.

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

3

- Providing information to the appropriate appointed official including reports, actions, and recommendations of the committee/commission and notifying them of noncompliance by the commission/committee or chair with City policies.
- Ensuring that agenda items approved by the commission/committee are brought forth in a timely manner taking into consideration staff capacity, City Council priorities, the commission/committee work plan, and other practical matters such as the expense to conduct research or prepare studies, provided appropriate public notification, and otherwise properly prepare the item for commission/committee consideration.
- Take action minutes; upon agreement of the commission, this task may be performed by one of the members (staff is still responsible for the accuracy and formatting of the minutes)
- Maintain a minute book with signed minutes

### Recommendations, requests and reports

As needed, near the beginning of City Council meetings, there will be an item called "Commission/Committee Reports." At this time, commissions/committees may present recommendations or status reports and may request direction and support from the City Council. Such requests shall be communicated to the staff liaison in advance, including any written materials, so that they may be listed on the agenda and distributed with the agenda packet. The materials being provided to the City Council must be approved by a majority of the commission/committee at a commission/committee meeting before submittal to the City Council. The City Council will receive such reports and recommendations and, after suitable study and discussion, respond or give direction.

### City Council referrals

The City Clerk shall transmit to the designated staff liaison all referrals and requests from the City Council for advice and recommendations. The commissions/committees shall expeditiously consider and act on all referrals and requests made by the City Council and shall submit reports and recommendations to the City Council on these assignments.

### Public appearance of commission/committee members

When a commission/committee member appears in a non-official, non-representative capacity before the public, for example, at a City Council meeting, the member shall indicate that he or she is speaking only as an individual. This also applies when interacting with the media and on social media. If the commission/committee member appears as the representative of an applicant or a member of the public, the Political Reform Act may govern this appearance. In addition, in certain circumstances, due process considerations might apply to make a commission/committee member's appearance inappropriate. Conversely, when a member who is present at a City Council meeting is asked to address the City Council on a matter, the member should represent the viewpoint of the particular commission/committee as a whole (not a personal opinion).

### Disbanding of advisory body

Upon recommendation by the Chair or appropriate staff, any standing or special advisory body, established by the City Council and whose members were appointed by the City Council, may be declared disbanded due to lack of business, by majority vote of the City Council.

### Meetings and officers

#### 1. *Agendas/notices/minutes*

- All meetings shall be open and public and shall conduct business through published agendas, public notices and minutes and follow all of the Brown Act provisions governing public meetings. Special, canceled and adjourned meetings may be called when needed, subject to the Brown Act provisions.
- Support staff for each commission/committee shall be responsible for properly noticing and posting all regular, special, canceled and adjourned meetings. Copies of all meeting agendas, notices and

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

4

minutes shall be provided to the City Council, City Manager, City Attorney, City Clerk and other appropriate staff, as requested.

- Original agendas and minutes shall be filed and maintained by support staff in accordance with the City's adopted records retention schedule.
- The official record of the commissions/committees will be preserved by preparation of action minutes.

### 2. *Conduct and parliamentary procedures*

- Unless otherwise specified by State law or City regulations, conduct of all meetings shall generally follow Robert's Rules of Order.
- A majority of commission/committee members shall constitute a quorum and a quorum must be seated before official action is taken.
- The chair of each commission/committee shall preside at all meetings and the vice chair shall assume the duties of the chair when the chair is absent.
- The role of the commission/committee chair (according to Roberts Rules of Order): To open the session at the time at which the assembly is to meet, by taking the chair and calling the members to order; to announce the business before the assembly in the order in which it is to be acted upon; to recognize members entitled to the floor; to state and put to vote all questions which are regularly moved, or necessarily arise in the course of the proceedings, and to announce the result of the vote; to protect the assembly from annoyance from evidently frivolous or dilatory motions by refusing to recognize them; to assist in the expediting of business in every compatible with the rights of the members, as by allowing brief remarks when undebatable motions are pending, if s/he thinks it advisable; to restrain the members when engaged in debate, within the rules of order, to enforce on all occasions the observance of order and decorum among the members, deciding all questions of order (subject to an appeal to the assembly by any two members) unless when in doubt he prefers to submit the question for the decision of the assembly; to inform the assembly when necessary, or when referred to for the purpose, on a point of order to practice pertinent to pending business; to authenticate by his/her signature, when necessary, all the acts, orders, and proceedings of the assembly declaring it will and in all things obeying its commands.

### 3. *Lack of a quorum*

- When a lack of a quorum exists at the start time of a meeting, those present will wait 15 minutes for additional members to arrive. If after 15 minutes a quorum is still not present, the meeting will be adjourned by the staff liaison due to lack of a quorum. Once the meeting is adjourned it cannot be reconvened.
- The public is not allowed to address those commissioners present during the 15 minutes the commission/committee is waiting for additional members to arrive.
- Staff can make announcements to the members during this time but must follow up with an email to all members of the body conveying the same information.
- All other items shall not be discussed with the members present as it is best to make the report when there is a quorum present.

### 4. *Meeting locations and dates*

- Meetings shall be held in designated City facilities, as noticed.
- All commissions/committees with the exception of the Community Engagement and Outreach Committee, Planning Commission, and Finance and Audit Committee shall conduct regular meetings once a month. Special meetings may also be scheduled as required by the commission/committee. The Planning Commission shall hold regular meetings twice a month, the Community Engagement and Outreach Committee shall hold meetings as need, and the Finance and Audit Committee shall hold quarterly meetings.
- Monthly regular meetings shall have a fixed date and time established by the commission/committee. Changes to the established regular dates and times are subject to the approval of the City Council. An exception to this rule would include any changes necessitated to fill a temporary need in order for the commission/committee to conduct its meeting in a most efficient

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

5

and effective way as long as proper and adequate notification is provided to the City Council and made available to the public.

The schedule of Commission/Committee meetings is as follows:

- Community Engagement and Outreach Committee – as needed
- Complete Streets Commission – Every second Wednesday at 7 p.m.
- Environmental Quality Commission – Every third Wednesday at 6:00 p.m.
- Finance and Audit Committee – Third Wednesday of every quarter at 5:30 p.m.,
- Housing Commission – Every first Wednesday at 6:30 p.m.
- Library Commission – Every third Monday at 6:30 p.m.
- Parks and Recreation Commission – Every fourth Wednesday at 6:30 p.m.
- Planning Commission – Twice a month at 7 p.m.

Each commission/committee may establish other operational policies subject to the approval of the City Council. Any changes to the established policies and procedures shall be subject to the approval of the City Council.

### 5. *Off-premises meeting participation*

While technology allows commission/committee members to participate in meetings from a location other than the meeting location (referred to as “off-premises”), off-premises participation is discouraged given the logistics required to ensure compliance with the Brown Act and experience with technological failures disrupting the meeting. In the event that a commission/committee member believes that his or her participation is essential to a meeting, the following shall apply:

- Any commission/committee member intending to participate from an off-premise location shall inform the staff liaison at least two weeks in advance of the meeting.
- The off-premise location must be identified in the notice and agenda of the meeting.
- Agendas must be posted at the off-premise location.
- The off-premise location must be accessible to the public and be ADA compliant.
- The commission/committee member participating at a duly noticed off-premises location does not count toward the quorum necessary to convene a meeting of the commission/committee.
- For any one meeting, no more than one commission/committee member may participate from an off-premise location.
- All votes must be by roll call.

### 6. *Selection of chair and vice chair*

- The chair and vice chair shall be selected in May of each year by a majority of the members and shall serve for one year or until their successors are selected.
- Each commission/committee shall annually rotate its chair and vice chair.

## G. Memberships

### *Appointments/Oaths*

- The City Council is the appointing body for all commissions/committees. All members serve at the pleasure of the City Council for designated terms.
- All appointments and reappointments shall be made at a regularly scheduled City Council meeting, and require an affirmative vote of not less than a majority of the City Council present.
- Before taking office, all members must complete an Oath of Allegiance required by Article XX, §3, of the Constitution of the State of California. All oaths are administered by the City Clerk or his/her designee.
- Appointments made during the middle of the term are for the unexpired portion of that term.

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

6

### *Application and selection process*

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

### *Attendance*

- An Attendance Policy (CC-91-001), shall apply to all advisory bodies. Provisions of this policy are listed below.
- A compilation of attendance will be submitted to the City Council at least annually listing absences for all commissions/committee members.
- Absences, which result in attendance at less than two-thirds of their meetings during the calendar year, will be reported to the City Council and may result in replacement of the member by the City Council.
- Any member who feels that unique circumstances have led to numerous absences can appeal directly to the City Council for a waiver of this policy or to obtain a leave of absence.
- While it is expected that members be present at all meetings, the chair and staff liaison should be notified if a member knows in advance that he/she will be absent.
- When reviewing commissioners for reappointment, overall attendance at full commission meetings will be given significant consideration.

