SPECIAL AND REGULAR MEETING AGENDA

Date: 9/11/2018
Time: 6:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

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

6:00 p.m. Closed Session (City Hall - "Downtown" Conference Room, 1st Floor)

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

CL1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding unrepresented management

Attendees: City Manager Alex McIntyre, City Attorney Bill McClure, Assistant City Manager Nick Pegueros, Administrative Services Director Lenka Diaz

7:00 p.m. Regular Session

A. Call to Order

B. Roll Call

C. Pledge of Allegiance

D. Report from Closed Session

Report on action taken in Closed Session, if required, pursuant to Government Code §54957.1

E. 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.

F. Commission Report

G. Consent Calendar

G1. Accept the City Council meeting minutes for August 6 and August 13, 2018 (Attachment)

G2. Adopt Resolution No. 6457 memorializing Menlo Park Municipal water's use of City-owned land for the corporation yard backup well (Staff Report #18-173-CC)

H. Regular Business

H1. Approve the installation of a traffic management plan for Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive for a six-month trial period; and appropriate $115,500 from the Measure A fund for construction, contract administration and inspection and authorize the City Manager to award the construction contract (Staff Report #18-175-CC)

H2. Adopt updated City Council work plan (Staff Report #18-179-CC)

H3. Provide direction on the response to the San Mateo County Civil Grand Jury Report: "Soaring City Pension Costs – Time for Hard Choices" (Staff Report #18-177-CC)

H4. Provide direction on updated travel policy (Staff Report #18-176-CC)

I. Informational Items

I1. Update on the Willow Road and highway 101 interchange construction, upcoming traffic changes and planned weekend roadway closure (Staff Report #18-174-CC)

I2. Update on the Menlo Park shuttle program and schedule (Staff Report #18-178-CC)

K. City Manager's Report

L. Councilmember Reports

M. 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 Commission 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.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available for inspection at the City Clerk's Office, 701 Laurel St., Menlo Park, CA 94025 during regular business hours. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 9/6/2018)

SPECIAL AND REGULAR MEETING MINUTES – DRAFT

Date: 8/6/2018
Time: 6:00 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

Councilmember Catherine Carlton will be participating by phone from:
Corte del Forno Vecchio, S.Marco, 4435, 30124 Venice, Italy

6:00 p.m. Closed Session (City Hall - "Downtown" Conference Room, 1st Floor)

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

CL1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding current labor negotiations with Menlo Park Police Officers' Association (POA); American Federation of State, County, and Municipal Employees, Local 829 (AFSCME); Service Employees International Union Local 521 (SEIU); and Unrepresented Management

Attendees: City Manager Alex McIntyre, Assistant City Attorney Cara Silver, Assistant City Manager Nick Pegueros, Administrative Services Director Lenka Diaz, Labor Counsel Charles Sakai

7:00 p.m. Study Session (City Council Chambers)

Mayor Ohtaki called the study session to order at 7:20 p.m.

SS. Study Session

SS1. Parks and Recreation facilities master plan update (Staff Report #18-157-CC)

Gates and Associates consultant Gail Donaldson and Community Services Director Derek Schweigart made the presentation (Attachment).

The City Council expressed gratitude to the staff for all of their accomplishments.

- Pamela Jones supports parks and expressed concern for the Belle Haven area and traffic impacts.
- Helen Wolter spoke in support of the Parks and Recreation master plan and concerns about Bedwell Bayfront Park.

7:30 p.m. Regular Session

A. Call to Order

Mayor Ohtaki called the regular session to order at 8:05 p.m.

B. Roll Call

Present: Carlton, Cline, Keith, Ohtaki, Mueller (Carlton joined at 8:55 p.m.)

Absent: None.
Staff: City Manager Alex McIntyre, Assistant City Attorney Cara Silver, City Clerk Judi Herren

C. Pledge of Allegiance

Mayor Ohtaki led the Pledge of Allegiance.

Report from Closed Session

No report from closed session.

D. Presentations and Proclamations

D1. Proclamation and presentation: National Park and Recreation Month

Mayor Ohtaki presented a proclamation in recognition of National Park and Recreation Month, July 2018 (Attachment).

Community Services Director Derek Schweigart presented a video.

D2. Proclamation and presentation: Energy Upgrade California

Energy Upgrade California representative Laura Rosenthal and representative from the California Public Utilities Commission Daisy Yee made a presentation (Attachment).

Mayor Ohtaki presented a proclamation for Energy Upgrade California (Attachment).

D3. Proclamation: Mayors for Peace for world free of nuclear weapons

Mayor Ohtaki read a proclamation for Mayors for Peace (Attachment).

D4. Proclamation recognizing Nikki Nagaya

Mayor Ohtaki presented a proclamation to Assistant Public Works Director Nikki Nagaya (Attachment).

E. Public Comment

- Alan Cohen spoke in support of a library expansion.
- Jen Judas spoke on the need of a stop sign on Willow Rd., Elm St. and Central Ave.
- Stephanie Zeller spoke on the need for stop signs on Central Ave., Elm St. and Walnut St.
- Tracy Morris spoke on the need for stop signs on Central Ave., Elm St. and Walnut St.

F. Commission Report

F1. Park and Recreation Commission Quarterly Report

Park and Recreation Commission Chair Jennifer Johnson made the presentation (Attachment).

G. Consent Calendar

G1. Accept the City Council meeting minutes for June 5 and June 19, 2018 (Attachment)

G2. Authorize the City Manager to execute agreements, not to exceed an aggregate of $200,000, for Public Works and Community Development organizational reviews (Staff Report #18-142-CC)

G3. Approve the Parks and Recreation Commission 2-year work plan goals (Staff Report #18-145-CC)

G4. Authorize the City Manager to enter into a contract with Kidango in an amount not to exceed $123,111 for the delivery of food services at the Belle Haven Child Development Center for fiscal year 2018-19 (Staff Report #18-148-CC)

G5. Adopt Resolution No. 6452 authorizing the City Manager to execute a contract with the State of California Department of Education to reimburse the City up to $946,966 for childcare services at the Belle Haven Child Development Center for fiscal year 2018-19 (Staff Report #18-146-CC)

G6. Adopt Resolution No. 6453 authorizing the City Manager to accept dedications for a right of way or an easement for public use (Staff Report #18-149-CC)

G7. Authorize the City Manager to execute an amendment to the agreement with Significant Cleaning Services for janitorial services (Staff Report #18-151-CC)

G8. Authorize the City Manager to enter into an agreement with EOA, Inc. for the Green Infrastructure Plan for Stormwater (Staff Report #18-154-CC)

G9. Second reading and adoption of Ordinance No. 1048 adding Chapter 8.54 [tenant anti-discrimination] to the City's municipal code (Staff Report #18-144-CC)

G10. Second reading and adoption of Ordinance No. 1047 updating the community amenities requirement for bonus level development in the residential mixed-use zoning district (Staff Report #18-158-CC)

ACTION: Motion and second (Cline/Ohtaki) to approve the consent calendar, passed 4-0-1 (Carlton absent).

H. Regular Business

City Councilmember Carlton joined the meeting.

H1. Establish, consider applicants, and make appointments to the Heritage Tree Task Force (Staff Report #18-143-CC)

Sustainability Manager Rebecca Lucky made the presentation.

The City Council appointed all applicantstions to the Heritage Tree Task Force and City Councilmember Carlton.

- Sally Cole
- Drew Combs
- Jen Judas
- Kimberly LeMieux
- Scott LeMieux
- Catherine Martineau

- Carolyn Ordonez
- Horace Nash
- Sally Sammut Johnson
- Ronald Shephard

Mayor Ohtaki opened the floor to an emergency motion to add item to possibly reconsider the Charter ballot measure an item to the City Council agenda.

ACTION: Motion and second (Carlton/Ohtaki) to add the reconsideration of the Charter ballot measure to a future agenda, passed unanimously.

City Council spoke in support of the reconsideration of the Charter ballot measure being heard at a future City Council meeting.

- Pamela Jones spoke in support of reconsidering the Charter ballot measure for the November 6, 2018 election.
- Jen Wolosin spoke in support of reconsidering the Charter ballot measure for the November 6, 2018 election.

ACTION: Motion and second (Carlton/Ohtaki) to approve the emergency motion to add the reconsideration of the Charter ballot measure at the City Council meeting on Monday, August 13 at 5:30 p.m., passed unanimously.

H2. Adopt Resolution No. 6454 to amend the city salary schedule (Staff Report #18-161-CC)

Administrative Services Director Lenka Diaz made the presentation.

City Council received clarification that there would be no change to the head count with this amendment.

ACTION: Motion and second (Ohtaki /Carlton) to adopt Resolution No. 6454 amending the city salary schedule, passed 3-1-1 (Mueller abstaining).

H3. Appoint a City Council ad hoc subcommittee to work with the Chamber of Commerce regarding Downtown beautification, business incentives and homeless issues (Staff Report #18-128-CC)

Mayor Ohtaki commented that he and Mayor Pro Tem Mueller are the City Council designees to the Chamber of Commerce monthly board meetings. The City Council discussed the subcommittee being a Brown Act body. City Councilmember Keith suggested a study session to discuss the homelessness issue and invite San Mateo County, Chamber of Commerce, and Samaritan house representatives.

- Fran Dehn spoke against the need of a Brown Act ad hoc subcommittee.

The City Council did not create or appoint an ad hoc subcommittee to work with the Chamber of Commerce regarding Downtown beautification, business incentives and homeless issues

I. Informational Items

I1. Quarterly update on the 2018 City Council work plan (Staff Report #18-153-CC)

I2. Belle Haven Child Development Center self-evaluation report for fiscal year 2017-2018 (Staff Report #18-147-CC)

I3. Status of ConnectMenlo general plan and maximum development potential (Staff Report #18-152-CC)

- Pamela Jones requested the ConnectMenlo item to be agendized for discussion.

I4. Update on a comment letter on the final environmental impact report for Flood County Park landscape plan (Staff Report #18-155-CC)

I5. Update on the City's comment letter on the recirculated alternatives chapter of the draft environmental impact report for the Stanford University 2018 General Use Permit Project (Staff Report #18-156-CC)

I6. Update on the Willow Road and highway 101 interchange construction, upcoming traffic changes and planned weekend roadway closure (Staff Report #18-150-CC)

I7. Status update on primary argument in favor of a ballot measure proposing the adoption of a charter (Staff Report #18-160-CC)

J. City Manager's Report

There was no report.

K. Councilmember Reports

K1. Confirm voting delegate for the League of California Cities Annual Conference (Attachment)

The City Council appointed City Councilmember Carlton as the voting delegate and City Councilmember Keith as the alternate.

Mayor Pro Tem Mueller reported on a meeting with Supervisors Don Horsley and William Slocum.

City Councilmember Keith invited people to attend the August 15 Hayward Library tour and the August 14 Hayward Library discussion in the City Council chambers.

L. Adjournment

Mayor Ohtaki adjourned the meeting at 10:18 p.m.

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SPECIAL MEETING MINUTES - DRAFT

Date: 8/13/2018
Time: 5:30 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

5:30 p.m. Special Session.

A. Call to Order

Mayor Ohtaki called the special session to order at 5:39 p.m.

B. Roll Call

Present: Carlton, Cline, Keith, Ohtaki, Mueller
Absent: None.
Staff: City Manager Alex McIntyre, Assistant City Attorney Cara Silver, City Clerk Judi Herren

C. Pledge of Allegiance

Mayor Ohtaki led the Pledge of Allegiance.

D. Public Comment

- Fran Dehn reminded the City Council about the annual Block Party on August 16 (Attachment).
- Andrew Boone spoke in favor of increasing the minimum wage.

E. Regular Business

E1. Reconsideration of Resolution No. 6451 calling election to place charter measure on ballot (Staff Report #18-162-CC)

Assistant City Attorney Cara Silver made the presentation.

- Ron Shepherd spoke in support of placing charter on the ballot.
- Lynne Bramlett spoke in support of rescinding charter measure ballot.
- John Kardany spoke in favor of placing the charter measure on the ballot.
- Andrew Boone spoke in support of rescinding ballot measure.
- Pamela Jones spoke in support rescinding the ballot measure.

City Council confirmed the California Voter's Choice Act applies equally to general law and charter cities. They also discussed the impacts on adopting a charter before the 2020 census. The City Council also discussed having a more robust charter process for the 2020 election.

ACTION: Motion and second (Keith/Carlton) to rescind Resolution No. 6451 calling election to place charter measure on ballot, passed unanimously.

F. Adjournment

Mayor Ohtaki adjourned the meeting at 6:23 p.m.

CITY OF MENLO PARK

STAFF REPORT

City Council	
Meeting Date:	**9/11/2018**
Staff Report Number:	**18-173-CC**
Consent Calendar:	**Adopt Resolution No. 6457 memorializing Menlo Park Municipal water's use of City-owned land for the corporation yard backup well**

Recommendation

Staff recommends that the City Council adopt Resolution No. 6457 memorializing Menlo Park Municipal water's use of City-owned land for the corporation yard backup well.

Policy Issues

The project is consistent with the Menlo Park general plan, policy I-H-5, which states: "New wells and reservoirs may be developed by the City to supplement existing water supplies for Menlo Park during emergency and drought periods. Other sources such as interconnections and purchase agreements with water purveyors shall be explored and developed."

The project is included in the urban water management plan that was adopted May 24, 2016, which describes and evaluates water supply sources and reliability over the next 20 years. In addition, the project is part of the water system master plan capital improvement recommendations. The water system master plan was accepted by City Council May 22, 2018.

Once built, the project will aid in meeting the requirement that a water system serving more than 1,000 service connections must be able to meet four hours of peak hourly demand with storage capacity, source capacity, and/or emergency connections at all times per California Code of Regulations Title 22, Chapter 16, Section 64554(a)(1).

Background

Menlo Park Municipal Water (MPMW) provides water to approximately 17,000 residents through 4,200 service connections within two service areas: the upper zone (providing water to the Sharon Heights area) and the lower zone (providing water to areas east of El Camino Real). California water service provides water to the area between the upper and lower zones.

MPMW purchases all of its water from the San Francisco Public Utilities Commission (SFPUC), which conveys water from the Hetch-Hetchy reservoir in Yosemite National Park to Menlo Park. MPMW has two reservoirs in the upper zone for emergency storage, but the lower zone does not have storage facilities or a dedicated secondary water supply. As a result, nearly 3,000 customers could be left without water for an undetermined period of time during a significant natural disaster that interrupts the delivery of water from the SFPUC.

In order to address the need for an alternate source of water in the lower zone, MPMW has been pursuing emergency water supply options for a number of years. In order to provide 3,000 gallons per minute (gpm) of potable water to meet the average-day demand in the lower zone, 2 to 3 wells will need to be drilled. On January 22, 2013, the City Council approved the design of the first emergency well at the City's corporation yard located at 333 Burgess Drive. In January 2016, the State Water Resources Control Board's Division of Drinking Water approved the construction of the emergency well at the corporation yard. The design and construction followed a two phased approach. Phase 1 focused on the drilling of the well, with the design finalized in 2016. The project was bid and a construction contract was awarded to Maggiora Bros. Drilling, Inc. with an authorized construction budget of $506,534. Construction of phase 1 began January 20, 2017 and involved continuous 24/7 drilling of the well for a period of two weeks. The operations confirmed a well site production of 1,500 gpm, half of the 3,000 gpm required to meet the average-day potable water needs in the lower zone.

Once the drilling was completed and the capacity of the well confirmed, the design of phase 2 was finalized. The design focused on the above ground components, including the well pump, a 5,000 gallon hydro-pneumatic pressure tank, water disinfection equipment, electrical controls, an emergency backup generator, a water connection to an existing water main in Burgess Drive, and a new fire hydrant. While the well water will not normally be distributed to customers unless there is an emergency and normal water supplies are low or unavailable, water produced during the periodic exercising of the equipment will be used for a number of activities (e.g., irrigation, vehicle washing and street sweeper.) A construction contract for phase 2 was awarded to Pacific Infrastructure Corporation August 2, 2018 for $2,441,000. Construction of phase 2 is anticipated to begin early in 2019 and last through the end of spring.

Analysis

As a water utility, MPMW is managed as an enterprise fund. Customer use charges therefore finance the cost of providing water services to MPMW customers. Once completed, the emergency well facility will occupy land at the City' owned Corporation Yard. Since the well will benefit customers served by MPMW only, a reimbursement process to compensate the City's general fund for the special use of the corporation yard was developed. A fair market value appraisal of the area covered by the well and generator sites was conducted by Carneghi-Nakasako + Associates in May 2017. The well aboveground components will span over a 6,000 square foot section of the property, while the emergency generator to operate the backup well facility will occupy approximately 312 square feet. Based on the total square footage of the well and generator sites at the corporation yard, the appraiser assessed a market value of the land of $505,000.

Since the corporation yard land is owned by the City, it was determined that the water operations fund would reimburse the general fund for use of the property. The payment amount for use of the facility would be based on the appraised value of a long-term (e.g., for the duration of the use of the project site) ground lease for the sites. Under this arrangement, the City would retain ownership of the well and generator sites, with the MPMW having control of the improvements (e.g., well components). Based on the market value of the land and a ground lease rate of return of 6 percent, the first year annual rent owed to the City amounts to $30,300.

Table 1

Site	Market value	Ground lease rate of return	Annual rental rate
Well site	$480,000	6 percent	$28,800
Generator site	$25,000	6 percent	$1,500
		Total	**$30,300**

Impact on City Resources

As discussed previously, MPMW is managed as an enterprise fund. User fees, capital and operating cost transactions are accounted through corresponding water funds. The rent for the use of the corporation yard land for the well and generator would therefore be funded through the water operations fund and transferred to the general fund. The transfer would increase the cash flow to the general fund on an annual basis.

The first transfer to the general fund in the amount of $30,300 would be made upon the commencement of the well and generator construction and would continue as long as MPMW is in use of the land at the corporation yard. The fund transfers would occur on annual or other periodic basis as determined by the administrative services director or designee. Five years following the first transfer, and every five years thereafter, the administrative services director / designee would have the authority to adjust the rental payments by the change in the consumer price index (CPI) for all urban consumers for the San Francisco-Oakland-San Jose area, published by the U.S. Department of Labor, Bureau of Labor Statistics (“CPI”). In lieu of a CPI adjustment, at the beginning of any five-year period, the City may elect to update the May 2017 appraisal and conform the rental payment to the fair market rental rate specified in the updated appraisal.

While the transfer would increase the cash flow to the general fund on an annual basis, the cost would be covered through user fees paid for by MPMW customers.

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 proposes 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. 6457

Report prepared by:
Azalea Mitch, City Engineer

Report reviewed by:
Justin Murphy, Public Works Director

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RESOLUTION NO. 6457

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO MEMORIALIZING AGREEMENT BETWEEN THE GENERAL FUND AND THE MENLO PARK MUNICIPAL WATER OPERATIONS FUND FOR USE OF CORPORATION YARD PROPERTY FOR WELL AND GENERATOR SITE

WHEREAS, the City of Menlo Park owns the property located at 333 Burgess Drive in the City of Menlo Park, San Mateo County, California ("Property"). The Property is further identified by the San Mateo County Assessor's office as assessor parcel number (APN): 062-390-560. An Assessor's Map identifying the Property is attached and incorporated as Exhibit A;

WHEREAS, the Property consists of approximately 2.35 acres of land area and has the General Plan and zoning designations of Public Facilities;

WHEREAS, the City of Menlo Park is currently using the Property as a corporation yard;

WHEREAS, Menlo Park Municipal Water (MPMW) provides water to approximately 17,000 residents through 4,200 service connections within two service areas: the upper zone (providing water to the Sharon Heights area) and the lower zone (providing water to areas east of El Camino Real);

WHEREAS, MPMW purchases all of its water from the San Francisco Public Utilities Commission (SFPUC), which pipes water from the Hetch-Hetchy reservoir in Yosemite National Park to Menlo Park;

WHEREAS, MPMW has two reservoirs in the upper zone for emergency storage, but the lower zone currently does not have storage facilities or a dedicated secondary water supply. As a result, nearly 3,000 residences and businesses could be without water immediately for an undetermined period of time during a significant natural disaster;

WHEREAS, according to Section 64554(a)(1), Chapter 16, Title 22, California Code of Regulations, a water system serving more than 1,000 service connections must be able to meet four hours of peak hourly demand with storage capacity, source capacity, and/or emergency connections at all times;

WHEREAS, Menlo Park General Plan, Policy I-H-5 states: "New wells and reservoirs may be developed by the City to supplement existing water supplies for Menlo Park during emergency and drought periods;"

WHEREAS, on May 24, 2016, the City Council adopted the Urban Water Management Plan which described and evaluated water supply sources and reliability over the next 20 years and which identified the corporation yard as a potential emergency well location;

WHEREAS, both the Urban Water Management Plan and the General Plan recognize the importance of providing new wells and reservoirs to supplement existing water supplies for Menlo Park during emergency and drought period;

WHEREAS, the City conducted a preliminary well site ranking and determined that the City's Corporation Yard was the best location for the City's first emergency well. Accordingly, on

January 22, 2013, the City Council approved an agreement with IEC to provide engineering consultant services to design the well at the City's Corporation Yard;

WHEREAS, the City met with the State Water Resources Control Board's Division of Drinking Water (State) in early January 2016 and received the formal approval to construct an emergency well at the Corporation Yard;
WHEREAS, on June 7, 2016, the City Council authorized the City Manager to approve the well drilling contract and the wellhead facilities construction contract;

WHEREAS, MPMW has drilled a well and is in the process of constructing (1) an emergency backup well facility consisting of an electric pump (located approximately 385 feet underground), a 5,000 gallon hydro-pneumatic tank, disinfection equipment and other associated equipment on an approximate 6,000 square foot section of the Property ("Well Site") and (2) an emergency generator, including a 500-gallon diesel fuel tank, to operate the backup well facility on an approximate 312 square foot section of the property ("Generator Site") (collectively "Well and Generator Sites"). A diagram showing the Well and Generator Sites is attached and incorporated as Exhibit B;

WHEREAS, water produced during the periodic exercising of the well will be used for Corporation Yard activities (i.e., irrigation, vehicle washing, and street sweeper) and will not normally be distributed to water customers unless there is an emergency and normal water supplies are low or unavailable;

WHEREAS, the emergency generator will include a 500-gallon diesel fuel tank and associated transformer and electrical conduits that will provide backup electricity, if needed, for the entire Corporation Yard site including the new well;

WHEREAS, the City retained Carneghi-Nakasako + Associates to conduct a fair market value appraisal of the Well and Generator Sites to determine the fair market rental rate for the Well and Generator Sites;

WHEREAS, the third party appraisal concluded that the fair market rental rates, as of May 18, 2017, were $2,400 per month for the Well Site and $125 per month for the Generator Site as calculated as follows:

Site	Market value	Ground lease rate of return	Annual rental rate	Monthly rent
Well site	$480,000	x 6.0%	= $28,800	$2,400
Generator site	$25,000	x 6.0%	= $1,500	$ 125

WHEREAS, the City desires to use the Well and Generator Sites for the benefit of the customers served by the MPMW and further desires to devise a reimbursement process to compensate the City's General Fund for the special use of such sites.

NOW, THEREFORE, IT IS RESOLVED THAT:

1. <u>Initial Rental Payment Amount</u>. The MPMW fund shall make payments to the General Fund for use of the Well and Generator Sites in the annual amount of $30,300 ("Rental Payments");

2. Rental Payment Commencement Date. The Rental Payments shall begin upon the commencement of the well and generator construction ("Commencement Date") and shall continue as long as the Well and Generator Sites are used by MPMW;

3. Fund Transfer. The Rental Payments shall be made by fund transfers on an annual or other periodic basis as determined by the Administrative Services Director/or designee; and

4. Rental Adjustments. Five years following the Commencement Date, and every five years thereafter, the Administrative Services Director shall have the authority to adjust the Rental Payments by the change in the Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area, published by the U.S. Department of Labor, Bureau of Labor Statistics ("CPI"). In lieu of an CPI adjustment, at the beginning of any five-year period, the City may elect to update the May 2017 appraisal and conform the Rental Payment to the fair market rental rate specified in the updated appraisal.

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing City Council resolution was duly and regularly passed and adopted at a meeting of said City Council on this eleventh day of September, 2018, 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 eleventh day of September, 2018.

____
Judi A. Herren, City Clerk

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CITY OF MENLO PARK

STAFF REPORT

City Council	
Meeting Date:	**9/11/2018**
Staff Report Number:	**18-175-CC**
Regular Business:	**Approve the installation of a traffic management plan for Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive for a six-month trial period; and appropriate $115,500 from the Measure A fund for construction, contract administration and inspection and authorize the City Manager to award the construction contract**

Recommendation

Staff recommends that the City Council approve the installation of a traffic management plan for Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive for a six-month trial period and appropriate $115,500 from the Measure A fund for construction, contract administration and inspection of this project and authorize the City Manager to award the construction contract.

Policy Issues

This project is consistent with the City's circulation element, adopted in 2016, which includes goals of promoting safe, multimodal streets, and minimizing cut-through and high-speed traffic that diminishes the quality of life in Menlo Park's residential neighborhoods.

Background

On November 16, 2004, the City Council adopted the City of Menlo Park Neighborhood Traffic Management Program (NTMP) to provide consistent, citywide policies for neighborhood traffic management to ensure equitable and effective solutions to traffic issues. It represents the City's commitment to enhance its neighborhoods' safety and livability. The flowchart for processing NTMP traffic calming measures such as speed humps is shown on Attachment B.

The proposed plan includes recommendations on Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive in the Willows neighborhood. Street characteristics are described below.

Marmona Drive is designated as local access in the circulation element of the City of Menlo Park's 2016 general plan, which is defined as:

- Low volume residential street, serving mostly local traffic.
- Provides access primarily to abutting uses.
- Should offer safe and inviting places to walk and bike.

Marmona Drive is a two-way roadway without centerline striping. It has a rolled curb, gutter and sidewalk and allows on-street parking on both sides of the street. The posted speed limit sign on Marmona Drive is

25 mph. Marmona Drive, from west to east, bends from Blackburn Avenue to the west of Robin Way, where it straightens, and then bends slightly starting at McKendry Drive and ending on Gilbert Avenue.

Marmona Drive is not an emergency response route as designated in the circulation element, but Menlo Park police vehicles, and Menlo Park fire protection district fire trucks or ambulances would need to travel on Marmona Drive for any local incidents on the street. Any speed humps, therefore, installed through this process would be designed to accommodate needed vertical clearance and the wheel widths for fire vehicles.

Baywood Avenue, Clover Lane, Blackburn Avenue, and McKendry Drive all share similar roadway characteristics as described above for Marmona Drive especially in that all are designated as local access in the circulation element of the City of Menlo Park's 2016 General Plan with either a presumed or posted speed limit of 25 mph. They are also not emergency response routes as shown in the circulation element.

Analysis

Resident request and petition

On September 18, 2017, residents on Marmona Drive, Baywood Avenue, Clover Lane, Blackburn Avenue, Robin Way and McKendry Drive submitted the completed Neighborhood Action Request Form (NARF) to the City staff. Staff verified that the NARF included signatures from 139 of 174 (or 80 percent) households in the study area. The NTMP requires signatures from 60 percent of the total households in the study area so that a project can be considered by Complete Streets Commission for next steps. Attachment C shows the study area and the approximate locations of the speed humps requested by the petitioners.

