



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
SPECIAL AND REGULAR MEETING AGENDA**

**Tuesday, June 7, 2011
5:45 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers**

5:45 P.M. CLOSED SESSION (Council Conference Room, 1st floor City Hall)

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

1. Closed Session pursuant to Government Code section 54957.6 to conference with labor negotiators regarding labor negotiations with the Police Officers Association (POA). Attendees: Glen Rojas, City Manager, Starla Jerome-Robinson, Assistant City Manager, Bill McClure, City Attorney, Glen Kramer, Interim Personnel and Information Services Director, Bryan Roberts, Police Chief and Charles Sakai, Labor Negotiator

7:00 P.M. REGULAR SESSION (Council Chambers)

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

PLEDGE OF ALLEGIANCE

REPORT FROM CLOSED SESSION

ANNOUNCEMENTS

A. PRESENTATIONS AND PROCLAMATIONS

1. Presentation by the Police Department regarding web-based crime reporting

B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

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

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

D. CONSENT CALENDAR

1. Acceptance of Council minutes for the meetings of May 24, 2011 ([Attachment](#))
2. Authorization of the City Manager to extend professional services agreement for parking citation processing for a period of three years effective July 1, 2011 ([Staff report #11-086](#))
3. Adoption of a Resolution amending the Management Benefit Plan for Management Appointees to reflect changes to retirement benefits and payments consistent with those negotiated with AFSCME 829 ([Staff report #11-089](#))

4. Approval of fifth amendment to the agreement for services of the City Attorney that revises rates charged to private developers and that specifies a contribution to the CalPERS employer share ([Staff report #11-090](#))
5. Approval of the fourth amendment to the employment agreement between the City of Menlo Park and Glen Rojas that extends the time to repay a secured loan and that specifies a contribution to the CalPERS employer share ([Staff report #11-091](#))
6. Approval of a contract between the City of Menlo Park and Glen Rojas for Interim City Manager Services ([Staff report # 11-092](#))

E. PUBLIC HEARINGS - None

F. REGULAR BUSINESS

1. Adoption of resolutions authorizing commitments of the City's General Fund Balance; and adoption of a Fund Balance Policy that incorporates certain requirements of Governmental Accounting Standards Board (GASB) Statement No. 54 ([Staff report #11-087](#))
2. Consideration of whether the Willows Area Wide Traffic Study Survey Plan should move to the next step, which is an official survey in accordance with the City's Neighborhood Traffic Management Program (NTMP) ([Staff report #11-083](#))
3. Consideration of state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item: None

G. CITY MANAGER'S REPORT – None

H. WRITTEN COMMUNICATION – None

I. INFORMATIONAL ITEMS

1. Belle Haven CDC Self Evaluation Report for the Child Development Division of the California Department of Education for fiscal year 2010-11 ([Staff report #11-084](#))

J. COUNCILMEMBER REPORTS

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

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

L. ADJOURNMENT

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at <http://www.menlopark.org> and can receive e-mail notification of agenda and staff report postings by subscribing to the "Home Delivery" service on the City's homepage. Agendas and staff reports may also be obtained by contacting the City Clerk at (650) 330-6620. Copies of the entire packet are available at the library for viewing and copying. (Posted: 06/02/2011)

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

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

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

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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.



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
REGULAR MEETING **DRAFT** MINUTES**

**Tuesday, May 24, 2011 at 7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers**

Mayor Cline called the regular meeting to order at 7:02 p.m. with all members present.

The pledge of allegiance was lead by Mayor Cline.

ANNOUNCEMENTS

- The community is invited to the grand re-opening of the Arrillaga Recreation Center on Saturday, June 4 beginning at 10am, including guided tours of the building and an opportunity to participate in classroom demonstrations.
- The following Saturday, June 11 join the City for the Kelly Park grand opening event at noon. There's still time to sign up for the three-on-three basketball tournament that day that provides cash prizes. We just need a couple of more teams to complete the women's division so get your hoop on and get signed up at 330-2221.

A. PRESENTATIONS AND PROCLAMATIONS

A1. Presentation: "Tip a Cop" – Special Olympics fundraiser by Police Department
Staff presentation by Police Chief Bryan Roberts ([Slides](#))

A2. Presentation: Housing Endowment and Regional Trust of San Mateo County (HEART)
Presentation by Paula Stinson, Development and Communications Manager HEART of San Mateo County ([PowerPoint](#))

A3. Presentation by C/CAG Consultants TJKM regarding recommended near term improvements on Willow Road between Bayfront Expressway and US-101 in conjunction with the Peninsula Gateway Corridor 2020 Study
Presentation by John Wong with C/CAG and Rich Haygood of TJKM Consultants ([PowerPoint](#))

B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

B1. Consider applicants for appointment to fill three vacancies on the Library Commission
([Staff report #11-076](#))
Staff presentation by Margaret Roberts, City Clerk

ACTION: Motion and second (Cohen/Keith) to appoint to the Library Commission Jacqueline Cebrian and Vin Sharma for terms ending April 30, 2014 and Alaina Sloo for a term ending April 30, 2015 passes unanimously.

Planning Commission Report:
Henry Riggs on behalf of the Planning Commissioner

At the January 10, 2011 Planning Commission meeting, the Commission discussed possible Community Development projects not listed on the CIP or other action lists. The Commission identified four areas that they would like the Council to consider:

1. Commercial Streamlining
2. Limited residential zoning streamlining
3. BMR construction requirements
4. Coordination with adjacent agencies on development

C. PUBLIC COMMENT #1

- Barbara Hunter – Spoke regarding the Willows Traffic Plan and the process to date. (Letter)
- Julie Figliozzi – Spoke regarding Flood Park and suggested if the City takes over the park to retain the zoning (Open Space & Conservation) and to consider outsourcing some aspects to non-profit organizations such as San Mateo County 4-H Clubs.
- Peri Wong – Spoke regarding Flood Park and if the City takes over the park to allow 4-H to have a farm a park.

D. CONSENT CALENDAR

- D1.** Adoption of **Resolution No. 5996** giving preliminary approval of the Engineer's Report for the Menlo Park Landscaping District for fiscal year 2011-12 which proposes no increases to the tree or sidewalk portions of the assessment; and adoption of **Resolution No. 5997** a Resolution of intention to order the levy and collection of assessments at the current rates for the Menlo Park Landscaping District for fiscal year 2011-12 ([Staff report #11-079](#))
- D2.** Adoption of **Resolution No. 5998** approving a third amendment to the agreement with the County of San Mateo for animal control services to adjust the payment schedule, modify the term, include an indemnity clause and clarify services and to authorize the City Manager to execute the third amendment ([Staff report #11-074](#))
- D3.** Adoption of **Resolution No. 5999** authorizing continued participation in the City/County Association of Governments of San Mateo County (C/CAG), approving the Joint Powers Agreement, and authorizing execution of the Joint Powers Agreement by the Mayor ([Staff report #11-078](#))
- D4.** Acceptance of Council minutes for the meetings of May 3 and 10, 2011 ([Attachment](#)) ([Amendment](#))

ACTION: Motion and second (Ohtaki/Fergusson) to approve the Consent Calendar with the changes to the May 10, 2011 minutes passes unanimously.

E. PUBLIC HEARINGS

- E1.** Adoption of the revised 5-Year Capital Improvement Plan for fiscal years 2011-12 through 2015-16 ([Staff report #11-077](#)) ([PowerPoint](#))
Staff presentation by Kent Steffens, Deputy City Manager and Carol Augustine, Finance Director

The Public Hearing was opened at 9:11 p.m.

- Allan Bedwell, Friends of Bedwell Bayfront Park – Suggested that the City terminate a contract from the 1980s regarding the purchase of electricity from the methane at Bedwell Bayfront Park.
- Steve Schmidt – Spoke regarding the costs of the lobbyist for High Speed Rail and suggested using the funding elsewhere.

ACTION: Motion and second (Keith/Fergusson) to close the public hearing at 9:19 p.m. passes unanimously.

NOTE: For any voting on the CIP the following conflict of interests were announced:

- Andrew Cohen – High Speed Rail Coordination due to the proximity to his property.
- Kelly Fergusson – Willows Area-Wide Traffic Study Implementation due to the proximity of her property.
- Kirsten Keith – Willows Area-Wide Traffic Study Implementation due to the proximity of her property.

NOTE: The Council had a discussion on the High Speed Rail Coordination and Andrew Cohen and Bill McClure restated their conflict of interest on this issue and left the Council Chambers at 9:32 p.m.

Public Comments on the HSR Coordination item in the CIP:

- Andrew Cohen (speaking as an individual) – There are other lobbyists available to contract with in the state. There is a group of cities in Northern San Mateo County that have the opposite opinion from Menlo Park's opinion.