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

7

### *Compensation*

- Members shall serve without compensation (unless specifically provided) for their services, provided, however, members shall receive reimbursement for necessary travel expenses and other expenses incurred on official duty when such expenditures have been authorized by the City Council (See Policy CC-91-002).

### *Conflict of interest and disclosure requirements*

- A Conflict of Interest Code has been updated and adopted by the City Council and the Community Development Agency pursuant to Government Code §87300 et seq. Copies of this Code are filed with the City Clerk. Pursuant to the adopted Conflict of Interest Code, members serving on the Planning Commission are required to file a Statement of Economic Interest with the City Clerk to disclose personal interest in investments, real property and income. This is done within 30 days of appointment and annually thereafter. A statement is also required within 30 days after leaving office.
- If a public official has a conflict of interest, the Political Reform Act may require the official to disqualify himself or herself from making or participating in a governmental decision, or using his or her official position to influence a governmental decision. Questions in this regard may be directed to the City Attorney.
- In accordance with Resolution No. 6622, current and future members of the Community Engagement and Outreach Committee, Complete Streets Commission, and Housing Commission, are required to report any and all real property in Menlo Park for impacting land use, real property, and the housing element.

### *Qualifications, compositions, number*

- In most cases, members shall be residents of the City of Menlo Park and at least 18 years of age.
- Current members of any other City commission/committee are disqualified for membership, unless the regulations for that advisory body permit concurrent membership. Commission/Committee members are strongly advised to serve out the entirety of the term of their current appointment before seeking appointment on another commission/committee.
- Commission/Committee members shall be permitted to retain membership while seeking any elective office. However, members shall not use the meetings, functions or activities of such bodies for purposes of campaigning for elective office.
- There shall be seven (7) members on each commission/committee with the exception of:
  - Community Engagement and Outreach Committee – fourteen (14) members
  - Complete Streets Commission – nine (9) members
  - Finance and Audit Committee – five (5) members
  - Housing Commission – seven (7) members
  - Library Commission – eleven (11) members

### *Reappointments, resignations, removals*

- Incumbents seeking a reappointment are required to complete and file an application with the City Clerk by the application deadline. No person shall be reappointed to a commission/committee who has served on that same body for two consecutive terms; unless a period of one year has lapsed since the returning member last served on that commission/committee (the one-year period is flexible subject to City Council's discretion).
- Resignations must be submitted in writing to the City Clerk, who will distribute copies to City Council and appropriate staff.
- The City Council may remove a member by a majority vote of the City Council without cause, notice or hearing.



**COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES**

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

*Term of office*

- Unless specified otherwise, the term of office for all commission/committee shall be four (4) years unless a resignation or a removal has taken place. The Finance and Audit Committee term of office shall be two (2) years. The Community Engagement and Outreach Committee term is for eighteen (18) months.
- If a person is appointed to fill an unexpired term and serves less than two years, that time will not be considered a full term. However, if a person is appointed to fill an unexpired term and serves two years or more, that time will be considered a full term.
- Terms are staggered to be overlapping four-year terms, so that all terms do not expire in any one year.
- If a member resigns before the end of his/her term, a replacement serves out the remainder of that term.

*Vacancies*

- Vacancies are created due to term expirations, resignations, removals or death.
- Vacancies are listed on the City Council agenda and posted by the City Clerk in the City Council Chambers bulletin board and on the city website.
- Whenever an unscheduled vacancy occurs in any commission/committee, a special vacancy notice shall be posted within 20 days after the vacancy occurs. Appointment shall not be made for at least 10 working days after posting of the notice (Government Code 54974).
- On or before December 31 of each year, an appointment list of all regular advisory commissions/committees of the City Council shall be prepared by the City Clerk and posted in the City Council Chambers bulletin board and on the City's website. This list is also available to the public. (Government Code 54972, Maddy Act).

**Roles and Responsibilities**

**Community Engagement and Outreach Committee**

The Housing Element Community Engagement and Outreach Committee (CEOC) assists the City in ensuring a broad and inclusive community outreach and engagement process. Committee members help guide and provide feedback on the types and frequency of activities/events/meetings and the strategies and methods for communicating with the various stakeholders in the community.

Roles and responsibilities:

- Serve as an ambassador of the project and encourage people to participate in the process
- Help guide and provide feedback on the community engagement plan
- Serve as a community resource to provide information to and receive input from the community on matters related to community engagement and public outreach

Complete Streets Commission

The Complete Streets Commission is charged primarily with advising the City Council on multi-modal transportation issues according to the goals and policies of the City's general plan. This includes strategies to encourage safe travel, improve accessibility, and maintaining a functional and efficient transportation network for all modes and persons traveling within and around the City. The Complete Streets Commission's responsibilities would include:

- Coordination of multi-modal (motor vehicle, bicycle, transit and pedestrian) transportation facilities
- Advising City Council on ways to encourage vehicle, multi-modal, pedestrian and bicycle safety and accessibility for the City supporting the goals of the General Plan
- Coordination on providing a citywide safe routes to school plan
- Coordination with regional transportation systems
- Establishing parking restrictions and requirements according to Municipal Code sections 11.24.026 through 11.24.028

## COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

9

### Environmental Quality Commission

The Environmental Quality Commission is charged primarily with advising the City Council on matters involving environmental protection, improvement and sustainability. Specific focus areas include:

- Preserving heritage trees
- Using best practices to maintain city trees
- Preserving and expanding the urban canopy
- Making determinations on appeals of heritage tree removal permits
- Administering annual Environmental Quality Awards program
- Organizing annual Arbor Day Event; typically, a tree planting event
- Advising on programs and policies related to protection of natural areas, recycling and waste reduction, environmentally sustainable practices, air and water pollution prevention, climate protection, and water and energy conservation.

### Finance and Audit Committee

The Finance and Audit Committee is charged primarily to support delivery of timely, clear and comprehensive reporting of the City's fiscal status to the community at large. Specific focus areas include:

- Review the process for periodic financial reporting to the City Council and the public, as needed
- Review financial audit and annual financial report with the City's external auditors
- Review of the resolution of prior year audit findings
- Review of the auditor selection process and scope, as needed

### Housing Commission

The Housing Commission is charged primarily with advising the City Council on housing matters including housing supply and housing related problems. Specific focus areas include:

- Community attitudes about housing (range, distribution, racial, social-economic problems)
- Programs for evaluating, maintaining, and upgrading the distribution and quality of housing stock in the City
- Planning, implementing and evaluating City programs under the Housing and Community Development Act of 1974
- Members serve with staff on a loan review committee for housing rehabilitation programs and a first time homebuyer loan program
- Review and recommend to the City Council regarding the Below Market Rate (BMR) program
- Initiate, review and recommend on housing policies and programs for the City
- Review and recommend on housing related impacts for environmental impact reports
- Review and recommend on State and regional housing issues
- Review and recommend on the Housing Element of the General Plan
- The five most senior members of the Housing Commission also serve as the members of the Relocation Appeals Board (City Resolution 4290, adopted June 25, 1991).

### Library Commission

The Library Commission is charged primarily with advising the City Council on matters related to the maintenance and operation of the City's libraries and library systems. Specific focus areas include:

- The scope and degree of library activities
- Maintenance and protection of City libraries
- Evaluation and improvement of library service
- Acquisition of library materials
- Coordination with other library systems and long range planning
- Literacy and ESL programs

**COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES**

City Council Policy #CC-21-004

Effective 6/08/2021

Resolution No. 6631

Parks and Recreation Commission

The Parks and Recreation Commission is charged primarily with advising the City Council on matters related to City programs and facilities dedicated to recreation. Specific focus areas include:

- Those programs and facilities established primarily for the participation of and/or use by residents of the City, including adequacy and maintenance of such facilities as parks and playgrounds, recreation buildings, facilities and equipment
- Adequacy, operation and staffing of recreation programs
- Modification of existing programs and facilities to meet developing community needs
- Long range planning and regional coordination concerning park and recreational facilities

Planning Commission

The Planning Commission is organized according to State Statute.

- The Planning Commission reviews development proposals on public and private lands for compliance with the General Plan and Zoning Ordinance.
- The Commission reviews all development proposals requiring a use permit, architectural control, variance, minor subdivision and environmental review associated with these projects. The Commission is the final decision-making body for these applications, unless appealed to the City Council.
- The Commission serves as a recommending body to the City Council for major subdivisions, rezoning's, conditional development permits, Zoning Ordinance amendments, General Plan amendments and the environmental reviews and Below Market Rate (BMR) Housing Agreements associated with those projects.
- The Commission works on special projects as assigned by the City Council.

**Special Advisory Bodies**

The City Council has the authority to create standing committees, task forces or subcommittees for the City, and from time to time, the City Council may appoint members to these groups. The number of persons and the individual appointee serving on each group may be changed at any time by the City Council. There are no designated terms for members of these groups; members are appointed by and serve at the pleasure of the City Council.