Data collection and analysis

The following are the traffic data collected by staff on the week of June 4, 2016, related to vehicular traffic volumes, speeds and collision statistics:

Table 1: Traffic data

Roadway	85th percentile speeds (mph)	24 hour volumes (vehicles)	Collision statistics (three years from 2013-2015)
Baywood Avenue	30.6 (EB); 28.9 (WB)	913 (EB); 431 (WB); 1344 (TOT)	0
Blackburn Avenue	19.7 (NB); 22.6 (SB)	196 (NB); 465 (SB); 661 (TOT)	1
Clover Lane	25.1 (NB); 24.2 (SB)	105 (NB); 104 (SB); 209 (TOT)	0
Marmona Drive	31.1 (EB); 25.9 (WB)	934 (EB); 346 (WB); 1280 (TOT)	0
McKendry Drive	29.5 (EB); 23.9 (WB)	168 (EB); 83 (WB); 251 (TOT)	0

Based on the above traffic and collision statistics collected, this project qualified as an NTMP project because one of the three qualifying criteria for an NTMP project was met as follows:

The 85th percentile speed, the speed at or below which 85 percent of motorists travel, must be in excess of the posted speed limit by more than 5 mph. In other words, this criteria aims at capturing peak travel speeds. The measured 85th percentile speeds on Baywood Avenue and Marmona Drive are 31 mph for the eastbound direction. This is in excess of 5 mph above the prima facie speed limit of 25 mph.

Subsequently, on November 8, 2017, the Complete Streets Commission considered the petition from residents on Marmona Drive, Baywood Avenue, Clover Lane, Blackburn Avenue, Robin Way, and McKendry Drive that included a draft set of traffic calming measures. The Commission passed a motion, 7-1-0-1, with one commissioner dissenting and one commissioner absent, to move the project forward to the next phase of the NTMP process. The next phase involved working with the neighborhood and creating a draft traffic management plan with speed humps and any other Level II toolbox measures that do not create new restrictive traffic measures. Ultimately, staff circulated a resident survey for trial installation.

<u>Resident survey for trial installation</u>
On February 23, 2018, staff circulated a survey (Attachment D) describing the investigated issues and the proposed traffic plan to the 174 Menlo Park households in the study area. The proposed traffic management plan, developed in consultation with the study area residents, revised the traffic management plan from the original petition. Goals, benefits and effect of the traffic calming features on emergency vehicles were stated in the survey. Attachments F and G show illustrations of a sample speed hump and temporary roadway closure, respectively, that are proposed in the traffic plan.

Staff also consulted with the Menlo Park fire protection district regarding the proposed traffic management plan and the district found the traffic plan, in general, acceptable especially that the proposed speed humps meet the fire district's standard. The district also provided the following comment:

In order not to restrain the fire trucks/engines' turning maneuvers around corners, the district would like the speed humps re-positioned closer to intersections.

Menlo Park police does not have any issues or concerns on the proposed traffic management plan.

The following table shows the result of the resident survey for trial installation. The NTMP requires affirmative support of the plan by at least 51 percent of households. Since approximately 59 percent of the total households surveyed indicated support for the plan, the proposed traffic management plan could proceed for review by the Complete Streets Commission.

Table 2: Results of the survey

Answer	Response	Total
Yes	I support plan	102 votes or 58.6 percent
No	I do not support plan	25 votes or 14.4 percent
No Response	Did not respond	47 votes or 27.0 percent

On March 24, 2018, staff received a petition (Attachment E) from Baywood Avenue residents requesting that no speed humps be installed on their street as part of the Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive traffic plan. In consideration of this petition signed by majority of residents on Baywood Avenue, staff recommends that the speed hump proposed in the traffic plan illustrated in Attachment B for Baywood Avenue be removed.

On May 17, 2018, staff collected traffic data related to vehicular traffic volumes and speeds to determine the effect of the "No Left Turn, 3-7 p.m., weekdays" restrictions in the Willows neighborhood installed temporarily in conjunction with the on-going Willow Road-US 101 Interchange Project in December 2017, including the sign installed on Woodland Avenue at Baywood Avenue. The speed and traffic volume statistics are presented as follows:

Table 3: Speed and traffic volume statistics		
Roadway	**85th percentile speeds (mph)**	**24-hour volumes (vehicles)**
Baywood Avenue	26.9 (EB); 26.6 (WB)	431 (EB); 366 (WB); 797 (total)
Blackburn Avenue	20.8 (NB); 20.9 (SB)	183 (NB); 333 (SB); 516 (total)
Clover Lane	24.0 (NB); 16.3 (SB)	74 (NB); 50 (SB); 124 (total)
Marmona Drive	26.6 (EB); 27.6 (WB)	496 (EB); 279 (WB); 775 (total)
McKendry Drive	27.4 (EB); 26.7 (WB)	152 (EB); 76 (WB); 228 (total)

Comparing the above traffic data with the traffic data collected in June 2017, appears to indicate that the left turn restriction on Baywood Avenue at Woodland Avenue did significantly reduce the 85th percentile speeds and 24-hour traffic volumes on Baywood Avenue, Blackburn Avenue, Clover Lane, Marmona Drive and McKendry Drive.

Complete Streets Commission feedback

On June 11, 2018, staff presented the result of the survey and the traffic management plan (Attachment A) as well as the May 27, 2018, traffic data to the Complete Streets Commission. At that meeting, the Complete Streets Commission reviewed the traffic management plan and passed a motion, 8-1, with one commissioner dissenting, to recommend to City Council to approve the implementation of the Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive traffic plan for a six-month trial with the following provisions:

- Ensure proper bicycle through access on Clover Lane with proposed full closure
- Reserve right to reinstate speed hump onto Baywood Avenue pending trial results
- Re-examine the adequacy of six-month trial results, if and when the City Council provides a final decision on the temporary Willows neighborhood turn restrictions.

Method of construction

The speed humps will be constructed using asphalt concrete as shown on Attachment F. The asphalt concrete speed humps can remain permanent if the City Council approves the permanent installation of the traffic calming measures following the trial. The trial roadway closure on Clover Lane at Willow Road will be constructed with removable rubber curbs and flexible plastic tubes, similar to the ones used to close the median on Ravenswood Avenue near Alma Street as shown on Attachment G.

Next steps

If the trial implementation were to be approved by City Council, a bid process for the construction project will follow. It will take approximately four months from project award to project completion contingent on contractor availability. To expedite the construction process and potentially shorten it by a month, staff is recommending that the City Council authorize the City Manager to award the construction contract

During the six-month trial period, staff will perform an installation study to compare with the initial data collection. At the conclusion of the trial period, a resident survey for permanent installation, which would include the results of the after study, would be sent to the study area households to determine whether they consider the traffic plan measures to be successful and if they wish to have them implemented on a permanent basis. If at least 51 percent of the households in the surveyed study area support the permanent installation, staff would present the findings to the Complete Streets Commission and subsequently, to City Council for approval. Subject to City Council approval, the measures would then be permanently installed.

As illustrated on Attachment A, the traffic management plan is comprised of the following measures:
1. Installation of Yield sign on Baywood Avenue at its intersection with Blackburn Avenue
2. Full roadway closure of Clover Lane for vehicular traffic (except bicycles), approximately at the current location of the partial closure, south of Willow Road; and installation of No Outlet sign on Clover Lane at its intersection with Baywood Avenue
3. Installation of one speed hump on Blackburn Avenue
4. Installation of four speed humps on McKendry Drive
5. Installation of four speed humps on Marmona Drive
6. Installation of "Speed Humps Ahead" and 15 MPH Advisory speed limit signs in advance of the first speed hump on each street

Impact on City Resources

The estimated cost to construct the speed humps on Blackburn Avenue, Clover Lane, McKendry Drive and Marmona Drive, and to install temporary full closure on Clover Lane, along with the appropriate signs and pavement striping is $115,500. Staff is requesting that City Council appropriate $115,500 from the Measure A fund to cover the costs for construction, estimated at $105,000, contract administration and inspection of this project. There are sufficient funds in the Measure A fund balance to cover this appropriation in Fiscal Year 2018-19.

Environmental Review

This project is categorically exempt under class 1 of the current State of California Environmental Quality Act Statue and Guidelines, which allows minor alterations of existing facilities.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Postcards notifying the study area residents of this meeting will be sent two weeks before the City Council meeting date.

Attachments

A. Final Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive Traffic Management Plan
B. Neighborhood Traffic Management Program (NTMP) level II process flow chart
C. Notification/study area map
D. Resident survey for trial installation
E. Baywood Avenue resident petition
F. Sample speed hump with cut-outs
G. Sample temporary roadway closure

Report prepared by:
Rene C. Baile, Associate Transportation Engineer

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

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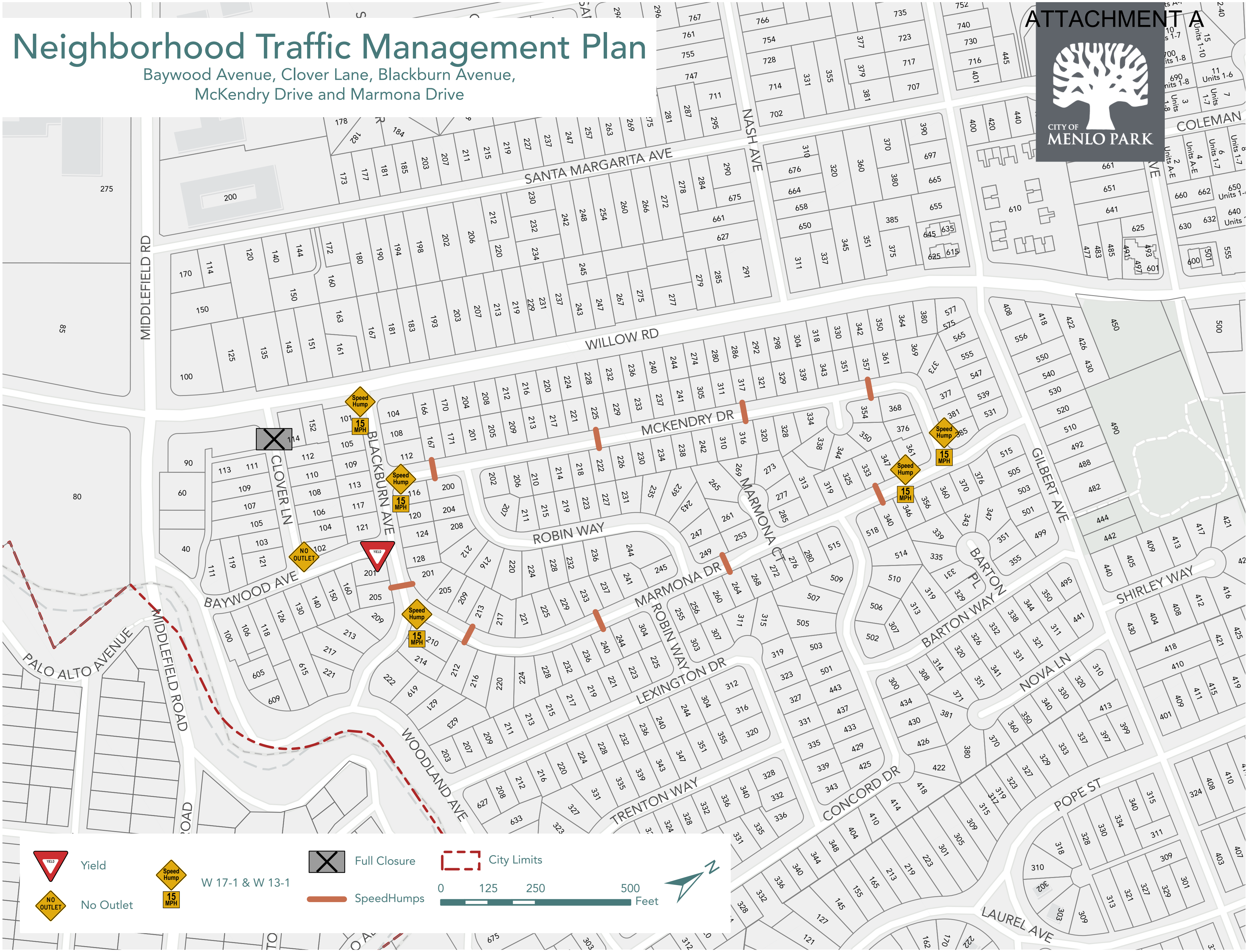
ATTACHMENT A

Neighborhood Traffic Management Plan

Baywood Avenue, Clover Lane, Blackburn Avenue,
McKendry Drive and Marmona Drive



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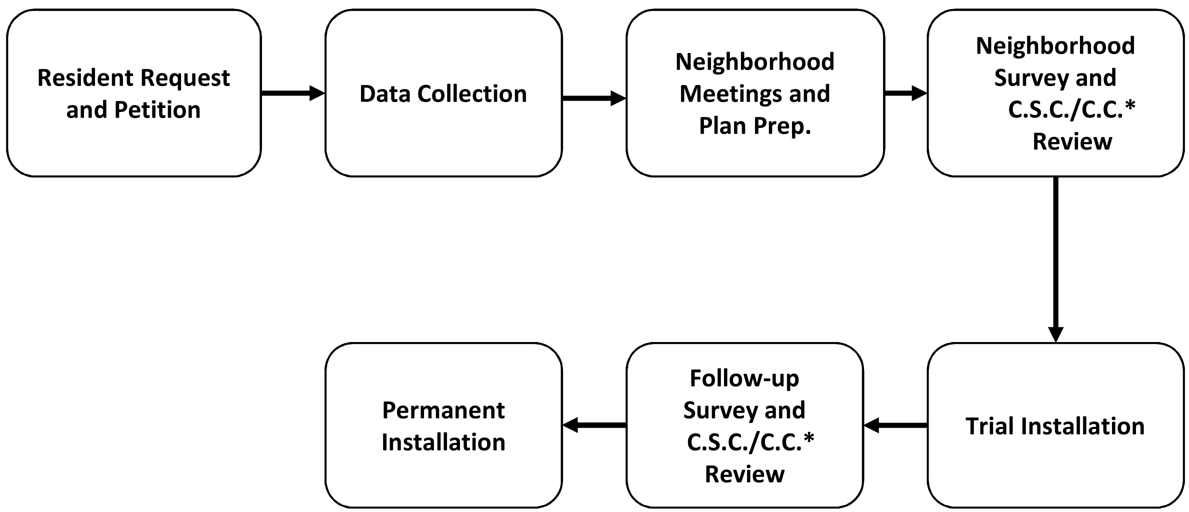
Level II measures (NTMP)



*Footnote:
C.S.C.: Complete Streets Commission
C.C: City Council

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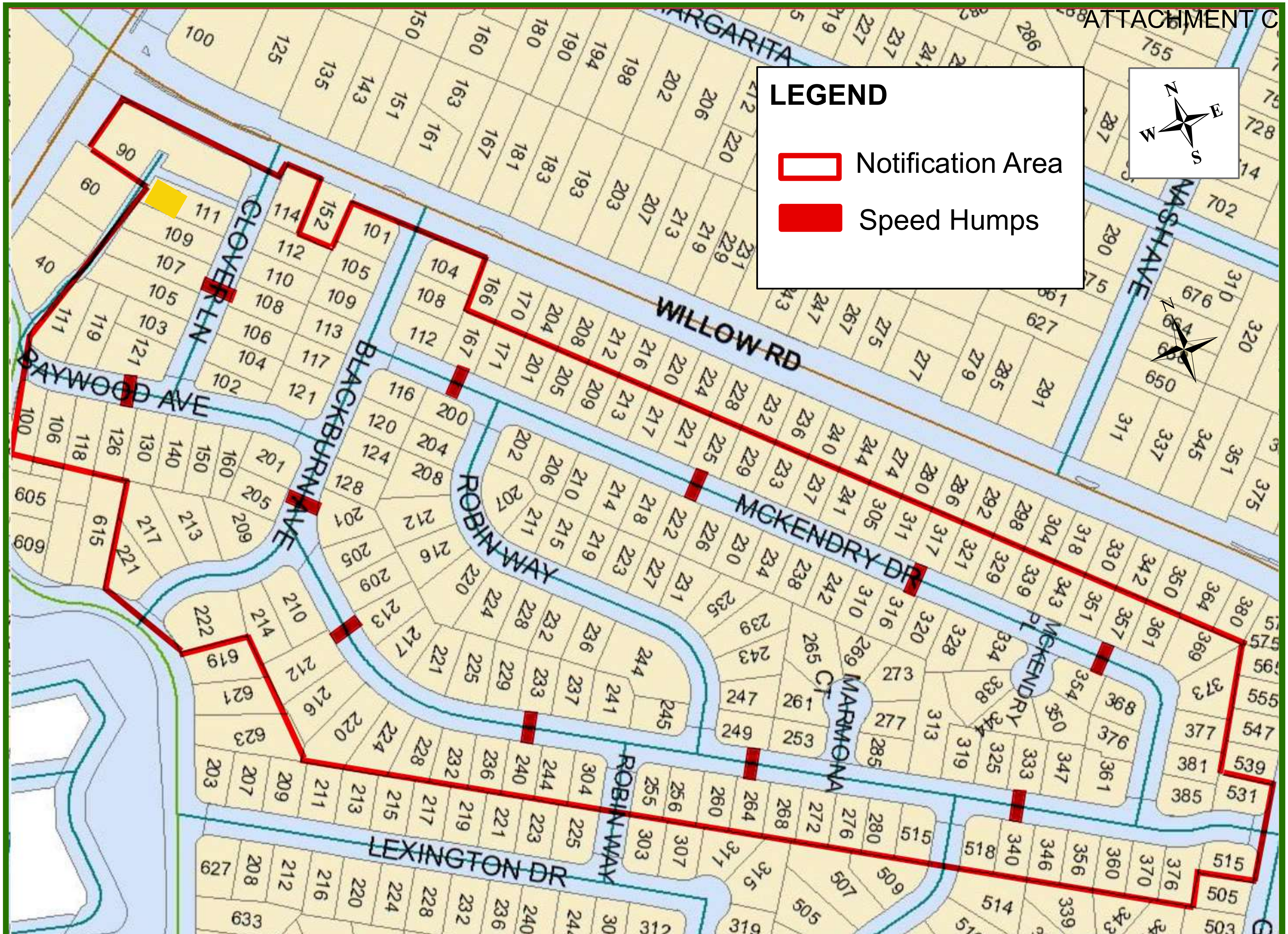
ATTACHMENT C



Location: Marmona Drive & Neighborhing Streets
Project: Marmona Drive NTMP Project

City of Menlo Park
Transportation Division
(650) 330-6770

Date: 7/25/2017
Req. By: RCB

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CITY OF MENLO PARK

February 23, 2018

RE: Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive, and Marmona Drive Neighborhood Traffic Management Program

Dear Menlo Park Resident/Property Owner:

Attached is the Resident Survey for Trial Installation of the proposed Baywood Avenue, Clover Lane, Blackburn Avenue, McKendry Drive and Marmona Drive Traffic Management Plan. Please complete and return to our office by Monday, March 19, 2018. In accordance with the City's Neighborhood Traffic Management Plan (NTMP), a vote not returned is a "No" vote.

Following a resident-led petition drive to gather signatures in support, the City's NTMP (Web Link: https://www.menlopark.org/documentcenter/view/300) outlines the steps to consider a Traffic Management Plan for these streets. On November 8, 2017, the Complete Streets Commission passed a motion to allow the Marmona Drive Traffic Management Plan to move to the next step in the process, which is an official survey. You are receiving this survey to determine whether the City should proceed with the trial installation of all the improvements proposed in the Traffic Management Plan. The improvements were proposed through a resident-initiated petition process under the City's Neighborhood Traffic Management Program and are in addition to and separate from the recent turn restriction signs installed on a temporary basis at Baywood Avenue and Woodland Drive and at O'Keefe Street, Durham Street, and Chester Street intersections at Willow Road.

Proposed Improvements:
As illustrated in Exhibit A, the work proposed in the traffic plan is comprised of the following:

1. Installation of one speed hump on Baywood Avenue and Yield sign on Baywood Avenue at its intersection with Blackburn Avenue
2. Full roadway closure of Clover Lane for vehicular traffic (except bicycles), approximately at the current location of the partial closure, south of Willow Road; and, installation of No Outlet sign on Clover Lane at its intersection with Baywood Avenue
3. Installation of one speed hump on Blackburn Avenue
4. Installation of four speed humps on McKendry Drive
5. Installation of four speed humps on Marmona Drive
6. Installation of "Speed Humps Ahead" and 15 MPH Advisory speed limit signs in advance of the first speed hump on each street

The goal of this traffic management plan is to address the observed speeding on Marmona Drive, Baywood Avenue and parallel routes, and the increase in cut-through traffic in the neighborhood due to traffic congestion on Willow Road, especially in the evening commute hours. The following are the traffic data collected by staff on the week of June 4, 2017 in the neighborhood related to vehicular traffic volumes, speeds, and collision statistics:

Roadway	85th Percentile Speeds (mph)	24 hour volumes (vehicles)	Collision Statistics (Three years from 2013-2015)
Baywood Avenue	30.6 (EB); 28.9 (WB)	913 (EB); 431 (WB); 1344 (TOT)	0
Blackburn Avenue	19.7 (NB); 22.6 (SB)	196 (NB); 465 (SB); 661 (TOT)	1
Clover Lane	25.1 (NB); 24.2 (SB)	105 (NB); 104 (SB); 209 (TOT)	0
Marmona Drive	31.1 (EB); 25.9 (WB)	934 (EB); 346 (WB); 1280 (TOT)	0
McKendry Drive	29.5 (EB); 23.9 (WB)	168 (EB); 83 (WB); 251 (TOT)	0

The proposed speed humps would follow the latest City standards which accommodate wheel cut-outs for fire vehicles, which were found acceptable by Menlo Park Fire Protection District. They are low and gradual and bicycle-friendly while the wheel cut-outs should allow fire vehicles to drive through the speed humps without causing any delay on their emergency response times. An illustration of the proposed speed hump is shown in Exhibit B.

Next Steps:
If at least 51% of households and businesses in the study area support the trial installation, the Complete Streets Commission will review the traffic management plan and recommend either plan revisions or Council approval for a six-month trial implementation of the plan. If recommended by the Complete Streets Commission for Council approval, the City Council will then review the prepared traffic management plan along with its background information to deny, recommend plan revisions, or approve its temporary implementation for a six-month trial period. If approved by Council, the recommended measures will be installed using temporary materials at City expense for a trial period of six months after appropriate environmental clearances have been obtained.

However, if the 51% support by households and businesses in the study area is not met, the project will not proceed further in the NTMP process.

Thank you for taking the time to respond to this survey for trial installation. If you have any questions regarding this effort, please contact Rene Baile, Associate Transportation Engineer, at (650) 330-6775 or e-mail at transportation@menlopark.org.

Sincerely,

Rene C. Baile, P.E.
Associate Transportation Engineer

EXHIBIT A

Neighborhood Traffic Management Plan

Baywood Avenue, Clover Lane, Blackburn Avenue,
McKendry Drive and Marmona Drive

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ATTACHMENT E

BAYWOOD AVENUE RESIDENT PETITION

March 12, 2018

City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025
Attn: Rene C. Baile, P.E.

Re: Marmona NTMP Program

Dear Mr. Baile:

We, the undersigned, are residents of Baywood Avenue in Menlo Park.

If the Marmona NTMP Plan is approved, by our signatures below, we hereby request that no speed hump be installed on, or near, the frontage of each of our respective properties located on Baywood Avenue.

We are concerned about the increased noise and air pollution that the installation of a speed hump on our street will cause. Furthermore, we believe that the new turn restriction signage has significantly abated the volume and speed of traffic on our street and that a speed hump is not necessary.

With that said, we respect the right of our neighbors on other streets to have speed humps on their streets. However, we respectfully request that one not be installed on Baywood Avenue as a part of the Marmona NTMP.

We appreciate everything the City Staff has done to make are street safer.

Regards,

/s/ [signature]
Name: Amar Murugan
/s/ [signature]
Name: Caroline Murugan
Address: 130 Baywood Ave

/s/ [signature]
Name: Teddy Wilson
/s/ [signature]
Name: Robert Wilson
Address: 118 Baywood

/s/ [signature]
Name: Jack Morris
/s/
Name:
Address: 140 BAYWOOD AVE

/s/ [signature]
Name: Peter Whidden
/s/
Name:
Address: 150 Baywood

/s/ Leslie C. Gordon
Name: Leslie C. GORDON
/s/
Name: Leslie Gordon
Address: 150 Baywood

/s/ [signature]
Name: Joe Zott
/s/ Lauri Hart
Name: [signature]
Address: 111 Baywood Ave

/s/ Jack Younkin
Name: 106 Baywood
/s/
Name: JACK YONKIN
Address:

/s/ Diane Naylor (by [illegible])
Name: DIANE NAYLOR
/s/
Name:
Address: 160 BAYWOOD AVE

/s/ Lindsey Martin
Name: Lindsey Martin
/s/
Name:
Address: 121 Baywood Ave

cc: City of Menlo Park City Council
Nikki Nagaya, City of Menlo Park

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ATTACHMENT F

SAMPLE SPEED HUMP

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ATTACHMENT G

SAMPLE TEMPORARY ROADWAY CLOSURE

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CITY OF MENLO PARK

STAFF REPORT

City Council
Meeting Date: **9/11/2018**
Staff Report Number: **18-179-CC**

Informational Item: **Adopt updated City Council work plan**

Recommendation

The recommendation is that the City Council adopt updates to the City Council work plan.

Policy Issues

It has been the City Council's policy to adopt its work plan annually. Any policy issues that may arise from the implementation of individual work plan items will be considered at that time.

Background

On January 29, 2018, the City Council held a special meeting at the Arrillaga Family Recreation Center to discuss and identify the work plan items for the year. The City Council, staff, and members of the public used the meeting to consider the work plan items and realistic outcomes for the calendar year. As part of their process of evaluating the work plan, the City Council prioritized six projects as those the City Council desires significant progress, if not completed by the end of the calendar year.

On February 6, 2018, the City Council approved the work plan developed in the special meeting January 29. After the City Council's discussion February 6, the City Council took action March 15, 2018, to include additions desired by the City Council. Not every work plan item is scheduled to be complete in 2018; instead, the work plan provides goals and milestones anticipated in 2018.

Analysis

On a quarterly basis, staff provides an update on the City Council adopted work plan to identify progress on all initiatives. In light of the continued challenge to fill vacancies as well as the loss of several key staff members this summer, staff has compiled Attachment A as an early third quarter update to the work plan. The updated work plan more clearly outlines a variety of dependencies which may have a material impact on staff's ability to achieve the stated milestones.

Staff continues to make significant progress on the City Council's top six priority projects, as outlined in Attachment A. As discussed in the City Council special meeting January 28, staff has committed to meeting the major project milestones outlined for each of the top six priorities. Wherever possible, resources may be diverted from other work plan projects to reach the milestones.

Progress on the following work plan items requires specific action by the City Council, as detailed in Attachment A in order to meet the stated milestones.

- Oak Grove, University, Crane bicycle improvement project
- Ravenswood Avenue/Caltrain grade separation study
- Santa Cruz and Middle Avenues resurfacing
- Oak Grove safe routes to school and green infrastructure

Progress on the following work plan items is contingent upon identifying funds to address known funding gaps as outlined in Attachment A.