ACTION: Motion and second (Keith/Ohtaki) to cut the HSR Coordination amount in the proposed CIP from \$100,000 to \$50,000 passes 3-1-1 (Ayes: Cline, Keith, Ohtaki, Noes: Fergusson, Recused: Cohen)

Andrew Cohen and Bill McClure returned to the meeting at 9:49 p.m.

NOTE: The Council had a discussion on the Willows Area-Wide Traffic Study Implementation and Kelly Fergusson and Kirsten Keith restated their conflict of interest from the item and left the Council Chambers at 9:49 p.m.

Public Comments on the Willows Area-Wide Traffic Study Implementation item in the CIP:

- Kirsten Keith (speaking as an individual) – Stated that the Transportation Commission only voted on one option and she requested it go back to the Transportation Commission to vote on the other two options.

Kelly Fergusson and Kirsten Keith returned to the meeting at 9:56 p.m.

ACTION: Motion and second (Ohtaki/Fergusson) to approve the revised 5-Year Capital Improvement Plan for fiscal years 2011-12 through 2015-16 and including adding a sound wall separating Highway 101 and Kelly Park passes unanimously with the following recusals:

- Andrew Cohen – High Speed Rail Coordination line item
- Kelly Fergusson – Willows Area-Wide Traffic Study Implementation line item
- Kirsten Keith – Willows Area-Wide Traffic Study Implementation line item

- E2.** Review of the City Manager's proposed 2011-12 Budget and Capital Improvement Program for the City of Menlo Park; consideration of the revised long-term financial forecast; and discussion of the continuation of the current reduced rate of Utility Users Tax beyond September 30, 2011 ([Staff report #11-081](#))([PowerPoint](#))

Staff presentation by Glen Rojas, City Manager and Carol Augustine, Finance Director

The Public Hearing was opened at 10:16 p.m.

- Rene Morales, SEIU 521 – Spoke on behalf of the union regarding potential cuts in public works personnel.

ACTION: Motion and second (Fergusson/Keith) to close the public hearing at 10:19 p.m. passes unanimously.

F. REGULAR BUSINESS

- F1.** Introduction of an Ordinance adopting local amendments to the 2010 Green Building Standards Code to include additional sustainable building requirements

([Staff report #11-080](#)) ([Attachment](#))

Staff presentation by Ron La France, Building Official

ACTION: Motion and second (Keith/Fergusson) to introduce the ordinance adopting local amendments to the 2010 California Green Building Standards Code as outlined in the staff report passes unanimously.

- F2.** Consideration of the adoption of a Resolution approving a Memorandum of Understanding (MOU) between the City of Menlo Park and the Menlo Park Police Sergeants' Association (PSA), representing the classification of Police Sergeant, for the period beginning July 1, 2011 through June 30, 2013 ([Staff report #11-075](#))

Staff presentation by Glen Kramer, Interim Personnel Director

ACTION: Motion and second (Cohen/Fergusson) to approve **Resolution No. 6000** approving a Memorandum of Understanding (MOU) between the City of Menlo Park and the Menlo Park Police Sergeants' Association (PSA), representing the classification of Police Sergeant, for the period beginning July 1, 2011 through June 30, 2013 passes unanimously.

- F3.** Consideration of state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item: None

G. CITY MANAGER'S REPORT: None

H. WRITTEN COMMUNICATION: None

I. INFORMATIONAL ITEMS: None

J. COUNCILMEMBER REPORTS

Council Members reported on meetings attended meeting the AB1234 reporting requirements.

K. PUBLIC COMMENT #2: None

L. ADJOURNMENT: 11:39 p.m.

Margaret S. Roberts, MMC
City Clerk

Minutes accepted at the Council meeting of



ADMINISTRATIVE SERVICES

Council Meeting Date: June 7, 2011
Staff Report #: 11-089

Agenda Item #: D-3

CONSENT CALENDAR: Adoption of a Resolution Amending the Management Benefit Plan for Management Appointees to Reflect Changes to Retirement Benefits and Payments Consistent with Those Negotiated with AFSCME 829

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution amending the management benefit plan to include wording consistent with a multi-tiered retirement formula and to specify a required employee contribution to partially offset the required employer contribution made by the City to the California Public Employees' Retirement System (CalPERS).

BACKGROUND

The executive management group consists of fifteen positions that have been designated management at-will positions. Members of this group are not covered by a collective bargaining agreement nor are they organized as part of a union. As such, they are covered under a separate management benefit plan. The plan specifies retirement benefits in the CalPERS system consistent with those provided other benefitted employees.

The City is moving toward two tiered retirement formulas with both miscellaneous and safety units. This move will impact all new hires in this group once the new tiers are in place.

The required employer costs toward retirement continue to rise due to an unexpected loss in investments brought about by the recent market and real estate corrections. When the investments fail to produce the anticipated returns, the employer cost rises to cover the shortfall. As a result, the City is moving toward a method of cost sharing by the employee toward the employer cost.

ANALYSIS

The attached document contains the changes proposed to the management benefit plan to incorporate these concepts as they relate toward the retirement benefit.

The first change is to clarify that newly hired members of the executive management team that were not previously employed with the City under a higher tiered retirement formula will be provided the retirement formula currently in effect at the time of hire.

The second change is to specify a contribution formula to employer retirement costs that are consistent with the AFSCME agreement. The formula specifies that the City will pay full employer costs to CalPERS retirement up to 15.850%, and that costs will be shared equally between the employee and the employer on employer rates in excess of the 15.850% threshold. As an example, the employer rate specified for the miscellaneous plan for 2011-12 fiscal year is 16.090%. Application of the formula would yield $(16.090\% - 15.850\%) / 2$ or 0.11%, applied to all income subject to CalPERS retirement, that the employee will contribute in an after tax deduction. CalPERS has estimated that the employer rate is likely to increase in later years, and, should that occur, the formula will yield a higher employee contribution.

For purposes of this contribution, the Police Chief and Police Commanders, who are in the safety plan, are being asked to share a percentage consistent with the miscellaneous group.

IMPACT ON CITY RESOURCES

There are immediate savings as a result of the implementation of the employee contribution toward employer retirement costs and these savings are reflected in the 2011-12 operating budget. Long term savings will occur as new external hires fall under the second, lower tier retirement formula.

POLICY ISSUES

This recommendation is consistent with the approach used with other units to restructure employee benefits while remaining competitive in recruiting and retaining well trained staff.

ENVIRONMENTAL REVIEW

No environmental review is required.

A handwritten signature in blue ink, appearing to read "Glen H. Kramer", is written over a horizontal line.

Glen H. Kramer
Interim Personnel Director
Report Author

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

ATTACHMENTS: Management Benefit Plan for Management Appointees (revised)
Resolution

CITY OF MENLO PARK
MANAGEMENT BENEFIT PLAN

Management Appointees

~~Effective November 12, 2006~~
Effective July 1, 2011

CITY OF MENLO PARK
MANAGEMENT BENEFIT PLAN

I. Plan Participants

Persons covered by this plan include all City employees who have been designated management at-will and are not represented by one of the City's bargaining units and are not classified as confidential employees.

II. Designated Management Benefits

In addition to the salary established by the Menlo Park City Council, designated management at-will employees may receive special compensation as follows:

A. Bonus Program

Designated management at-will employees may receive lump sum bonuses based on performance in addition to salary as determined from time to time by the City Manager.

B. Group Insurance

1. Health Plan

The City shall pay health premium costs on behalf of management employees and their dependents as provided for under the Public Employees' Retirement System (PERS) medical program and as approved by the City Council. Participation in the medical plan of choice under PERS is subject to the limits of the City of Menlo Park's agreement with PERS.

2. Dental, Vision and Excess Medical Program

The City shall pay dental, vision and excess medical charges not to exceed a total of \$2,500 per fiscal year for the management employee and dependents. Participation in the dental and vision care plans shall be regulated by the specifications of the City's plan documents (Appendix A - Dental Care Plan, Appendix B - Vision Care Plan).

3. Basic Life Insurance

Premiums are paid by the City of Menlo Park for 150% of annual earnings to a maximum benefit of \$300,000.

4. Long Term Disability Insurance

Should any illness or injury extend beyond thirty working (30) days, the City will insure continued payment to the worker at 66.67% of salary, to a maximum of \$10,000 per month, as provided in the long-term disability policy.

C. Management Benefit Program

All City management at-will employees are eligible for all of the following sections of the Management Benefit Program. The total amount available for reimbursement under this section for each eligible employee is \$1,400 each fiscal year.