Any requests of city commissions or committees to create such ad hoc advisory bodies shall be submitted in writing to the City Clerk for City Council consideration and approval.

**Procedure history**

| Action             | Date     | Notes               |
|--------------------|----------|---------------------|
| Procedure adoption | 1991     | Resolution No. 3261 |
| Procedure adoption | 2001     |                     |
| Procedure adoption | 2011     |                     |
| Procedure adoption | 2013     | Resolution No. 6169 |
| Procedure adoption | 2017     | Resolution No. 6377 |
| Procedure adoption | 6/8/2021 | Resolution No. 6631 |

## MEMORANDUM



**Date:** 08/16/2021  
**To:** Library Commission  
**From:** Work Plan Update Subcommittee  
**Re:** Library Commission Work Plan 2021-22

1. Support and advise the development of the Menlo Park Community Campus project (MPCC) in the areas of library programming, service integration, and library policies within the shared space environment in the new facility, as directed by City Council
2. Support and advise the advancement of the overall Library Systems Improvement Program, as directed by City Council
3. Establish a plan and timeline to periodically review the library's public-facing policies and recommend updates, as required, with a special focus on policies that may be impacted by shared space operations at the new MPCC
4. Establish an understanding of and advise on the library needs of the community during the current COVID pandemic and in other emergencies. This may include a review of library policies and services related to adaptations made by the library in response to emergencies. Of particular interest is how the current pandemic is affecting user access, how library service is changing, the impact of technology on the provision of library services, and how the Commission might help increase equitable access for community members
5. Establish a plan and timeline to periodically receive staff presentations and reports about major Library service areas and programs and Commissioner liaison reports about affiliates.
6. Maintain a 12-month schedule of planned Commission agenda items; update and post for public review monthly
7. Encourage and facilitate robust public comment and participation at Commission meetings
8. Foster a public meeting environment that is inclusive of all members of the diverse Menlo Park community.
9. Support the filling of openings on the Commission and the effective onboarding of new Commissioners

Adopted by the Library Commission on August 16, 2021



## STAFF REPORT

### City Council

Meeting Date:

11/9/2021

Staff Report Number:

21-220-CC

Consent Calendar:

**Adopt Resolution No. 6685, adopting amendments to Resolution No. 6682 to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings**

### Recommendation

Staff recommends that the City Council adopt Resolution No. 6685 (Attachment A), representing minor amendments to Resolution No. 6682 (Attachment B), to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings.

### Policy Issues

Assembly Bill 361 (AB 361) was signed into law September 16, 2021 allowing cities to continue holding virtual meetings during any emergency proclaimed by the governor. AB 361 sunsets January 1, 2024. The City Council would need to declare every 30 days that the City's legislative bodies must continue to meet remotely in order to ensure the health and safety of the public.

### Background

The California Legislature recently approved AB 361, which was signed by the governor September 16, 2021 for signature. The bill allows local legislative bodies to continue to meet remotely through January 1, 2024. A local agency will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a declared state of emergency
- State or local health officials have imposed or recommended measures to promote social distancing
- Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees

The City meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The City is still under a local state of emergency
- County Health orders require that all individuals in public spaces maintain social distancing and wear masks

### Analysis

The City is still under a local state of emergency, and the County's indoor mask order is still in effect, so the emergency findings required under AB 361 are still in effect. The amendments presented with Resolution No. 6685 simply authorize the use of hybrid meetings, whereby City Councilmembers, staff, and members

of the public may choose to attend either remotely or in person.

### **Impact on City Resources**

There is no impact on City resources.

### **Environmental Review**

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

### **Public Notice**

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

### **Attachments**

- A. Resolution No. 6685
- B. Resolution No. 6682

Report prepared by:  
Judi A. Herren, City Clerk

Report reviewed by:  
Tamar Burke, Assistant City Attorney

**RESOLUTION NO. 6685****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS**

WHEREAS, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

WHEREAS, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

WHEREAS, the AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID 19) and that State of Emergency is still in effect in the State of California; and

WHEREAS, on March 11, 2020 the City Council proclaimed the existence of a local state of emergency within the City, pursuant to Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

WHEREAS, COVID-19 continues to threaten the health and lives of City residents; and

WHEREAS, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

WHEREAS, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

WHEREAS, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health and safety of persons within the City; an

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as "Legislative Bodies"), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the

requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

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

1. Find that Current Conditions Authorize Teleconference Public Meetings of Legislative Bodies. Based on the California Governor's continued declaration of a State of Emergency and current conditions, the City Council finds that meeting in person would present imminent risks to the health or safety of attendees, such that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
2. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.
3. Authorize Legislative Bodies to Conduct Hybrid Meetings. The Legislative Bodies are hereby authorized to conduct meetings in a "hybrid" format, where both members of the Body and members of the public may elect to be present in person, utilizing appropriate distancing and masking practices, or participate by teleconferencing technology. Such meetings of the Legislative Bodies that occur using teleconferencing technology will provide an opportunity for any and all members of the public who wish to address Legislative Bodies and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing.

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 ninth day of November, 2021, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this \_\_\_ day of October, 2021.

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Judi A. Herren, City Clerk



**RESOLUTION NO. 6682****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AND ON BEHALF OF COMMISSIONS AND COMMITTEES CREATED BY THE CITY COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54952(b) AUTHORIZING TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361 (GOVERNMENT CODE SECTION 54953(e) TO CONTINUE TO ALLOW MEMBERS OF THE PUBLIC TO SAFELY PARTICIPATE IN LOCAL GOVERNMENT MEETINGS**

WHEREAS, the City Council is committed to ensuring public access to observe and participate in local government meetings; and

WHEREAS, all meetings of the City Council and other legislative bodies created pursuant to Government Code Section 54952(b) are open and public, as required by the Ralph M. Brown Act, so that any member of the public may participate in local government meetings; and

WHEREAS, the AB 361, codified at Government Code section 54953(e), makes provisions for remote teleconferencing participation in local government meetings, without compliance with the requirements of 54953(b)(3), during a Governor-proclaimed state of emergency and if the local legislative body determines, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a State of Emergency due to the outbreak of respiratory illness due to a novel coronavirus (now known as COVID 19) and that State of Emergency is still in effect in the State of California; and

WHEREAS, on March 11, 2020 the City Council proclaimed the existence of a local state of emergency within the City, pursuant to Section 8625 of the California Emergency Services Act in response to the COVID-19 pandemic; and

WHEREAS, COVID-19 continues to threaten the health and lives of City residents; and

WHEREAS, the SARS-CoV-2 Delta Variant (Delta Variant) is highly transmissible in indoor settings; and

WHEREAS, on July 28, 2021, the California Department of Public Health issued guidance calling for the use of face coverings and stating that the Delta Variant is two times as contagious as early COVID-19 variants, leading to increasing infections, the Delta Variant accounts for over 80% of cases sequenced, and cases and hospitalizations of COVID-19 are rising throughout the state; and

WHEREAS, the Delta Variant has caused, and will continue to cause, conditions of imminent peril to the health and safety of persons within the City; an

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as "Legislative Bodies"), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the

requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

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

1. Find that Current Conditions Authorize Teleconference Public Meetings of Legislative Bodies. Based on the California Governor's continued declaration of a State of Emergency and current conditions, the City Council finds that meeting in person would present imminent risks to the health or safety of attendees, such that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
2. Authorize Legislative Bodies to Conduct Teleconference Meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-sixth day of October, 2021, by the following votes:

AYES: Combs, Nash, Taylor, Wolosin

NOES: None

ABSENT: Mueller

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-ninth day of October, 2021.

DocuSigned by:  
  
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\_\_\_\_\_  
Judi A. Herren, City Clerk



**STAFF REPORT**

**City Council**  
**Meeting Date:** 11/9/2021  
**Staff Report Number:** 21-216-CC

**Regular Business:** Introduction of Ordinance No. 1079 repealing Chapter 7.04 [Garbage and Rubbish Disposal] of Title 7 [Health and Sanitation] and enacting Chapter 7.04 [Solid Waste, Recyclables and Organic Waste Disposal]

**Recommendation**

City staff recommends that the City Council waive the reading and introduce Ordinance No. 1079 repealing Chapter 7.04 [Garbage and Rubbish Disposal] of Title 7 [Health and Sanitation] and enacting Chapter 7.04 [Solid Waste, Recyclables and Organic Waste Disposal] (Attachment A.)

**Policy Issues**

Senate Bill (SB) 1383 requires local jurisdictions throughout the State to adopt an ordinance or other similarly enforceable mechanism by January 1, 2022, to mandate that organic waste generators, haulers, and other entities subject to the requirements of SB 1383 regulations and subject to the local jurisdiction's authority, comply with SB 1383 regulatory requirements (California Code of Regulations, Title 14, Section 18981.2.a.) The ordinance supports establishment of enforceable SB 1383-related requirements for organic waste generators, haulers, and other entities subject to the City of Menlo Park's authority.