- Haven Avenue streetscape improvement
- Chrysler pump station improvements

The following work plan items are contingent upon the City's ability to recruit and retain staff:

- Willows neighborhood complete streets
- El Camino Real corridor study
- Middlefield Rd/Ravenswood and Ringwood Avenues traffic signal modification
- Middle Avenue Caltrain crossing study
- Arrillaga Family Recreation Center heating, ventilation and air conditioning (HVAC) system upgrades
- Facilities maintenance master plan
- Willow Oaks park improvements
- Downtown utility undergrounding
- Climate change resiliency plan

Table 1 details the current vacancy rates across City departments:

Table 1: Personnel vacancies

Department	2018-19 Budgeted full time equivalent (FTE)	Number of FTEs vacant at work plan adoption	Number of FTEs vacant as of 9/8/18	Vacancy rate as of 9/8/18
Public Works	70.00	9.75	13.75	20%
Police	77.50	8.50	7.50	10%
Community Development	31.00	3.25	6.25	20%
Community Services	52.75	6.50	5.75	11%
City Manager's Office	10.00	3.00	3.25	32%
Administrative Services	22.00	6.25	3.00	14%
Library Services	18.00	1.50	3.00	16%
City Council and Attorney	6.00	-	-	0%
Total	**287.25**	**38.75**	**42.50**	**15%**

While vacancies in the police and community services departments have an impact on the City's ability to deliver services to the community, it should be highlighted that vacancies in the public works department have the most direct impact on progress in the work plan. Overall, public works is the lead department for 61 percent of all work plan items. Table 2 details the changes in engineering and transportation staff in the public works department since adoption of the work plan in February:

Table 2: Engineering and transportation staff changes

Date	Action	Position
1-Feb	Resignation	Senior Civil Engineer
5-Mar	Hire	Associate Civil Engineer
16-Apr	Promotion	Engineering Technician II
4-May	Resignation	Associate Civil Engineer
18-May	Resignation	Assistant Engineer
10-Jun	Promotion	Engineering Technician I
9-Jul	Hire	Engineering Technician II
10-Jul	Retirement	Associate Civil Engineer
6-Aug	Hire	Engineering Technician II
5-Sep	Resignation	Assistant Public Works Director
8-Sep	Resignation	Engineering Svcs Mgr/City Engineer

Finally, to provide context of the difficulty in recruiting, Table 3 outlines example recruitment timelines reflecting the amount of time required to fill vacancies.

Table 3: Example recruitment timelines

Position	Date vacant	Date filled	Vacancy rate as of 9/8/158
Accounting Assistant	1/6/2018	7/23/2018	197
Assistant Community Development Director	4/2/2018	7/22/2018	111
Associate Civil Engineer	8/12/2017	3/5/2018	206
Senior Civil Engineer	9/16/2017	11/27/2018	71
Senior Civil Engineer	2/2/2018	open	215+
Senior Planner	4/27/2017	3/5/2018	312

Attachments

A. 2018 City Council work plan quarterly update

Report prepared by:
Nick Pegueros, Assistant City Manager

ATTACHMENT A

Priority Projects (as approved on February 6, 2018) Project	Lead Department	Supporting Departments	3rd Quarter Update
District Elections	City Manager's Office	-	On April 17, 2018, the City Council introduced Ordinance No. 1044 to implement by-district elections, including the election sequencing and approval of the district boundaries map. Process is complete. General Municipal Election will be held on November 6, 2018.
Transportation Master Plan	Public Works	City Manager's Office, Community Development, Police	The City Council approved a scope amendment for the project in May 2018. The Outreach and Oversight Committee met on May 30, August 30 and September 5 and is scheduled to meet next on September 25, 2018. The Complete Streets Commission is scheduled to review bicycle and pedestrian network improvements on September 12, 2018. A community workshop and online open house is targeted for late 2018/early 2019 resulting in the release Draft Transportation Master Plan in Spring 2019.
Citywide Safe Routes to School Program (Non-infrastructure)	Public Works	Police	The City Council approved a consultant contract with Alta Planning + Design for the program in June 2018, meeting the milestone set in the adopted work plan. Work to initiate the program began in July 2018, and the program is on schedule to meet the end of 2018 milestones, which include convening a stakeholder meeting and identifying a prioritized list and schedule of Safe Routes to School infrastructure plans for each school.
Implement Downtown/El Camino Real Specific Plan Biennial Review	Community Development	City Manager's Office, Public Works	The City Council and Planning Commission held study sessions in the 2nd Quarter and the Housing Commission held a review in the early 3rd Quarter. Staff is in the process of providing a summary of those meetings to local school district and fire district officials to also gather their input on potential plan modifications (including raising development caps). Staff is on target to return to the Planning Commission and City Council by the end of the year with potential revisions, scope of work, timeline and next steps.

Priority Projects (as approved on February 6, 2018) Project	Lead Department	Supporting Departments	3rd Quarter Update
Downtown Parking Structure	Community Development	Administrative Services, Public Works	Following a community meeting and City Council study session held in the 2nd Quarter, the City Council appointed Councilmembers Mueller and Carlton to a subcommittee to further study the potential location and use(s) to be located in a parking structure. The subcommittee held their first meeting in July and reviewed potential parking plazas that could accommodate a parking structure, current Specific Plan/zoning requirements, proposed land uses other than parking that could be included, potential financing mechanisms and staffing resources for the project. Next steps include analyzing construction on two parking plazas (1 & 3) and constructing different land uses and parking on each plaza. Plaza 1 could be an entertainment use/parking and Plaza 3 could accommodate market rate/affordable housing and parking. Staff will schedule a follow-up meeting with the subcommittee to discuss next steps.
The Guild Theatre - Land Use Entitlement Approval	Community Development	City Manager's Office, Public Works	The project was approved by both the Planning Commission and City Council in the 2nd Quarter. The applicant is in the process of formulating construction plans for the development and plans to submit for City review in early 4th Quarter and would likely begin construction in early 2019.

Last modified: September 6, 2018

***2/6 Workplan Staff Report:** menlopark.org/DocumentCenter/View/16607

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
Responding to the development needs of private residential and commercial property owners			
Enhanced Housing Program	Community Development	City Attorney's Office	Nearly all Priority 1 projects are done or currently in progress. Housing Commission is hosting public meetings on the tenant relocation assistance ordinance.
Revisions to the 2016 California Green Building Standards Code for Electric Vehicle Chargers	Community Development	-	The revisions were approved by the Planning Commission in June 2018 and were introduced and approved by the City Council in September. Final approval is scheduled for October.
Single Family Residential Requirements and Guidelines	Community Development	-	No work completed; staffing resources allocated to current and long range planning projects.
Stanford University 2018 General Use Permit Review	Public Works	Community Development, City Attorney's Office	Santa Clara County released the alternatives chapter for recirculation with additional housing alternatives in June 2018. The City prepared a comment letter to submit by the July 26, 2018, deadline. A copy of the letter was transmitted to the City Council as an informational item on the August 6 agenda. The Final EIR is scheduled for release in early December 2018.
Attracting thoughtful and innovative private investment to Menlo Park			
Downtown Streetscape Improvement Project (Specific Plan)	Public Works	Community Development	Two restaurants that initially expressed interest in additional café's downtown are no longer interested at this time. Therefore, this project is being placed on hold.
Furthering efficiency in city service delivery models			
Cost allocation plan and user fee study	Administrative Services	All other departments	Master fee schedule revisions adopted by City Council and fees implemented effective July 1, 2018.
Development of a Citywide Communications Program	City Manager's Office	All other departments	Document and digital/social analytics review is underway. Communications survey is being developed for community distribution.

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
Information Technology Master Plan Implementation	Administrative Services	Community Development, Public Works	Implementation of the new land management system project initiated. Public Works asset management product selection and GIS application upgrade in progress. Network infrastructure enhancements continue.
Organizational Study of the Public Works Department	City Manager's Office	Public Works	Consultant contract awarded and work has begun. The report should be completed by the end of 2018.
Organizational Study of the Community Development Department	City Manager's Office	Community Development, Public Works	Consultant contract awarded and work has begun. The report should be completed by the end of 2018.
Charter City Initiative ✓	City Attorney's Office	City Manager's Office	The City Council agreed to bring the yes-or-no question to city voters in November: "Shall the charter be adopted making the City of Menlo Park a charter city so that the laws of the City of Menlo Park shall prevail over state law only with respect to two municipal affairs: elections and term limits?"
Employee Engagement/Organizational Development ✓	Administrative Services	All other departments	Action plan complete; first phase of implementation began July 1, 2018. Project lead transitioned from City Manager's Office to Administrative Services.
West Menlo Triangle Annexation (Subcommittee - information gathering)	City Manager's Office	Community Development, Public Works	On hold due to staff vacancies.
Improving Menlo Park's multimodal transportation system to move people and goods through Menlo Park more efficiently			
Haven Avenue Streetscape Improvement	Public Works	-	Staff identifying funding and phasing strategy to complete Caltrans right of way portion; City right of way portion completed.
Create Transportation Management Association	Public Works	-	Staff meeting with property owners and preparing request for proposals for consultant assistance, expected to be released by the end of 2018.

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
High Speed Rail coordination and environmental review	Public Works	City Manager's Office, Outside Legal Counsel	The 2018 Business Plan anticipates a draft environmental document to be released in late 2019. Staff is also tracking the upcoming release of the Caltrain Business Plan.
Oak Grove, University, Crane Bicycle Improvement Project	Public Works	-	Data collection and surveys were completed in spring and summer 2018. Complete Streets Commission review of the evaluation is scheduled for October 10, 2018, with Council review following later in 2018.
Willows Neighborhood Complete Streets	Public Works	Police	On hold due to staff vacancies.
El Camino Real Corridor Study	Public Works	-	On hold due to staff vacancies.
Middlefield Rd/Ravenswood and Ringwood Avenues Traffic Signals Modification	Public Works	-	On hold due to staff vacancies.
Willow Road/U.S. 101 Interchange	Public Works	Police	Staff continues to coordinate with Caltrans as construction continues. Preparation for the next stage of construction, including a weekend closure of Willow Road tentatively planned in early October and shifts in ramp alignment are underway.
Chilco Streetscape and Sidewalk Installation	Public Works	Community Development	New underground utilities were installed and the roadway repaved in July 2018. Design for sidewalks, bicycle lanes and new landscaping being finalized.
Ravenswood Avenue/Caltrain Grade Separation Study	Public Works	-	On May 8, 2018, the City Council selected Alternative A, Ravenswood Avenue Underpass as the preferred alternative, and directed staff to return with a scope request for additional studies . Staff is finalizing the project study report and is scheduled to return to Council with a scope for additional studies on October 9, 2018 assuming staff receives feedback on the scope from the Rail Subcommittee by September 21.
Middle Avenue Caltrain Crossing Study	Public Works	Community Development	On hold due to staff vacancies and completion of the Ravenswood Grade Separation project.

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
Maintaining and enhancing Menlo Park's municipal infrastructure and facilities			
Arrillaga Family Recreation Center HVAC System Upgrade	Public Works	Community Services	On hold due to staff vacancies.
Burgess Pool Capital Improvements	Public Works	Community Services	Burgess Pool heater and chemical controller project completed. Other projects will be prioritized for current fiscal year.
Gatehouse Fence Replacement	Public Works	-	On hold pending outcome of Main Library siting process.
Facilities Maintenance Master Plan	Public Works	Community Services	On hold due to staff vacancies.
Reservoir Reroof and Mixers	Public Works	-	On hold due to staff vacancies.
Library Landscaping ✓	Public Works	Library	The landscaping improvements near the Library have been completed.
Water System Master Plan ✓	Public Works	Administrative Services	The Water System Master Plan has been completed.
Chrysler Pump Station Improvements	Public Works	-	Staff continues to coordinate with Bohannon team on project design. Exploring options for potential funding gap.
San Francisquito Creek Upstream of 101 Flood Protection Project	Public Works	City Manager's Office	Staff coordinating with SFCJPA partners on bridge design. Draft EIR targeted for release later this year.
Emergency Water Supply	Public Works	-	Construction bid for the Corp Yard Well was released and the contract was awarded in August 2018. Construction is scheduled to begin in early 2019. Staff is continuing to explore options for the location of a second well.
Providing high-quality resident enrichment, recreation, and discovery			
Parks and Recreation Facilities Master Plan Update	Community Services	Administrative Services, Public Works	A City Council Study Session was held August 6, 2018, which represents the midpoint of the project. City Council provided feedback on preliminary findings and affirmed the project's vision and goals. Next steps include confirming, refining and prioritzing key findings and recommendations through work with the Oversight and Outreach group, focus groups and other community engagement activities.

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
Park Playground Equipment	Public Works	Community Services	Firm selected and the City Council authorized City Manager to negotiate a contract in June. Parks and Recreation Commission reviewed the proposal July 25, 2018. Public outreach meeting on design targeted for fall 2018.
Jack Lyle Park Restroom	Public Works	Community Services	The contract was awarded and construction is anticipated to begin in fall 2018.
Willow Oaks Park Improvements	Public Works	Community Services	On hold due to staff vacancies.
Burgess Park Snack Shack	Community Services	Community Development, Public Works	On hold due to staff vacancies.
Equity in Education Joint Powers Authority	City Manager's Office	-	On hold due to staff vacancies.
Minimum Wage Ordinance	City Manager's Office		On hold due to staff vacancies.
Realizing Menlo Park's vision of environmental leadership and sustainability			
Green Infrastructure Plan	Public Works	-	A request for proposals for consultant support was issued in June 2018 and the contract was awarded in August. The Plan is scheduled to be completed in July 2019 in compliance with mandated deadline.
Update the Heritage Tree Ordinance	City Manager's Office	Community Development, Public Works, City Attorney	Heritage Tree Ordinance Taskforce applications received between May and July. Appointments were made by the City Council in August. Menlo Park data provided to consultant to evaluate existing trends, successes, or shortcomings of the ordinance. First taskforce meeting was held August 23, 2018, with a following meeting scheduled for September 13, 2018.
Community Zero Waste Plan Implementation	City Manager's Office	Administrative Services, Community Development, Public Works	Continuing work to develop guidelines and criteria to meet the zero waste requirements in the ConnectMenlo neighborhood. Installing and planning hydration (bottle filling) stations strategy at parks and city facilities. Incorporating zero waste practices in city janitorial contract, and gearing up city operations to be zero waste in order to lead by example.

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
Planned 2018-19 Capital Improvement Projects			
Bayfront Canal and Atherton Channel Flood Protection	Public Works	-	Staff continues to coordinate with the County on project design and permitting.
Downtown Utility Undergrounding	Public Works	City Manager's Office	On hold due to staff vacancies.
Welcome to Menlo Park Monument Signs	Public Works	City Manager's Office	Initial research was conducted to better understand the range of options for consideration in order to prepare a request for qualifications/proposals for design services.
Climate Change Resiliency Plan	Public Works	City Manager's Office	On hold due to staff vacancies.
Santa Cruz and Middle Avenues Resurfacing	Public Works	-	Grant funding delayed until late 2019; therefore, work now scheduled to occur during summer 2020. Preparation of design and grant requirement compliance continues. City Council direction regarding design parameters such as on-street parking and bike lanes is expected to occur in early 2019 in order to meet grant funding timeframe.
Oak Grove Safe Routes to School and Green Infrastructure	Public Works	-	Staff pursuing detailed design and coordination with adjacent property owners. Council direction regarding on-street parking will be pursued through the review of the Oak Grove Bicycle Project Pilot. Construction targeted for summer 2019.
Bayfront Expressway, Willow Road and Marsh Road Adaptive Signal Timing	Public Works	-	Staff is working with the consultant and Caltrans to implement the project in phases. Phase one includes time of day updates to the signals that should be in place by late 2018. Phase two includes the adaptive technology, which would be implemented upon the completion of the Willow Road/U.S. 101 interchange project to incorporate the two new traffic signals.

2018 Remaining Work Plan Updates	Lead Department	Supporting Department(s)	3rd Quarter Update
Library System Improvements			
Belle Haven Branch Library Improvements	City Manager's Office	Library, Administrative Services, Community Development, Public Works	Neighborhood Library Needs Assessment completed and scheduled to be presented to the City Council in October 2018. Space Needs Study planned to begin November 2018.
Main Library Improvements	City Manager's Office	Library, Administrative Services, Community Development, Public Works	Schematic design start awaiting City Council approval of siting and uses.

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CITY OF MENLO PARK

STAFF REPORT

City Council
Meeting Date: **9/11/2018**
Staff Report Number: **18-177-CC**

Regular Business: **Provide direction on the response to the San Mateo County Civil Grand Jury Report: "Soaring City Pension Costs – Time for Hard Choices"**

Recommendation

Staff recommends that the City Council provide additional direction on the response to the San Mateo County Civil Grand Jury report, "Soaring City Pension Costs – Time for Hard Choices" dated July 17, 2018.

Policy Issues

The City is required to respond to the Civil Grand Jury report when asked to do so.

Background

On July 17, 2018, the San Mateo County Civil Grand Jury (Civil Grand Jury) filed the report "Soaring City Pension Costs – Time for Hard Choices" (Attachment B) with Honorable V. Raymond Swope, Judge of the Superior Court of the State of California. The report provides background, analysis, and recommendations on the recent and future increases in pension costs for member agencies of the California Public Employee Retirement System.

On August 28, 2018, City Council directed staff to return with the issue as a regular business item in order to allow for additional consideration and public input prior to finalizing a response to the report.

Analysis

The Civil Grand Jury report "Soaring City Pension Costs – Time for Hard Choices" contains 14 findings and four recommendations. The City is obligated to respond to the report's findings and recommendations no later than October 16, 2018, with said response approved by the City Council at a public meeting. The draft response originally brought to City Council at the August 28, 2018 meeting is attached hereto as Attachment A.

Impact on City Resources

Approving and submitting a response to the Civil Grand Jury report has no direct impact on City resources. The 2018-19 budget includes contract services funds sufficient to retain consulting services necessary to perform an in-depth analysis of the City's unfunded pension liabilities and provide additional expert recommendations on areas of opportunity to address unfunded liabilities.

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 proposes 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. City of Menlo Park draft response letter
B. Civil Grand Jury report

Report prepared by:
Dan Jacobson, Finance and Budget Manager

Report approved by:
Lenka Diaz, Administrative Services Director

CITY OF MENLO PARK

August 28, 2018

Honorable V. Raymond Swope
Judge of the Superior Court
c/o Charlene Kresevich
Hall of Justice
400 County Center, 2nd Floor
Redwood City, CA 94063-1655

RE: Civil Grand Jury Report: "Soaring Pension Costs – Time for Hard Choices"

Dear Judge Swope:
The City Council of the City of Menlo Park (City) voted at its public meeting on August 28, 2018 to authorize this response to the San Mateo County (SMC) Civil Grand Jury Report "Soaring Pension Costs – Time for Hard Choices" released on July 17, 2018.

<u>Responses to Findings</u>

F1. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported covered payroll for the City's pension plans in the amount set forth beside its name for that year in Appendix A.

Response: *The City agrees.*

F2. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported contribution payments to CalPERS on the City's pension plans in the amount set forth beside its name for that year in Appendix A.

Response: *The City agrees.*

F3. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported Unfunded Liabilities (as defined in this report) for the City's pension plans in the amount set forth beside its name for that year in Appendix A. Each City has been required to make large Amortization Cost (as defined in this report) payments of principal and interest to CalPERS on those Unfunded Liabilities. These payments have diverted money that could otherwise have been used to provide public services or to add to reserves.

Response: *The City agrees.*

F4. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported Funded Percentages (as defined in this report) for the City's pension plans in the amount set forth beside its name for that year in Appendix A.

Response: *The City agrees.*

F5. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported what the Unfunded Liabilities (as defined in this report) for the City's pension plans would have been if the applicable Discount Rate applied to calculate them had been 1 percentage point lower in the amount set forth beside its name for that year in Appendix A.

Response: *The City agrees.*

F6. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported general fund total expenditures for that year in the amount set forth beside its name for that year in Appendix A.

Response: *The City agrees.*

F7. In each of the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017, each City's contribution payments to CalPERS on the City's pension plans represented the percentage of that City's general fund total expenditures for that year set forth beside its name for that year in Appendix A in the column entitled "Contribution Payments as % of General Fund Total Expenditures."

Response: *The City agrees.*

F8. In each of the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017, each City's contribution payments to CalPERS on the City's pension plans represented the percentage of that City's covered payroll for the City's pension plans in the amount set forth beside its name for that year in Appendix A in the column entitled "Contribution Rate (i.e., Contribution Payments as % of Covered Payroll)."

Response: *The City agrees.*

F9. In FY 2017-2018, each City (excluding Atherton, Colma, Foster City, Hillsborough, Portola Valley and Woodside) has paid CalPERS for its Normal Costs (as defined in this report) and Amortization Costs (as defined in this report) in the amounts set forth beside its name on Table No. 4. (The Cities of Atherton, Colma, Foster City, Hillsborough, Portola Valley and Woodside are not included in Table No. 4 because the source for that table did not included data for them.)

Response: *The City agrees.*

F10. As a result, among other things, of CalPERS' decreasing its Discount Rate from 7.5 percent to 7 percent by FY 2020-2021, its reduction of future Amortization Periods from 30 to 20 years, and its use of updated mortality assumptions reflecting projected increases in the longevity of Members, each City faces increasing pension contribution payments to CalPERS which are likely to more than double by FY 2024-2025.

Response: *The City agrees*.

F11. Principal and interest payments on each City's Unfunded Liabilities will increasingly impair such City's provision of public services, impair the security of employee salary and pension Benefits, and/or result in proposals for revenue increases. Paying down Unfunded Liabilities early results in large savings. Every City in the county would save substantial money by paying down their Unfunded Liabilities early.

Response: *The City disagrees partially with this finding. The City included Unfunded Liabilities in its 10-year forecast and does not anticipate an impairment to the City's provision of public services, security of employee salary or pension benefits, or the need for revenue increasing measures beyond those which comply with longstanding City policies such as cost recovery targets. The City agrees with the finding that the nominal amount paid would be lower by paying down Unfunded Liabilities early.*

F12. The financial documents for each City reviewed by the Grand Jury show that no City has adopted a long-term financial plan with at least a 10-year time horizon to address rising Normal Costs and Amortization Costs that includes each of the following:

- objectives, such as achieving a target Funded Percentage, eliminating the Unfunded Liabilities over "n" years or maintaining the cities' share of Normal Costs below "n" percentage of payroll,
- policies to achieve these objectives, such as making supplemental payments to CalPERS to reduce their Unfunded Liability, keeping salary increases below the actuarially assumed increase rate, capping the cities' share of Normal Costs, reducing operational costs or increasing revenue,
- measures to implement such policies,
- processes to monitor progress in implementing the measures, and alternative financial strategies, or a "Plan B," that may be used in the event that CalPERS' assumptions are not met in future years.

Response: *The City agrees that it has not developed a long-term financial plan targeted at Normal Costs and Amortization Costs, though disagrees that these factors should be considered independently from a holistic long-term financial plan incorporating all City revenues, resources, and requirements.*

F13. Despite the fact that rising pension costs and Unfunded Liabilities are a significant problem for each City, no City (except for Redwood City, the City of San Mateo, the City of Burlingame, the City of Belmont and the City of Menlo Park) includes specific, annual projections of future pension contribution costs in their budgets published in the finance section of their websites.

Response: *The City agrees with the finding that rising pension costs and Unfunded Liabilities are a concern and, as noted, has acted to include these costs in its annual budgeting process.*

Responses to Recommendations

R1. The Grand Jury recommends that, by December 31, 2018, each City schedule public hearings to engage its residents in addressing the city's increasing pension costs and to develop a long-term plan to address them.

Response: *The City has not yet implemented the recommendation to schedule public hearings, but will implement it in the future with anticipated hearings at regularly scheduled City Council meetings. The City has a past practice of retaining an independent actuary to provide a report to the City Council once every two to three years. With the recent release of the valuation as of June 30, 2017, the City will retain the independent actuary to conduct the necessary analysis and make a report to the City Council at a public meeting. The report will be scheduled as soon as possible following completion of the analysis. In the meantime, the City will continue its implementation of a number of strategies to address pension costs including:*

- *Multiple retirement tiers for "classic" members,*
- *Cost-sharing provisions in each Memorandum of Understanding with regular City staff,*
- *A General Fund Reserve Policy which dedicates a portion of any surplus toward strategic pension funding opportunities,*
- *Pre-funding of other post-employment benefits (OPEB) which reduces future expenditure requirements which would otherwise compete for City monies, and*
- *Further development of its strategic long-term financial plan by incorporating specific pension funding alternatives that may be identified in consultation with the City's independent actuary.*

R2. The Grand Jury recommends that, by December 31, 2018, and annually thereafter, each City publish a report on its website detailing its pension obligations. The report should include, at a minimum, the following:

a) The City's total pension contribution costs under all plans, and also broken out into subtotals for all Miscellaneous Plans, and all Safety Plans, for each of the 3 preceding fiscal years as well as estimates for such costs in each of the following 10 fiscal years, assuming CalPERS' actuarial assumptions are met.
b) The City's total Unfunded Liabilities under all plans, and also broken out into subtotals for all Miscellaneous Plans, and all Safety Plans, for each of the 3 preceding fiscal years as well as estimates for such Unfunded Liabilities in each of the next 10 fiscal years, assuming CalPERS' actuarial assumptions are met.
c) The City's Funded Percentage across all plans, and also broken out into subtotals for all Miscellaneous Plans, and all Safety Plans, for each of the 3 preceding fiscal years as well as estimates for such Funded Percentages in each of the next 10 fiscal years, assuming CalPERS' actuarial assumptions are met.
d) The percentage of the City's general fund expenditures and covered payroll represented by the pension costs described in (a) above (using estimates of general fund expenditures in future fiscal years).
e) In addition, estimated information for all projections regarding the next 10 fiscal

years set forth in items (a) through (e) above should be presented using a Discount Rate that is 1 percentage point below CalPERS' then-current Discount Rate.

Response: *The City has not yet implemented this recommendation, but anticipates implementation of this recommendation with the delivery of the independent actuary's report as outlined in response to R2 above.*

R3. The Grand Jury does not recommend specific policies or implementation measures to address pension costs. However, it recommends that, by no later than December 31, 2018, and annually thereafter, each City instruct its staff to deliver a report to the City Council in connection with the City's financial plan evaluating available options to address pension costs and that each City hold public hearings to discuss and consider such options no less than every other fiscal year. These include (but may not be limited to):

- Regular supplemental payments to CalPERS (beyond those required by CalPERS) to accelerate the amortization of their Unfunded Liabilities.
- Irregular supplemental payments to CalPERS (beyond those required by CalPERS), as when a City has a budget surplus or receives special non-recurring revenues.
- Electing to apply shorter Amortization Periods (that is, less than 20 years) to their Unfunded Liabilities.
- Issuing pension obligation bonds.
- Establishing substantial reserves that can be applied in the future to help meet rising pension costs and/or accelerate amortization of Unfunded Liabilities.
- Establishing Section 115 trusts for the exclusive purposes of meeting rising pension costs and/or accelerating amortization of Unfunded Liabilities.
- Reductions in general fund operating costs other than pensions.
- Seeking additional general fund revenues that can be applied directly to paying pension costs or that can offset general fund budget shortfalls that would otherwise occur.
- Keeping employee salary increases at or below the levels assumed by CalPERS.
- Negotiating cost-sharing agreements with employees under which employees pay a portion of the City's pension costs (without at the same time agreeing to offsetting compensation increases).
- Maintaining growth in employee salaries and COLAs at or below the assumed CalPERS rates.
- To the extent allowed by law, consider the recommendation of the League of California Cities to renegotiate employee contracts to bring the pension Benefits of Classic Members in line with PEPRA Members, for future work. In particular, ensure that the salary used to determine final retirement compensation is based on the average of the final 3 years of employment (rather than highest 1 year), and that the salary is not enhanced by "spiking," such as by including overtime, unused vacation or sick leave, purchases of "air time," and the like.

Response: *The City has not yet implemented the recommendation but will direct the*

City's independent actuary to provide analysis and guidance on the various options outlined above as well as present those options to the City Council at a public meeting in conjunction with the report described in the City's response to R2. As previously mentioned, the City has implemented a number of available options to mitigate the impact of rising pension costs. The City will continue to evaluate potential opportunities, their relative effectiveness, and conformity with other City policies and goals and incorporate them into the annual budgeting process as appropriate.