1. Professional Development - Reimbursement

Reimbursement for authorized self-improvement activities may be granted each management employee. A minimum of \$500 must be used for professional development and may not be used for other benefit reimbursement:

- Civic and professional association memberships
- Conference participation and travel expenses
- Professional and trade journal subscriptions which relate directly to programs and functions of municipal management
- Educational programs including advanced training and professional degree programs related to functions and activities of municipal management

Note: The education must maintain or improve the employee's skills in performing his or her job, or be necessary to meet the express requirements of the City or the requirements of applicable law. The education to which the reimbursement relates must not be part of a program qualifying employees for another trade or business, or be necessary to meet the minimum educational requirements for qualification for employment. Permissible educational expenses are refresher courses, courses dealing with current developments, academic or vocational courses and the travel expenses allocated with the courses.

2. Approved Excess Benefit Expenses

Reimbursement for approved excess benefit expenses out of the Management Benefit Program will be allowed up to a maximum of \$900 per year and shall include the following benefit items:

- a. Supplemental life insurance coverage for City-sponsored plans
- b. Dental, vision and excess medical expenses for employee and dependents which are not covered by existing City-sponsored plans, and only after the

excess dental, vision and medical funds under section II.B.2. of this document have been exhausted

- c. Excess professional items which are otherwise approved but exceed the minimum use requirement of \$500 described above

- d. Personal Health and Physical Fitness

Management employees may use management benefit funds for an annual physical or a fitness evaluation which is supervised by a physician.

Subject to Internal Revenue Service regulations and with the written prescription of a medical doctor, an employee may be reimbursed for a personal health program as treatment for a diagnosed injury or illness. This activity will be reimbursed under the excess medical reimbursement provision described in sections II.C.2.b. and II.B.2. of this document.

Participation in various City sponsored recreation programs and activities will be opened to employees, spouses and dependents on a space available basis.

- e. City Child Care Reimbursement

These funds may be used to reimburse a management employee for child care provided by any licensed child care provider or put toward the cost of any City run child care program. Such payments shall be made on a tax-exempt basis only where the dependent is enrolled on a space available basis, as defined by IRS law.

3. Deferred Compensation Rollover

Up to a total of \$2536.78 of funds remaining in the “Dental, Vision and Excess Medical Plan” and “Approved Excess Benefit Expense” may be applied to one of the City sponsored deferred compensation programs at the end of the fiscal year. Excess funds may not be received in cash. Any unused amounts which are not applied to a deferred compensation plan will be forfeited.

D. Bereavement Leave

A worker with six (6) months or more service shall be allowed regular pay for not more than three (3) working days when absent because a death has occurred in the immediate family. For purpose of bereavement leave, members of the immediate family shall be limited to mother, stepmother, father, stepfather, mother-in-law, father-in-law, grandmother, grandfather of the worker, or spouse, brother, stepbrother, sister, stepsister, domestic partner or dependent of the worker.

E. Public Employees' Retirement System

Retirement benefits for employees shall be those established by the Public Employees Retirement System (PERS). The provided formulas shall be those currently in effect for the miscellaneous coverage group and the safety coverage group.

~~Effective July 2, 2000,~~ The City will implement Employer Pick-up, Internal Revenue Code 414 (h) (2), for the Administrative Staff and the City Attorney, and the City shall pay none of the employee's contribution to the Public Employees' Retirement System.

Beginning with fiscal year 2011-12, should the employer rate in the miscellaneous plan rise above 15.850%, the increase shall be shared equally between the employee and the employer. As an example, if the employer rate for 2011-12 is 16.000%, the City shall pay 15.925% and the employee shall pay 0.075%, taken as an after-tax deduction from the employee's paycheck each payroll period.

The rate derived from this formula shall apply also to executive staff members in the safety plan.

F. Retiree Health Benefits

A worker who elects to convert accumulated general leave to retirement health credits upon retirement from the City may do so under the following schedule:

Less than fifteen (15) years of continuous service with the City: eight (8) hours of general leave for each retirement health credit, with any remainder being rounded to the next higher credit;

Fifteen (15) years of service to twenty (20) years of service: six (6) hours of general leave for each retirement health credit, with any remainder being rounded to the next higher credit;

Over twenty (20) years of service: three (3) hours of general leave for each retirement health credit, with any remainder being rounded to the next higher credit.

APPENDIX "A"

CITY OF MENLO PARK MANAGEMENT DENTAL PLAN

ELIGIBLE EMPLOYEES:

All present management employees and their spouses and dependents are eligible to participate in the plan.

DEPENDENTS:

Dependents shall be defined under this program as the employee's spouse and his/her children up to the age to 23 provided they are more than 50% dependent upon the employee for support.

MAXIMUM COVERAGE:

Management employees and their eligible family members shall be eligible for care described below in the "Coverage" section of this document. Payments on claims will be based upon standard fees as determined by the usual and customary charges for such services.

REQUEST FOR REIMBURSEMENT:

A City of Menlo Park Dental Reimbursement Form must be completed by the employee's dentist indicating the type of service before the claim will be approved for reimbursement by the City. These forms are available through the Personnel Division. The forms should be returned to Personnel at the completion of treatment.

Reimbursement for services shall be drawn against the annual \$2,500 allotment given to management employees for dental, vision and excess medical coverage. If and when the total amount of the allotment is expended eligible expenses may be drawn against the remainder of the management benefit fund except for the mandatory amount set aside for management development.

TERMINATION OF INSURANCE:

When a management employee terminates employment with the City, his/her dental insurance will terminate on the last day of employment.

COVERAGE

- Routine office visits and oral examinations, but not including more than one such examination of the same covered person in any six-month period

Management Dental Plan

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- Fluoride or other prophylaxis treatments
- Dental X-Rays
- Extraction
- Teeth cleaning
- Oral surgery, including excision of impacted teeth
- Crown, bridges, except as specified under “exclusions and limitations”
- Orthodontic care, treatment, services and supplies
- Anesthetics administered in connection with oral surgery or other covered dental services
- Fillings
- Treatment of periodontal and other diseases of the gums and tissues of the mouth
- Endodontic treatment, including root canal therapy
- Initial installation of full or partial dentures or fixed bridgework to replace one or more natural teeth extracted while insured
- Replacement of an existing partial or full removable denture or fixed bridgework to replace extracted natural teeth; but only if evidence satisfactory to the City is presented that:
 - a. The replacement or addition of teeth is required to replace one or more additional natural teeth extracted while insured under the plan; or
 - b. The existing denture or bridgework was installed at least 5 years prior to its replacement and that the existing denture or bridgework cannot be made serviceable; or
 - c. The existing denture is an immediate temporary denture and replacement by a permanent denture is required, and takes place within 12 months from the date of installation of the temporary denture
- Replacement of a lost or stolen prosthetic device or bridgework
- Repair or recementing of crowns, inlays and fixed bridgework
- Repair or relining of dentures
- Other covered charges as determined by the Dental Committee

EXCLUSIONS AND LIMITATIONS

Covered dental expenses will not include charges:

- For any dental work covered under a Major Medical Expense Plan
- Incurred because of an accidental bodily injury which arises out of or in the course of employment, or a sickness entitling to the insured to benefits under the Workers' Compensation Act or similar legislation
- Incurred in a Veteran's Hospital by the hospital or by a dentist employed by the hospital
- Which are primarily for cosmetic purposes
- Incurred as a result or act of war, declared or undeclared
- Incurred for the initial installation of dentures and bridgework when such charges are incurred for replacement of congenitally missing teeth, or for replacement of natural teeth all of which were lost when the employee was not insured under the plan
- For space maintainers
- Incurred as a result of a need for prosthetic devices including bridges and crowns and the fitting thereof which were ordered while the employee was not insured under the plan, or which were delivered after termination of insurance
- Not found to be valid upon verification with the dentist rendering the service

FORMS PROCEDURE

1. Obtain dental forms from the Personnel Division.
2. Submit the form to your dentist for his completion.
3. At the completion of your dental work or near the end of the reimbursement period, sign the form for that work which has been completed. Your dentist will also sign the form. Please return the form to the Personnel Division. These requests for reimbursement must be received by the City no later than July 31 of that year.

APPENDIX "B"

CITY OF MENLO PARK MANAGEMENT VISION CARE PLAN

ELIGIBLE EMPLOYEES:

All present management employees and their spouses and dependents are eligible to participate in the plan.

DEPENDENTS:

Dependents shall be defined under this program as the employee's spouse and children up to the age of 23 provided they are more than 50% dependent on the employee for support.

MAXIMUM COVERAGE:

Management employees and their eligible family members shall be eligible for care described below in the "Coverage" section of this document.

REQUEST FOR REIMBURSEMENT:

A City of Menlo Park Vision Claim Form must be completed by the employee indicating the type of service before the claim will be approved for reimbursement. These forms are available through the Personnel Division. The forms should be returned to Personnel at the completion of treatment, and accompanied by a receipt from a qualified optometrist, ophthalmologist or optician.