**Background**

The City's garbage and rubbish disposal ordinance (Attachment B), was last amended in 1990. The last amendment was made in 1990 to include burying or burning garbage, receptacles, and contract for disposal of garbage.

The City of Menlo Park needs to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that the imposition of penalties does not need to commence until January 1, 2024. On October 12, the City Council adopted Resolution No. 6675 (Attachment C) to delegate certain compliance responsibilities to the South Bayside Waste Management Authority and Resolution No. 6676 (Attachment D) to delegate enforcement authority for the Edible Food Recovery program to the County of San Mateo Office of Sustainability.

**Analysis**

The next component for the City to comply with the state requirements is to modify the model enforcement ordinance provided by South Bayside Waste Management Authority (SBWMA), which requires specific language for compliance of collection programs provided in the SBWMA service area. The drafted Municipal Code Chapter 7.04 (Attachment A) assumes the use of a Standard Compliance Approach with a three-container collection system, as defined by SB 1383.

The ordinance sections include the following:

- Definitions.
- Collection by unauthorized persons prohibited.
- Illegal dumping and burning of solid waste.
- Storage of solid waste on premises; container required.
- Scavenging and removal of recyclable materials prohibited.
- Prohibited container contaminants.
- Regular solid waste removal required; source separation required.
- Requirements for commercial businesses.
- Waivers for commercial business
- Requirements for commercial edible food generators
- Requirements for food recovery organizations and services
- Requirements for authorized collector, facility operators recovering organic waste, and community composting.
- Self-hauler requirements.
- Inspections
- Enforcement and penalties.

The ordinance includes the regulatory required components of the SB 1383 ordinance. The following, but not limited to, are several key provisions in the amended ordinance:

- Single-family homes, multifamily dwellings, and commercial businesses must normally have organics collection service and properly sort their materials;
- Businesses must supply, through their hauler, an adequate number of labeled, color coded containers for employees, contractors, tenants and customers, provide education to new tenants, provide access to jurisdictions to confirm compliance;
- The largest commercial edible food generators (includes supermarkets, large groceries, food service providers, distributors and wholesale food vendors) must divert edible food through a written agreement with food recovery organizations and keep specified records by January 1, 2022. The City of Menlo Park would delegate the authority to administer this program to the County of San Mateo Office of Sustainability (OOS);
- Large commercial edible food generators (includes large restaurants, large hotels, large health facilities, large venues and events, large state agencies and local education agencies) must divert edible food through a written agreement with food recovery organizations and keep specified records, by January 1, 2024;
- Generators have the option to self-haul source separated waste; and
- The right to inspect and enforce the requirements are contained in the Ordinance.

The proposed ordinance authorizes both the City of Menlo Park and the OOS to serve as enforcement agencies to maximize flexibility and allow OOS to enforce aspects of the Edible Food Recovery Program.

Although City of Menlo Park may designate a public or private entity to fulfill some of its SB 1383 regulatory responsibilities via contracts or written agreements, the City itself remains responsible for its SB 1383 compliance and enforcing other entities' compliance with the SB 1383 regulatory items contained in the ordinance. Under SB 1383 regulations, the City is also not allowed to delegate the authority to impose civil penalties to a private entity.

### Next steps

Staff would return November 16, 2021 to waive a second reading of the proposed ordinance and to adopt it, and tentatively December 14 to adopt a resolution approving updates to the purchasing policy to comply with SB 1383.

### **Impact on City Resources**

SB 1383 implementation is a unique multiagency collaboration, including SBWMA cities and the County of San Mateo, to fulfill a state mandate. At this time, City staff is unaware of resource requirements to meet SB 1383 objectives; however, a request for additional resources will return to City Council if necessary.

### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15308 (action for protection of the environment) 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. Draft Municipal Code Chapter 7.04 [Garbage and Rubbish Disposal] Ordinance No. 1079
- B. Hyperlink – Current garbage and rubbish disposal ordinance:  
[codepublishing.com/CA/MenloPark/#!/html/MenloPark07/MenloPark0704.html](http://codepublishing.com/CA/MenloPark/#!/html/MenloPark07/MenloPark0704.html)
- C. Resolution No. 6675 SBMWA MOU
- D. Resolution No. 6676 OOS MOU

Report prepared by:

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Reviewed by:

Sergio Rudin, Assistant City Attorney

**ORDINANCE NO. 1079****ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK REPEALING CHAPTER 7.04 [GARBAGE AND RUBBISH DISPOSAL] OF TITLE 7 [HEALTH AND SANITATION] AND ENACTING CHAPTER 7.04 [SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE DISPOSAL]**

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

**SECTION 1. FINDINGS AND DETERMINATIONS.**

- A. State law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- B. State law, Assembly Bill 341 of 2011, places requirements on businesses and multi-family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program.
- C. State law, Assembly Bill 1826 of 2014, requires businesses and multi-family property owners that generate a specified threshold amount of solid waste, recyclable materials, and organic waste per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert organic waste from businesses subject to the law, and requires Jurisdictions to implement a mandatory commercial organics recycling program.
- D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to promulgate regulations to reduce organics in landfills, which create methane. Pursuant to regulations adopted by CalRecycle, jurisdictions must adopt an ordinance or other enforceable mechanisms to achieve organic waste reduction. This ordinance will also help reduce food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption.
- E. Requirements in this ordinance are consistent with other adopted goals and policies of the City including:
  - i. In 2016, the City Council amended Menlo Park Municipal Code Sections 16.43, 16.44, and 16.45 to include green and sustainable building requirements, which require developers to submit zero waste management plans to showcase how the project would reduce waste during the construction and occupancy phase;
  - ii. In 2017, the City Council adopted the Community Zero Waste Plan, which defines zero waste as diversion of 90 percent of waste through recycling or composting programs; and
  - iii. In 2019, the City Council adopted Resolution No. 6535, a separate and complimentary action boosting the importance of SB 1383, which declares a

climate emergency and prioritized development of an aggressive climate action plan.

- iv. In 2021, the City Council adopted Resolution No. 6675 and No. 6676 to authorize the city manager to enter into a memorandum of understanding with South Bay Waste Management authority to help implement SB 1383 and with the San Mateo County Office of Sustainability to establish a food recovery program, respectively.

## SECTION 2. AMENDMENT OF CODE.

Chapter 7.04 [Garbage and Rubbish Disposal] of Title 7 [Health and Sanitation] is hereby repealed and replaced with the following:

### **Chapter 7.04**

#### **SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE DISPOSAL**

##### **7.04.010 Definitions.**

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "Authorized collector" means such persons, firms or corporations collecting and delivering for disposal, recycling or processing solid waste (other than solid waste generated by a permitted building project) originating in the City and doing so under a contract or franchise agreement with the City.
- (2) "Back-haul" means generating and transporting organic materials to a destination owned and operated by the generator using the generator's own employees and equipment, as defined in 14 CCR Section 189881(a)(66)(A).
- (3) "California Code of Regulations" or "CCR" means the State of California Code of Regulations.
- (4) "City" means the city of Menlo Park.
- (5) "City Enforcement Official" means the city manager or designee.
- (6) "Commercial Business" or "commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling that consists of five or more units, as further defined in 14 CCR section 18982(a)(6). A multi-family residential dwelling that consists of fewer than five (5) units is not a commercial business for purposes of this chapter.
- (7) "Commercial Edible Food Generator" means a tier one or tier two commercial edible food generator as defined in 14 CCR section 18982(a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.

- (8) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR section 17855(a)(4).
- (9) “Edible Food” means food intended for human consumption, as further defined in 14 CCR section 18982(a)(18). For the purposes of this ordinance, edible food is not solid waste if it is recovered and not discarded. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.
- (10) “Edible Food Recovery” means actions to collect, receive, and/or re-distribute Edible Food for human consumption from Tier One and Tier Two Commercial Edible Food Generators that otherwise would be disposed.
- (11) “Exempt Waste” means biohazardous or biomedical waste, hazardous waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, and those wastes under the control of the Nuclear Regulatory Commission.
- (12) “Food Recovery Organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food as part of food recovery either directly or through other entities as further defined in 14 CCR section 18982(a)(25), including, but not limited to:
- a. A food bank as defined in Section 113783 of the Health and Safety Code;
  - b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
  - c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this chapter.

- (13) “Food Recovery Service” means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, as further defined in 14 CCR section 18982(a)(26). A food recovery service is not a commercial edible food generator for the purposes of this chapter.
- (14) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food scraps



excludes fats, oils, and grease when such materials are source separated from other food scraps.