R4. The Grand Jury recommends that, by June 30, 2019, each City develop and publish a long-term financial plan to deal with rising pension costs, and update that plan annually. Such a plan should include:

- Specific objectives, such as identifying a target Funded Percentage, eliminating the Unfunded Liabilities over "n" years and maintaining the City's share of Normal Costs at "n" percentage of payroll.
- Policies to achieve these objectives.
- Specific measures to implement the policies.
- A process to monitor progress in implementing the measures and in achieving the objectives.
- Consideration of alternative policies and measures, or a "Plan B," that may be used in the event that CalPERS's actuarial assumptions, especially the Discount Rate, are not met in future years.

Response: *The City has partially implemented this recommendation by including pension costs in the long-range forecast used in the annual budget process. The City will fully implement it in the future by incorporating recommended plan elements into the annual budgeting process by June 30, 2019.*

Sincerely,

Peter Ohtaki
Mayor

Soaring City Pension Costs – Time for Hard Choices.

Table of Contents

SOARING CITY PENSION COSTS – TIME FOR HARD CHOICES

Issues | Summary | Glossary | Background | Discussion | Findings | Recommendations
Requests for Responses | Methodology | Appendixes | Bibliography | Responses

ISSUES

How high will the pension costs of cities within San Mateo County be in the next ten years and what actions can the cities take now to meet those obligations?

SUMMARY

Public pension costs are already eating into city budgets and represent a serious threat to public services in San Mateo County's cities.

In FY 2016-2017, the 20 cities within the county of San Mateo (the Cities) spent a total of $102 million on their pension plans, representing an average of approximately 13.6 percent of their general fund expenditures. As heavy a financial burden as this is, the Cities' pension costs are projected to double by FY 2024-2025 if new actuarial assumptions made by CalPERS - the administrator of the Cities' pension plans - prove to be correct. Many experts argue, however, that CalPERS' assumptions are unduly optimistic. If these experts are correct, increases in the Cities' pension costs could be even greater.

The most important change in CalPERS' actuarial assumptions is a lowered expectation for the Return on Investment for CalPERS' pension fund assets. Since Return on Investment is expected to pay for the majority of retiree pensions, a lower investment return means that the Cities and their employees must make up the difference by making larger payments into the pension fund. The Cities have no control over CalPERS' assumptions, and each year they must pay the amount of money required by CalPERS. In each City, the city government and employees share a "Normal Cost" of paying for future retiree benefits. These will increase as a result of the changed CalPERS's assumptions. However, each City also has an "Unfunded Liability" that represents the difference between the value of their pension fund assets and the present value of their long-term pension obligations. As a result, the Cities are required to pay "Amortization Costs" (principal plus interest) to CalPERS on their Unfunded Liabilities. Amortization Costs will also increase because of the changed CalPERS' assumptions. On average, the Cities' Normal Costs comprise 41 percent of their total pension payments to CalPERS, while Amortization Costs comprise 59 percent.

The Cities have a number of options for paying steeply rising pension costs, each of which can be implemented on its own, or in combination. First, the Cities can cut public services, reduce employee salaries and benefits, or lay off employees in order to free up additional funds. Second, the Cities can negotiate with bargaining units to increase the employees' share of pension costs. Third, the Cities can attempt to increase revenues from taxes. Fourth, the Cities can use other existing resources, if any, to pay down the Unfunded Liabilities early. The San Mateo Civil Grand Jury of 2017-2018 has found that the last choice could result in large savings for all the

Cities. In one scenario, the savings could exceed $125 million each for the Cities of San Mateo and Redwood City.

In the course of its investigation, the Grand Jury learned that none of the Cities have adopted long-term financial plans to address their rising pension costs. Some Cities informed the Grand Jury that, while rising pension costs are important, they must be balanced against "other priorities" for new spending. While the Grand Jury understands the desire on the part of the Cities to expand their services in these times of growth and increasing property tax revenues, it is difficult to think of a more important issue for them to address than the looming pension crisis. Currently, the region enjoys unprecedented economic conditions, resulting in higher tax revenues and budget surpluses for many Cities. The Grand Jury asks: If the Cities do not address Unfunded Liabilities now, when will they ever be able to?

The Grand Jury has compiled data regarding pension costs of each of the Cities, which are set forth in Appendix A of this report, as well as aggregate information for all of the Cities. This report also provides a general overview of public pension obligations, the major variables that drive pension cost and Unfunded Liability calculations, including how these variables can understate Unfunded Liabilities. This report describes the options available to the Cities to address the looming budgetary crises they face from rising pension costs.

The Grand Jury recommends that the Cities make addressing pension costs a higher priority and that they engage residents in a discussion about the hard choices that their local governments will have to make. The Grand Jury also recommends that each City develop a financial plan to address rising pension costs. The Grand Jury does not recommend specific policies or implementation measures for the Cities to adopt, but the Grand Jury does identify a number of options for them to consider.

GLOSSARY

- Agency: Any city, county, or other public entity employer that offers a pension plan to its employees through CalPERS. Each of the Cities is, accordingly, an "Agency" for purposes of this report.

- Amortization Cost: Payments by the Cities to CalPERS, to pay down their Unfunded Liability. It includes payments of (a) principal needed to pay off (amortize) the Unfunded Liability over a period of years, plus (b) interest charged by CalPERS on that liability.

- Amortization Period: The number of years over which an Unfunded Liability is to be paid off.

- Benefits or Benefits obligations: Amounts to be paid out of a pension plan's assets to Members or their beneficiaries.

- Comprehensive Annual Financial Report or CAFR: An annual financial report issued by government entities, such as the Cities.

- CalPERS: The California Public Employees Retirement System, which administers pension plans for all of the Cities.

- County: The government of San Mateo County. The geographic area of San Mateo County is referred to as the "county."

- Discount Rate: The interest rate used in calculating the present value of future cash flows. CalPERS determines the Discount Rate it will use to calculate each pension plan's Total Plan Liabilities and Unfunded Liabilities. Under public pension plan accounting rules, the Discount Rate is the same as the annual Return on Investment that CalPERS projects it will earn on plan assets.

- Funded Ratio or Funded Percentage: Measures the extent to which a pension plan's assets match the present value of its projected future pension obligations. It is the ratio that results from dividing Total Plan Assets by Total Plan Liabilities.

- GASB: The Government Accounting Standards Board. Among other things, it sets financial accounting standards for public service employee pension plans.

- Members: Current and vested former employees of the Cities, or their beneficiaries, who participate in one of the Cities' CalPERS pension plans.

- Miscellaneous Plans: Pension plans for public service employees who do not provide safety services such as police and fire protection. Miscellaneous Plans are generally less expensive to maintain than Safety Plans.

- Normal Cost: The contribution payments Agencies and their employees make to CalPERS in order to fund the projected lifetime cost (discounted to present value) of Benefits that accrue to current employee Members during that year. It does not include Amortization Costs.

- Return on Investment or Rate of Return: The annual gain or loss on invested pension plan assets. In public pension plans, this is the same as the Discount Rate.

- Safety Plans: Pension plans for public service employees who provide safety services, such as police and fire protection.

- Cities: The 20 cities located within the San Mateo County.

- Total Plan Assets: The current dollar value of all assets within a pension plan (sometimes referred to in CAFRs as "Fiduciary Net Position").

- Total Plan Liabilities: The present value of all future Benefit obligations under a pension plan (sometimes referred to in a CAFR as "Total Pension Liability").

- Unfunded Liability: The dollar amount, if any, by which Total Plan Liabilities of a pension plan exceed its Total Plan Assets (sometimes referred to in a CAFR as "Net Pension Liability").

BACKGROUND

The Cities' Pension Plans.

Each of the Cities provides its employees with a pension plan administered by CalPERS[1] as an integral part of their compensation package. All of these plans are defined benefit plans[2] in which future Benefits are determined by a formula that is set at the outset of employment.[3,4] The Benefits are guaranteed by the Cities and do not depend on how well pension contributions are invested. Benefits are financed from three sources:[5]

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[1] See, the Comprehensive Annual Financial Reports (CAFRs) listed in the BIBLIOGRAPHY section below for each of the Cities.

[2] See, CAFRs for each of the Cities listed in the BIBLIOGRAPHY section below. CalPERS, *Comprehensive Annual Financial Report for the Year Ended June 30, 2017*, p. 7, <https://www.calpers.ca.gov/docs/forms-publications/cafr-2017.pdf>.

[3] Biggs, Andrew and Smetters, Kent, *Understanding the Argument for Market Valuation of Public Pension Liabilities,* American Enterprise Institute. May 2013, p. 1, <http://www.aei.org/wp-content/uploads/2013/05/-understanding-the-argument-for-market-valuation-of-public-pension-liabilities_10491782445.pdf>. Ruloff, Mark, *Defined Benefit Plans vs. Defined Contribution Plans*, Pension Section News of Society of Actuaries, January 2005 – Issue No. 57, p. 1. Money-Zine, *Defined Benefit versus Contribution Plans*, July 5, 2017, <https://www.money-zine.com/financial-planning/retirement/defined-benefit-versus-contribution-plans/>. Investopedia, *How does a defined benefit pension plan differ from a defined contribution plan?*, March 2015, <https://www.investopedia.com/ask/answers/032415/how-does-defined-benefit-pension-plan-differ-defined-contribution-plan.asp>.

[4] In contrast, most private companies' retirement plans are defined contribution plans, such as 401k's, where the amounts of future benefit payments vary depending on returns achieved on investments. Greenhut, Steven, *California Still Facing Pension Crisis Even with Good Stock Market Returns*, California Policy Center, July 14, 2017, <http://reason.com/archives/2017/07/14/dont-let-unions-use-good-returns-to-defl>.

[5] CalPERS at a Glance, *CalPERS Communications and Stakeholder Relations*, <https://www.calpers.ca.gov/docs/forms-publications/calpers-at-a-glance.pdf>. CalPERS 2017 CAFR, p. 47. Lin, Judy, *Retirement Debt: What's the problem and how does it affect you?* CalMatters.org, February 21, 2018, <https://calmatters.org/articles/california-retirement-pension-debt-explainer/>. Nation, Joe, *Pension Math: How California's Retirement Spending is Squeezing the State Budget.* SIEPR (Stanford Institute for Economic Policy Research). December 13, 2011, p. 23, <http://arc.asm.ca.gov/NSR.pdf>. Nation, Joe and Storms, Evan, *More Pension Math: Funded Status, Benefits, and Spending Trends for California's Largest Independent Public Employee Pension Systems.* SIEPR (Stanford Institute for Economic Policy Research). February 21, 2012, p. 3, <http://siepr.stanford.edu/sites/default/files/publications/Nation_More_Pension_0.pdf>. Biggs and Smetters, *Understanding the Argument for Market Valuation*, p. 3.

- Current employee contributions to CalPERS of a fixed percentage of their salaries. These contributions go towards Normal Costs and pay for approximately 13 percent of Benefits paid under CalPERS' pension plans).

- Agency (that is, employer) contributions to CalPERS of

  (i) the Normal Cost of the pension plan for that year (less the employee contributions amounts), plus

  (ii) if the pension plan has an Unfunded Liability (as do all of the Cities' pension plans[6]), the Amortization Cost (that is, the cost of paying off that Unfunded Liability, including both principal and interest, over a period of years).

  These employer contributions pay for approximately 26 percent of Benefits paid under CalPERS' pension plans.[7]

- Return on Investment achieved by CalPERS from investing the contributions made by employees and Agencies between the time that the contributions are made and the date when Benefits payments come due. Historically, these Returns on Investment have paid for approximately 61 percent of Benefits paid under CalPERS' pension plans.[8]

CalPERS determines the contributions that Agencies (that is, employers) must pay to CalPERS to cover future Benefits by calculating:

(i) Benefits amounts that will have to be paid, based on assumptions that include projected future retirement rates, inflation, wage increases and post-retirement longevity, and

(ii) Returns on Investment CalPERS expects to earn on employee and Agency contributions.

To the extent that projected costs of Benefits increase unexpectedly, or Returns on Investment fall short of projections, pension plans will have Unfunded Liabilities. The Agencies rather than CalPERS are responsible for paying down all Unfunded Liabilities through increased contributions and the Agencies bear all the risk of CalPERS' projections being wrong.[9] Agencies

[6] Appendix A.
[7] CalPERS at a Glance.
[8] CalPERS at a Glance.
[9] The Economist, Buttonwood's Notebook, *The soaring cost of old age*, *The real problem with pensions*, March 7, 2018, <https://www.economist.com/blogs/buttonwood/2018/03/soaring-cost-old-age>. Oliveira, Anthony, *The Local Challenges of Pension Reform*, Bartel Associates, May 24, 2010, p. 4, <http://www.bartel-associates.com/docs/default-source/articles/oliveira_a_the-challenges-of-pension-reform-1.pdf?sfvrsn=2>. Andonov, Aleksander, Bauer, Rob, Cremers, Martijn, *Pension Fund Asset Allocation and Liability Discount Rates*,

have no control over CalPERS' determinations and must pay all contribution increases mandated by CalPERS.[10]

Importance of Rate of Return on Investment.

As noted above, Returns on Investments are the primary funding source for meeting Benefits obligations. Accordingly, annual Returns on Investment achieved by CalPERS have a major impact on its ability to fund Benefits payments. As of June 30, 2017, CalPERS reported the following annualized net Returns on Investment over different periods of time:[11]

- Past 3 years: 4.6 percent
- Past 5 years: 8.8 percent
- Past 10 years: 4.4 percent
- Past 20 years: 6.6 percent

Even small changes in CalPERS' annual Returns on Investments over the long-term can drive substantial changes in its ability to meet Benefit obligations. For example, if a pension plan had an obligation to pay Benefits of $150 million in 20 years and CalPERS projected that its annual Return on Investment over that time would average 7.5 percent, then CalPERS would need $35.5 million at the outset to meet that obligation. However, if the actual Return on Investment achieved by CalPERS over that period was only 6.5 percent instead of 7.5 percent, then the pension plan would only have $124.4 million available to pay Benefits in the 20th year,[12] a shortfall of more than $35 million on the $150 million obligation.

Importance of Discount Rates.

To determine the Funded Percentage of a pension plan, CalPERS compares the value of the pension plan's assets (Total Plan Assets) to the present value of the plan's Benefits payment obligations (Total Plan Liabilities).[13] If the present value of the Benefits obligations is larger than the current value of pension assets, then the plan is not fully funded and has an Unfunded Liability equal to the difference.

In economic terms, the promise to make a future Benefit payment is worth less today than an immediate payment of the same amount. In order to compare the value of a promise to pay a

March 2016, p. 1, <http://www.icpmnetwork.com/wp-content/uploads/2016/05/Rob-Buaer_What-Is-the-Biggest-Challeng-Faceing-Public-Plan-Sponsors_Optional.pdf>.

[10] Interviews by Grand Jury.

[11] CalPERS, *Investment & Pension Funding Facts at a Glance for Fiscal Year 2016-17*, <https://www.calpers.ca.gov/docs/forms-publications/facts-investment-pension-funding.pdf>.

[12] The formula for the 7.5 percent Return on Investment example is: $150 million / ((1.0 +0.075)^20) = $35,311,972. The formula for the 6.5 percent Return on Investment example is: $35,311,972 x (1.065^20) = $124,426,856.

[13] Biggs and Smetters, *Understanding the Argument for Market Valuation*, p. 1.

Benefit in the future to the value of plan assets today, the value of the promise to make a future payment must first be discounted to its present value. As explained by Messrs. Biggs and Smetters:

> "Discounting is a process similar to compound interest. While compound interest begins with a current dollar amount and adds interest to determine the future value, discounting begins with the future value and subtracts interest each year until a present value is arrived at."[14]

Even small changes in the annual interest to be subtracted from the future value (that is, the Discount Rate), significantly impact present value and, consequently, a plan's Unfunded Liability.[15] See, the section of this report entitled "Increase in Unfunded Liabilities and Decrease in Funded Percentages if a Lower Discount Rate is Used" at p. **[16]** for an example of the impact on the Cities of a drop of just one percentage point in the Discount Rate. As a result, the Discount Rate selected for this calculation matters a great deal.

Debate Over CalPERS' Discount Rates and Projected Rates of Return.

Discount rates are set based on CalPERS' projections for long-term Returns on Investment.[16] The higher the projected Return on Investment, the higher the Discount Rate and the lower the Unfunded Liability. That is often referred to as the "assumed return approach".[17] Although GASB mandates this method of setting public pension plan Discount Rates,[18] it is controversial.[19] Many economists, academics and commentators claim it understates the size of Unfunded Liabilities.[20] They argue that the present value of future Benefit obligations should be

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[14] Ibid., p. 4.

[15] Nation, *Pension Math* 2011, pp. 9 and 11.

[16] GASB Statement No. 68, Paragraph 64, <http://www.gasb.org/jsp/GASB/Document_C/DocumentPage?cid=1176160220621&acceptedDisclaimer=true>. Mixon, Peter, *Estimating Future Costs at Public Pension Plans: Setting the Discount Rate.* Pensions & Investments, April 29, 2015, p. 1, <http://www.pionline.com/article/20150429/ONLINE/150429853/estimating-future-costs-at-public-pension-plans-setting-the-discount-rate>. Brewington, Autumn, *Making Sense of the Mathematics of California's Pension Liability*, Hoover Institution, August 21, 2012, <https://www.hoover.org/research/making-sense-mathematics-californias-pension-liability>. Biggs and Smetters, *Understanding the Argument for Market Valuation*, p. 4.

[17] U.S. Government Accountability Office, *Pension Plan Valuation: Views on Using Multiple Measures to Offer a More Complete Financial Picture*, September 30, 2014, p. 2, <https://www.gao.gov/products/GAO-14-264> and <https://www.gao.gov/assets/670/666287.pdf>. Mixon, *Estimating Future Costs at Public Pension Plans*, p. 1. Turner, John, Godinez-Olivares, Humberto, McCarthy, David, del Carmen Boado-Penas, Maria, *Determining Discount Rates Required to Fund Defined Benefit Plans*, Society of Actuaries, January 2017, p. 6, <www.actuaries.org/oslo2015/papers/PBSS-Turner&GO&McC&B-P.pdf>.

[18] GASB Statement No. 68, Paragraph 64.

[19] Angelo, Paul, *Understanding the Valuation of Public Pension Liabilities – Expected Cost versus Market Price*, In the Public Interest, January 2016, p. 9, <https://www.soa.org/library/newsletters/in-public-interest/.../ip-2016-iss12-angelo.aspx>.

[20] Mixon, *Estimating Future Costs at Public Pension Plans*, p. 1. U.S. Government Accountability Office, p. 2. Bui, Truong and Randazzo, Anthony, *Why Discount Rates Should Reflect Liabilities: Best Practices for Setting Public Sector Pension Fund Discount Rates*, Reason Foundation, September 2015, p. 4, <https://reason.org/wp-

based on a Discount Rate that reflects the value of those Benefits payments to the beneficiaries (that is, the amount an investor would pay today in exchange for the right to receive that future cash flow). Noting that obligations to pay Benefits in the future are similar to obligations to make future payments on municipal bonds, they argue that yield rates on municipal bonds having a duration and risk of non-payment similar to pension Benefits obligations are the best yardstick for establishing the value of those Benefit obligations and, accordingly, the Discount Rate.[21] This approach is sometimes referred to as the "bond-based approach" or "market-based method."[22]

However, other experts, particularly actuarial professionals, argue that this bond or market-based approach does not provide useful information to the Agency sponsoring a pension plan about the cost to that Agency of funding future benefit obligations. They point out that, for purposes of calculating contribution rates, the expected costs of meeting future Benefit obligations are the only relevant consideration and that such costs are best calculated based on "assumed rates of return."[23] Yet other experts believe that a variation on the assumed rate of return method in which the risk that future additional amortization payments will be necessary is factored into the Discount Rate offers the most useful information.[24]

This debate has important implications because CalPERS' assumed Return on Investment (7.5 percent per year from 2012 to the present) is significantly greater than municipal bond yield rates.[25] Since CalPERS' projected Return on Investment exceeds that of municipal bonds yields, the result is greater Discount Rates and smaller present values of Benefit payment obligations and Unfunded Liabilities.

Other experts do not engage in the debate between proponents of the assumed return approach and the bond or market-based approach but focus instead on concerns that CalPERS' new projection of a 7.0 percent annual Return on Investment – approved in December 2016 but not

content/uploads/files/pension_discount_rates_best_practices.pdf>. Biggs and Smetters, *Understanding the Argument for Market Valuation*, pp. 2-5. American Academy of Actuaries. *Measuring Pension Obligations: Discount Rates Serve Various Purposes.* American Academy of Actuaries Issue Brief, November 2013, <http://www.actuary.org/files/IB_Measuring-Pension-Obligations_Nov-21-2013.pdf>.

[21] Bui and Randazzo, *Why Discount Rates Should Reflect Liabilities*, p. 2. U.S. Government Accountability Office, p. 2. Biggs and Smetters, *Understanding the Argument for Market Valuation*, p. 5. American Academy of Actuaries, p. 2.

[22] Mixon, *Estimating Future Costs at Public Pension Plans*, p. 2. U.S. Government Accountability Office, p. 2.

[23] American Academy of Actuaries, p. 2. Angelo, *Understanding the Valuation of Public Pension Liabilities*, pp. 9, 11-12. Mixon, *Estimating Future Costs at Public Pension Plans*, p. 2. See also, Nation, *Pension Math* 2011, p. 12, for a chart outlining the arguments for and against public pension systems using high Discount Rates.

[24] Turner, *Determining Discount Rates*, p. 3.

[25] Boyd, Donald, Kiernan, Peter, *Strengthening the Security of Public Sector Defined Benefit Plans*, The Blinken Report, The Nelson A. Rockefeller Institute of Government. January 2014, pp. 38-39, footnote 12, <www.rockinst.org/pdf/government_finance/2014-01-Blinken_Report_One.pdf>. Angelo, *Understanding the Valuation of Public Pension Liabilities*, p. 10. U.S. Government Accountability Office, pp. 2-3.

yet implemented[26] – is unrealistically high. They claim that a more reasonable projection would be 6.0 - 6.5 percent.[27] Wilshire Consulting, CalPERS' general consultant, has advised CalPERS' board that it expects the CalPERS' Return on Investment over the next ten years to be just 6.2 percent.[28] It should be noted, however, that CalPERS makes Discount Rate decisions based on projected Returns on Investments over 60-year periods, not 10. CalPERS' projected 60-year Returns on Investment are in line with its new 7 percent Discount Rate.[29]

As noted above, if Discount Rates and projected Returns on Investment are too high, then they understate the size of the Cities' Benefit payment obligations and Unfunded Liabilities.

Importance of Amortization Periods.

If a pension plan has Unfunded Liabilities, CalPERS requires the sponsoring Agency to pay off (amortize) that Unfunded Liability, together with interest accrued at a rate equal to CalPERS' projected Rate of Return,[30] through higher annual contribution payments over the Amortization Period. Historically, CalPERS' standard Amortization Period for investment gains and losses

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[26] League of California Cities, *CalPERS Stays the Course, Adopts a 7 Percent Assumed Rate of Return*, December 22, 2017, <https://www.cacities.org/Top/News/News-Articles/2017/December/CAlPERS-Stays-the-Course,-Adopts-a-7-Percent-Assum>.

[27] Nation, *Pension Math* 2011, p. 13. Lin, *Retirement Debt*. Munnell, Alicia, *Appropriate discount rate for public plans is not simple*, MarketWatch, October 5, 2015, <https://www.marketwatch.com/story/appropriate-discount-rate-for-public-plans-is-not-simple-2016-10-05>.

[28] Rose-Smith, Imogen, *How Low Can CalPERS Go?* Institutional Investor.com, November 30, 2016, <https://www.institutionalinvestor.com/article/b14z9p7tw9pdz0/how-low-can-calpers-go>. Kasler, Dale, *With investments soft, CalPERS eyes higher contribution rates. What does that mean for workers?* Sacramento Bee, November 21, 2016, <www.sacbee.com/news/business/article116331443.html>. Kasler, Dale, *CalPERS moves to slash investment forecast. That means higher pension contributions are coming.*, Sacramento Bee, December 21, 2016, <http://www.sacbee.com/news/business/article122088759.html>. League of California Cities, *CalPERS Stays the Course.*

[29] Diamond, Randy, *CalPERS considers 4 asset allocation options; local officials prefer avoiding major changes*, November 14, 2017, p. 2, <http://www.pionline.com/article/20171114/ONLINE/171119918/calpers-considers-4-asset-allocation-options-local-officials-prefer-avoiding-major-changes>. CNBC.com, *CalPERS's sees 5.8 percent return with new allocation; below 7 percent goal*, February 8, 2017, <https://www.cnbc.com/2017/02/08/calperss-sees-58-percent-return-with-new-allocation-below-7-percent-goal.html>. See also, League of California Cities, *League of California Cities Retirement System Sustainability Study and Findings*, January 2018, p. 29, <https://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Retirement-System-Sustainability/League-Pension-Survey-(web)-FINAL.aspx>, in which the authors note that CalPERS' determines its Discount Rate based on expectations for returns on investment over a 60 year period.

[30] Interviews by Grand Jury. Mendel, Ed, *Old cause of pension debt gets new attention*, Calpensions, July 10, 2017, p. 1, <https://calpensions.com/2017/07/10/old-cause-of-pension-debt-gets-new-attention/>. City of La Palma, *CalPERS Update and Additional Payment Discussion*, February 20, 2018, slide 22, <https://www.cityoflapalma.org/ArchiveCenter/ViewFile/Item/2374>. Eastman, Becky, *Report on status of Belvedere's employee pension funds*, May 13, 2013, p. 6, <http://www.cityofbelvedere.org/DocumentCenter/View/1425>.

was 30 years,[31] but an Agency could elect a shorter Amortization Period.[32] Like home loan repayment terms, the longer the Amortization Period, the lower the annual payment, but the larger the accrued interest costs. Examples of the cost of accrued interest to four of the Cities over different Amortization Periods are given in Table No. 5.

Public Employees Pension Reform Act of 2013 (PEPRA).

In response to soaring public pension Unfunded Liabilities, the California Legislature adopted the California Public Employees Pension Reform Act of 2013 (PEPRA), which imposed significant reductions on state and local government pension benefits, primarily for employees hired after January 1, 2013 (referred to as "New Members"). Employees hired prior to that date are termed "Classic Members."[33] Classic Members who change public employers retain their "Classic" status.[34] Thus, to date, the impact of PEPRA on public pension liabilities has been small.[35] However, it will increase over time as Classic Members retire and are replaced by New Members.

Some of the most important changes mandated by PEPRA include:

- Reduced pension benefit formulas for New Members. For New Member employees with Miscellaneous Plans, PEPRA requires a "2 percent at age 62" benefit formula, that is, a New Member retiring at age 62 is entitled to a pension equal to his number of years of

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[31] League of California Cities, *CalPERS Board Reduces Amortization Policy*, February 14, 2018, <https://www.cacities.org/Top/News/News-Articles/2018/February/CalPERS-Board-Reduces-Amortization-Policy>. Lowe, Stephanie and Rogers, Frances, *CalPERS Reduces Amortization Period with Impacts to Employer Contribution Rates*, California Public Agency Labor & Employment Blog, Liebert Cassidy Whitmore), March 1, 2018, <https://www.calpublicagencylaboremploymentblog.com/retirement/calpers-reduces-amortization-period-with-impacts-to-employer-contribution-rates/>. CalPERS Actuarial Office, *Finance and Administration Committee, Agenda Item 7a, Amortization Policy (Second Reading)*, February 13, 2018, <https://www.calpers.ca.gov/docs/board-agendas/201802/financeadmin/item-7a-00_a.pdf>.Jacobius, Arleen, *CalPERS shortens amortization period to 20 years*, Pensions & Investments, February 14, 2018, <http://www.pionline.com/article/20180214/ONLINE/180219934/calpers-shortens-amortization-period-to-20-years>.