TERMINATION OF INSURANCE:

When the employee terminates with the City, his/her vision insurance ceases on the last day of employment. Any outstanding claims up to the date of termination will be reimbursed in full provided there are sufficient funds in the employee's management benefit account.

COVERAGE

- Routine eye examinations by an optometrist or ophthalmologist, but not including more than one such examination of the same Covered Person in any six-month period
- Eyeglasses, including lenses and frames

- Hard or soft contact lenses
- Other covered charges as determined appropriate

EXCLUSIONS AND LIMITATIONS

Covered vision expenses will not include charges:

- For any eye care covered under the employee's regular medical or health plan
- For noncorrective sunglasses, unless required for medical reasons
- For industrial and athletic safety frames and lenses
- For lens adornment, such as engraving and jewelry
- Incurred because of an accidental bodily injury which arises out of or in the course of employment, or a sickness entitling the insured to benefits under the Workers' Compensation Act or similar legislation
- Incurred in a Veteran's Hospital by the hospital or by an optometrist or ophthalmologist employed by the hospital
- Incurred as a result of act of war, declared or undeclared
- Not found to be valid upon verification with the optometrist, ophthalmologist or optician rendering the service

FORMS PROCEDURE

1. Obtain a Vision Claim form from the Personnel Division.
2. Complete the form and submit it with receipts to the Personnel Division. These requests for reimbursement must be received by the City no later than July 31 of that year.

APPENDIX "C"

CITY OF MENLO PARK MANAGEMENT GENERAL LEAVE PROGRAM

1. **Accrual:** Management general leave combines vacation and sick leave accrual into one program of 300 hours per year. Actual accrual is prorated at 11.5 hours biweekly. The maximum number of hours which may be accrued is 1,200 hours. Accrual will be frozen upon reaching the maximum.

Management benefits for workers who work less than full-time shall be prorated on the basis of hours worked as compared to full-time employment.

2. **General Leave Cashout:** When a worker schedules three (3) but less than five (5) paid days off, he/she may cash in up to ten (10) days of accrued vacation time. When a worker schedules five (5) or more paid days off, he/she may cash in up to fifteen (15) days of accrued vacation time. A general leave balance of at least 300 hours must remain after deducting the combined cashout and vacation time. A completed vacation/cashout request form, signed by the City Manager, is required prior to the scheduled vacation.

Should the scheduled vacation be canceled or not taken within six months of the date of the cashout, the cashed out funds shall be refunded to the City in accordance with a repayment schedule worked out with the Personnel Division.

3. **Separation Cashout:** Upon separation from City service, accrued general leave may be taken in a cash payment.
4. **Retirement Cashout:** Upon retirement under the California Public Employees' Retirement System (CalPERS), any accrued general leave, up to 900 hours, not converted to cash may be converted to Retirement Health Credits ("RHC") in accordance with Section F of the Management Benefit Plan. Retirement health credits will be applied only to a CalPERS-sponsored health plan, and there must be no break in coverage between the time of retirement and the exhaustion of RHC credits.

Single coverage: Workers who qualify for the retirement health credit conversion may elect single coverage at the rate of one (1) RHC unit for every month of paid health insurance.

Double Coverage: Workers who qualify for the retirement health credit conversion may elect double coverage at the rate of two (2) RHC units for every month of paid health insurance.

Family Coverage: Workers who qualify for the retirement health credit conversion may elect family coverage at the rate of three (3) RHC units for every month of paid health insurance.

APPENDIX "D"

REQUEST FOR MANAGEMENT REIMBURSEMENT

(Please Return to the Personnel Division)

Name: _____ Date: _____

Please check the appropriate box, complete the cost information and attach any necessary receipts, brochures or information.

- ☐ DENTAL, VISION, AND EXCESS MEDICAL FUND (\$2500/FY)
- ☐ PROFESSIONAL DEVELOPMENT FUND (\$500/FY)
- ☐ EXCESS BENEFIT FUND (\$900/FY)
- ☐ OTHER: _____

Total Cost: _____

If you are requesting professional development funds, please explain how your request will maintain or improve your skills in performing your job or be necessary to meet the express requirements of the City or the requirements of applicable law:

*****To Be Completed by the Personnel Division*****

| Status of Funds for Current Fiscal Year: | Initial Balance | Current Balance | Present Request | Remaining Balance |
|--|-----------------|-----------------|-----------------|-------------------|
| Dental, Vision, Excess Medical | \$2,500.00 | | | |
| Professional Development Fund | \$500.00 | | | |
| Excess Benefit Fund | \$900.00 | | | |
| Other | | | | |

☐ Approved

☐ Denied

Personnel

Date

Original to Personnel, Copy to Employee

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO
PARK AMENDING THE MANAGEMENT BENEFIT PLAN FOR
MANAGEMENT APPOINTEES**

WHEREAS, the City of Menlo Park is moving toward a two tiered retirement formula all benefitted employees; and

WHEREAS, the required employer costs toward retirement continue to rise; and

WHEREAS, the City will be utilizing a formula for cost sharing by the employee and employer to pay the employer cost; and

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

BE IT AND IT IS HEREBY RESOLVED that the City Council of the City of Menlo Park does hereby approve an amendment of the management benefit plan for management appointees to reflect changes to enable cost sharing for the employer contribution for all payrolls ending between July 1, 2011 through June 30, 2013.

PASSED AND ADOPTED at a regular meeting of the Menlo Park City Council on the seventh day of June 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Menlo Park on this seventh day of June 2011.

Margaret S. Roberts, MMC
City Clerk



ADMINISTRATIVE SERVICES

Council Meeting Date: June 7, 2011

Staff Report #: 11-090

Agenda Item #: D-4

CONSENT CALENDAR: Approval of the Fifth Amendment to the Agreement for Services of the City Attorney that Revises Rates Charged to Private Developers and that Specifies a Contribution to the CalPERS Employer Share

RECOMMENDATION

Staff recommends that the City Council approve the fifth amendment to the Agreement for Services of the City Attorney.

BACKGROUND

The original agreement between the City and William L. McClure for Services as City Attorney was made on September 7, 1993. Since that time, four amendments have been approved that adjusted Mr. McClure's retainer and hourly fees charged for non-retainer services over time. The last adjustment was made on August 28, 2007.

ANALYSIS

Mr. McClure is not requesting an adjustment to his retainer or the contract service provided for general legal work on behalf of the City. He is requesting that the rate charged solely for development projects processed by the Community Development Department for which the City is reimbursed by the applicant or property owner (other than single family home projects involving a single housing unit) be adjusted to a point more reflective of market rates for such services. The proposal would increase the hourly rate charged for these services as follows:

City Attorney and partner attorneys: from \$200 per hour to \$300 per hour

Other attorneys in the firm: from \$185 per hour to \$240 per hour

Paralegals, law clerks and legal assistants: from \$85 per hour to \$100 per hour

This amendment will increase the developer costs for development projects, but will not impact the costs charged to the City for general legal services. The City Attorney indicates that the proposed rates are more than twenty percent below fees charged to private clients of the City Attorney's firm and are in the range of legal fees passed through to developers in other cities on the Peninsula. Charging higher hourly fees for private development projects that are passed through to developers has become a common practice for cities in the past five or more years.

Mr. McClure has also agreed to participate in cost sharing toward the employer cost of providing retirement benefits. As such, the standard wording for such a change, patterned after the AFSCME agreement, is contained as part of this modification. There is no need for tiered wording on the retirement formula because Mr. McClure falls under the 2.7% @ 55 highest single year formula and, at such time the City engages a subsequent City Attorney, that will involve a new contract that would incorporate whatever benefit was in effect at the time of engagement.

Except as modified above, all other terms and conditions of the Agreement for Services of the City Attorney shall remain in effect. Staff considers the increase to be reasonable.

IMPACT ON CITY RESOURCES

A portion of the legal work done by the City Attorney's office is recovered through billing, and those rates applicable to the development projects that meet the above stated conditions will be adjusted accordingly so that there is no net cost to the City. There will be very minor savings against future costs by incorporating the employer cost sharing component toward retirement benefits.

POLICY ISSUES

There are no policy issues raised by this recommendation.

ENVIRONMENTAL REVIEW

No environmental review is required.