- (15) "Generator" means any person that is responsible for the initial creation of solid waste or organic materials at any premises, and includes an "organic waste generator" as defined in 14 CCR section 18982(a)(48).
- (16) "Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.
- (17) "Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance, a site under common ownership or control that includes more than one venue that is contiguous with other venues in the site, is a single venue.
- (18) "Multi-Family Residential Dwelling" or "Multi-Family" means a residential premise with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities.
- (19) "Organic Waste" means solid waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, as further defined in 14 CCR Section 18982(a)(46).
- (20) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, as further defined in 14 CCR Section 18982(a)(48).
- (21) "Prohibited Container Contaminants" means (1) discarded materials placed in the designated recyclables container that are not identified as acceptable source separated recyclables for the authorized collector's designated recyclables collection container; (2) discarded materials placed in the designated organic materials collection container that are not identified as acceptable source separated organic materials for the authorized collector's designated organic materials collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic materials to be placed in authorized collector's designated organic materials collection container and/or designated recyclables collection container, and (4) exempt waste placed in any container.
- (22) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b).

- (23) “Recyclable Materials” or “Recyclable” shall mean non-hazardous residential, commercial, or industrial materials or by-products that are suitable for recycling as defined by the authorized collector.
- (24) “Self-haul” means the act of a person hauling the solid waste, organic waste, or recovered material that that such person has generated to another person. A “self-hauler” is any person who self-hauls their own solid waste, organic waste or recovered material and also includes a person who back-hauls waste, as defined in 14 CCR Section 18982(a)(66).
- (25) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (26) “Solid Waste” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include: Hazardous waste, as defined in the State Public Resources Code Section 40141, Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code), Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code), or exempt waste.
- (27) “Source Separate” means the process of removing recyclable materials and organic materials from solid waste at the place of generation, prior to collection, and placing such materials into separate containers designated for recyclable materials and organic materials, as defined in 14 CCR section 17402.5(b)(4).
- (28) “Tier One Commercial Edible Food Generator” means a commercial edible food generator that is one of the following, as defined in 14 CCR section 18982(a):
- a. Supermarket.
  - b. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
  - c. Food Service Provider.
  - d. Food Distributor.
  - e. Wholesale Food Vendor.
- (29) “Tier Two Commercial Edible Food Generator” means a commercial edible food generator that is one of the following, as defined in 14 CCR section 18982(a):
- a. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
  - b. Hotel with an on-site food facility and 200 or more rooms.

- c. Health facility with an on-site food facility and 100 or more beds.
- d. Large Venue.
- e. Large Event.

**7.04.020 Collection by unauthorized persons prohibited.**

Collection, removal and disposal of solid waste within the City may be performed by the public works department, parks department, or the authorized representatives of the authorized collector with whom the City has entered into a contract with for the collection, removal and disposal of solid waste. It shall be a violation of this chapter for any person other than those expressly permitted by this section to remove, or convey or cause or permit to be removed or conveyed, any solid waste upon or along any public street or alley or other public place in a manner that is inconsistent with this chapter. However, this section shall not apply to any person conveying solid waste collected outside the City, nor be deemed to prohibit an individual from exercising their rights to self-haul solid waste to solid waste facilities and other locations pursuant to this chapter, and nor the right to divert recyclable material or organic materials so long as the diversion otherwise complies with this chapter.

**7.04.030 Illegal dumping and burning of solid waste.**

- (a) No person shall dump, place, burn or bury in any lot, land, street or alley, or in any water or waterway or elsewhere within the City any solid waste.
- (b) No person shall place, deposit, dump or throw solid waste on any lands within the City, except in a properly covered container designated by the City or by the authorized collector for the collection of such solid waste.
- (c) It is unlawful for any person to dump or deposit any garbage, rubbish, trash, leaves, branches, clippings, or any other solid waste or any other matter of any kind into any stormdrain within the limits of the city.

**7.04.040 Storage of solid waste on premises; containers required.**

No person shall store or accumulate any solid waste on any premises except for in an enclosed, durable storage container designed for such purposes, nor store or accumulate solid waste on any premises in a manner that would promote the propagation, harborage or attraction of vectors, create foul odors, or otherwise create a nuisance.

**7.04.050 Scavenging and removal of recyclable materials prohibited.**

No person, other than the authorized collector, shall tamper with or remove recyclable materials or solid waste which have been placed in any collection bin designated by the authorized collector of City for the purposes of collection of such materials.

Nothing in this chapter shall limit the right of any person to donate, sell or otherwise dispose of his or her own recyclable materials.

**7.04.060 Prohibited container contaminants.**

No person shall place any prohibited container contaminant into any collection container serviced by the authorized collector.

**7.04.070 Regular solid waste removal required; source separation required.**

(a) Every person occupying or having charge or control of any premises where there is any accumulation of solid waste shall cause the same to be so removed or disposed of at least once each calendar week. Except for permitted self-haulers who self-haul waste all solid waste generated on the premises in accordance with the self-hauling requirements of section 7.04.150, each owner and occupant of any premises in the City shall ensure that such premises are subscribed to solid waste collection services from the authorized collector.

(b) Every person depositing solid waste for collection with authorized collector shall source separate their solid waste and place materials in the appropriate collection containers designated by the authorized collector for collection of organic waste, recyclable materials, and remaining solid waste.

**7.04.080 Requirements for commercial businesses.**

(a) Each owner, operator, or manager of a commercial business shall ensure the proper separation of solid waste generated on such premises, as required by the authorized collector, by placing each type of material in designated collection containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site follow source separation requirements related to solid waste as required by the authorized collector. Each owner, operator, or manager of a commercial business, except for multifamily dwellings, shall prohibit employees from placing materials in a container not designated for those materials, and shall periodically inspect containers for organic waste and inform employees of requirements to ensure such containers are only used for organic waste.

(b) Each owner, operator, or manager of a commercial business shall supply an adequate number, size, and location of collection containers with sufficient labels or colors designating the appropriate material for deposit in accordance with source separation requirements of the authorized collector for the employees, contractors, tenants, and customers of the commercial premises.

(c) Each owner, operator, or manager of a commercial business shall annually provide information to employees, contractors, tenants, and customers about organic materials recovery requirements and about proper sorting of solid waste.

(d) Each owner, operator, or manager of a commercial business shall provide educational information within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic materials and source separated recyclable materials separate from garbage and the location of collection containers and the rules governing their use at each property.

(e) Each owner, operator, or manager of a commercial business shall cooperate with the authorized collector's monitoring program for inspection of the contents of containers for prohibited container contaminants, to evaluate compliance.

(f) Each owner, operator, or manager of a commercial business, except for multifamily dwellings, shall provide containers meeting the requirements of 14 CCR section 18984.9 for the collection of source separated organic materials and source separated recyclable materials in all indoor and outdoor areas where garbage disposal containers are provided for customers, for materials generated onsite. Such containers do not need to be provided in restrooms. If a commercial generator does not generate any of the materials that would be collected in one type of collection container, then it is not required to provide that type of container in all areas where disposal collection containers are provided for customers.

(g) If a commercial generator self-hauls, the commercial generator shall meet the self-haul requirements in section 7.04.150.

#### **7.04.090 Waivers for commercial business**

(a) The City Manager may grant waivers to commercial business for physical space limitations and/or de minimis volumes. Commercial businesses seeking a waiver shall submit their request in a form specified by the City Manager. After reviewing the waiver request, and after an on-site review, if applicable, the City Manager may either approve or deny the following waiver requests. Anyone granted a waiver shall provide written verification of eligibility for a waiver at least every five years, and shall notify the City if circumstances change such that they are no longer eligible for such waiver, in which case waiver will be rescinded.

(b) De Minimis Waivers: The City Manager may waive obligations of a commercial business to comply with the collection service and source separation requirements of section 7.04.100 if the commercial business meets the following requirements:

(1) Submits an application specifying the type of waiver requested and provide documentation as described below.

(2) Provide documentation that either:

i. The commercial business receives two or more cubic yards of weekly solid waste collection service and disposed organic materials subject to collection comprises less than 20 gallons per week of the business' total weekly solid waste collection service volume; or

ii. The commercial business receives less than two cubic yards of weekly solid waste collection service and disposed organic materials subject to collection comprises less than 10 gallons per week of the business' total weekly solid waste collection service volume.

(3) For the purposes of subsections (i) and (ii) above, total weekly solid waste collection service shall be the sum of weekly garbage collection container volume, recyclable material collection container volume and organic materials collection container volume, measured in cubic yards.

(c) Physical Space Waivers: The City may waive a property owner's obligations to comply with the collection service and source separation requirements of section 7.04.100 if the City has evidence from its own staff, authorized collector, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with collection service requirements. A property owner may request a physical space waiver through the following process:

(1) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.

- (2) Provide documentation that the premises lack adequate space for the recyclable materials collection containers and/or organic materials collection containers including documentation from its authorized collector, licensed architect, or licensed engineer.