[32] Interviews by Grand Jury. However, if an Agency selects a shorter Amortization Period, CalPERS does not permit it to reverse that election later. Interviews by Grand Jury.

[33] CalPERS, *Summary of Public Employees Pension Reform Act of 2013 and Related Changes to Public Employees' Retirement Law*, November 27, 2012, pp. 1-2, <http://www.counties.org/sites/main/files/file-attachments/calpers_summary.pdf>.

[34] Ibid. CalPERS, *A Guide to CalPERS: When You Change Retirement Systems*, p. 3, <https://www.calpers.ca.gov/docs/forms-publications/change-retirement-systems.pdf>.

[35] League of California Cities, *2018 Retirement System Sustainability Study*, pp. 2 and 5. Hutchings, Dane, *Closing the Pension Funding Gap*, League of California Cities, slide 4, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj4wYnghL7bAhUPJ3wKHeqPCW0QFggpMAA&url=https%3A%2F%2Fwww.cacities.org%2FResources-Documents%2FPolicy-Advocacy-Section%2FHot-Issues%2FRetirement-System-Sustainability%2FPension_Gap_Public.aspx&usg=AOvVaw2C02vB9pPOI9v_n_zbeA38>. Redwood City, *Report – FY 2017-18 Mid-Year Budget Study Session and Proposed Process for Development of the FY 2018-19 Budget*, February 26, 2018, p. 10, <https://www.redwoodcity.org/home/showdocument?id=14650>.

service, times 2 percent, times his average salary.[36] A New Member retiring before age 62 would have a pension that is further reduced. For instance, at age 55, a New Member is entitled to a pension equal to his years of service, times 1.3 percent, times his average salary.[37] Many Classic Members are entitled to more generous Benefits. For example, many City of San Carlos Classic employees under Miscellaneous Plans have pensions calculated according to a "2.7 percent at 55" formula.[38] Such an employee with 30 years of government service is entitled to a pension equal to 81 percent of their salary at age 55.[39] By comparison, a New Member with 30 years of government service would be entitled to a pension equal to just 39 percent of salary at that same age,[40] or less than 50 percent of what a Classic Member would receive. PEPRA specifies similar but more complex reductions for New Members under Safety Plans.[41]

- Caps on annual salary basis for calculation. PEPRA also caps the amount of annual salary that can be used to calculate pensions for New Members at $113,700 (if Social Security is also offered) plus cost of living adjustments (COLAs), or $136,440 (if Social Security is not offered) plus COLA.[42] These caps are less than the salaries of many middle and upper management government employees.[43] Classic Members are not subject to salary caps in calculating their pensions.[44]

- Averaging of salaries for calculation. PEPRA requires, in calculating the annual salary used to calculate pensions, that New Members use the average of the three highest consecutive years salary.[45] In contrast, some public agencies allow Classic Members to use just their highest salary year.

- Prohibition on "spiking" salaries. PEPRA also prohibits "spiking" salaries used to calculate pensions by including overtime, bonuses, cash payouts for unused vacation or sick leave, severance pay and the like.[46]

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36 CalPERS, *Summary Public Employee Reform Act*, p. 2.
37 CalPERS, *Retirement Formulas and Benefit Factors*: *Your Benefits / Your Future What You Need to Know About Your CalPERS Local Miscellaneous Benefits*, p. 28, <http://www.reedley.ca.gov/departments/administrative/pdfs/CalPERS%202016-01-01%20Local%20Miscellaneous%20Pub%208.pdf>.
38 City of San Carlos, Teamsters Group – Benefits Summary 2018, p. 3.
39 CalPERS, *Retirement Formulas and Benefit Factors*, pp. 32-33.
40 Ibid., pp. 28-29.
41 CalPERS, *Summary Public Employee Reform Act*, p. 2.
42 Ibid., p. 3.
43 Interviews by Grand Jury.
44 CalPERS, *Summary Public Employee Reform Act*, p. 3.
45 Ibid., pp. 9-10.
46 Ibid., pp. 8-9.

- Prohibition on purchases of "airtime". PEPRA also prohibits employees from purchasing nonqualified service time ("airtime"), which allows Members to boost their pensions by buying up to five years of additional service credit.[47]

As discussed below, PEPRA may have intended to apply some of these prohibitions to both Classic and New Members. However, whether these provisions apply to Classic Members is currently before the California Supreme Court.

"California Rule".

A major obstacle to reducing the pension Benefits to be earned by Classic employees in the future is the so-called "California rule," an interpretation of a 1955 state Supreme Court decision[48] that public employee pension Benefits, once granted, can never be modified, even for future work, without providing "comparable new advantages," and that also still leave employees with a "reasonable" pension.[49] However, in 2016, a Court of Appeal ruled that, under the Supreme Court's decision, employees only have a vested right to "a 'reasonable pension' – not an immutable entitlement to the most optimal formula of calculating the pension." [50] At issue in that case was the prohibition on "spiking" discussed above at p. 11. A few months later, another Court of Appeal reached a similar conclusion in upholding a prohibition on the purchasing of "airtime" discussed above at p. 12.[51] However, a third Court of Appeal recently reached a different conclusion, finding that detrimental changes to pension benefits of Classic Members would only be upheld as "reasonable" if supported by "compelling evidence that the required changes 'bear a material relation to the theory … of a pension system' and its successful operation."[52] The California Supreme Court is currently considering appeals of all three Court of

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[47] Ibid., pp. 7-8.

[48] *Allen v. City of Long Beach*, 45 Cal.2d 128 (1955), <https://scocal.stanford.edu/opinion/allen-v-city-long-beach-26585>.

[49] *Allen v. City of Long Beach*, 45 Cal.2d 128 at 131. Beyerdorf, Brian, *The Fate of Public Employee Pensions: Marin's Revision of the 'California Rule'*, California Law Review Online, September 2017, p. 1, <www.californialawreview.org/wp-content/uploads/2017/09/Beyersdorf-02-formatted-62-72.pdf>. Walters, Dan, *Jerry Brown, nearing end of terms, defies unions on pensions*, San Francisco Chronicle, November 28, 2017, <https://www.sfchronicle.com/news/article/Jerry-Brown-nearing-end-of-term-defies-unions-12389814.php>.

[50] *Marin Association of Public Employees v. Marin County Employees Retirement Association*, 2 Cal. App. 5th 674 at 680 (1st Dist. 2016), <https://www.leagle.com/decision/incaco20160817007>.

[51] *Cal Fire Local 2881 et al., v. California Public Employees' Retirement System et al.*, 7 Cal. App. 5th 115 (1st Dist. 2016), <https://www.eastbaytimes.com/wp-content/uploads/2017/01/123016-appellate-court-ruling.pdf>.

[52] *Alameda County Deputy Sheriff's Association, et al. v. Alameda County Employees' Retirement Assn., et al.*, Case No. A141913, filed January 8, 2018, as modified February 5, 2018, <https://www.gmsr.com/wp-content/uploads/2018/04/scw-A141913M.pdf>. Rogers, Frances and Overby, Brett, *California Court of Appeal Issues A Contrary Decision Addressing "Vested Rights" of Public Employees in the Aftermath of PEPRA: Where will the Supreme Court Land?*, California Public Agency Labor & Employment Blog (Liebert Cassidy Whitmore), January 10, 2018, <https://www.calpublicagencylaboremploymentblog.com/pension/california-court-of-appeal-issues-a-contrary-decision-addressing-vested-rights-of-public-employees-in-the-aftermath-of-pepra-where-will-the-supreme-court-land/>.

Appeal rulings.[53] Acceptance of the "reasonable pension" standard enunciated in the first two Court of Appeal cases could have significant implications for future pension reform efforts, as well as eliminate the pension "spiking" and "air time" practices for both Classic and New Members.

CalPERS' changes.

CalPERS administers pension plans for Agencies throughout California. CalPERS' system-wide Funded Percentage (that is, value of current assets divided by the present value of future Benefit payments) is only 68 percent.[54,55] As discussed below in the section entitled "Unfunded Liabilities and Funded Percentages of the Cities" at p. 16, among private sector pension plans, a Funded Percentage of 80 percent is the threshold below which a plan's solvency is considered "at risk".[56] CalPERS' reported 68 percent Funded Percentage is based on a Return on Investment and Discount Rate assumption of 7 percent. CalPERS has been criticized in the past for inaccurate assumptions made in its calculations of future Benefits obligations and Returns on Investment.[57] The May 2017 Roeder Survey of California public pension plans ranked CalPERS a poor 34th out of 37 California public pension plans rated for "funding assumptions."[58] However, CalPERS has begun taking actions to strengthen its pension system.

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[53] Webster, Keeley, *More briefs ask State Supreme Court to weaken California rule on pensions*, The Bond Buyer, February 27, 2018, <https://www.bondbuyer.com/news/more-briefs-ask-state-supreme-court-to-weaken-california-rule-on-pensions>. GMSR Appellate Lawyers, *California Supreme Court Watch*, #18-49, <https://www.gmsr.com/18-49-alameda-county-deputy-sheriffs-assn-v-alameda-county-employees-retirement-assn-s247095-a141913-19-cal-app-5th-61-mod-19-cal-app-5th-945a-contra-costa-county-superior/>.

[54] Terando, Scott, *Strategies for Managing the New Reality*, CalPERS, September 15, 2017, slide 8, <https://www.cacities.org/Resources-Documents/Education-and-Events-Section/Annual-Conference/2017-Handouts/Strategies-for-Managing-the-New-Reality-of-CalPERS>. CalPERS 2017 CAFR, p. 27. CalPERS, *CalPERS Reports Preliminary 11.2 Percent Investment Return for Fiscal Year 2016-17*, July 14, 2017, p. 1, <https://www.calpers.ca.gov/page/newsroom/calpers-news/2017/preliminary-fiscal-year-investment-returns>.

[55] A Funded Percentage of 68 percent is low compared to CalPERS' historic Funded Percentages over the last 25 years. For a chart showing these percentages since 1993, see, Fox, Kelly, *CalPERS Update and Path Forward*, December 13, 2017, p. 16, <https://www.cacities.org/Resources-Documents/Education-and-Events-Section/Fire-Chiefs/2017-Session-Materials/CalPERS-History-and-Pension-Updates>.

[56] Nation, *Pension Math* 2011, p. 17. Financial analyst Rick Roeder notes that a public pension plan with a Funded Percentage in the 80-90 percent range is considered "reasonably well funded." Roeder, Rick, Roeder Financial, *California Pension Systems: Ranking their Funding Assumptions*, May 2017, p. 2, <http://roederfinancial.com/ramblings.php?ramble=42>.

[57] See, for example, the following: Ring, Edward, *Did CalPERS Use Accounting "Gimmicks" to Enable Financially Unsustainable Pensions?*, California Policy Center, January 24, 2018, <https://californiapolicycenter.org/calpers-use-accounting-gimmicks-enable-financially-unsustainable-pensions/>. Dolan, Jack, *How a pension deal went wrong and cost California taxpayers billions*, Los Angeles Times, September 18, 2016, <http://www.latimes.com/projects/la-me-pension-crisis-davis-deal/>. Malanga, Steven, *The Pension Fund that Ate California*, The City Journal, <https://www.city-journal.org/html/pension-fund-ate-california-13528.html>.

[58] Roeder, Rick, Roeder Financial, *California 2017 Funding Assumption Survey*, May 2017, <http://roederfinancial.com/RoederSurvey2017.html>.

CalPERS' reduction of Discount Rate from 7.5 to 7 percent.

In late 2016, CalPERS decided to lower its Discount Rate from 7.5 to 7.0 percent.[59] This will have the effect of significantly increasing the size of CalPERS' Unfunded Liabilities and, accordingly, the contribution amounts Agencies must pay. One expert has estimated that, for every one quarter percentage point decrease in the Discount Rate, Agency contribution rates (that is, the size of their contribution payments as a percentage of total payroll) go up by approximately 2.5 percentage points.[60] A 5 percentage point increase in the contribution rate would represent a large increase in payments by the Cities as their average contribution rate in FY 2017-2018 was 27.3 percent.[61] In order to give Agencies time to prepare for these increased costs, CalPERS intends to phase in the change in its Discount Rate from 7.5 to 7 percent over a three-year period as follows[62]:

- FY 2018-2019: 7.35%
- FY 2019-2020: 7.25%
- FY 2020-2021: 7.00%

To further ease the impact on Agencies of these Discount Rate reductions, CalPERS plans to phase in the resulting contribution payment increases over an additional 5 years.[63] As a result, the full cost of the Discount Rate decreases to 7 percent will not be felt by Agencies until approximately FY 2024-2025.[64] This phasing-in process comes at a cost, however, as it allows interest to continue to accrue on Unfunded Liabilities for a longer time, thereby increasing total costs that the Cities will eventually have to pay.

In late 2017, CalPERS considered lowering its Discount Rate even further, down to 6.75 or even 6.5 percent.[65] Agencies objected because of the increased contribution costs this would impose on them and CalPERS decided not to lower the Discount Rate below 7 percent.[66] However, one expert has projected that it is "likely" CalPERS' Discount Rate will be lowered, in a series of steps, down to 6 percent over the course of the next 20 years or so.[67]

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[59] CalPERS, *CalPERS to Lower Discount Rate to Seven Percent Over the Next Three Years,* December 21, 2016,< https://www.calpers.ca.gov/page/newsroom/calpers-news/.../calpers-lower-discount-rate>.
[60] Nation, *Pension Math* 2011, pp. 25-26.
[61] Appendix A.
[62] CalPERS, *CalPERS to Lower Discount Rate to Seven Percent*. Terando, *Strategies for Managing the New Reality,* slide 6.
[63] Mendel, *Old cause of pension debt,* p. 3.
[64] League of California Cities, *CalPERS Stays the Course*.
[65] Diamond, *CalPERS considers 4 asset allocation options,* p. 1.
[66] Ibid. League of California Cities, *CalPERS Stays the Course*.
[67] Lin, Bianca and Childs, Matthew, *City of Pacifica Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, September 18, 2017, slide 3, <http://www.cityofpacifica.org/civicax/filebank/blobdload.aspx?BlobID=13378>. Lin, Bianca and Yam, Wai Man, *City of Menlo Park Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, May 2, 2017, slide 10, <https://www.menlopark.org/DocumentCenter/View/14392/D2-MenloPark-17-05-02-CalPERS-Misc-Safety>. Lin,

CalPERS' adoption of new mortality rate assumptions.

In 2014, CalPERS adopted new mortality rate assumptions reflecting the fact that retirees are expected to live longer. These assumption changes were projected to have the effect of increasing Agencies' pension contribution costs. [68]

CalPERS' reduction of Amortization Period.

In February 2018, CalPERS reduced its standard Amortization Period from 30 to 20 years.[69] To "avoid undue disruption" to Agency budgets, CalPERS proposes to implement the new period prospectively only, starting with amortization bases established by its June 30, 2017 valuation. Amortization bases established prior to that date would continue as scheduled under current policy.[70] Although this change will decrease the Cities' pension costs over the long run (see, Table No. 5 below for examples of such savings), in the near term shortened Amortization Periods will increase their contribution payments.

DISCUSSION

Why are Unfunded Liabilities and Funded Percentages so important?

The Grand Jury chose to study public pension costs and Unfunded Liabilities because they represent a serious threat to public services county-wide and are already eating into public agency budgets.[71] The League of California Cities recently warned:

> "Rising pension costs will require cities over the next seven years to nearly double the percentage of their general fund dollars they pay to CalPERS…[U]nder current law, cities have two choices – attempt to increase revenue or reduce services. Given that police and fire services comprise a large percentage of city general fund budgets, public safety, including response time, will likely be impacted."[72]

The effects of increasing pension costs are clear:

- As payments consume a larger share of cities' budgets, it becomes more difficult to maintain, much less improve, public services.

Bianca and Yang Kevin, *Redwood City Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, February 13, 2017, slide 7.

[68] Bartel Associates, LLC, *New CalPERS Assumptions Will Increase Rates*, February 23, 2014, <http://www.bartel-associates.com/news/2014/02/23/new-calpers-assumptions-will-increase-rates>.

[69] Lowe and Rogers, *CalPERS Reduces Amortization Period*. CalPERS, *Agenda Item 7a, Amortization Policy*, p. 1..

[70] Ibid., p. 4.

[71] Nation, *Pension Math: Public Pension Spending and Service Crowd Out in California, 2003-2030*, October 2, 2017, p. xi, <https://siepr.stanford.edu/research/publications/pension-math-public-pension-spending-and-service-crowd-out-california-2003>. League of California Cities, *2018 Retirement System Sustainability Study*, p. 5.

[72] League of California Cities, *2018 Retirement System Sustainability Study*, p. 1.

- As Unfunded Liabilities increase, cities' municipal bond ratings may be hurt, which could increase the cost of other public improvement projects that require bonds.
- Public employees may face reduced compensation, reduced COLAs, or layoffs.
- Retired employees may find the security of their pensions threatened (obligations "guaranteed" by the state constitution have been voided in situations of bankruptcy)[73].
- Residents may be asked to raise taxes; a difficult "sell" in the present political climate when the reason is to pay for legacy pension costs and not current services.[74]

The Cities' Pension Costs and Unfunded Liabilities Today.

Appendix A shows each City's pension costs, Funded Percentage and Unfunded Liabilities for FY 2016-2017 (the most recent year for which information is available), together with a comparison to each of the two immediately preceding fiscal years. A review of Appendix A data on a consolidated basis (shown at the bottom of Appendix A) is also revealing. A discussion of that consolidated data for the Cities follows.

<u>Unfunded Liabilities and Funded Percentages of the Cities.</u>

Two important measures of the health of pension plans are the size of their Unfunded Liabilities and their Funded Percentages. Table No. 1 (below) shows, based on the 7.5 percent Discount Rate then being used by CalPERS, that the Cities' aggregate Unfunded Liabilities increased by 10.7 percent from FY 2014-2015 to FY 2015-2016 and by another 22.2 percent from FY 2015-2016 to FY 2016-2017. Funded Percentages correspondingly decreased, at an accelerating rate, over these 3 years.

Table No. 1 - Increasing Unfunded Liabilities and Decreasing Funded Percentages
($000)

	Unfunded Liabilities	Percent Increase in Unfunded Liabilities	Funded Percentage
2016-2017	$1,215,465	22.2%	70.5%
2015-2016	$994,535	10.7%	75.1%
2014-2015	$898,036		76.8%

(See, Appendix A.)

As noted previously, among private sector pension plans, a Funded Percentage of 80 percent is the threshold below which a plan's solvency is considered "at risk".[75] Table No. 1 shows that the Funded Percentage for the Cities' pension plans, while slightly higher than CalPERS' system-wide Funded Percentage of 68 percent, has dropped to 70.5 percent, almost 10 percentage points below this 80 percent "at risk" threshold. The Funded Percentages in Table No. 1 would be significantly lower, and the Unfunded Liabilities correspondingly higher, if a lower Discount Rate were applied. This difference is shown in Table No. 2, below.

[73] Ang, Kimberly, *What Happens to Public Employee Retirement Benefits When Municipalities Go Bankrupt?*, United States Common Sense, March 10, 2016, p. 3, <http://govrank.org/research/researchText/45>.
[74] Interviews by Grand Jury.
[75] Nation, *Pension Math* 2011, p. 17.

Increase in Unfunded Liabilities and Decrease in Funded Percentages if a Lower Discount Rate is Used.

The Cities' Unfunded Liabilities and Funded Percentages in Table No. 1 were calculated using CalPERS then-applicable Discount Rate of 7.5 percent. If, however, the Discount Rate had been just one percentage point lower, the Cities' Unfunded Liabilities for FY 2016-2017 would have been approximately 44 percent larger (as shown in Table No. 2) and the corresponding Funded Percentage that year would have been 62.4 percent rather than 70.5 percent, almost 18 percentage points below the 80 percent Funded Percentage standard.

Table No. 2 - Increased Pension Unfunded Liabilities and Decreased Funded Percentages if Discount Rate is Reduced By 1 percentage point

($000)

Fiscal Year	Unfunded Liabilities based on **7.5 %** Discount Rate	Unfunded Liabilities based on **6.5 %** Discount Rate	Funded Percentages based on **7.5 %** Discount Rates	Funded Percentages based on **6.5 %** Discount Rates
2016-2017	$1,215,465	$1,755,047	70.5%	62.4%
2015-2016	$994,535	$1,515,521	75.1%	66.5%
2014-2015	$898,036	$1,399,702	76.8%	68.0%

(See, Appendix A.)

Applying its new Discount Rate of 7 percent (which will be implemented in stages over the three fiscal years ending FY 2020-2021), CalPERS states that its current, system-wide Funded Percentage is 68 percent.[76] However, if long-term Returns on Investment decrease, or are projected to decrease, below 7 percent, then CalPERS' Funded Percentage (and corresponding Discount Rate) would drop even lower. For example, at a Discount Rate of 6.2 percent, it has been estimated that CalPERS' Funded Percentage would drop by almost 10 percentage points, from 68 to 58.3 percent.[77]

Increasing Pension Contribution Payments.

Increasing Unfunded Liabilities result in larger contribution payment costs. Table No. 3 shows how the Cities' contribution costs have risen from FY 2014-2015 through FY 2016-2017 and how the percentages of cities' payroll and general fund spending consumed by contribution payments have been increasing.

Table No. 3 - Increasing Pension Contribution Payments

($000)

Fiscal Year	Total Contribution Payments	Contributions as a percent of **covered payroll**	Contributions as a percent of **general fund spending**
2016-2017	$104,986	27.3%	13.6%
2015-2016	$95,987	27.4%	13.2%
2014-2015	$85,335	25.5%	12.8%

(See, Appendix A.)

[76] Terando, *Strategies for Managing the New Reality*, slide 8. CalPERS 2017 CAFR, p. 27. League of California Cities, *2018 Retirement System Sustainability Study*, p. 1.
[77] Nation, *2011 Pension Math*, p. vii.

The average, statewide percentage of Agencies' general fund budgets projected to be paid to CalPERS in FY 2017-2018 is 11.2 percent.[78] In comparison, the Cities' pension costs in FY 2016-2017 represented an average of 13.6 percent of their general fund spending.

Percentage of Employer Contribution Paid for Amortization Costs.

All of the Cities have substantial Unfunded Liabilities[79] and a significant and increasing portion of their contribution payments go to paying Amortization Costs (that is, payments required to pay off Unfunded Liabilities, including accrued interest). Table No. 4 (below) shows that well over half of the Cities' contribution payments in FY 2017-2018 have been applied to payment of Amortization Costs.

Table No. 4 - Percentage of Cities' FY 2017-18 Pension Costs that are Amortization Costs

($000)

City	2017-2018 Normal Costs	2017-2018 Amortization Costs	% of 2017-2018 Total Contribution Costs for Amortization
Belmont	$1,473	$2,046	58.1%
Brisbane	$989	$912	48.0%
Burlingame	$2,552	$3,183	55.5%
Daly City	$6,281	$7.184	53.4%
East Palo Alto	$1,024	$635	38.3%
Half Moon Bay	$174	$654	79.0%
Menlo Park	$2,841	$2,915	50.6%
Millbrae	$783	$2,907	78.8%
Pacifica	$2,084	$2,043	49.5%
Redwood City	$8,767	$12,479	58.7%
San Bruno	$3,334	$4,070	55.0%
San Carlos	$715	$2,565	78.2%
City of San Mateo	$6,750	$11,239	62.5%
South San Francisco	$5,872	$9,171	61.0%
	Total	Total	Weighted Average
	$43,637	$62,001	58.7%

California Policy Center, *CalPERS Actuarial Report Data – Cities ($=M)*, <http://californiapolicycenter.org/wp-content/uploads/2018/02/CalPERS-Actuarial-Report-Data-Cities-and-Counties-w-totals.xlsx>. The California Policy Center provides pension cost data for 14 of the 20 Cities. Data for Atherton, Colma, Foster City, Hillsborough, Portola Valley and Woodside was not provided.

[78] League of California Cities, *2018 Retirement System Sustainability Study*, p. 4.
[79] Appendix A.

Interest Charges on Unfunded Liabilities.

CalPERS charges interest on Unfunded Liabilities at an annual rate equal to the then-current Discount Rate.[80] Accordingly, the 30-year Amortization Period historically used by CalPERS to amortize Unfunded Liabilities results in interest payments that make up a large percentage of total Amortization Costs. Table No. 5 (below) shows, by way of example, that more than 50 percent of the Amortization Costs paid by South San Francisco, Redwood City, the City of San Mateo, and Daly City go to interest payments. It also shows that, if the Amortization Periods were shortened to 20 years, or even 15, those Cities would realize large savings on interest. Most notably, the City of San Mateo would save $56 million under a 20-year Amortization Period and $126 million with a 15-year period. Redwood City would save $55 million by switching to a 20-year Amortization Period and $134 million with a 15-year period.

Table No. 5 - Interest payment savings where shorter Amortization Periods are applied
($000)

	Interest over 30 years			**Interest over 20 years**		**Interest over 15 years**	
City	Total payments over 30-years (using 30-year Amortization Period).	Interest payments over 30-years.	Percent of 30-year. Amortization Cost payments consisting of interest payments.	Interest payments over 20-years (using 20-year Amortization Period).	**Savings** compared to 30-year period.	Interest payments over 15-years (using 15-year Amortization Period).	**Savings** compared to 30-year period
South S.F. [81]	$390,708	$206,436	52.8%	$185,162	**$20,574**	$127,457	**$78,979**
Redwood City[82]	$553,787	$305,671	55.2%	$250,256	**$55,415**	$171,616	**$134,055**
City of San Mateo[83]	$502,874	$280,510	55.8%	$224,282	**$56,228**	$153,805	**$126,706**
Daly City[84]	$371,749	$201,920	54.3%	$171,295	**$30,625**	$117,468	**$84,452**

Shortening the Amortization Period is only one way that savings on interest can be achieved. Savings can also be made by reducing the size of the Unfunded Liabilities through supplemental

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[80] Interviews by Grand Jury. Mendel, *Old cause of pension debt*, p. 1. City of La Palma, slide 22. Eastman, p. 6. City of Daly City, *Comprehensive Biennial Operating and Capital Budget, Fiscal Years 2017 and 2018*, p. 25.
[81]CalPERS, *Actuarial Valuation – June 30, 2016 Miscellaneous Plan of the City of South San Francisco*, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/south-san-francisco-city-miscellaneous-2016.pdf>. CalPERS, *Actuarial Valuation – June 30, 2016 Safety Plan of the City of South San Francisco*, p. 17, <https://www.calpers.ca.gov/page/.../actuarial.../public-agency-actuarial-valuation-reports>.
[82] *CalPERS, Actuarial Valuation – June 30, 2016 Miscellaneous Plan of the City of Redwood City*, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/redwood-city-miscellaneous-2016.pdf>. *CalPERS, Actuarial Valuation – June 30, 2016 Safety Plan of the City of Redwood City*, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/redwood-city-safety-2016.pdf>.
[83] CalPERS, *Actuarial Valuation as of June 30, 2016 for the Miscellaneous Plans of the City of San Mateo*, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/san-mateo-city-miscellaneous-2016.pdf>. CalPERS Actuarial Valuation as of June 30, 2016 for the Safety Plans of the City of San Mateo, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/san-mateo-city-safety-2016.pdf>.
[84] CalPERS Actuarial Valuation as of June 30, 2016 for Miscellaneous Plans of Daly City, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/daly-city-miscellaneous-2016.pdf>. CalPERS Actuarial Valuation as of June 30, 2016 for Safety Plans of Daly City, p. 17, <https://www.calpers.ca.gov/docs/actuarial-reports/2016/daly-city-safety-2016.pdf>.

payments to CalPERS beyond the required contribution amounts. This can be done through a commitment by the Cities to make additional payments on a regular basis that is reflected in the annual budget, and/or by the Cities making additional payments as funds become available, as when there is a budget surplus or non-recurring revenue source. The process is similar to the experience of a credit card holder. If the holder only pays the minimum monthly balance, long-term interest expenses are higher than if the holder pays more than the minimum per month in order to work down the principal amount.