Glen H. Kramer
Interim Personnel Director
Report Author

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

ATTACHMENTS: Fifth Amendment to Agreement for Services of City Attorney

FIFTH AMENDMENT TO AGREEMENT FOR
SERVICES OF CITY ATTORNEY

This Fifth Amendment to Agreement for Services of City Attorney is made with respect to that certain Agreement for Services of City Attorney ("Agreement") dated effective September 7, 1993, as previously amended in 2000, 2002, 2005 and 2007, by and between the City of Menlo Park ("City") and William L. McClure ("Attorney"). The parties now desire to, and do hereby agree to, amend said Agreement as follows:

1. Effective with the pay period ending July 2, 2011, City shall deduct as an after tax item from Attorney's Monthly Salary/Retainer, one half of the amount by which City's Public Employees' Retirement System (CalPERS) employer rate for miscellaneous employees exceeds a 15.850% threshold in accordance with the City's Management Benefit Plan for other non-represented management employees of the City. For 2011-2012 this share is calculated as $16.090\% - 15.850\% / 2 = 0.11\%$ of earnings subject to CalPERS. The amount of Attorney's contribution/deduction to the City's CalPERS rate shall be adjusted annually without further amendment of this Agreement when the City's CalPERS employer rate for miscellaneous employees is adjusted.
2. Effective July 1, 2011, solely with respect to legal services provided to City for development projects processed by the Community Development Department for which City is reimbursed by the applicant/property owner (other than single family home projects involving a single housing unit), Attorney's firm shall be paid \$300 per hour for legal services provided by Attorney and other partners within Attorney's firm, \$240 per hour for other attorneys in Attorney's firm and \$100 per hour for law clerks/paralegals/legal assistants.
3. Except as modified herein, all of the remaining terms and provisions, including but not limited to the hourly rates paid for other legal services and the monthly credit for the monthly retainer as set forth in the Fourth Amendment, shall remain in full force and effect.

CITY OF MENLO PARK

By: _____
Mayor

Attest:

City Clerk

William L. McClure



ADMINISTRATIVE SERVICES

Council Meeting Date: June 7, 2011
Staff Report #: 11-091

Agenda Item #: D-5

CONSENT CALENDAR: Approval of the Fourth Amendment to the Employment Agreement Between the City of Menlo Park Glen Rojas that Extends the Time to Repay A Secured Loan and that Specifies a Contribution to the CalPERS Employer Share

RECOMMENDATION

Staff recommends that the City Council approve the fourth amendment to the Employment Agreement between the City of Menlo Park and Glen Rojas.

BACKGROUND

The original employment agreement between the City and Glen Rojas was made on June 27, 2007. Since that time, three amendments have been approved that adjusted compensation and specified details of a loan provided to Mr. Rojas for the purpose of purchasing a home within the city limits of the City of Menlo Park. The last amendment was made June 22, 2010.

ANALYSIS

Mr. Rojas has submitted his intent to retire from the City effective July 15, 2011. He has offered to serve in an interim capacity until the appointment of a new City Manager or until the end of December 2011, whichever is earlier. As part of his employment agreement, Mr. Rojas will have twenty four months from his retirement date to pay his real estate loan in full if he occupies the property as his principal residence, which would be July 15, 2013. Mr. Rojas has requested that the date be extended to twenty four months from the date of his termination as Interim City Manager.

Mr. Rojas has also agreed to participate in cost sharing toward the employer cost of retirement benefits. As such, the standard wording for such a change, patterned after the AFSCME agreement, is contained as part of this modification. As with the City Attorney, there is no need for tiered wording on the retirement formula because Mr. Rojas falls under the 2.7% @ 55 highest single year formula and, at such time the City engages a subsequent City Manager, that will involve a new contract that would incorporate whatever benefit was in effect at the time of engagement.

Except as modified above, all other terms and conditions of the Employment Agreement between the City of Menlo Park and Glen Rojas shall remain in effect.

IMPACT ON CITY RESOURCES

There will be very minor savings against future costs by incorporating the employer cost sharing component toward retirement benefits. The loan rate on the secured property currently exceeds the return on investment from the City's investment portfolio, so the longer term is favorable under the current financial climate.

POLICY ISSUES

There are no policy issues raised by this recommendation.

ENVIRONMENTAL REVIEW

No environmental review is required.



Glen H. Kramer
Interim Personnel Director
Report Author

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

ATTACHMENTS: Fourth Amendment to Employment Agreement between the City of Menlo Park and Glen Rojas

Original Agreement and three prior Amendments

FOURTH AMENDMENT TO
EMPLOYMENT AGREEMENT
BETWEEN CITY OF MENLO PARK AND GLEN ROJAS

This Fourth Amendment is made with respect to that certain Employment Agreement, as previously amended ("Agreement"), entered into by and between the CITY OF MENLO PARK ("CITY") and GLEN ROJAS ("ROJAS") whereby CITY employed ROJAS as its City Manager effective August 2, 2007. The parties now desire to, and do hereby agree to, amend said Agreement as follows:

1. Paragraph 8 of the Agreement is amended to provide that effective with the pay period ending July 2, 2011, City shall deduct as an after tax item from ROJAS' monthly salary, one half of the amount by which City's Public Employees' Retirement System (CalPERS) employer rate for miscellaneous employees exceeds a 15.850% threshold in accordance with the City's Management Benefit Plan for other non-represented management employees of the City. For 2011-2012 this share is calculated as $16.090\% - 15.850\% / 2 = 0.11\%$ of earnings subject to CalPERS.
2. Paragraph 10.4 of the Agreement is amended to provide that the requirement that ROJAS repay the loan secured by ROJAS' home in Menlo Park within twenty four (24) months of the termination of his employment shall commence to run when the contract, if any, with ROJAS to serve as interim City Manager following his retirement from the City is terminated. [For example, if the City enters into a contract with ROJAS to serve as interim city manager and such contract is terminated effective October 15, 2011, ROJAS will be obligated to pay off the loan no later than October 15, 2013.]
3. Except as provided herein, all other terms and conditions of the Agreement, as previously amended, shall remain in full force and effect. To the extent of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Employment Agreement, as previously amended, the terms and provisions of this Amendment shall be controlling.

Dated: _____, 2011

CITY OF MENLO PARK

By: _____
Mayor

ATTEST:

City Clerk

Dated: _____, 2011

GLEN ROJAS

ORIGINAL

EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MENLO PARK AND GLEN ROJAS

1. Parties: The parties to this Agreement are the CITY OF MENLO PARK ("CITY") and GLEN ROJAS ("ROJAS").
2. Purpose: The purpose of this Agreement is to provide for the employment of ROJAS as City Manager of the CITY, as currently provided by Title 2, Chapter 2.08 of the Municipal Code of the City of Menlo Park.
3. Duties: The CITY hereby agrees to employ ROJAS to perform the functions and duties of City Manager for the CITY and of Executive Director of the Community Development Agency of the City of Menlo Park ("CDA") as specified in the Municipal Code of the City of Menlo Park, the Job Description, and any other applicable Ordinances, Resolutions or Policies, and to perform such other legally permissible and proper duties and functions as the CITY shall from time-to-time assign. ROJAS agrees that to the best of his ability and experience he will at all times loyally and conscientiously perform all of the duties and obligations required of him either expressly or implicitly by the terms of this Agreement. ROJAS agrees that he will not, so long as he is employed by the CITY, take any employment or perform any consulting duties that will interfere with or be inconsistent with the performance of his duties as City Manager for the CITY.
4. Term of Agreement: The term of ROJAS's employment shall commence on August 2, 2007. ROJAS agrees to remain in the exclusive employ of the CITY until July 31, 2010, and neither to accept other employment nor become employed by another employer until such termination date, unless such termination date is modified as provided hereafter.
5. Separation from Employment:
 - 5.1 The City Council may, subject to the provisions set forth below, terminate the services of ROJAS at any time, it being expressly understood and agreed between the parties that ROJAS serves as an at-will employee of the City Council. The CITY must provide ROJAS with thirty (30) days notice prior to the separation from employment. The CITY may not give notice of separation from employment to ROJAS until ninety (90) days after a general municipal election, or an election in which a member of the City Council is elected, as further set forth in Section 2.08.110, paragraph five, of the Municipal Code of the City of Menlo Park.
 - 5.2 In the event of separation from employment by the City Council prior to July 31, 2010, while still willing and able to perform the duties of City Manager, ROJAS shall be entitled to receive compensation, consisting of a lump-sum payment of nine (9) months of base salary and benefits, ("Severance Payment"), inclusive of the thirty (30) day notification period.

“Benefits” shall include all benefits payable to or on behalf of ROJAS, including medical premiums, with the exception of general leave (other than those amounts already accrued by ROJAS as of the date of separation). Both salary and benefits shall be computed as of the rates in effect as of the date of separation from employment.

The Severance Payment will release the CITY from any further obligations under this Agreement, and any claims of any nature that ROJAS might have against the CITY by virtue of his employment or termination thereof. Contemporaneously, with the delivery of the Severance Payment and in consideration therefore, ROJAS agrees to execute and deliver to the CITY a release releasing the CITY of all claims that ROJAS may have against the CITY. In return for such Severance Payment, ROJAS agrees to be reasonably available for consultation and assistance to an Interim City Manager, a newly appointed City Manager or any other Council designated appointee during the period covered by such Severance Payment.