#### **7.04.100 Requirements for commercial edible food generators**

- (a) Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply with this section commencing January 1, 2024. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section commencing January 1, 2024.
- (b) Commercial edible food generators shall comply with the following requirements:
  - (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed, via written agreement with a food recovery organization or food recovery service.
  - (2) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
  - (3) Allow the City Enforcement Official or official designated by the County of San Mateo for enforcement of this chapter to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the City or the County of San Mateo Office of Sustainability.
  - (4) Keep records that include the following information:
    - i. A list of each food recovery organization or a food recovery service that collects or receives edible food from the tier one or tier two commercial edible food generator.
    - ii. A copy of all contracts or written agreements for edible food recovery with any food recovery services or food recovery organization.
    - iii. A record of the following information for each of those food recovery services or food recovery organizations:
      - (1) The name, address and contact information of the food recovery service or food recovery organization.
      - (2) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
      - (3) The established schedule or frequency that food will be collected or self-hauled.
      - (4) The quantity of food, measured in pounds, recovered per month.

- (5) No later than June 30th of each year, commencing in 2022 for tier one commercial edible food generators and in 2024 for tier two commercial edible food generators, each commercial edible food generator shall provide an annual report to the County of San Mateo Office of Sustainability, using forms provided by that office, the following information: a list of all contracts with food recovery organizations and food recovery services, the amount and type of edible food donated to food recovery organizations and food recovery services, the schedule of edible food pickup by food recovery organizations and food recovery services, a list of edible food categories they generate that are not accepted by the food recovery organizations and food recovery services with whom they contract, the contact information for the manager and all staff responsible for edible food recovery, and documentation that all staff responsible for edible food recovery have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe. Commercial edible food generators shall review the guidance and a templates located on the County of San Mateo Office of Sustainability website.
  - (6) Mandate their edible food recovery staff learn and follow the donation guidelines and attend trainings conducted by food recovery organizations or food recovery services with which they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid supplying food for collection that is moldy, has been improperly stored, or is otherwise unfit for human consumption.
  - (7) Commercial edible food generators who self-haul edible food shall require those transporting edible food for recovery to obtain a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe and follow the best practices and standards for proper temperature control, methods, and procedures for the safe handling and transport of food.
- (c) Nothing in this Ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

**7.04.110 Requirements for food recovery organizations and services**

- (a) Food recovery services operating in the City shall maintain the following records:
  - (1) The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
  - (2) The quantity in pounds of edible food by type collected from each commercial edible food generator per month.

- (3) The quantity in pounds of edible food by type transported to each food recovery organization or redistribution site per month.
  - (4) The name, address, and contact information for each food recovery organization or redistribution site that the food recovery service transports edible food to.
- (b) Food Recovery Organizations operating in the City and collecting or receiving edible food directly from any commercial edible food generator or receiving edible food from food recovery services or from other food recovery organizations, shall maintain the following records:
- (1) The name, address, and contact information for each commercial edible food generator, food recovery service, or other food recovery organization from which the organization receives edible food.
  - (2) The quantity in pounds of edible food by type collected or received from each commercial edible food generator, food recovery service, or other food recovery organization per month.
  - (3) The name, address, and contact information for other food recovery organizations or redistribution sites that the food recovery organization transports edible food to for edible food recovery.
- (c) Food recovery organizations and food recovery services operating in the City shall inform tier one and tier two commercial edible food generators from which they collect or receive edible food about California and federal Good Samaritan Food Donation Act protections in written communications, such as in their contract or agreement.
- (d) Commencing no later than July 1, 2022, food recovery organizations and food recovery services operating in the City and receiving edible food from commercial edible food generators or any other source shall report to County of San Mateo Office of Sustainability, using forms provided by that office, the following: a detailed report of the information collected as required under this section, including weight in pounds by type and source of edible food, the schedule/frequency of pickups/drop-offs of edible food from/to each edible food source or redistribution site, brief analysis of any necessary process improvements or additional infrastructure needed to support edible food recovery efforts, such as training, staffing, refrigeration, vehicles, etc., and an up to date list of commercial edible food generators with whom they have contracts or agreements established. This report shall be submitted quarterly, or at the discretion of the County of San Mateo Office of Sustainability, less frequently, and shall cover the activity that occurred since the period of the last submission.
- (e) Food Recovery Organizations and Food Recovery Services operating in the City shall contact the County of San Mateo Office of Sustainability to discuss the requirements of this chapter before establishing new contracts or agreements with commercial edible food generators.
- (f) Contracts between food recovery organizations and food recovery services and tier one and tier two commercial edible food generators shall either:



(1) Use the Model Food Recovery Agreement developed by CalRecycle, and include a clause requiring the food recovery organization or food recovery service to report to the commercial edible food generators with whom they have contracts the annual amount of edible food recovered and to inform them of the tax benefits available to those who donate edible food to non-profits; or

(2) Include in their contracts the following elements:

- i. List of allowable foods the food recovery organization or food recovery service will receive.
- ii. List of foods not accepted by the food recovery organization or food recovery service.
- iii. Conditions for refusal of food.
- iv. Food safety requirements, training, and protocols.
- v. Transportation and storage requirements and training.
- vi. A protocol for informing the commercial edible food generator of a missed or delayed pickup.
- vii. Notice that donation dumping is prohibited.
- viii. Provisions to collect sufficient information to meet the record-keeping requirements of this chapter.
- ix. Fees/financial contributions/acknowledgement of terms for the pickup and redistribution of edible food.
- x. Terms regarding supplying information to the commercial edible food generators with the annual amount of edible food recovered and informing them of the tax benefits that may be available to those who donate edible food to non-profits.
- xi. Contact name, address, phone number, and email for both responsible parties, including the current on-site staff responsible for edible food recovery.
- xii. Food recovery organizations accepting self-hauling of edible food from commercial edible food generators must provide a schedule, including days of the week and acceptable times for drop-offs, and information about any limitation on the amount of food accepted, and/or the packaging requirements or other conditions of transport, such as, but not limited to, maintaining proper temperature control, and other requirements for the safe handling and transport of food, the self-hauler must follow for

the edible food to be accepted.

(g) Contracts between commercial edible food generators and food recovery organizations or food recovery services shall not include any language prohibiting commercial edible food generators from contracting or holding agreements with multiple food recovery organizations or food recovery services listed on the County of San Mateo Office of Sustainability website.

(h) Food recovery organizations and food recovery services operating in the City shall demonstrate that all persons involved in the handling or transport of edible food, including volunteers and contracted workers using their own vehicles, have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe.

(i) Food recovery organizations and food recovery services operating in the City shall use appropriate temperature control equipment and methods and maintain the required temperatures for the safe handling of edible food recovered from commercial edible food generators during transportation of edible food.

(j) Food recovery organizations and food recovery services operating in the City shall provide documentation to the County of San Mateo Office of Sustainability that all redistribution sites which are not themselves food recovery organizations to which they deliver edible food have a feeding or redistribution program in place to distribute, within a reasonable time, all the edible food they receive. Such documentation may include a website address which explains the program or pamphlets/brochures prepared by the redistribution site.

(k) Food recovery organizations and food recovery services operating in the City shall visually inspect all edible Food recovered or received from a commercial edible food generator. If significant spoilage is found, or if the food is otherwise found to be unfit for redistribution for human consumption, food recovery organizations and food recovery services shall immediately notify the County of San Mateo Office of Sustainability using the process found on the County of San Mateo Office of Sustainability's website. The notice shall include:

(1) The type and amount, in pounds, of spoiled food or food unfit for redistribution for human consumption, or provide a photographic record of the food, or both.

(2) The date and time such food was identified.

(3) The name, address and contact information for the commercial edible food generator which provided the food.

(4) The date and time the food was picked up or received.

(5) A brief explanation of why the food was rejected or refused.

(l) Food recovery organizations and food recovery services operating in the City shall conduct trainings and develop educational material such as donation guidelines and handouts to provide instruction and direction to commercial edible food generators with whom they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of edible food to ensure the maximum amount of edible food is recovered and to avoid the collection of food that is moldy, has been improperly stored, or is otherwise unfit for human consumption.

(m) In order to support edible food recovery capacity planning assessments or other such studies, food recovery services and food recovery organizations operating in the City shall provide information to the City and County of San Mateo Office of Sustainability upon request, regarding existing, or proposed new or expanded, edible food recovery capacity that could be accessed by the City and its commercial edible food generators. A food recovery service or food recovery organization contacted by the City or County of San Mateo Office of Sustainability shall respond to such requests for information within 60 days.

(n) Allow the City enforcement official or County of San Mateo Office of Sustainability to access the premises and inspect procedures and review records related to edible food recovery and/or provide them electronically if requested by the City Manager or designee.