What does the future hold? The Impact of Increasing Pension Costs on the Cities.

Rising Unfunded Liabilities will generate increasing pension costs. A "Key Finding" of the League of California Cities' January 2018 report is that "City pension costs will *dramatically increase to unsustainable levels*" (emphasis added).[85] The League reports that the average percentage of its 426-member cities' general fund spending on CalPERS pension plans will almost double between FY 2006-2007 and FY 2024-2025 (from 8.3 percent to 15.8 percent).[86]

CalPERS projects that the $3.1 billion in pension costs being paid by member cities in FY 2017-2018 will almost double (to $5.8 billion) by FY 2024-2025.[87] The Cities' projected future pension costs, as estimated by CalPERS, are also projected to almost double during that period,[88] and some experts project even larger increases.[89] Table No. 6 sets out CalPERS' projections for increasing pension costs for 15 of the Cities from FY 2017-2018 through FY 2024-2025 and shows that they will have to pay pension costs that are rising by an average of 13.3 percent per year.

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[85] League of California Cities, *2018 Retirement System Sustainability Study and Findings*, p. 2.
[86] Ibid., pp. 1 and 4.
[87] Ring, Edward, *Did CalPERS Use Accounting "Gimmicks …?*
[88] California Policy Center, *CalPERS Actuarial Report Data – Cities ($=M)*, <https://californiapolicycenter.org/CalPERS-Actuarial-Report-Data-Cities-and-Counties/>. This source provides pension cost data for 15 of the 20 Cities in the County. Data for Atherton, Colma, Foster City, Hillsborough and Woodside is not included. The weighted average percent increase in costs for these 15 Cities from FY 2017-18 to FY 2024-25 is 92.7 percent.
[89] See, discussion following Table No. 6 about higher projections by Bartel Associates, LLC and Table Nos. 7.1, 7.2 and 7.3 (below).

Table No. 6 - Increasing Pension Costs for Cities ($000)					
City	2017-2018 Total Pension Costs	2024-2025 Total Projected Pension Costs	Percent Increase from 2017-2018 to 2024-2025	Average Annual Total Pension Cost Increase	Average Annual Percent Increase
Belmont	$3,518	$6,039	71.7%	$360	10.2%
Brisbane	$1,901	$3,851	102.6%	$279	14.7%
Burlingame	$5,735	$11,435	99.4%	$814	14.2%
Daly City	$13,464	$28,579	112.3%	$2,159	16.0%
East Palo Alto	$1,658	$2,873	73.3%	$174	10.5%
Half Moon Bay	$828	$1,519	83.5%	$99	11.9%
Menlo Park	$5,756	$11,258	95.6%	$786	13.7%
Millbrae	$3,690	$6,828	85.0%	$448	12.1%
Pacifica	$4,127	$8,899	115.6%	$682	16.5%
Redwood City	$21,246	$39,955	88.1%	$2,673	12.6%
San Bruno	$7,404	$14,695	98.5%	$1,042	14.1%
San Carlos	$3,280	$5,407	64.8%	$304	9.3%
City of San Mateo	$17,988	$33,178	84.4%	$2,170	12.1%
South San Francisco	$15,043	$28,960	92.5%	$1,988	13.2%
	Total	Total	Weighted Average	Total	Weighted Average
	$105,638	$203,477	92.6%	$13,977	13.2%

California Policy Center, *CalPERS Actuarial Report Data – Cities ($=M)*, <http://californiapolicycenter.org/wp-content/uploads/2018/02/CalPERS-Actuarial-Report-Data-Cities-and-Counties-w-totals.xlsx>. The California Policy Center provides pension cost data for 14 of the 20 Cities. Data for Atherton, Colma, Foster City, Hillsborough, Portola Valley and Woodside was not provided.

Bartel Associates, LLC[90] projects even larger increases in pension costs than CalPERS. For example, as shown in Table Nos. 7.1, 7.2 and 7.3, Bartel projected in 2017 that pension costs for Redwood City, Menlo Park and Pacifica will more than double from FY 2016-2017 through FY 2024-2025 (which is substantially greater than CalPERS' projections for those Cities shown in Table 6) and are projected to continue to increase substantially thereafter through FY 2027-2028.[91]

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[90] The public pension actuarial consulting firm of Bartel Associates, LLC reports having served as consultants to over 400 public sector clients since 2012 including, within the San Mateo county alone, the Cities of Belmont, Burlingame, Daly City, East Palo Alto, Foster City, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco, and the Town of Hillsborough. See, Bartel website, <http://www.bartel-associates.com/about-us/client-list>.

[91] It should be noted that the Bartel Associates, LLC projections on which Table Nos. 7.1, 7.2 and 7.3 rely were set forth in reports dated February 17, 2017, May 2, 2017 and September 18, 2017, respectively. They were based on CalPERS numbers as of June 30, 2015. Last summer, CalPERS issued updated its numbers as of June 30, 2016 and it is expected to issued June 30, 2017 numbers again this summer. Were the Bartel projections to be re-run based on the most recent CalPERS data, they would be somewhat different from those reflected in Table Nos. 71., 7.2 and 7.3. Source: Grand Jury interviews.

Table No. 7.1 - Redwood City's projected increases in pension contribution costs from FY 2016-2017 to FY 2024-2025 and FY 2027-2028[92] ($000)								
	Miscellaneous Plans				Safety Plans			
	Pension Costs as a Percent of Payroll (Projected)	Annual Pension Costs (Projected)	Increase in Annual Pension Costs since FY 2016-2017	% Increase in Annual Pension Costs since FY 2016-2017	Pension Costs as a Percent of Payroll (Projected)	Annual Pension Costs (Projected)	Increase in Annual Pension Costs since FY 2016-2017	% Increase in Annual Pension Costs since FY 2016-2017
FY 2027-2028	37.3%	$16,764	$8,691	107.7%	67.2%	$24,771	$13,246	114.9%
FY 2024-2025	42.7%	$17,530	$9,457	117.1%	65.6%	$22,148	$10,623	92.2%
FY 2016-2017	26.3%	$8,073			42.9%	$11,525		

Table No. 7.2 – Menlo Park's projected increases in pension contribution costs from FY 2016-2017 to FY 2024-2025 and FY 2027-2028[93] ($000) (Before[94] taking into account any employee cost sharing.)								
	Miscellaneous Plans				Safety Plans			
	Pension Costs as a Percent of Payroll (Projected)	Annual Pension Costs (Projected)	Increase in Annual Pension Costs since FY 2016-2017	% Increase in Annual Pension Costs since FY 2016-2017	Pension Costs as a Percent of Payroll (Projected)	Annual Pension Costs (Projected)	Increase in Annual Pension Costs since FY 2016-2017	% Increase in Annual Pension Costs since FY 2016-2017
FY 2027-2028	33.9%	$7,190	$4,140	135.7%	60.5%	$5,389	$3,285	156.1%
FY 2024-2025	34.5%	$6,695	$3,645	119.5%	58.4%	$4,756	$2,652	126.0%
FY 2016-2017	21.2%	$3,050			32.3%	$2,104		

[92] Data in Table No. 7.1 is derived from Lin, Bianca and Yang Kevin, *Redwood City Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, February 13, 2017, slides 17, 18, 29 and 30.

[93] Data in Table No. 7.2 is derived from Lin, Bianca and Yam, Wai Man, *City of Menlo Park Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, May 2, 2017, slides 23, 24, 39 and 40, https://www.menlopark.org/DocumentCenter/View/14392.

[94] Menlo Park's projected Miscellaneous Plan annual pension costs in Table No. 7.2 would be approximately 15 percent lower than shown if employee cost sharing were taken into account and its Safety Plan pension costs would be 5 - 9 percent lower. Lin, Bianca and Yam, Wai Man, *City of Menlo Park Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, May 2, 2017, slides 25, 28, 40 and 41.

Table No. 7.3 – City of Pacifica's projected increases in pension contribution costs from FY 2016-2017 to FY 2024-2025 and FY 2027-2028[95] ($000) (Before[96] taking into account any employee cost sharing.)								
	Miscellaneous Plans				**Safety Plans**			
	Pension Costs as a Percent of Payroll (Projected)	Annual Pension Costs (Projected)	Increase in Annual Pension Costs since FY 2016-2017	% Increase in Annual Pension Costs since FY 2016-2017	Pension Costs as a Percent of Payroll (Projected)	Annual Pension Costs (Projected)	Increase in Annual Pension Costs since FY 2016-2017	% Increase in Annual Pension Costs since FY 2016-2017
FY 2027-2028	36.3%	$4,435	$2,992	207.3%	71.8%	$6,186	$3,910	171.8%
FY 2024-2025	34.4%	$3,846	$2,403	166.5%	69.0%	$5,428	$3,152	138.5%
FY 2016-2017	16.7%	$1,443			34.6%	$2,276		

Pension Information Provided by the Cities Could be Substantially Improved.

Clear information about the Cities' current and projected pension costs, as well as their plans for meeting these rising expenses in the future, is not readily found in the Cities' CAFRs, nor (with a few notable exceptions[97,98,99]) in their most recent budgets published in the finance section of

[95] Data in Table No. 7.3 is derived from Lin, Bianca and Childs, Matthew, *City of Pacifica Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, September 18, 2017, slides 8, 9, 18 and 19, http://www.cityofpacifica.org/civicax/filebank/blobdload.aspx?BlobID=13378.

[96] Pacifica's projected Miscellaneous Plan annual pension costs in Table No. 7.3 would be approximately 15, 7.3 and 7 percent lower in FY 2016-17, FY 2024-25 and FY 2027-28 respectively than shown if employee cost sharing were taken into account and its Safety Plan pension costs would be approximately 11, 5.6 and 5.4 percent lower in FY 2016-17, FY 2024-25 and FY 2027-28 respectively. Lin, Bianca and Childs, Matthew, *City of Pacifica Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, September 18, 2017, slides 11, 12, 20, 21, 29, 30.

[97] Redwood City's FY 2017-18 Adopted Budget provides projections of projected future pension costs through FY 2030-31, together with a description of steps the city is taking to begin addressing these costs. City of Redwood City, *Report - FY 2017-18 Mid-Year Budget Study Session*. See also, City of Redwood City, *Fiscal Year 2018-2019 Recommended Budget*, pp. 13 and 14, <http://www.redwoodcity.org/home/showdocument?id=15124>.

[98] The City of San Mateo's FY 2017-18 Adopted Budget includes a table showing how the City's pension costs will increase from FY 2017-18 through FY 2027-28. City of San Mateo, *Adopted 2017-18 Budget*, p. 11, <https://www.cityofsanmateo.org/DocumentCenter/View/60043/Adopted-2017-18-Budget>. The City's proposed 2018-20 Business Plan also includes annual pension cost projections through FY 2028-29. City of San Mateo, *Proposed 2018-20 Business Plan*, pp. 9, 11, and 65, <https://www.cityofsanmateo.org/DocumentCenter/View/64801/Proposed-FY-2018-20-Business-Plan>.

[99] Menlo Park's FY 2017-18 budget shows total pension costs for each of the next 10 years. City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, p. 48.

their websites.[100,101,102,103] Appendix B's guide to locating pension information in CAFRs shows that a certain level of specialized knowledge and concerted effort is required to extract information about pension costs from CAFRs. While the Cities' published budgets often refer to growing budgetary challenges faced by pension costs, the information provided about costs, especially projected future costs and descriptions of how the Cities are planning to meet them, is generally not set out in a systematic way. The information falls far short of what it should be given the importance and growing urgency of the subject matter.

What can the Cities do About Their Rising Pension Costs?

Develop a Financial Plan.

As with any challenge, the first step is to acknowledge the problem. In the case of pensions, this requires an analysis of future obligations, under various scenarios, over at least a 10-year time horizon. The second step is for each City to develop a long-term financial plan over at least a 10-year time period to address rising costs. Such a plan should include:

- Specific objectives, such as identifying a target Funded Percentage, eliminating the Unfunded Liabilities over "n" years and maintaining the City's share of Normal Costs at "n" percentage of payroll

- Policies to achieve these objectives, such as making supplemental contributions to CalPERS, making annual contributions to a reserve or IRS Section 115 trust (described below) for the purpose of meeting unanticipated future pension costs, keeping salary increases below the actuarially assumed increase rate, or negotiating cost-sharing

[100] The City of Burlingame provides information about its plans for addressing rising pension costs in Staff Reports and proposed budgets. See for example, Augustine, Carol, Staff Report to Burlingame City Council, July 3, 2017, <http://burlingameca.legistar.com/gateway.aspx?M=F&ID=145f1c47-afe4-48e6-8c90-7af86841c428.docx>; Augustine, Carol, Staff Report to Burlingame City Council, March 14, 2018, pp. 11, 12, 27, 28 and 48, <http://burlingameca.legistar.com/gateway.aspx?M=F&ID=8bf430f2-6a90-46f4-a5e8-bc50ad710524.docx>; Augustine, Carol, Staff Report to Burlingame City Council, May 9, 2018, <http://burlingameca.legistar.com/gateway.aspx?M=F&ID=68ce413d-4c73-4e2b-abf2-d2e04b1dde86.docx>.

[101] The Town of Hillsborough's FY 2018-19 Proposed Budget notes that annual pension costs are projected to double over the next ten years (from $2.4 to $5.7 million. The Town also provides a 10-year forecast of expenditures that incorporates data regarding projected pension costs, but the actual pension costs themselves are not broken out. Town of Hillsborough, *FY 20187-19 Proposed Budget*, pp. 27 and 96, <https://www.hillsborough.net/ArchiveCenter/ViewFile/Item/212>.

[102] Foster City's preliminary budget for FY 2018-19 states that, between FY 2017-18 and FY 2022-23, the City's Miscellaneous Plan contribution rate will rise from 27.9 to 40.8 percent and its Safety Plan contribution rate will rise from 45.2 to 70.4 percent. City of Foster City, *Preliminary Budget Fiscal Year 2018-2019*, p. 10, <https://www.fostercity.org/sites/default/files/fileattachments/financial_services/page/3521/fy_2018-2019_preliminary_budget_published.pdf>. The proposed budget does not include more specific information about dollar amounts represented by these percentages.

[103] The City of Belmont's 2018 Budget includes a chart showing increasing pension contribution rates over the next 4 years. City of Belmont, *FY 2018 Budget*, p. 18, https://www.belmont.gov/home/showdocument?id=15433>.

agreements with employees that cap the Cities' share of Normal Costs (which are described below in "Specific Measures for the Cities to Consider")

- Specific measures to implement the policies

- A process to monitor progress in implementing the measures and in achieving the objectives

- Consideration of alternative policies and measures, or a "Plan B," that may be used in the event that CalPERS's Return on Investment assumptions are not met in future years.

Finally, tough decisions need public support. This cannot be achieved without the public being informed about the issue at every step. The Cities' plans should include a public awareness component.

The Cities' CAFRs and budget documents published by the Cities in the finance section of their websites that were reviewed by the Grand Jury show that none of them has adopted a long-term financial plan with all of the components described above.[104,105,106,107]

Specific Measures for the Cities to Consider.

There are a number of measures that can be taken to meet objectives that might be included in the Cities' long-term financial plans. Some of these are summarized below. Most have been employed by one or more Cities, although not necessarily in a systematic way.
Not every City will be in a financial position to take aggressive action now, but there are options, including the following nine:

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[104] The City of San Mateo states that it has a plan for eliminating its Unfunded Pension Liabilities; it intends to achieve this by 2050. City of San Mateo, *Adopted 2017-18 Budget*, p. 20.
[105] The City of Foster City plans to "[i]dentify and implement pension sustainability strategies to reduce the City Unfunded Accrued Liability and improve the City funded status with CalPERS" in FY 2018-19. City of Foster City, *Preliminary Budget Fiscal Year 2018-2019*, p. 188.
[106] It should be noted, however that the City of Redwood City does have a five-year plan that provides for supplemental payments to CalPERS (beyond required contributions) of $0.5 million per year; it has funded a Section 115 pension trust (described below) with an initial $10.5 million and plans to make additional contributions to the trust of $1.1 million per year over the next five years, and employee cost sharing. Redwood City also adopted a lower tier, less expensive, pension plan even before the passage of PEPRA. See, "Specific Measures for the Cities to Consider" below for references to Redwood City's actions.
[107] In 2014 San Carlos published annual pension cost projections through FY 2035-36. City of San Carlos, *Long-Term Financial Plan*, November 5, 2014, pp. 21 and 22, <http://www.cityofsancarlos.org/Home/ShowDocument?id=700>. The City also published a graph showing pension costs through FY 2047-48. City of San Carlos, *City Council Staff Report*, Item 7.b of March 12, 2018 Agenda Packet, p. 117, <http://sancarlosca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=2699&Inline=True>.

(1) Make Supplemental Contributions to CalPERS.

By making supplemental contributions to CalPERS beyond the required payments, the Cities can reduce the amounts on which they are paying interest. The Cities generally cannot earn returns on their reserves equal to the interest rates CalPERS will be charging,[108] so using reserves to make supplemental contributions can result in substantial net savings over the long-term.

Although not a subject of this report,[109] actions taken by the County to reduce its pension costs are instructive. In FY 2011-2012 and FY 2012-2013, the County paid "supplemental contributions" to SamCERA (the plan administrator for the County's pension plans) to reduce its Unfunded Liability. These were in addition to its Annual Required Contribution (ARC)[110] payments.[111] However, these supplemental contributions were applied to the entire SamCERA system, not the County alone.[112] Then, in November 2013, SamCERA and the County signed a Memorandum of Understanding (MOU) to formalize a plan to pay supplemental contributions.[113] Under the MOU, the County made two commitments. First, it agreed to pay supplemental contributions in a lump sum of $50 million in the initial fiscal year (FY 2013-2014) and then to pay an additional $10 million in each of the following nine years. Second, the County stated that it intended to maintain a minimum average employer contribution rate of 38 percent of payroll during the 10-year period. Since the ARC would otherwise decrease each year, as the Unfunded Liability is reduced, maintaining a contribution rate higher than the ARC would provide a second source of supplemental payments. For its part, SamCERA committed to establish a Supplemental Contribution Account to receive the supplemental contributions, which would be credited just to the County, rather than all three SamCERA employers. If SamCERA's actuarial assumptions are met, the County's supplemental contributions are expected to eliminate the Unfunded Liability within 10 years (FY 2022-2023).[114]

The MOU includes language stating that the County's supplemental contributions are not legally binding. However, as of June 30, 2017, the MOU had been implemented on schedule. The

[108] City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18,* p. 48, <https://www.menlopark.org/ArchiveCenter/ViewFile/Item/6273>.
[109] Progress made by the County of San Mateo in planning for and reducing its pension costs is the subject of the Grand Jury's report for 2017-2018, entitled "County Pension Costs – Hard Choices Paying Off." San Mateo County Civil Grand Jury 2017-2018 report, "County Pension Costs – Hard Choices Paying Off."
[110] Annual Required Contribution (ARC) is the sum of an Agencies' share of Normal Cost and, if any, the Amortization Cost. ARC is the amount an Agency is legally required to pay to the plan administrator in order to fund a pension plan. See, Brainard, Keith and Brown, Alex, *The Annual Required Contribution Experience of State Retirement Plans, FY01 to FY13*, National Association of State Retirement Administrators, March 2015, p. 2, <https://www.nasra.org/files/JointPublications/NASRA_ARC_Spotlight.pdf>.
[111] Referred to by SamCERA as the annual "statutory contribution rate." SamCERA, *2017 Comprehensive Annual Financial Report for the Fiscal Year Ended on June 30, 2017*, p. 49, <https://www.samcera.org/sites/main/files/file-attachments/2017cafr_final.pdf>.
[112] County Pension Costs – Hard Choices Paying Off, p. 6.
[113] Memorandum of Understanding Between the County of San Mateo and the San Mateo County Employees' Retirement System Funding, November 19, 2013.
[114] County Pension Costs – Hard Choices Paying Off., p. 7.

County's supplemental contributions, including payments made before the MOU, as well as payments made pursuant to the MOU, total nearly $139 million, through June 30, 2017.[115]

In theory, without supplemental contributions, the Unfunded Liability would be paid off at the end of the 15-year Amortization Period used by SamCERA. The benefit of making supplemental contributions to pay off the Unfunded Liability early is to reduce the interest payments that are included in the Amortization Cost. This is substantial. Prior to adoption of the MOU, the County Manager estimated the cumulative savings at $304 million.[116] In 2017 the County Manager reported that the County could expect annual savings approaching $90 million to $100 million in principal and interest payments, beginning in FY 2023-2024, assuming the Unfunded Liability has been paid off by that date.[117]

It should be noted that the County was fortunate in having a non-recurring gain of about $50 million from the 2014 sale of the County-owned Circle Star Plaza, which helped fund its capital plan.[118] The County general fund benefitted from passage of Measure A in 2012, which adds a one-half cent countywide sales tax for 10 years, through April 2023, as well as Measure K (2016) which extended the sales tax through 2043.[119]

Among the Cities, Redwood City's Preliminary Five-Year Forecast calls for additional payments to CalPERS of $500,000 per year beyond the required contribution amounts.[120] As discussed below in "Establish IRS Section 115 non-revocable trusts," at p. 29, Redwood City's Preliminary Five-Year Forecast also calls for the city to annually contribute additional amounts to an irrevocable fund for the purposes of paying pension costs.

In April 2018, the City of San Carlos approved making an additional payment to CalPERS of $5 million, beyond the required contribution, to pay down a portion of the City's Unfunded Liability.[121] The City estimates that this payment will result in $4.3 million of net savings over the long-term.[122]

The City of San Mateo made additional payments to CalPERS of $1.375 million in FY 2016-17 and $1.4 million in FY 2017-18. The City's proposed 2018-20 budget recommends continued additional payments to CalPERS out of the general fund in the amounts of $1.625 million in FY 2018-19 and an additional $14 million thereafter over the course of approximately the next 10

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[115] Ibid.
[116] Ibid., pp. 7-8.
[117] Ibid., p. 8.
[118] Torres, Blanca, *San Mateo County cashes in with sale of Circle Star Plaza for $90.1 million*, The San Francisco Business Times, May 20, 2014, <https://www.bizjournals.com/sanfrancisco/blog/real-estate/2014/05/circle-star-plaza-griffin-capital-san-mateo-county.html>.
[119] Ballotpedia, *San Mateo County Sales Tax Increase, Measure A (November 2012)*, <http://ballotpedia/San_Mateo_County_Sales_Tax_Increase,_Measure_A_(November 2012)>. Ballotpedia, *San Mateo County Sales Tax Increase, Measure K (November 2016)*, <https://ballotpedia.org/San_Mateo_County,_California,_Sales_Tax,_Measure_K_(November_2016)>.
[120] Redwood City *Report - FY 2017-18 Mid-Year Budget Study Session*, pp. 20 and 21. Grand Jury Interviews.
[121] Interviews by Grand Jury. San Carlos, *City Council Staff Report*, Item 9.a of April 9, 2018 Agenda Packet, <http://sancarlosca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=2707&Inline=True>.
[122] Ibid.

years.[123] The City does not indicate how much savings is expected to result from these additional payments.

The City of Foster City's preliminary budget for FY 2018-19 calls for an additional payment to CalPERS of $2.1 million, representing 4.3% of its projected general fund operating expenditures budget that year.[124]

(2) Make Contributions to a Reserve.

In the current good financial times, most of the Cities have experienced rising revenues and should be able to set their general fund budgets to yield a surplus of revenues over expenses and put the difference into a general fund reserve to be applied in their discretion against future unanticipated, special, or one-time expenses.[125] A portion of such reserves could be used to manage or smooth payments to CalPERS, consistent with budgetary needs. However, since the Cities retain the right to use these reserves as they deem appropriate, there is no guarantee that these reserves will be applied to pension costs.[126] Payments into a reserve do not reduce the Amortization Costs charged by CalPERS.

Several of the Cities have established reserves out of their general fund budgets that are earmarked for future increased pension contributions.

Menlo Park. The City has established a "Strategic Pension Funding reserve" which, as of June 30, 2017, held assets of $3.2 million. That represents approximately 7 months of its annual pension contribution costs of $5.56 million.[127] Menlo Park's policy is to assign 25 percent of any general fund operating budget surpluses to this pension reserve.[128] Based on its expected general fund operating budget surplus of approximately $2.5 to $3.5 million in FY 2017-2018, this policy will add another $625,000 to $875,000 to the reserve.[129] However, the Strategic Pension Funding reserve currently represents only approximately 10 percent of the City's total general fund reserves[130] and, even assuming continued growth in the Strategic Pension Funding reserve similar to FY 2017-2018, would only modestly help pay for increases in the City's expected pension costs over the next 10 years.[131]

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[123] City of San Mateo, *Proposed 2018-20 Business Plan*, pp. 58 and 67.
[124] City of Foster City, *Preliminary Budget Fiscal Year 2018-2019*, p. 50.
[125] See, for example, City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, pp. 8, 33 – 38; City of San Mateo, *Adopted 2017-18 Budget*, pp. 6, 32, 36; City of Foster City, *Preliminary Budget Fiscal Year 2018-2019*, pp. 47 – 48; City of Belmont, *FY 2018 Budget*, , p. 16, 22; City of Brisbane, Fiscal Years 2016-2017 & 2017-2018, Adopted Two Year Operating Budget, p. 11, <http://www.brisbaneca.org/sites/default/files/City%20of%20Brisbane_1.pdf>; Town of Portola Valley, *Adopted Budget, Fiscal Year 2017-2018*, p. 4, <http://www.portolavalley.net/home/showdocument?id=10921>; Town of Hillsborough, FY 2017-18 Adopted Budget, p. 26; Town of Hillsborough, *FY 20187-19 Proposed Budget*, p. 95.
[126] Interviews by Grand Jury.
[127] Appendix A.
[128] City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, p. 48.
[129] Interviews by Grand Jury.
[130] City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, p. 49.
[131] Menlo Park expects its pension costs to almost double to $10.14 million per year by FY 2027-28. City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, p. 48.

Half Moon Bay. The City has established a pension stabilization fund.[132] As of June 30, 2017, the City reported having approximately $1 million in the fund[133] and its FY 2017-2018 budget provides for the transfer of another $0.51 million into the fund.[134] This would bring the fund total to slightly more than $1.5 million by the end of FY 2017-2018. When compared to Half Moon Bay's pension costs of $0.59 million in FY 2016-2017,[135] a $1.5 million pension stabilization fund represents a reasonable start to the city's preparations for rising pension costs. It compares favorably to Menlo Park's pension reserve, which holds only approximately 7 months' worth of pension costs.[136] In contrast, Half Moon Bay's fund holds the equivalent of well over 2 years of pension costs.

The City of San Mateo. The city's long-term budget calls for funding an $8.95 million pension cost reserve, with $1.4 million to be contributed in FY 2017-2018 and additional annual amounts thereafter equal to 50 percent of certain budget surpluses.[137] The City of San Mateo's annual pension costs were over $17.5 million in FY 2016-2017,[138] so this reserve amount for pension costs is modest.