ROJAS shall not be entitled to a Severance Payment in the following events:

- 5.2.1 CITY elects not to renew this Agreement.
- 5.2.2 ROJAS is terminated because of his conviction of a felony or misdemeanor involving moral turpitude, or is convicted of any illegal act involving personal gain to himself.
- 5.2.3 ROJAS dies, or ROJAS becomes disabled as provided in Paragraph 6 and CITY terminates his employment.
- 5.3 ROJAS may resign at any time from his position with the CITY provided that he gives the CITY not less than sixty (60) days’ prior written notice. Should ROJAS not provide the CITY with at least sixty (60) days’ prior written notice, he shall not be entitled to cash out of any benefit other than as required by law. In the event ROJAS resigns his position as City Manager, he shall not be entitled to a Severance Payment.
- 6. Disability: If ROJAS is permanently disabled to the extent that he cannot perform the full range of the essential functions of his position as determined by his treating physician or is otherwise unable to perform the full range of the essential functions of his position because of sickness, accident, injury, mental incapacity or other health reasons for a period of six (6) successive weeks beyond the exhaustion of all general leave, the CITY shall have the option to terminate this Agreement, subject to compliance with all provisions of law.
- 7. Compensation:
 - 7.1 CITY agrees to pay ROJAS for his services rendered pursuant hereto an annual salary of Two Hundred Four Thousand Dollars (\$204,000.00) payable on a bi-

weekly basis in the same manner as other employees of the CITY are paid.

- 7.2 CITY agrees to establish a 401-A defined contribution plan for the manager with ICMA Retirement Corporation, and contribute four percent (4.00%) of salary to such plan, up to the maximum amount allowed by law. The contribution shall be made on a bi-weekly basis in the same manner as any deferred compensation contributions made to any other employee. There will be no vesting period. The CITY shall pay any set-up or administrative fees.
- 7.3 CITY agrees to pay ROJAS the same automobile allowance provided all executive management employees, currently Three Hundred Twenty Dollars (\$320.00) per month, payable on a bi-weekly basis in the same manner as other employees of the City are paid.
- 7.4 ROJAS shall be entitled to the same benefits, holidays and general leave provided to CITY executive management employees under the CITY's Management Benefit Plan for Management Appointees, as such plan may be amended by the CITY from time to time.
8. Retirement Plan: ROJAS shall be covered by the same retirement plan by which all other "miscellaneous employees" of the City are covered. ROJAS shall pay the required employee contribution on a tax-deferred basis as provided under Section 414(h)(2) of the Internal Revenue Code.
9. One Time Relocation Assistance and Temporary Housing:
 - 9.1 The CITY shall reimburse ROJAS for all reasonable relocation expenses incurred in moving his residence and family including transportation, packing, temporary storage of household goods and furnishing, unpacking and insurance. ROJAS shall obtain three quotations for such relocation services and shall select the lowest of the bids. ROJAS shall provide copies of the quotations to the Finance Director for documentation and reimbursement purposes. The CITY shall also pay or reimburse ROJAS for the expenses incurred in one economy round trip air travel between Riverside and Menlo Park for ROJAS and his spouse. The total paid or reimbursed under this provision shall not exceed One Thousand Dollars (\$1,000.00).
 - 9.2 The CITY shall pay ROJAS the sum of Two Thousand Dollars (\$2,000.00) per calendar month to assist him in obtaining temporary housing in the vicinity of the City while he searches for a permanent residence. This allowance shall only continue until ROJAS relocates his residence and only if ROJAS is incurring rental expenses, but shall in no event exceed eight (8) months.
10. Housing Assistance:
 - 10.1 The CITY agrees to loan to ROJAS up to One Million One Hundred Thousand Dollars (\$1,100,000.00) toward the purchase price of a home, townhouse or condominium should he elect to purchase a primary residence within the City

limits of the City of Menlo Park. The specific terms and conditions of the new loan are pursuant to the terms of Attachment "A".

- 10.2 During the term of this Agreement, ROJAS shall pay in a timely manner the obligation secured by a First Deed of Trust on the property acquired in Paragraph 10.1. ROJAS shall obtain and keep in force policies of fire and hazard insurance with limits of not less than the replacement value of the property naming both the CITY and ROJAS as insured parties. All taxes, homeowner dues, and other obligations assessed against the property, and the cost of maintaining the policies of fire and hazard insurance, shall be paid on a timely basis by ROJAS.
- 10.3 ROJAS shall maintain the property, at his sole expense, in good and habitable condition, reasonable wear and tear excepted. ROJAS may make such improvements to the property as he deems beneficial.
- 10.4 The loan to ROJAS shall not be assumable, and shall be immediately due and payable in full to the CITY upon sale or other transfer of title of the property to any third party. In the event that ROJAS's employment is terminated for any reason, the loan shall become due and payable in full not later than twelve (12) months following the termination of ROJAS's employment by the CITY. If the use of the property as the principal residence of ROJAS is terminated, the loan shall become due and payable in full not later than twelve (12) months following the termination of such use.

11. Performance Evaluation:

- 11.1 The City Council shall endeavor to review and evaluate the performance and compensation of ROJAS on at least an annual basis.
- 11.2 The City Council, in consultation with ROJAS, shall define such goals and performance objectives which they determine to be necessary for the proper operation of the City. In attainment of the City Council's adopted performance objectives, the City Council, in consultation with ROJAS, shall further establish a relative priority among the various goals and objectives, and reduce said goals and objectives to writing.
- 11.3 ROJAS shall be eligible to receive an annual performance bonus of up to Five Thousand Dollars (\$5,000.00), as determined by the City Council. The performance bonus shall be based upon ROJAS's annual performance as determined in the sole discretion of the City Council. The performance bonus shall be exclusive of any cost of living or meritorious adjustments to ROJAS's base salary as may be considered by the City Council.

12. Professional Development: The CITY hereby agrees to budget a reasonable amount for and to pay membership fees and dues, of conference and meeting registrations, and the travel and subsistence expenses of ROJAS for professional development and official travel, meetings and occasions adequate to continue the professional development of the City Manager and to adequately pursue necessary official and other functions of the CITY, including, but not limited to, the Annual Conference of the League of California Cities. Travel and conference expenses shall be reimbursed for reasonable expenses only, and in accordance with the City's standard policies governing travel and conference expense reimbursement.
13. Non-Liability of Officials and Employees: No official or employee of the CITY shall be personally liable for any default or liability under this Agreement except ROJAS.
14. Bonding: ROJAS shall secure a public official's bond in the amount of \$200,000 as required by Section 2.08.040 of the Municipal Code of the City of Menlo Park. The CITY shall bear the full cost of such bond and/or any other bonds required of ROJAS under any law or ordinance.
15. Other Terms and Conditions of Employment:
 - 15.1 The City Council, in conjunction with ROJAS, shall fix any other terms and conditions of employment, as it may determine from time to time, relating to the performance of ROJAS, provided such terms and conditions are not inconsistent with or conflict with the provisions of this Agreement or other applicable law.
 - 15.2 All provisions of the Municipal Code of the City of Menlo Park, and regulations and rules of the CITY relating to other fringe benefits and working conditions as they now exist or hereafter may be amended, shall also apply to the City Manager as they do other employees of the CITY except as herein provided.
16. Notice: Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid. Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial proceedings. Notice shall be deemed given as of the date of personal service or 48 hours after the date of deposit of such written notice in the course of transmission in the United States Postal Service to the addresses set forth below or as subsequently communicated by one party to the other in writing.
 - 16.1 Notice to ROJAS shall be sent to:

Glen Rojas
2677 Maude Street
Riverside, CA 92506
 - 16.2 Notice to CITY shall be sent to:

Mayor
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

17. General Provisions:

- 17.1 The Agreement shall be binding and inure to the benefit of the heirs at law and executors of ROJAS.
- 17.2 This Agreement shall become effective August 2, 2007.
- 17.3 If any provision, or any portion therefore, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be effective, and shall remain in full force and effect.
- 17.4 The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.
- 17.5 This Agreement constitutes the entire agreement between the parties and supersedes any previous Agreements, oral or written. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by the CITY and ROJAS.
- 17.6 This Agreement shall be interpreted as though prepared by both parties.