**7.04.120 Requirements for authorized collector, facility operators recovering organic waste, and community composting.**

(a) Any authorized collector providing residential, commercial, or industrial organic materials collection services to generators within the City's boundaries shall:

(1) Provide written notice to the City annually on or before January 31, identifying the facilities to which they will transport solid waste including facilities for source separated recyclable materials and source separated organic materials.

(2) Transport source separated recyclable materials and source separated organic materials to a facility, operation, activity, or property that recovers organic materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.

(3) Obtain approval from the City to haul organic materials, unless it is transporting source separated organic materials to a community composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR section 18989.1 and Chapters 12.18 and 12.48 of this code.

(4) Comply with other requirements contained within its franchise agreement.

(b) Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request by the City, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Such owners contacted by the City shall respond within 60 days of a request.

- (c) Any owner or operator of a community composting site, upon request by the City, shall provide information to the City to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting site. Such persons contacted by the City shall respond within 60 days of a request.

**7.04.130 Self-hauler requirements.**

- (a) Any generator of solid waste may personally haul the same in a vehicle owned by, or in the lawful possession of, the generator of such solid waste, to a lawful disposal facility outside of the City limits, subject to the following requirements:
- (1) Self-haulers, including back-haulers, must source separate and transport organic materials to a solid waste facility, operation, activity, or property that processes or recovers source separated organic materials.
  - (2) Self-haulers, including back-haulers, must source separate and transport recyclable materials to a solid waste facility, operation, activity, or property that processes or recovers those materials.
  - (3) Self-haulers that are commercial businesses shall keep a record of the amount of organic materials delivered to each solid waste facility, operation, activity, or property that processes or recovers organic materials; this record shall be subject to inspection by the City. The records shall include the following information:
    - i. Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic materials.
    - ii. The amount of material in cubic yards or tons transported by the generator to each entity.
  - (4) Self-haulers must complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this chapter or any other applicable law or regulation. A copy of such form shall be completed and remitted annually to the City Manager.
  - (5) Except for commercial edible food generators that self-hauling edible food to a food recovery organization or food recovery service and back-haulers, obtain a permit for self-hauling issued by the City Manager prior to self-hauling. The City Manager may issue the permit only if the person requesting a self-haul permit satisfies the following requirements:
    - i. Produces for inspection the vehicle that such person owns or leases and intends to use for hauling solid waste, and which is capable of safely hauling sold waste and organic waste in a safe and sanitary manner so that it is covered and so that such matter will not spill, leak, drip, blow, scatter or fall from the vehicle;
    - ii. Produces evidence that such person has a valid California driver's license to operate the vehicle produced for inspection, that the vehicle is currently

- registered in the State of California, and a certificate of automobile insurance for the vehicle;
- iii. Provides proof that the applicant has containers for the storage of solid waste on the applicant's property before the materials are self-hauled to a disposal facility; and
  - iv. Pays the fee for a self-hauling permit authorized by resolution of the City council.
- (b) This section is permissive and does not relieve any owner or occupants of property of the requirements of compliance with regular and routine disposal of all solid waste generated on the premises at least once per week as set forth in section 7.04.060. Nothing in this chapter shall prohibit any generator from regularly disposing of garbage, recyclable material, or organic materials at a solid waste facility, by self-hauling in a manner conforming to this section.

#### **7.04.140 Inspections**

Any City enforcement officer and any officer designated by the County of San Mateo is authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

#### **7.04.150 Enforcement and Penalties.**

- (a) Any violation of this chapter shall be an infraction and a public nuisance and may be punished or enforced in accordance with the provisions of section 1.12.010 or abated in the manner provided by Chapter 8.04. Three or more subsequent violations of this chapter by the same person or persons within a 12-month period may be charged and prosecuted as a misdemeanor. Any City enforcement officer shall have the duty and authority to enforce the provisions of this chapter. In addition, any violation shall be subject to the issuance of administrative citation and imposition of administrative fine in the following amounts, in accordance with Government Code section 53069.4:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
3. A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period.

Administrative citations issued by the City enforcement officer for violations of this chapter shall be issued in accordance with and subject to all of the notice, payment, appeal, hearing, late payment, collection, and judicial review provisions applicable to administrative citations that are set forth in section 8.57.030, subdivisions (g) through (m).

- (b) Enforcement by County. Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of an administrative fine by any enforcement official designated by the County of San Mateo. Absent compliance within the deadline set forth in the notice of violation, the designated official of the County of San Mateo may commence an action to impose penalties, via an administrative citation and fine. The enforcement official designated by the County may

elect to issue the administrative citation pursuant to either (1) the procedures adopted by the County of San Mateo for issuance of administrative citations, or (2) the procedures set forth above for the issuance of administrative citations by the City enforcement official. The citation shall include a description of the administrative citation appeal process, the time within which the administrative citation may be contested, and instructions for requesting a hearing. The amount of any administrative fine imposed by the County's designated enforcement official shall not exceed the fine amount that could have been imposed by the City's enforcement official if such violation was being prosecuted by the City's enforcement official.

- (c) Any official charged with enforcement of this chapter may extend the compliance deadlines set forth in a notice of violation or citation there are extenuating circumstances beyond the control of the violator that make compliance within the deadlines impracticable, including the following:
  - (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
  - (2) Delays in obtaining discretionary permits or other government agency approvals; or,
  - (3) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity.
  
- (d) Educational Period. Between January 1, 2022 and through December 31, 2023, any official charged with enforcement of this chapter shall provide educational materials describing obligations under this chapter to any generator, self-hauler, authorized collector or other hauler, commercial edible food generator, food recovery organization, food recovery service, or other person or entity regulated by this chapter that is determined to violate any obligation imposed under this chapter, and shall also provide notice that future violations may be subject to administrative penalties. Any official charged with enforcement of this chapter may do so in lieu of issuing a notice of violation or an administrative citation, however, nothing herein shall limit the authority of such official to take any other enforcement actions as permitted under this chapter.
  
- (e) Nothing herein shall be interpreted to limit or exclude any other remedies available to the City under this code or otherwise allowed by law, including civil action or prosecution as misdemeanor or infraction. Any such storage, collection, or accumulation of solid waste on a premises outside of the manner permitted under this chapter shall be deemed a nuisance and subject to summary abatement under Section 38773 of the Government Code, and costs of abatement shall be subject to being imposed as a lien against the property.

### SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council finds and determines that enactment of this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment), in that the ordinance will strength requirements for handling of solid waste and shall result in reduction of

short-term climate pollutants. The Town Council also considers the project exempt from review under the California Environmental Quality Act under the “common sense” exemption, CEQA Guidelines section 15061(b)(3)), since “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.”

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

SECTION 6. PUBLICATION

The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Menlo Park, California and cause the same to be published in accordance with State law.

INTRODUCED on the ninth day of November, 2021.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the \_\_ day of \_\_, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

**RESOLUTION NO. 6675****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF  
UNDERSTANDING (MOU) WITH THE SOUTH BAYSIDE WASTE  
MANAGEMENT AUTHORITY (SBWMA) REGARDING THE IMPLEMENTATION  
OF SENATE BILL 1383 REGULATIONS**

WHEREAS, the State of California passed SB 1383 (Chapter 395, Statutes of 1383), which required the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025, and

WHEREAS, CalRecycle has finalized regulations and revised Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations ("SB 1383 Regulations"), and

WHEREAS, the SB 1383 Regulations require local agencies or jurisdictions, among other things, to implement programs requiring organic waste generators and waste haulers to meet minimum standards for organic waste collection services, inspect waste containers for prohibited contamination of materials, provide education and outreach information to organic waste generators, report to CalRecycle on compliance with SB 1383 Regulations, and maintain records of compliance with SB 1383 Regulations, and

WHEREAS, jurisdictions may designate a public or private entity to fulfill its requirements of Chapter 12: Short-lived Climate Pollutants, including utilizing a Joint Powers Authority, except that the Jurisdictions shall remain ultimately responsible for compliance, and

WHEREAS, the SBWMA developed an Implementation of SB 1383 Memorandum of Understanding (MOU) detailing the roles and responsibilities between SBWMA and its Member Agencies, and

WHEREAS, the SBWMA Board of Directors considered the Implementation of SB 1383 MOU to its Member Agencies at its regularly scheduled meeting held June 24, 2021, and adopted Resolution 2021-17 recommending that Member Agencies approve the MOU, and

WHEREAS, the City of Menlo Park agrees with the roles and responsibilities detailed in the Implementation of SB 1383 MOU, and

WHEREAS, Environmental review is not required because adoption of the MOU is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378 (b)(5) (organizational or administrative activities of governments not project).

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

The City manager is authorized to enter into a Memorandum of Understanding (MOU) with the SBWMA Member Agencies regarding the implementation of Senate Bill 1383 regulations.



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 October, 2021, by the following votes:


AYES: Combs, Mueller, Nash, Taylor, Wolosin

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of October, 2021.