South San Francisco. The city reports that it established a "CalPERS Stabilization Reserve" with an initial amount of $3.99 million in FY 2015-2016. It funded this reserve with another $509,104 in FY 2016-2017 and projects funding it with an additional $586,968 in FY 2018-2019, for a combined total of approximately $5.1 million. [139] This $5.1 million total would represent 27.3 percent of the City's $18.7 million in unassigned reserves as of June 30, 2017[140] and roughly 5 months' worth of its FY 2016-2017 pension costs of $13.3 million.[141]

Brisbane. The City of Brisbane reports having adopted a policy of allocating 40 percent of unanticipated ending fund balance to be used to be set aside to pay for unfunded pension and OPEB obligations.[142]

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132 City of Half Moon Bay, *FY 2017-18 Adopted Operating Budget*, pp. 68, 71 and 224, <https://www.half-moon-bay.ca.us/DocumentCenter/View/940>.

133 City of Half Moon Bay, California, Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2017, p. 102, <https://www.half-moon-bay.ca.us/DocumentCenter/View/1341>.

134 City of Half Moon Bay, *FY 2017-18 Adopted Operating Budget*, pp. 69 and 71.

135 Appendix A.

136 Menlo Park's pension costs in FY 2016-17 were approximately $5.6 million. Appendix A.

137 City of San Mateo, *Adopted 2017-18 Budget*, pp. 54 and 117, <https://www.cityofsanmateo.org/DocumentCenter/View/60043>.

138 Appendix A.

139 South San Francisco, Letter from City of South San Francisco to Grand Jury, dated June 11, 2018. City of South San Francisco, *FY 2018-19 Addendum to Adopted FY 20187-19 Biennial Operating Budget*, p. B-5. City of South San Francisco, *FY 2018-19 Operating Budget Study Session*, May 23, 2018, p. 28. City of South San Francisco, *Adopted Biennial Operating Budget and Capital Improvement Program Fiscal Years 2017-19*, p. D-5, <http://www.ssf.net/home/showdocument?id=2027>.

140 City of South San Francisco, Letter from South San Francisco to Grand Jury, dated June 7, 2018.

141 Appendix A.

142 Brisbane, Letter from City of Brisbane to Grand Jury, dated June 11, 2018. The City's letter does not disclose the estimated amounts that might be set aside as a result of this policy.

(3) Establish IRS Section 115 non-revocable trusts.

The Cities can also put reserves that are set aside for pension costs into non-revocable trusts under Section 115 of the Internal Revenue Code. Contributions to Section 115 trusts are voluntary and can be made as city budgets allow. Funds in such trusts can only be used to pay pension costs.[143] As with ordinary reserves, the Cities can use funds in Section 115 trusts to manage or smooth payments to CalPERS, consistent with their budgetary needs.[144] The non-revocable feature assures employees, retirees and taxpayers that the funds will be used for pension costs. Another advantage of Section 115 trusts is that they offer different investment choices and risk profiles[145] which can yield higher rates of Return on Investments than the rates available to the Cities for their general fund reserves.[146] Payments into a reserve do not reduce the Amortization Costs charged by CalPERS.

In January 2018 Redwood City deposited $10.5 million into a Section 115 trust,[147] representing approximately 7 months of its annual pension costs of $17.7 million in FY 2016-2017.[148] Redwood City's finance group has recommended that the City deposit $1.1 million per year from general fund reserves into the Section 115 trust over the 5-year period from and including FY 2018-2019 through FY 2022-2023.[149] This $1.1 million per year would represent slightly less than 50 percent of the estimated $2.5 million per year increase in pension costs that Redwood City is likely to experience.[150] In FY 2016-2017, the Redwood City Council adopted a general fund reserve policy, where the unreserved portion of the general fund's balance would be 15 percent of anticipated general fund revenues. Any excess balance above a 15 percent reserve threshold would be utilized to fund a Section 115 Trust Account to help pay pension expenses.[151]

In October 2017 Burlingame contributed $3.7 million into a Section 115 trust for the purpose of paying pension obligations and, approximately six months later, an additional $1 million.[152] The

[143] CalPERS, Finance and Administration Committee, *Proposed California Employers' Pension Prefunding Trust (CEPPT) Legislation*, February 17, 2016, pp. 1-2, 4, <https://www.calpers.ca.gov/docs/board-agendas/201602/financeadmin/item-6a-00.pdf>.
[144] Ibid.
[145] Ibid.
[146] The City of Menlo Park notes that, if it moves funds in its Strategic Pension Funding reserve into a Section 115 trust, it would expect to earn returns on those assets of approximately 4 percent per year, as compared to the approximately 1 percent per year it earns on general fund reserves to due restrictions imposed on available investments for general fund reserves. City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, p. 48.
[147] Redwood City *Report – FY 2017-18 Mid-Year Budget Study Session*, p. 10. City of Redwood City, *Fiscal Year 2017-2018Adopted Budget*, Budget Message, pp. 13 and 28, <http://webapps.redwoodcity.org/files/finance/main/1.-Redwood-City-CA-Adopted-FY-17-18-Budget-.pdf>.
[148] Appendix A.
[149] City of Redwood City, *Fiscal Year 2018-2019 Recommended Budget*, p. 174, <http://www.redwoodcity.org/home/showdocument?id=15124>.
[150] Table No. 7.1, above shows that Redwood City's pension costs (Miscellaneous and Safety plans) are projected to increase by $20.1 million between FY 2016-17 and FY 2024-25. $20.1 million / 8 years = $2.5 million in increases per year.
[151] City of Redwood City, 2017 CAFR, p. v of Letter of Transmittal.
[152] Letter from City of Burlingame to Grand Jury, dated June 7, 2018. Augustine, Carol, Staff Report to Burlingame City Council, March 14, 2018, pp. 11 and 12.

City's proposed FY 2018-19 budget recommends contributing another $3.4 million to the Section 115 trust,[153] which would bring total funds in the trust to $8.1 million. The City's five-year forecast projects ongoing annual contributions to the Section 115 trust in the amounts of $2.7 million in FY 2019-20, $2.1 million in FY 2020-21, $1.5 million in FY 2021-22 and $1.21 million in FY 202-23.[154] If the additional FY 2018-19 contribution of $3.4 million is made, the $8.1 million total Section 115 trust amount would represent 29 percent of Burlingame's projected total general fund reserves of $28.19 million at the end of FY 2017-2018, of which $9.15 million will be unassigned[155] and approximately 19 months' worth of its $5.3 million in pension costs in FY 2016-2017.

The City of Brisbane also reports having recently established a Section 115 trust to help pay any unexpected increases in pension payment obligations. The City's financial plan calls for it to put aside funding for additional payments into the 115 trust.[156]

(4) Negotiate Cost-Sharing Arrangements with Employees.

The Cities can reduce their pension costs through cost-sharing agreements with employees under which employees agree to pay a portion of the Cities' Normal Costs. For example, the City of Menlo Park has negotiated cost-sharing agreements with non-sworn employees under which those employees will pay an additional amount equal to 50 percent of the City's future pension cost increases and agreements with sworn employees under which they will pay a portion of the City's pension costs equal to 3 percent of total payroll.[157] Redwood City has also negotiated cost-sharing agreements with employees under which those employees pay a portion of the City's Normal Costs,[158] as have Atherton,[159] Burlingame,[160] Hillsborough,[161] and Millbrae.[162]

(5) Pension Obligation Bonds (POBs).

Another option is to accelerate repayment of Unfunded Liabilities with the proceeds of pension obligation bonds issued by the City. Where the interest rate being charged by CalPERS on Unfunded Liabilities is higher than the interest rate on the bonds, this can result in savings for a City. For example, in FY 2003-2004, Daly City issued $36.2 million in pension obligation bonds and applied the proceeds to reduce its Unfunded Liabilities. At the time, CalPERS was charging annual interest of 8.25 percent on Unfunded Liabilities and the interest on the bonds was only 5.973 percent. According to Daly City, the difference between the interest rate charged by

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153 Burlingame, Letter from City of Burlingame to Grand Jury, dated June 7, 2018.
154 Burlingame, Email from City of Burlingame to Grand Jury, dated June 9, 2018. See also, Augustine, Staff Report March 14, 2018, p. 48 for information on the portion of these payments that will be made out of the general fund.
155 City of Burlingame, *Fiscal Year 2017-18 Adopted Budget*, p. xiii**.**
156 Brisbane, Letter from City of Brisbane to Grand Jury, dated June 11, 2018. The City's letter does not disclose the amount(s) contributed into its Section 115 Trust.
157 City of Menlo Park, *Adopted Budget, Fiscal Year 2017-18*, p. 48.
158 Redwood City *Report - FY 2017-18 Mid-Year Budget Study Session*, p. 10.
159 Town of Atherton, *Fiscal Year 2017/18 Operating & Capital Improvement Budget*, p. 4, <http://www.ci.atherton.ca.us/ArchiveCenter/ViewFile/Item/2535>.
160 City of Burlingame, *Fiscal Year 2017-18 Adopted Budget*, p. xviii.
161 Interviews by Grand Jury.
162 City of Millbrae, Letter from City of Millbrae to Grand Jury, dated June 11, 2018.

CalPERS, and the lower rate paid to bondholders, resulted in $7 million in net present value savings.[163] However, these bonds did not solve Daly City's pension problems. As of June 30, 2017, Daly City had a remaining unpaid balance of $22.8 million on these bonds, which mature on August 1, 2022.[164] In evaluating Daly City's total Unfunded Liabilities and pension costs in Appendix A, the reader should take into account that Appendix A does not reflect Daly City's outstanding balance on the bonds, nor the annual costs of repayments of principal and interest on the bonds (which totaled approximately $3.54 million in FY 2016-2017).[165] If these amounts were included, then Daly City's FY 2016-2017 Unfunded Liabilities in Appendix A would rise from $139.86 million to $162.66 million and its annual pension costs would rise from $11.63 million to $15.17 million. Daly City's interest payments on the bonds, however, do remain lower than the interest it would otherwise have had to pay on Unfunded Liabilities.

In 2013, the City of San Bruno issued $13.2 million in pension obligation bonds.[166] The City of Brisbane issued $4.7 million in pension obligation bonds in 2006 and took out a $1.6 million loan in 2013 to pay off certain pension obligations,[167] and the City of Burlingame issued $33 million in pension obligation bonds in 2007.[168]

An analysis of the risks and benefits of pension obligation bonds is beyond the scope of this report. See the Government Finance Officers Association's analysis of pension obligation bonds for an analysis of the reasons not to issue such bonds.[169]

(6) Shorten Amortization Periods.

The Cities may instruct CalPERS to shorten the Amortization Period of their Unfunded Liabilities. That would increase their contribution costs in the short-term but decrease aggregate interest costs over the long-term.[170] Such a decision, however, is irrevocable. Once it has shortened an Amortization Period at the request of an Agency, CalPERS will not subsequently increase it at the request of the Agency.[171] The City of Palo Alto, although outside the borders of the county, has stated that it is looking at this option.[172] In essence, asking CalPERS to shorten

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163 City of Daly City, *Comprehensive Biennial Operating and Capital Budget, Fiscal Years 2017 and 2018*, p. 25, <http://www.dalycity.org/Assets/Departments/Finance+and+Administration/Operating+Budget+2017-2018.pdf>.
164 City of Daly City, 2017 CAFR, p. 15.
165 City of Daly City, 2017 CAFR, p. 53.
166 City of San Bruno, *Fiscal Year 2013-14 City Council Adopted General Fund, Enterprise Funds, Internal Service Funds and Special Revenue Funds Operating Budget*, p. K-4, https://www.sanbruno.ca.gov/civicax/filebank/blobdload.aspx?BlobID=23046
167 City of Brisbane, 2014 CAFR, pp. 54, 55 and 59, <http://brisbaneca.org/sites/default/files/brisbane%20cafr%20ocr.pdf>.
168 City of Burlingame, 2010 CAFR, p. 60, <https://www.burlingame.org/document_center/Finance/Comprehensive%20Annual%20Financial%20Reports/CAFR%2009-10.pdf>. City of Burlingame, *Fiscal Year 2017-18 Adopted Budget*, p. x.
169 League of California Cities, *2018 Retirement System Sustainability Study*, pp. 6 and 33.
170 Lin, Bianca and Yam, Wai Man, *City of Menlo Park Miscellaneous and Safety Plans, CalPERS Actuarial Issues – 6/30/15 Valuation Preliminary Results*, Bartel Associates LLC, May 2, 2017, p. 48.
171 Interviews by Grand Jury.
172 Keene, James, Palo Alto City Manager, Letter to Tamara L. Davis, Deputy Manager, Jury Services, Santa Clara County Civil Grand Jury, January 30, 2017, p. 1, (Updated response to 2011-12 Santa Clara County Civil Grand

the Amortization Period is a more structured way to achieve the same goal as making supplemental contributions to CalPERS beyond the required contribution. CalPERS has announced that it will be phasing in a 20-year amortization schedule for all member Agencies.[173] However, Agencies remain free to elect more aggressive reductions in their Amortization Periods.

(7) Keep Salary Increases Within the Rate Assumed by CalPERS.

Calculations of future Benefit obligations are based, in part, on assumptions CalPERS makes about future salary increases by the Cities. Cities can impact the size of their contribution payments over time by ensuring that future employee salary increases do not exceed CalPERS's assumed amounts.

(8) Reduce Operating Costs.

Painful though it may be, the Cities can reduce operating costs to create additional reserves, which they could then apply to pension costs. Redwood City's finance group has warned of "future recessionary impacts that loom in the future" [174] and notes that, to meet these challenges, it recommends reducing operating costs by $3.7 million in the FY 2018-2019 budget (primarily through reductions in budgeted headcount, including police and firefighters) and another $2.3 million in FY 2019-2020.[175] Indeed, Redwood City's finance group stated that rising pension costs are the biggest factor driving the city's efforts to reduce operating costs.[176]

Daly City describes its increasing pension costs as a "major challenge for the City's budget in coming years."[177] It is in the process of cutting operating costs through, among other things, a freeze on filling six vacant police officer positions and eliminating nine firefighter positions through attrition. Daly City notes that its general fund has a structural budget deficit of approximately $6 million in the biennial budget for FY 2016-2017 and 2017-2018 and that it is drawing down existing general fund reserves to close this budget gap.[178] The Town of Colma notes that "Rising costs of health care and pension rates are placing extraordinary pressure on the fiscal health of most California municipalities, including the Town of Colma" and, among other responses to this pressure, has elected to terminate its retiree health premium payments programs for all employees hired after January 1, 2017.[179]

Jury report, *An Analysis of Pension and Other Post-Employment Benefits*), <http://www.scscourt.org/court_divisions/civil/cgj/2012/responses/pension/02.03.17%20Response%20-%20Palo%20Alto.PDF>.

[173] League of California Cities, *CalPERS Board Reduces Amortization Policy*. Lowe and Rogers, *CalPERS Reduces Amortization Period with Impacts to Employer Contribution Rates*. CalPERS Actuarial Office, *Finance and Administration Committee, Agenda Item 7a*. Jacobius, Arleen, *CalPERS shortens amortization period to 20 years*.

[174] Redwood City, *Report - FY 2017-18 Mid-Year Budget Study Session*, pp. 7 and 11.

[175] City of Redwood City, *Fiscal Year 2018-2019 Recommended Budget*, pp. 9, 18 and 19.

[176] Interviews by Grand Jury.

[177] City of Daly City, *Adopted Comprehensive Biennial Operating and Capital Budget, Fiscal Years 2017 and 2018*, p. 26.

[178] Ibid., at p. 7.

[179] Town of Colma, *FY 2017-18 Adopted Budget*, p. 8.

(9) Seek New Revenue.

Although raising additional revenues for the purpose of paying down pension obligations may be difficult, it may still be possible for the Cities to supplement their funding of services through new revenue sources to protect them from cuts that might otherwise have to be made to pay rising pension costs. Redwood City's finance group notes that the City has increased revenues by approximately $2 million per year through higher development fees and that it is in the process of developing a phased approach to cannabis regulation as a result of which it expects to generate at least $0.3 million a year in additional taxes.[180] Redwood City is also exploring the possibility of implementing new solid waste fees to support street sweeping and parking enforcement services. The city's finance group concludes that: "Without new revenues, staff projects deficits beginning in FY 2019-20."[181] These deficits are projected to reach $6.6 million per year in the general fund budget by FY 2022-2023.[182] In November 2016, Daly City residents voted on Measure V, a five-year supplemental parcel tax of $162 per parcel for the purpose of restoring police and fire personnel and related operational costs. Measure V was defeated by a vote of 53 to 47 percent.[183]

Measures That Appear Unavailable at this Time.

Several more obvious strategies appear to be off the table at this time:

(a) Renegotiating employee pension formulas.

As described in BACKGROUND (pages 12-13), the California Rule, a California Supreme Court interpretation of the state constitution, appears to prohibit even prospective reductions in pension Benefits for existing employees. As noted, cases challenging that interpretation are currently before the California Supreme Court. In the event that the Supreme Court loosens the California Rule, local jurisdictions may be able to renegotiate pension Benefits with their employees. Under PEPRA, Benefits for "New Members" hired after January 1, 2013, are much lower than for the "Classic Members" hired prior to that date. The California League of Cities "supports a change in state law or judicial precedent to allow employers to negotiate plan changes with classic CalPERS members" and suggests "converting all currently deemed "Classic" employees to the same provisions (Benefits and employee contributions) currently in place for "PEPRA" employees for all future years of service."

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[180] Redwood City, *Report - FY 2017-18 Mid-Year Budget Study Session*, p. 12.
[181] Ibid.
[182] City of Redwood City, *Fiscal Year 2018-2019 Recommended Budget*, p. 174.
[183] Ballotpedia, *Daly City, California, Parcel Tax for Police and Fire Departments, Measure V (November 2016)*, <https://ballotpedia.org/Daly_City,_California,_Parcel_Tax_for_Police_and_Fire_Departments,_Measure_V_(November_2016>.

(b) Adopting a defined contribution pension plan for new employees.

As noted in BACKGROUND (page 4), defined contribution (as opposed to defined benefit) plans such as 401k plans relieve municipalities of the risks and uncertainties of below-projected investment returns and other assumptions about the future (for example, mortality rates). A large percentage of private companies have now adopted this approach[184] but they may be compensating for this, at least in part, with salaries that are greater than public agency salaries. As of 2009, only 7 percent of private-sector employees had their sole pension plan in the form of a defined benefit plan, down from 62 percent in 1975.[185] The Cities could achieve much greater certainty with respect to future pension costs if they could switch to a defined contribution plan for new employees. However, CalPERS does not currently offer defined contribution plans as an option for its member agencies and it requires that all new employees of the member Agencies participate in CalPERS' pension plans.[186] As a result, the Cities could only offer defined contribution plans to new employees in addition to, rather than in place of, existing pension plans with the result that defined contribution plans would increase, rather than reduce, overall costs for the Cities. In addition, offering only defined contribution plans could put the Cities at a significant employee recruiting and retention disadvantage compared to private industry unless the Cities increased salaries to rates more competitive with private industry.

(c) Withdrawing from CalPERS.

Several cities have considered the possibility of withdrawing from CalPERS altogether in order to have more flexibility and visibility into their future pension costs. However, CalPERS' termination payment requirements are prohibitive. [187] The City of Palo Alto determined that, in order to leave CalPERS, it would first need to "immediately deposit" in excess of $1 billion to the CalPERS Pension Trust, and then establish a new deferred compensation plan for employees.[188] A City of San Carlos official advised the Grand Jury that withdrawal from CalPERS is effectively "impossible" because of the high termination fees imposed by CalPERS.

Conclusion.

Most of the Cities do not yet appear to have adopted a long-term financial plan to address their rising pension costs. They have not adopted target Funded Percentages for their plans, dates for achieving them, or plans for monitoring progress against their targets. Thus far, they have not made it a priority to provide clear, regular and public disclosure to their residents of their future projected pension costs and Unfunded Liabilities, nor the cuts in services that they will make, or

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[184] Since 1980, when participation in defined benefits plans was at its peak in the United States, 30.1 million people participated in defined benefit plans. That number has dropped by 40 percent over the past 30 years. Money-Zine, *Defined Benefit versus Contribution Plans*, July 5, 2017, p. 2, <https://www.money-zine.com/financial-planning/retirement/defined-benefit-versus-contribution-plans/>.
[185] Nation, *Pension Math* 2011, p. 3, footnote 11.
[186] Interviews by Grand Jury.
[187] Interviews by Grand Jury.
[188] Keene, James, Palo Alto City Manager, Letter to Tamara L. Davis.

increases in revenues they will seek, in response to rapidly increasing pension costs. Where projected pension costs are disclosed, they are often based on CalPERS projections for returns on investment that some experts argue are optimistic, and residents are not apprised of the potential for far greater costs should another recession occur, or other CalPERS assumptions prove inaccurate.

The steps necessary to address the pension crisis are unpleasant to think about, much less implement. Indeed, some of the Cities have advised the Grand Jury that, while important, amortization of Unfunded Liabilities must be balanced against "other priorities" for new spending.[189] While the Grand Jury understands the desire on the part of the Cities to expand city services in these times of economic growth and increasing property tax revenues, it is difficult to think of a more important issue for the Cities to focus on than the looming pension crisis. Currently, the county enjoys good economic conditions. Its unemployment rate recently dropped to 2.1 percent.[190] Many of the Cities are experiencing rising revenues.[191] If the Cities do not address Unfunded Liabilities in a decisive way now, when will they ever be able to? The next recession may well reduce CalPERS' Returns on Investment below their projected level, resulting in even larger Unfunded Liabilities and higher pension costs. The next recession may also reduce or eliminate the Cities' budget surpluses, making it harder for them to cope.[192] Now is the time for the Cities to engage their residents in the issue and, with the residents' support, take the difficult actions necessary to secure a bright future for their communities.

FINDINGS

F1. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported covered payroll for the City's pension plans in the amount set forth beside its name for that year in Appendix A.

F2. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported contribution payments to CalPERS on the City's pension plans in the amount set forth beside its name for that year in Appendix A.

F3. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported Unfunded Liabilities (as defined in this report) for the City's pension plans in the amount set forth beside its name for that year in Appendix A. Each City has been required to make large Amortization Cost (as defined in this report) payments of principal and interest to CalPERS on those Unfunded Liabilities. These payments have diverted money that could otherwise have been used to provide public services or to add to reserves.

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[189] Interviews by Grand Jury.

[190] Glover, Mark, *California sets a new record for lowest unemployment rate*, The Sacramento Bee, January 19, 2018, <www.sacbee.com/news/business/article/195571634.html>.

[191] See footnote 125 above.

[192] Redwood City notes that the current expansion phase of the economy has now lasted for eight years, and that, historically, expansionary cycles only last an average of five years. It cautions that the economy is in a "late stage of expansion" and that prudent long-term budgeting requires the city to "proactively prepare for future recessionary impacts that loom in the future." Redwood City, *Report - FY 2017-18 Mid-Year Budget Study Session*, p. 11.

F4. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported Funded Percentages (as defined in this report) for the City's pension plans in the amount set forth beside its name for that year in Appendix A.

F5. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported what the Unfunded Liabilities (as defined in this report) for the City's pension plans would have been if the applicable Discount Rate applied to calculate them had been 1 percentage point lower in the amount set forth beside its name for that year in Appendix A.

F6. Each City's CAFR for the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017 reported general fund total expenditures for that year in the amount set forth beside its name for that year in Appendix A.

F7. In each of the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017, each City's contribution payments to CalPERS on the City's pension plans represented the percentage of that City's general fund total expenditures for that year set forth beside its name for that year in Appendix A in the column entitled "Contribution Payments as % of General Fund Total Expenditures."

F8. In each of the fiscal years ending June 30, 2015, June 30, 2016 and June 30, 2017, each City's contribution payments to CalPERS on the City's pension plans represented the percentage of that City's covered payroll for the City's pension plans in the amount set forth beside its name for that year in Appendix A in the column entitled "Contribution Rate (i.e., Contribution Payments as % of Covered Payroll)."

F9. In FY 2017-2018, each City (excluding Atherton, Colma, Foster City, Hillsborough, Portola Valley and Woodside) has paid CalPERS for its Normal Costs (as defined in this report) and Amortization Costs (as defined in this report) in the amounts set forth beside its name on Table No. 4. (The Cities of Atherton, Colma, Foster City, Hillsborough, Portola Valley and Woodside are not included in Table No. 4 because the source for that table did not included data for them.)

F10. As a result, among other things, of CalPERS' decreasing its Discount Rate from 7.5 percent to 7 percent by FY 2020-2021, its reduction of future Amortization Periods from 30 to 20 years, and its use of updated mortality assumptions reflecting projected increases in the longevity of Members, each City faces increasing pension contribution payments to CalPERS which are likely to more than double by FY 2024-2025.

F11. Principal and interest payments on each City's Unfunded Liabilities will increasingly impair such City's provision of public services, impair the security of employee salary and pension Benefits, and/or result in proposals for revenue increases. Paying down Unfunded Liabilities early results in large savings. Every City in the county would save substantial money by paying down their Unfunded Liabilities early.

F12. The financial documents for each City reviewed by the Grand Jury show that no City has adopted a long-term financial plan with at least a 10-year time horizon to address rising Normal Costs and Amortization Costs that includes each of the following:

- objectives, such as achieving a target Funded Percentage, eliminating the Unfunded Liabilities over "n" years or maintaining the cities' share of Normal Costs below "n" percentage of payroll,
- policies to achieve these objectives, such as making supplemental payments to CalPERS to reduce their Unfunded Liability, keeping salary increases below the actuarially assumed increase rate, capping the cities' share of Normal Costs, reducing operational costs or increasing revenue,
- measures to implement such policies,
- processes to monitor progress in implementing the measures, and
- alternative financial strategies, or a "Plan B," that may be used in the event that CalPERS' assumptions are not met in future years.

F13. Despite the fact that rising pension costs and Unfunded Liabilities are a significant problem for each City, no City (except for Redwood City, the City of San Mateo, the City of Burlingame, the City of Belmont and the City of Menlo Park) includes specific, annual projections of future pension contribution costs in their budgets published in the finance section of their websites.

RECOMMENDATIONS

R1. The Grand Jury recommends that, by December 31, 2018, each City schedule public hearings to engage its residents in addressing the city's increasing pension costs and to develop a long-term plan to address them.

R2. The Grand Jury recommends that, by December 31, 2018, and annually thereafter, each City publish a report on its website detailing its pension obligations. The report should include, at a minimum, the following:

a) The City's total pension contribution costs under all plans, and also broken out into subtotals for all Miscellaneous Plans, and all Safety Plans, for each of the 3 preceding fiscal years as well as estimates for such costs in each of the following 10 fiscal years, assuming CalPERS' actuarial assumptions are met.

b) The City's total Unfunded Liabilities under all plans, and also broken out into subtotals for all Miscellaneous Plans, and all Safety Plans, for each of the 3 preceding fiscal years as well as estimates for such Unfunded Liabilities in each of the next 10 fiscal years, assuming CalPERS' actuarial assumptions are met.

c) The City's Funded Percentage across all plans, and also broken out into subtotals for all Miscellaneous Plans, and all Safety Plans, for each of the 3 preceding fiscal years as well as estimates for such Funded Percentages in each of the next 10 fiscal years, assuming CalPERS' actuarial assumptions are met.

d) The percentage of the City's general fund expenditures and covered payroll represented by the pension costs described in (a) above (using estimates of general fund expenditures in future fiscal years).

e) In addition, estimated information for all projections regarding the next 10 fiscal years set forth in items (a) through (e) above should be presented using a Discount Rate that is 1 percentage point below CalPERS' then-current Discount Rate.