CITY OF MENLO PARK

Date: 7/10/07

By: Kelly Fergusson
Kelly Fergusson
Mayor

Date: 6/28/07

By: Glen Rojas
Glen Rojas

ATTEST:
Silvia M. Vonderlinden
Silvia M. Vonderlinden
City Clerk

ATTACHMENT "A"

TERMS OF HOUSING LOAN

The CITY agrees to provide a loan to ROJAS for purposes of purchasing a home, townhouse or condominium unit located in the City of Menlo Park upon the following terms and conditions:

1. **Loan Amount** – The amount of the loan shall not exceed ninety percent (90%) of the purchase price for the property and in no event shall exceed One Million One Hundred Thousand Dollars (\$1,100,000.00).
2. **Interest Rate** – The interest rate on the loan shall be five percent (5.00%) per annum, simple interest.
3. **Payments** – Monthly payments shall be based on an interest rate of one and three-quarter percent (1.75%) with interest of three and one-quarter percent (3.25%) being deferred until the loan is paid off. At the option of ROJAS, the monthly payments may be automatically deducted from his bi-weekly salary check or paid monthly by the first of the month. Any payments in excess of the monthly interest payments based on one and three-quarter percent (1.75%) shall be applied to reduce the principal balance of the loan and not to deferred interest.
4. **Late Payment Penalty** – There shall be a late payment penalty of five percent (5.00%) of any payment not paid within ten (10) days of the due date.
5. **Security for Loan** – The loan shall be secured by a first deed of trust against the property with a standard title company form of deed of trust.
6. **Due on Sale, Termination of Employment or Non-use as Personal Residence** – The loan shall be due and payable in full on sale or transfer of the property, no later than twelve (12) months from termination of ROJAS's employment with the CITY for any reason, including death or disability or within twelve (12) months of ROJAS's failure to reside in the property, whichever shall occur first.
7. **Payment of Taxes, Insurance, Maintenance and Repairs** – ROJAS shall keep and maintain the property in good condition and repair, reasonable wear and tear excepted, shall pay all property taxes in a timely manner, and shall maintain hazard and liability insurance for full replacement cost, with the CITY named as loss payee.

FIRST AMENDMENT TO
EMPLOYMENT AGREEMENT
BETWEEN CITY OF MENLO PARK AND GLEN ROJAS

This First Amendment is made with respect to that certain Employment Agreement entered into by and between the CITY OF MENLO PARK ("CITY") and GLEN ROJAS ("ROJAS") whereby CITY employed ROJAS as its City Manager effective August 2, 2007. The parties now desire to, and do hereby agree to, amend said Agreement as follows:

1. Section 10.1 is hereby amended to read as follows:

The CITY agrees to loan to ROJAS up to One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) toward the purchase price of a home, townhouse or condominium should he elect to purchase a primary residence within the City limits of the City of Menlo Park. The specific terms and conditions of the new loan are pursuant to the terms of Amended Attachment "A," attached hereto and incorporated herein by this reference.

2. Section 10.4 is hereby amended to read as follows:

The loan to ROJAS shall not be assumable, and shall be immediately due and payable in full to the CITY upon sale or other transfer of title of the property to any third party. In the event that ROJAS's employment is terminated for any reason, the loan shall become due and payable in full not later than twelve (12) months plus one (1) additional month for every two (2) months of completed employment after July 31, 2008, but in any event within twenty-four (24) months following the termination of ROJAS's employment with the CITY. If the use of the property as the principal residence of ROJAS is terminated, the loan shall become due and payable in full not later than twelve (12) months following the termination of such use, unless the CITY Council approves an extension to such due date.

3. Except as provided herein, all other terms and conditions of the Agreement shall remain in full force and effect. To the extent of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Operating Agreement, the terms and provisions of this Amendment shall be controlling.

Dated: 8/28/8, 2008

CITY OF MENLO PARK

By: _____

Mayor

ATTEST:

Margaret Roberts
City Clerk

Dated: August 28, 2008

Al Rojas
GLEN ROJAS

AMENDED ATTACHMENT "A"
TO
EMPLOYMENT AGREEMENT
TERMS OF HOUSING LOAN

The CITY agrees to provide a loan to ROJAS for purposes of purchasing a home, townhouse, or condominium unit located in the City of Menlo Park upon the following terms and conditions:

1. **Loan Amount** – The amount of the loan(s) shall not exceed One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00), which may include a first loan in the amount of ninety percent (90%) of the purchase price, up to One Million Two Hundred Fifteen Thousand Dollars (\$1,215,000.00), and a loan in the amount of ten percent (10%) of the purchase price, not to exceed One Hundred Thirty-Five Thousand Dollars (\$135,000.00), as a bridge loan until ROJAS sells his existing home in Riverside County.

2. **Interest Rate** – The interest rate on the loan(s) shall be five percent (5%) per annum, simple interest.

3. **Payments** – Monthly payments shall be based on an interest rate of one and three-quarter percent (1.75%) with interest of three and one-quarter percent (3.25%) being deferred until the loan is paid off. At the option of ROJAS, the monthly payments may be automatically deducted from his bi-weekly salary check or paid monthly by the first of the month. Any payments in excess of the monthly interest payments based on one and three-quarter percent (1.75%) shall be applied to reduce the principal balance of the loan and not to deferred interest.

4. **Late Payment Penalty** – There shall be a late payment penalty of five percent (5%) of any payment not paid within ten (10) days of the due date.

5. **Security for Loan** – The first loan shall be secured by a first deed of trust against the property with a standard title company form of deed of trust. The bridge loan shall be secured by a second deed of trust against the Menlo Park property and as a second deed of trust against ROJAS's property in Riverside County.

6. **Due on Sale, Termination of Employment or Non-use as Personal Residence** – The loan(s) shall be due and payable in full on sale or transfer of the property, no later than twelve (12) months plus one (1) additional month for every two (2) months of completed employment after July 31, 2008, but in any event within twenty-four (24) months following the termination of ROJAS's employment with the CITY for any reason, including death or disability or within twelve (12) months of ROJAS's failure to reside in the property, whichever shall occur first. The bridge loan shall be due and payable in full upon the earlier of the sale of the Riverside County property or as provided in the previous sentence.

7. **Payment of Taxes, Insurance, Maintenance and Repairs** – ROJAS shall keep and maintain the property in good condition and repair, reasonable wear and tear excepted, shall pay all property taxes in a timely manner, and shall maintain hazard and liability insurance for full replacement cost, with the CITY named as loss payee.

SECOND AMENDMENT TO
EMPLOYMENT AGREEMENT
BETWEEN CITY OF MENLO PARK AND GLEN ROJAS

This Second Amendment is made with respect to that certain Employment Agreement, as previously amended, entered into by and between the CITY OF MENLO PARK ("CITY") and GLEN ROJAS ("ROJAS") whereby CITY employed ROJAS as its City Manager effective August 2, 2007. The parties now desire to, and do hereby agree to, amend said Agreement as follows:

1. Section 4 is hereby amended to provide that the termination date set forth therein is extended to July 31, 2011.
2. Section 7.1 is hereby amended to provide that the City Manager shall receive a merit increase of 3.9% of his base salary (which base salary is to include the 4% contribution, which would normally be contributed to a 401-A defined contribution plan), effective August 1, 2008, for a new base salary of Two Hundred Twenty Thousand Four Hundred Thirty-Four and 24/100 Dollars (\$220,434.24) payable on a bi-weekly basis in the same manner as other employees of the CITY are paid.
3. Section 7.2 is hereby deleted in its entirety.
4. Except as provided herein, all other terms and conditions of the Agreement, as previously amended, shall remain in full force and effect. To the extent of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Employment Agreement, as previously amended, the terms and provisions of this Amendment shall be controlling.

Dated: Sept. 30, 2008

CITY OF MENLO PARK

By: _____

Mayor

ATTEST:

Margarita Roberts
City Clerk

Dated: Sept. 30, 2008

Ben Rojas
GLEN ROJAS

THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT
BETWEEN CITY OF MENLO PARK AND GLEN ROJAS

This Third Amendment is made with respect to that certain Employment Agreement, as previously amended, entered into by and between the CITY OF MENLO PARK ("CITY") and GLEN ROJAS ("ROJAS") whereby CITY employed ROJAS as its City Manager effective August 2, 2007. The parties now desire to, and do hereby agree to, amend said Agreement as follows:

1. Amended Attachment A to the First Amendment to Employment Agreement is modified and amended to provide that so long as the City Manager has paid down the outstanding principal balance of the down payment bridge loan by not less than \$95,000 as of the time of sale of the Riverside home; and further provided the City Manager pays to the City the net sales proceeds received from the sale of the Riverside home (after payment of the first loan and all sales and closing costs); the City will release and reconvey the second Deed of Trust against the Riverside home securing the \$127,000 bridge loan, and the remaining balance of the bridge loan, along with accrued interest, shall be due and payable in full on or before February 1, 2011. The City Finance Director and/or the City Attorney is authorized to execute a reconveyance of the second Deed of Trust against the Riverside property upon close of escrow for the sale of such property and any other required documents necessary to permit such property to be sold consistent with the terms hereof.
2. Except as provided herein, all other terms and conditions of the Agreement, as previously amended, shall remain in full force and effect. To the extent of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Employment Agreement, as previously amended, the terms and provisions of this Amendment shall be controlling.