DocuSigned by:  
  
39280A20D0BE491...  
\_\_\_\_\_  
Judi A. Herren, City Clerk

**RESOLUTION NO. 6676**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF  
UNDERSTANDING (MOU) WITH THE COUNTY OF SAN MATEO FOR THE  
ESTABLISHMENT OF AN EDIBLE FOOD RECOVERY PROGRAM  
CONSISTENT WITH CALIFORNIA CODE OF REGULATIONS, TITLE 14,  
DIVISION 7, CHAPTER 12 SHORT-LIVED CLIMATE POLLUTANTS**

WHEREAS, in September 2016, Governor Edmund Brown Jr. set methane emissions reduction targets for California (SB 1383 Lara, Chapter 395, Statutes of 2016) in a statewide effort to reduce emissions of Short-Lived Climate Pollutants (SLCP), and

WHEREAS, the City of Menlo Park is a South Bayside Waste Management Authority (SBWMA) Member Agency and proactively collaborates closely with CalRecycle as well as regional partner agencies, including the SBWMA, Recology, and San Mateo County, to implement SB 1383 programs in accordance with state guidelines and requirements, and

WHEREAS, San Mateo County’s Board of Supervisors has enacted a Mandatory Organic Waste Disposal Reduction Ordinance as required by the California Code of Regulations, Title 14, Division 7, Chapter 12 Short-Lived Climate Pollutants, and

WHEREAS, to promote consistency within jurisdictions throughout San Mateo County and leverage economies of scale, the County of San Mateo has offered to lead the creation of a County-wide Edible Food Recovery Program on behalf of the unincorporated areas of the county and all the jurisdictions in the county, and

WHEREAS, the Menlo Park City Council adopts this Memorandum of Understanding and authorizes the County to operate an Edible Food Recovery Program on behalf of and within the City of Menlo Park.

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

The City Manager is authorized to enter into a Memorandum of Understanding (MOU) with the County of San Mateo for the establishment of an Edible Food Recovery Program consistent with California Code of Regulations, Title 14, Division 7, Chapter 12 Short-Lived Climate Pollutants.

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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 October, 2021, by the following votes:

AYES: Combs, Mueller, Nash, Taylor, Wolosin

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this thirteenth day of October, 2021.

DocuSigned by:



39280A20D0BE491...  
Judi A. Herren, City Clerk

M1-PRESENTATION



# SB 1383 ENFORCEMENT ORDINANCE

City Council Meeting – November 9, 2021

## SB 1383 COMPLIANCE PROGRESS

| Item   | Purpose   | Lead agency                               | Council action  |
|--|---|---|---|
| MOU with SBWMA                                     | Education and outreach  | SBWMA                                     | Oct. 12:<br>Approved  |
| MOU with San Mateo County Office of Sustainability | Edible Food Recovery program  | San Mateo County Office of Sustainability | Oct. 12:<br>Approved  |
| SB 1383 enforcement ordinance                      | <ul style="list-style-type: none"> <li>- Organic collection services</li> <li>- Compliance and enforcement</li> </ul> | City of Menlo Park                        | Nov. 9:<br>Waive first reading and introduce Ordinance No. 1079 |



# ORDINANCE NO. 1079

## KEY PROVISIONS



- Single-family homes, multifamily dwellings, and commercial businesses must normally have organics collection service and properly sort their materials;
- Businesses must (a) supply an adequate number of labeled, color coded containers for employees, contractors, tenants and customers, (b) provide education to new tenants, and (c) provide access to the City to confirm compliance;



## ORDINANCE NO. 1079 KEY PROVISIONS (CONT'D)



- Commercial edible food generators must divert edible food through a written agreement with food recovery organizations by specific dates: Tier 1 generators by January 1, 2022 and Tier 2 generators by January 1, 2024;
- Generators have the option to self-haul source separated waste; and
- The right to inspect and enforce the requirements are contained in the Ordinance.

## REMAINING COUNCIL ACTIONS REQUIRED BEFORE JANUARY 1, 2022

| Item  | Purpose  | Tonight's staff recommendation                                  | Next steps  |
|---|--|---|---|
| SB 1383 enforcement ordinance                   | <ul style="list-style-type: none"> <li>- Organic collection services</li> <li>- Compliance and enforcement</li> </ul>                      | Nov. 9:<br>Waive first reading and introduce Ordinance No. 1079 | Nov. 16:<br>Waive second reading and adopt the Ordinance                          |
| City's purchasing policy to comply with SB 1383 | <ul style="list-style-type: none"> <li>- Procure recovered organic products</li> <li>- Purchase recycled-content paper products</li> </ul> | None.   | Dec 14 (tent.):<br>Consider resolution approving updates to the purchasing policy |





**THANK YOU**



**STAFF REPORT**

**City Council**

**Meeting Date:** 11/9/2021  
**Staff Report Number:** 21-214-CC

**Informational Item:** City Council agenda topics: November – December 7, 2021

**Recommendation**

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

**Policy Issues**

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

**Analysis**

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through December 7, 2021. The topics are arranged by department to help identify the work group most impacted by the agenda item.

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

**Public Notice**

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

**Attachments**

A. City Council agenda topics: November – December 7, 2021

Report prepared by:  
Judi A. Herren, City Clerk

**Tentative City Council Agenda**

| #  | Title  | Department | Item type      | City Council action         |
|----|--|------------|----------------|-----------------------------|
| 1  | Mid-year budget amendment  | ASD        | Regular        | Approve                     |
| 2  | Rescind Resolution No. 6635 establishing a temporary UUT reduction   | ASD        | Regular        | Approve                     |
| 3  | Transmittal of the annual report on the status of the transportation impact, storm drainage, recreation in-lieu, below market rate housing in-lieu, and construction impact fees collected as of June 30, 2020 | ASD        | Consent        | Receive and file            |
| 4  | Appeal of Planning Commission approval use permit for a new single-family residence at 153 Oak Ct.   | CDD        | Public Hearing | Decide                      |
| 5  | Springline   | CDD        | Public Hearing |                             |
| 6  | \$10,000 Incentive for Multifamily EV charging   | CMO        | Consent        | Approve                     |
| 7  | 2021 priorities and work plan quarterly report as of September 30  | CMO        | Informational  | Receive and file            |
| 8  | 2021 priorities and work plan year-end report as of December 31  | CMO        | Consent        | Receive and file            |
| 9  | Adopt Community Amenity Implementing Regulations and Updated Amenities List  | CMO        | Regular        | Adopt resolution            |
| 10 | Adopt Resolution No. XXXX approving the City Council Community Funding Subcommittee's recor  | CMO        | Regular        | Adopt resolution            |
| 11 | Approve and appropriate \$10,000 for seed money to support the newly formed Menlo Park Sister Cities Association and ongoing sister cities program   | CMO        | Consent        | Approve                     |
| 12 | Consideration of how to proceed with the settlement  | CMO        | Closed Session | Direction to staff          |
| 13 | Quarterly personnel update (July-Sept)   | CMO        | Consent        | Receive and file            |
| 14 | Receive EQC annual report, approve EQC annual work plan, and provide direction on EQC recommendation on a gas powered leaf blower ban  | CMO        | Regular        | Approve, Direction to staff |
| 15 | Resource needs for Climate Action Plan   | CMO        | Regular        | Direction to staff, Decide  |
| 16 | Redistricting Ordinance - First Reading  | CMO, CA    | Regular        | Approve                     |
| 17 | Police and Public Works Tesla Implementation Plan  | PD, PW     |                |                             |
| 18 | Adoption and resolution of the Local Hazard Mitigation Plan  | PW         | Regular        | Adopt resolution            |
| 19 | Approve a Cost Sharing Agreement with San Mateo County for the Coleman-Ringwood Avenues Transportation Study   | PW         | Consent        | Approve                     |
| 20 | Approve Installation of a Left-Turn Restriction on Garwood at Oak Grove  | PW         | Consent        | Approve                     |
| 21 | Approve Middle Avenue (700 ECR) Purchase and sale agreement  | PW         | Regular        | Approve                     |
| 22 | Approve update to VMT thresholds   | PW         | Regular        | Approve                     |
| 23 | Authorize the Mayor to sign a letter of intent to join Commute.org   | PW         | Consent        | Approve                     |
| 24 | Sharon Rd. - project   | PW         | Consent        | Approve                     |
| 25 | Professional services for Measure T issuance   | PW, ASD    | Consent        | Approve                     |
| 26 | Wireless Facilities Study Session  | PW, CAO    | Study Session  | Direction to staff          |
| 27 | Chrysler pump station general plan amendment and rezoning - 1st reading (ord)  | PW, CDD    | Public Hearing | Approve                     |
| 28 | Chrysler pump station general plan amendment and rezoning - 2nd reading  | PW, CDD    | Consent        | Adopt ordinance             |
| 29 | Award MPCC Solar Microgrid   | PW, CMO    | Public Hearing | Contract award or amend     |