Dated: 06.22.2010

CITY OF MENLO PARK

By: 

Mayor

ATTEST:


Margaret S. Roberts, City Clerk

Dated: June 23, 2010


GLEN ROJAS



ADMINISTRATIVE SERVICES

Council Meeting Date: June 7, 2011

Staff Report #: 11-092

Agenda Item #: D-6

CONSENT CALENDAR: Approval of a Contract between the City of Menlo Park and Glen Rojas for Interim City Manager Services

RECOMMENDATION

Staff recommends that the City Council approve the attached agreement between the City of Menlo Park and Glen Rojas for Interim City Manager services.

BACKGROUND

City Manager Glen Rojas expressed his intention to retire from the City effective July 15, 2011 after 37 years of public service. Mr. Rojas has offered his services as Interim City Manager on a month-to-month basis for a term not to exceed six months. On April 26, 2011, Council accepted Mr. Rojas' offer and directed staff to negotiate an agreement for services.

ANALYSIS

City Attorney Bill McClure conducted the negotiations with Mr. Rojas, utilizing the Council subcommittee on a new City Manager selection for guidance. The attached employment agreement represents the result of that negotiation.

Mr. Rojas will work on a month-to-month basis for a monthly salary of \$15,000. He will work a 36-hour week and will not be expected to work on Fridays when the City is open for business. Mr. Rojas will take unpaid vacation for two weeks during the months of July and August. He may take additional unpaid vacation time during the term of the Agreement and his monthly salary will be prorated to reflect the time taken.

As a retiree, Mr. Rojas is prohibited from working more than 960 hours in a fiscal year. The work schedule, time off and termination date worked out with Mr. Rojas will ensure the number of hours is not exceeded. Mr. Rojas is responsible to report all hours worked to the City for compliance purposes.

IMPACT ON CITY RESOURCES

There are no impacts associated with this engagement. Funding has been included in the proposed 2011-12 fiscal year operating budget for this engagement.

POLICY ISSUES

There are no policy issues raised by this recommendation.

ENVIRONMENTAL REVIEW

No environmental review is required.

A handwritten signature in blue ink, appearing to read "Glen H. Kramer", is written over a horizontal line.

Glen H. Kramer
Interim Personnel Director
Report Author

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

ATTACHMENTS: Employment Agreement

**EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF MENLO PARK AND GLEN ROJAS**

This Agreement is entered into by and between the CITY OF MENLO PARK ("City") and GLEN ROJAS ("Employee"). This agreement shall become effective upon July 16, 2011 ("Effective Date").

WHEREAS, Employee has submitted his retirement as City Manager effective as of July 15, 2011; and

WHEREAS, the CITY desires to retain the services of Employee to serve as the Interim City Manager following his retirement while the City engages in a search for a new City Manager; and

WHEREAS, Employee desires to serve as Interim City Manager of the City; and

WHEREAS, the City Council, as appointing power, and Employee desire to agree in writing to the terms and condition of Rojas's employment as Interim City Manager;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. DUTIES

(a) City agrees to employ Employee as Interim City Manager of the City to perform the functions and duties specified in the ordinances and resolutions of the City and to perform other legally permissible and proper duties and functions as the City Council may from time to time assign.

(b) Employee shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.

(c) Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Prior to performing any services under this Agreement and as filing requirements dictate, Employee must complete and submit Fair Political Practices Commission (FPPC) Form 700 disclosures as required by Law.

2. TERM

The term of this Agreement shall be from the Effective Date and ending on the date on which a new City Manager commences employment with the City, unless terminated earlier by either party in accordance with the provisions set forth in Paragraph 3 or by the event of the death or disability of the Employee.

3. RESIGNATION AND TERMINATION

(a) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position as Interim City Manager of the City. Employee may terminate this Agreement by submitting written notice of his resignation to the City. Employee shall give the City thirty (30) days written notice of his intention to resign.

(b) Employee serves at the pleasure of the City Council and nothing herein shall be taken to prevent, limit or otherwise interfere with the right of the City to terminate the services of the Employee as Interim City Manager with or without cause by a majority vote of the City Council at any time subject to giving Employee thirty (30) days prior written notice. There is no express or implied promise made to the Employee for any form of continued employment as Interim City Manager.

(c) Employee agrees to return to the City all property issued to Employee during the normal course of business, including but not limited to, keys, cell phones, City credit cards and other equipment upon termination.

4. COMPENSATION AND BENEFITS

(a) The City agrees to pay Employee for his services rendered pursuant hereto as Interim City Manager a monthly salary of \$15,000.00, payable in bi-weekly installments at the same time as other City employees are paid based on Employee working a 36 hour work week [i.e. Employee is not expected to work on Fridays when the City is open for business]. Employee shall take unpaid "vacation" time for two weeks during the months of July and August 2011 either in one block or for two separate weeks as selected by Employee. Employee may take additional unpaid "vacation" time during the term of this Agreement. Any "vacation" time taken by Employee shall be deducted on a pro-rated basis from the monthly salary. The monthly salary shall be pro-rated for any partial month based on the number of working days worked.

(b) The City will not provide holidays, accrued leave, paid time off, retirement benefits, insurance benefits including but not limited to life, health and dental coverage, long term disability benefits or accrue retiree benefits arising out of this Employment Agreement, nor will Employee receive any other management benefits normally payable to other management employees of the City. The City will only be responsible for the withholding for State and Federal taxes, and the employer portion of Medicare tax payable on the salary of the Employee.

(c) As of the effective date of this Agreement, Employee will be an annuitant of the California Public Employees' Retirement System, and is providing services under this Agreement in a temporary capacity under Section 21224 of the Government Code. As a result, Employee may not exceed 960 hours of work in a fiscal year. For compliance and monitoring purposes, Employee is to report hours worked to the City on a monthly basis.

5. INDEMNIFICATION

The City shall defend, save harmless, and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as Interim City Manager. The City will compromise and settle any such claim or suit and the amount of any settlement or judgment rendered thereon. Said indemnification shall extend beyond the termination of employment, and the otherwise expiration of this Agreement, to provide full and complete protection to the Employee as described herein, for any acts undertaken or committed in his capacity as Interim City Manager, regardless of whether the notice of filing of a lawsuit for such tort, claim, demand, or other legal action occurs during or following Employee's employment with the City as Interim City Manager.

6. CONFLICT OF INTEREST PROHIBITION

It is further understood and agreed that because of the duties of the Interim City Manager within and on behalf of the City and its citizenry, the Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business within the corporate limits of the City except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of the City.

7. EXPENSES

City agrees to pay job related expenses incurred by the Employee for any out of area business and travel expenses incurred in the course of his duties as approved by the City Council.

8. NOTICES

Any notices required by this Agreement shall be in writing and either given in person or delivered by first class mail with postage prepaid and addressed as follows:

TO CITY: Richard Cline, Mayor
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

TO EMPLOYEE: Glen Rojas
203 Lexington Drive
Menlo Park, CA 94025
2677 Maude Street

9. ATTORNEY'S FEES

In the event of any mediation, arbitration or litigation to enforce any of the provisions of this Agreement, each party shall bear its own attorney's fees and costs.

10. ENTIRE AGREEMENT

This Agreement is the final expression of the complete agreement of the parties with respect to the matters specified herein and supersedes all prior oral or written understandings. Except as prescribed herein, this Agreement cannot be modified except by written mutual agreement signed by the parties.

11. RELATIONSHIP TO PRIOR EMPLOYMENT AGREEMENT

This Agreement stands alone and is independent of any prior employment agreement between the City and the Employee. Nothing herein shall be construed as to modify in any respect the terms and conditions of the Employment Agreement between the City of Menlo Park and Glen Rojas, dated July 10, 2007 and any subsequent amendments.

12. ASSIGNMENT

This Agreement is not assignable by either the City or the Employee.

13. SEVERABILITY

In the event that any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of the Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of the Agreement.

14. EFFECTIVE DATE

This Agreement shall be deemed effective on the Effective Date.

IN WITNESS WHEREOF, the City has caused the Agreement to be signed and executed on its behalf by its Mayor. It has also been executed by the Employee on the date written.

CITY OF MENLO PARK

By: _____
RICHARD CLINE, Mayor

EMPLOYEE

By: _____
GLEN ROJAS

APPROVED AS TO FORM

By: _____
WILLIAM L. McCLURE,
City Attorney