R3. The Grand Jury does not recommend specific policies or implementation measures to address pension costs. However, it recommends that, by no later than December 31, 2018, and annually thereafter, each City instruct its staff to deliver a report to the City Council in connection with the City's financial plan evaluating available options to address pension costs and that each City hold public hearings to discuss and consider such options no less than every other fiscal year. These include (but may not be limited to):

- Regular supplemental payments to CalPERS (beyond those required by CalPERS) to accelerate the amortization of their Unfunded Liabilities.
- Irregular supplemental payments to CalPERS (beyond those required by CalPERS), as when a City has a budget surplus or receives special non-recurring revenues.
- Electing to apply shorter Amortization Periods (that is, less than 20 years) to their Unfunded Liabilities.
- Issuing pension obligation bonds.
- Establishing substantial reserves that can be applied in the future to help meet rising pension costs and/or accelerate amortization of Unfunded Liabilities.
- Establishing Section 115 trusts for the exclusive purposes of meeting rising pension costs and/or accelerating amortization of Unfunded Liabilities.
- Reductions in general fund operating costs other than pensions.
- Seeking additional general fund revenues that can be applied directly to paying pension costs or that can offset general fund budget shortfalls that would otherwise occur.
- Keeping employee salary increases at or below the levels assumed by CalPERS.
- Negotiating cost-sharing agreements with employees under which employees pay a portion of the City's pension costs (without at the same time agreeing to offsetting compensation increases).
- Maintaining growth in employee salaries and COLAs at or below the assumed CalPERS rates.
- To the extent allowed by law, consider the recommendation of the League of California Cities to renegotiate employee contracts to bring the pension Benefits of Classic Members in line with PEPRA Members, for future work. In particular, ensure that the salary used to determine final retirement compensation is based on the average of the final 3 years of employment (rather than highest 1 year), and that the salary is not enhanced by "spiking," such as by including overtime, unused vacation or sick leave, purchases of "air time," and the like.

R4: The Grand Jury recommends that, by June 30, 2019, each City develop and publish a long-term financial plan to deal with rising pension costs, and update that plan annually. Such a plan should include:

- Specific objectives, such as identifying a target Funded Percentage, eliminating the Unfunded Liabilities over "n" years and maintaining the City's share of Normal Costs at "n" percentage of payroll.
- Policies to achieve these objectives.
- Specific measures to implement the policies.
- A process to monitor progress in implementing the measures and in achieving the objectives.
- Consideration of alternative policies and measures, or a "Plan B," that may be used in the event that CalPERS's actuarial assumptions, especially the Discount Rate, are not met in future years.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests that the City Councils of each of the following respond to the foregoing Findings and Recommendations referring in each instance to the number thereof:

- The Town of Atherton
- The City of Belmont
- The City of Brisbane
- The City of Burlingame
- The Town of Colma
- The City of Daly City
- The City of East Palo Alto
- The City of Foster City
- The City of Half Moon Bay
- The Town of Hillsborough
- The City of Menlo Park
- The City of Millbrae
- The City of Pacifica
- The Town of Portola Valley
- The City of Redwood City
- The City of San Bruno
- The City of San Carlos
- The City of San Mateo
- The City of South San Francisco
- The Town of Woodside

In responding to the foregoing Findings and Recommendations, each city and town should understand references to “[E]ach City” as referring only to itself. No city or town should be responding as to an entity other than itself.

METHODOLOGY

The Grand Jury reviewed each of the documents listed in “BIBLIOGRAPHY” below.
In addition, the Grand Jury interviewed representatives of 6 of the Cities, the County, and an independent public pensions expert.

APPENDIX A – CITIES' PENSION DATA

(Based on the Cities' Annual Financial Reports for FY 2014-2015, FY 2015-2016 and FY 2016-2017)

All dollar amounts in thousands.

CITIES	Fiscal Year	Covered Payroll	Contribution Payments	Contribution Rate (i.e., Contribution Payments as % of Covered Payroll)	Unfunded Liability	Funded Percentage	Unfunded Liability if Discount Rate Is Reduced 1 Percentage Point	General Fund Total Expenditures	Contribution Payments as % of General Fund Total Expenditures*
Atherton	2016-2017	**$4,327**	**$1,155**	**26.7%**	**$13,982**	**74.3%**	**$21,344**	**$11,437**	**10.1%**
	2015-2016	$4,261	$617	14.5%	$10,674	80.4%	$17,326	$10,611	5.8%
	2014-2015	$3,988	$826	20.7%	$9,253	81.9%	$16,088	$11,622	7.1%
Belmont	2016-2017	**$15,198**	**$3,582**	**23.6%**	**$32,835**	**72.0%**	**$48,680**	**$18,344**	**19.5%**
	2015-2016	$11,794	$4,191	35.5%	$26,626	76.2%	$41,855	$16,800	24.9%
	2014-2015	$14,176	$2,788	19.7%	$25,059	76.7%	$39,412	$16,777	16.6%
Brisbane	2016-2017	**$7,916**	**$1,713**	**21.6%**	**$18,227**	**74.8%**	**$27,989**	**$15,521**	**11.0%**
	2015-2016	$7,101	$883	12.4%	$13,952	79.9%	$23,410	$14,850	5.9%
	2014-2015	6,152	1,153	18.7%	12,074	82.2%	$21,119	$13,247	8.7%
Burlingame	2016-2017	**$18,617**	**$5,294**	**28.4%**	**$57,694**	**73.4%**	**$86,051**	**$49,707**	**10.7%**
	2015-2016	$17,654	$3,840	21.8%	$46,987	77.8%	$75,062	$47,459	8.1%
	2014-2015	16,713	3,822	22.9%	41,762	80.1%	$69,042	$44,405	8.6%
Colma	2016-2017	**$4,031**	**$1,048**	**26.0%**	**$9,449**	**74.2%**	**$14,008**	**$13,323**	**7.9%**
	2015-2016	$3,749	$937	25.0%	$7,747	74.7%	$11,969	$13,410	7.0%
	2014-2015	$3,604	$939	26.1%	$6,885	76.1%	$10,724	$12,948	7.3%
Daly City	2016-2017	**$40,070**	**$11,631**	**29.0%**	**$139,861**	**75.7%**	**$213,918**	**$77,139**	**15.1%**
	2015-2016	$42,608	$12,081	28.4%	$112,195	80.0%	$185,217	$79,062	15.3%
	2014-2015	42,226	8,862	21.0%	99,631	81.9%	$169,965	$72,649	12.2%
East Palo Alto	2016-2017	**8,464**	**1,493**	**17.6%**	**9,459**	**74.1%**	**13,750**	**$18,109**	**8.2%**
	2015-2016	$8,408	$1,372	16.3%	$8,112	78.4%	$12,086	$17,735	7.7%
	2014-2015	7,926	1,477	18.6%	7,856	70.6%	$11,417	$16,524	8.9%
Foster City	2016-2017	**$19,875**	**$7,209**	**36.3%**	**$69,207**	**68.7%**	**$98,575**	**$36,416**	**19.8%**
	2015-2016	$18,724	$5,294	28.3%	$56,390	76.7%	$84,686	$33,048	16.0%
	2014-2015	17,696	4,552	25.7%	50,458	78.2%	$77,534	$31,322	14.5%
Half Moon Bay	2016-2017	**$2,423**	**$594**	**24.5%**	**$9,502**	**74.6%**	**$14,557**	**$10,418**	**5.7%**
	2015-2016	$2,014	$583	28.9%	$7,319	80.1%	$12,332	$8,781	6.6%
	2014-2015	1,987	529	26.6%	6,736	81.6%	$11,620	$8,352	6.3%
Hillsborough	2016-2017	**$8,661**	**$2,158**	**24.9%**	**$22,387**	**74.5%**	**$34,262**	**$21,224**	**10.2%**
	2015-2016	$9,089	$1,893	20.8%	$17,187	80.2%	$28,063	$19,693	9.6%
	2014-2015	8,625	1,605	18.6%	14,770	79.8%	$25,822	$18,721	8.6%

*Note: Covered Payroll amounts in CAFRs may include compensation paid to certain employees whose activities are not accounted for as part of General Fund activities, and their compensation would not be included in General Fund Total Expenditures. As a result, the percentage of General Fund Total Expenditures represented by Covered Payroll may somewhat overstate the percentage represented by General Fund Covered Payroll. Some experts have estimated that this might result in an overstatement of the percentage by 10 – 30 percent, such that a Contribution Payment as a % of General Fund Total Expenditures of 10 percent might actually be somewhere between 7 and 9 percent.

CITIES	Fiscal Year	Covered Payroll	Contribution Payments	Contribution Rate (i.e., Contribution Payments as % of Covered Payroll)	Unfunded Liability	Funded Percentage	Unfunded Liability if Discount Rate Is Reduced 1 Percentage Point	General Fund Total Expenditures	Contribution Payments as % of General Fund Total Expenditures*
Menlo Park	2016-2017	**$23,112**	**$5,565**	**24.1%**	**$50,993**	**74.4%**	**$77,514**	**$47,314**	**11.8%**
	2015-2016	$19,868	$4,747	23.9%	$38,881	79.3%	$64,170	$42,565	11.2%
	2014-2015	19,969	4,228	21.2%	34,371	81.2%	$58,596	$40,581	10.4%
Millbrae	2016-2017	**$6,165**	**$2,335**	**37.9%**	**$42,769**	**74.1%**	**$62,676**	**$25,494**	**9.2%**
	2015-2016	$5,835	$2,064	35.4%	$34,256	78.4%	$53,883	$22,514	9.2%
	2014-2015	6,871	1,400	20.4%	28,989	78.6%	47,979	$18,201	7.7%
Pacifica	2016-2017	**$15,720**	**$3,736**	**23.8%**	**$44,400**	**77.5%**	**$70,650**	**$28,781**	**13.0%**
	2015-2016	$15,000	$2,749	18.3%	$32,841	82.7%	$56,750	$27,358	10.0%
	2014-2015	$14,365	$2,739	19.1%	$28,089	85.0%	$52,855	$25,354	10.8%
Portola Valley	2016-2017	**$1,442**	**$116**	**8.1%**	**$524**	**91.8%**	**$1,382**	**$4,361**	**2.7%**
	2015-2016	$1,072	$84	7.8%	$82	98.6%	$881	$4,303	2.0%
	2014-2015	$993	$1,019	102.6%	$957	83.0%	$1,706	$5,587	18.2%
Redwood City	2016-2017	**$62,098**	**$17,722**	**28.5%**	**$215,202**	**65.7%**	**$298,653**	**$112,142**	**15.8%**
	2015-2016	$57,352	$17,363	30.3%	$177,937	70.1%	$257,798	$101,684	17.1%
	2014-2015	$54,275	$16,467	30.3%	$164,149	71.6%	$240,111	$95,856	17.2%
San Bruno	2016-2017	**$25,173**	**$6,344**	**25.2%**	**$78,198**	**70.7%**	**$114,180**	**$43,244**	**14.7%**
	2015-2016	$21,315	$4,434	20.8%	$61,771	75.6%	$96,281	$38,882	11.4%
	2014-2015	$20,532	$4,979	24.3%	$53,531	78.4%	$86,637	$36,738	13.6%
San Carlos	2016-2017	**$11,047**	**$2,134**	**19.3%**	**$47,009**	**63.3%**	**$64,530**	**$33,182**	**6.4%**
	2015-2016	$10,486	$2,601	24.8%	$40,263	67.3%	$57,293	$41,264	6.3%
	2014-2015	$8,480	$2,296	27.1%	$27,741	75.5%	$42,824	$29,067	7.9%
San Mateo (City)	2016-2017	**$58,645**	**$17,537**	**29.9%**	**$197,822**	**66.2%**	**$271,523**	**$103,992**	**16.9%**
	2015-2016	$52,345	$15,908	30.4%	$168,693	70.1%	$240,459	$95,779	16.6%
	2014-2015	$49,788	$13,860	27.8%	$159,585	71.4%	$228,588	$88,078	15.7%
South San Francisco	2016-2017	**$48,954**	**$13,300**	**27.2%**	**$152,786**	**68.4%**	**$216,103**	**$92,367**	**14.4%**
	2015-2016	$40,396	$13,938	34.5%	$130,042	72.2%	$191,669	$86,795	16.1%
	2014-2015	$34,478	$11,403	33.1%	$124,085	73.2%	$184,305	$76,805	14.8%
Woodside	2016-2017	**$1,996**	**$323**	**16.2%**	**$3,164**	**72.3%**	**$4,702**	**$6,801**	**4.8%**
	2015-2016	$1,809	$409	22.6%	$2,578	75.8%	$4,325	$6,638	6.2%
	2014-2015	$1,640	$389	23.7%	$2,053	79.1%	$3,356	$6,107	6.4%
Totals & Weighted Averages	2016-2017	**$383,935**	**$104,986**	**27.3%**	**$1,215,467**	**70.5%**	**$1,755,047**	**$769,315**	**13.6%**
	2015-2016	$350,879	$95,987	27.4%	$994,535	75.1%	$1,515,516	$729,230	13.2%
	2014-2015	$334,484	$85,335	25.5%	$898,036	76.8%	$1,399,702	$668,939	12.8%

APPENDIX B - HOW TO FIND PENSION DATA IN THE CITIES' CAFRS

Set forth below is a guide to where information compiled in Appendix A can be found in the Cities' CAFRs.

Amount of Employer Contributions to Pension Plans: This information is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule(s) of Contributions" for the pension plans. Sometimes a separate Schedule of Contribution is included for each pension plan, other times only an aggregate number for all plans is given.

Covered Payroll for Pension Plans: This information is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule(s) of Contributions" for the pension plans. Where the CAFR has a separate Schedule of Contributions for each pension plan, it will also show the payroll specific to that plan's employees. Where plan information is aggregated, then the payroll number will also be aggregated.

Amount of Unfunded Liabilities: This information is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule of Proportionate Share of The Net Pension Liability" as "Plan's proportionate share of the Net Pension Liability (Asset)." Note: The amounts given for "covered payroll" in this schedule should not be relied upon as they often apply to the year (either one or two years prior) in which pension assets and liabilities were last measured, rather than the fiscal year covered in the CAFR itself. For information as to covered payroll during the current fiscal year, rely only on the information is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule(s) of Contributions" for the pension plans.

Funded Percentage of Pension Plan. This information is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule of Proportionate Share of The Net Pension Liability" as "Plan's proportionate share of Fiduciary Net Position as a Percentage of Plan's Total Pension Liability." As used in CAFRs, "Fiduciary Net Position" refers to the total assets in the pension plan. Hence, the Funded Percentage of a pension plan is equal to its "Fiduciary Net Position" divided by "Total Pension Liability." The term, "Net Pension Liability" refers to the difference between plan assets ("Fiduciary Net Position") and plan liabilities ("Total Pension Liability"). The amounts given for "covered payroll" in this schedule should not be relied upon as they often apply to the year (either one or two years prior) in which pension assets and liabilities were last measured, rather than the fiscal year covered in the CAFR itself. For information as to covered payroll during the current fiscal year, rely only on the information is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule(s) of Contributions" for the pension plans.

Total Assets, Total Liabilities and Total Unfunded Liabilities of Pension Plan: This information, if provided in the CAFR, is set forth in the "Required Supplemental Information" section of the CAFR, in the "Schedule of Changes in the Net Pension Liability and Related Ratios" as (i) "Plan

Fiduciary Net Position – ending (b)" with respect to plan assets, (ii) "Total Pension Liability – ending (a)" with respect to total plan liabilities, and (iii) "Net Pension Liability – ending (a) - (b)" with respect to unfunded pension liabilities. Note: In many CAFRs the amount of unfunded pension liabilities ("Net Pension Liabilities") and the Funded Percentage of the pension plan are given, but the total assets amount ("Plan Fiduciary Net Position") and the total liabilities amount ("Total Pension Liability") are not given. They can, however, be calculated in the following way. To derive total liabilities, simply divide the Unfunded Liability amount ("Net Pension Liabilities") by 1 minus the Funded Percentage for the fund. To derive total assets ("Plan Fiduciary Net Position") simply subtract the Unfunded Liabilities amount ("Net Pension Liability") from the amount of total plan liabilities ("Total Pension Liability"). Where the aggregate Funded Percentage of all pension plans is not given in a CAFR, it can be derived simply by dividing the sum of all of the plan asset amounts for each plan by the sum of all plan liabilities for each plan.

The following example will demonstrate the foregoing. Assume the CAFR provides the following information:

Net Pension Liability under Miscellaneous Plan is $15 million.
Funded percentage under Miscellaneous Plan is 75%.
Net Pension Liability under Safety Plan is $20 million.
Funded percentage under Safety Plan is 80%.

Accordingly,

Total liabilities under the Miscellaneous Plan are $60 million ($15M net pension liability/ (1-75% Funded Percentage) = $60 million)

Total assets under the Miscellaneous Plan are $35M ($60M total liabilities amount minus $15M net pension liability = $35M)

Total liabilities under the Safety Plan are $100M ($20M net pension liability/ (1-80% Funded Percentage) = $100M)

Total assets under Safety Plan are $80M ($100M total liabilities amount minus $20M net pension liability = $80M)

Total liabilities under all pension plans are $160M ($60M under Miscellaneous Plan and $100M under Safety Plan)

Total assets under all pension plans are $105M ($35M under Miscellaneous Plan plus $80M under Safety Plan

Aggregate Funded Percentage under all plans is 65.6% ($105M aggregate total assets divided by $160M aggregate total liabilities.

Unfunded Liabilities Where Discount Rate Is Increased/Decreased by 100 Points (i.e., 1 percentage point): This information is set forth in the section of "Notes to Basic Financial Statements" describing the pension plans under the heading "Sensitivity of Proportionate Share of Net Pension Liability to Changes in the Discount Rate." It is sometimes provided separately for each pension plan and other times only an aggregate number for all pension plans is given.

General Fund Spending by City: This information is found in the "Government Fund Financial Statements" section of the CAFR in the "Statement of Revenue, Expenditures and Changes in Fund Balances, Governmental Funds for the Year Ended ______".

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STAFF REPORT

City Council
Meeting Date: 9/11/2018
Staff Report Number: 18-176-CC

Regular Business: Provide direction on updated travel policy

Recommendation

Staff recommends that the City Council discuss and adopt an updated travel policy (Attachments A and B.)

Policy Issues

State law authorizes city council members to be reimbursed for travel, meals, lodging, and other actual and necessary expenses. Such reimbursement must be made in accordance with a written policy adopted at a public meeting. The City's current travel policy was last updated March 12, 1991, and applies to both city council members and city employees (Attachment C.)

Background

City-reimbursed travel

Policies for reimbursement of travel related expenses vary from city to city. State law does prescribe some threshold standards, especially as it relates to reimbursement of council member travel. Because of these special restrictions, this report focuses on council member travel. The updated policy though more broadly applies to council members, city employees and other local officials (such as appointed Menlo Park commissioners, city attorney and city manager.)

City council members may be reimbursed for actual and necessary expenses incurred in the performance of official duties.[1] If a city reimburses city council members for such expenses, the city council must adopt at a public meeting a written policy governing payment.[2] In addition, if a city provides any type of compensation or payment of expenses to city council members, then all of the city council members are required to have at least two hours of ethics training every two years.[3]

State law also contains safeguards to ensure that public funds are used efficiently. City council members must use government and group rates offered by a conference or a provider of transportation or lodging services for travel and lodging when available. All expenses that do not fall within the City's travel reimbursement policy or the Internal Revenue Service reimbursable rates must be approved by the City Council, in a public meeting before the expense is incurred. City council members must submit expense reports showing that expenses meet the existing policy together with receipts documenting each expense.

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[1] Government Code Section 36514.5.
[2] Government Code Section 53232.2(b).
[3] Government Code Section 53235.

City Council members must provide brief reports on meetings attended at the expense of the City at the next regular City Council meeting. Finally, all expense reports are public record.[4]

The Institute for Local Government has prepared a sample travel policy to assist local agencies (Attachment F.)

The City of Menlo Park's travel policy was last updated March 13, 1991.

Travel paid for by third parties or by City Council Members

City Council members occasionally pay for travel expenses themselves or accept travel reimbursements from third parties, such as conference sponsors or nonprofits. Travel payments made by third parties are oftentimes characterized as a "gift" under the Political Reform Act ("Act.") The Act defines a gift as "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the pubic without regard to official status."[5]

The Act regulates the receipt of gifts by local officials in three ways. First, the Act prohibits city council members from receiving gifts in excess of $470 from a single source in a calendar year.[6] Second, the Act requires gifts in excess of $50 be reported on a Form 700.[7] Third, State law prohibits city council members from participating in any decisions involving the donor of a gift in excess of $470.[8]

There are certain types of travel payments, however, that are not considered gifts under the Act. If a travel payment falls under one of these exceptions, it may be accepted even though it exceeds the $470 threshold. These exceptions are:

1. Travel from a non-reportable source. A payment for travel from a source that is not reportable on the official's statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official's agency.
2. Travel from government agency for training. A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes.
3. Sharing a ride with another official. A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices.
4. Certain travel from a government agency or 501(c)(3). Travel payments provided to the official by any state, local, or federal government agency as part of the official's employment with that agency or provided to the official by a bona fide nonprofit, tax-exempt (501(c)(3)) entity, or by a person domiciled outside the United States which substantially satisfies the requirement for tax-exempt status under Section 501(c)(3).[9]

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[4] Government Code Sections 53232.2 and 53232.3.

[5] Government Code Section 82028(a).
[6] The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2017-2018, the gift limit is $470. (Government Code Section 89503; Regulation 18940.2.)
[7] Government Code Section 87200-87210.
[8] Government Code Section 87103(e).
[9] In 2014, the American Asian Economic and Cultural Association, a 501(c)(3) tax exempt organization, offered to pay the expenses for twelve Silicon Valley mayors to travel to China. At that time, the City Attorney requested an opinion from the FPPC on whether such gift (valued at approximately $5,000) would violate the Act's gift limit. In a written opinion, the FPPC opined that such gifts would fall under the exception for travel payments provided by a government

5. Travel for official agency business. Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a "personal benefit" to the official. For this exception to apply the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by Fair Political Practices Commission (FPPC) regulations.
6. Campaign contribution. A payment for travel that constitutes a campaign contribution to an official and permissible expenditures of campaign funds for campaign-related travel provided they comply and are properly reported in accordance with applicable campaign finance laws.
7. Travel payments fulfilling terms of contract. Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided.

(See Attachment D, Fair Political Practices Commission's guide on gifts.)

Analysis
Staff has been working on updating the City's travel policy for the past year. Given staff resources, this project has taken longer than originally anticipated. The current update uses the Institute for Local Government ("ILG") travel policy as a model. Like the current version, the updated version applies to both city council members and city employees. (Attachment B.)

Authorized expenses
In accordance with the ILG model policy, the updated travel policy recognizes six areas where reimbursement will typically be permitted:
1. Communicating with representatives of regional, state and federal government on City adopted policy positions;
2. Attending educational seminars designed to improve an official or employee's skill and information levels;
3. Participating in regional, state and national organizations whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a celebration of nominal value and cost);
5. Attending City events;
6. Implementing a City Council approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member.

Any expenses not falling under one of these categories requires prior approval. Likewise any international travel or expense reimbursement exceeding $2,000 per trip requires prior approval.[10]

The updated policy expressly disallows reimbursement for the following activities:

1. The personal portion of any trip;
2. Political or charitable contributions or events;
3. Family or guest expenses, including partner's expenses when accompanying a City official or employee on agency-related business, as well as children- or pet-related expenses;

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agency or a bona fide non-profit. Since that opinion, other city council members have traveled to China in accordance with this FPPC opinion. (See Attachment E.)

[10] Prior approval shall be authorized by the City Manager for employees and the full City Council for individual city council members.

4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;
5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
6. Personal losses incurred while on City business.

These disallowed categories also align with the ILG model policy.

Process for approving travel
The updated policy provides that attendance by city officials (city council members, city manager, city attorney, and other city council designated officials such as commissioners and committee members) at conferences, seminars and meetings shall be subject to prior approval by the City Council. This is typically done in connection with the annual budget. For City employees, travel must be approved by the City Manager. Any international travel or travel exceeding the City Council adopted budget must be approved in advance by a majority of the City Council at a public meeting.

The updated policy incorporates the State law requirement that a city council member shall provide a brief report on the meeting/conference at the first City Council meeting following the attendance of a reimbursable meeting or conference.

Other related travel policy issues
Neither the City's current travel policy nor the updated draft travel policy address certain issues that have recently been raised in community discussions. These include travel paid by individual city council members or other third parties, city council members' representation of the City at invited events and sister city travel expenses. At a minimum, city council members must adhere to the rules described above for accepting and disclosing travel payment gifts. The City Council may want to discuss whether additional restrictions are appropriate in any of these circumstances.

Travel paid by individual City Council members or other third parties
The updated travel policy does not address travel that is paid for by individual city council members or by other third parties. As described above, state law provides the minimum standards for accepting and reporting travel payments. The City Council is free to impose additional regulations relating to travel paid for by third parties if it desired. For example, the City Council could prohibit city council members from accepting third party payments altogether, it could require city council members to seek permission of the City Council before accepting such payments or it could further prescribe the type of report that is required following a trip paid for by someone other than the City.

Representing the city at invited events
Another issue that has arisen is to what extent may a city council member speak on behalf of the City at non-City events where the city council member has been invited to attend, regardless of how the travel expenses are paid. Neither the current or updated draft travel policy directly addresses this issue. However, the current City Council procedures manual contains the following provision:

– Speaking for the "City": Similar to written correspondence, when members are requested to speak to groups or are asked the City Council's position on an issue, the response should reflect the position of the City Council as a whole. Of course, a city councilmember may clarify their vote on a matter by stating, for example, "While I voted against "X," the City Council voted in support of it." When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position rather than that of an individual city councilmember.

(See Procedures Manual, Menlo Park City Council, Chapter 4, pp. 21-22.)
The City Council could elect to modify this provision of the Procedures Manual or incorporate additional guidance into the updated travel policy.

Sister City travel

The City has a sister city travel program that promotes travel between Menlo Park's sister cities. In the past, city council members, staff and the public have participated in this program. Past practice has been that the City does not reimburse for city council member travel, but does reimburse for staff travel if approved in advance by the City Council. In August 2017, the City Council discussed formalizing this policy, but tabled the item to explore the process for funding travel through a nonprofit organization. In the absence of a formal policy, the City Council authorized a one-time City expenditure for an employee to chaperone a delegation of Menlo Park students on a sister city trip to Bizen, Japan in July 2018. The City Council may want to discuss this item again and incorporate a specific sister city policy into the updated travel policy.

Next steps

Staff has prepared a resolution in the event the City Council desires to adopt the policy included as Attachment A. Alternatively, the City Council can give direction to staff to make modifications to the draft travel policy and bring it back to the City Council for approval.

Impact on City Resources

It is not anticipated that this updated policy will result in the expenditure of any additional funds.

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 proposes 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

Attachment A: Draft updated travel policy
Attachment B: Resolution No. 6460 adopting updated travel policy
Attachment C: City's current travel policy adopted March 12, 1991
Attachment D: FPPC's fact sheet on gifts, honoraria, travel and loans
Attachment E: FPPC's opinion regarding silicon valley mayors' China trip dated May 9, 2014
Attachment F: hyperlink: ca-ilg.org/sites/main/files/file-attachments/sample_reimbursement_policy_1_06.pdf

Report prepared by:
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City of Menlo Park Travel, Meal and Lodging Policy

Findings

Whereas, the City of Menlo Park takes its stewardship over the use of its limited public resources seriously.

Whereas, public resources should only be used when there is a substantial benefit to the City.

Whereas, such benefits include:

1. The opportunity to discuss the community's concerns with regional, state and federal officials;

2. Participating in regional, state and national organizations whose activities affect the City;

3. Attending educational seminars designed to improve an official or employee's skill and information levels; and

4. Promoting public service and morale by recognizing such service.

Whereas, 1) legislative and other regional, state and federal agency business is frequently conducted over meals; 2) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and 3) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law.

Whereas, this policy provides guidance to City officials and employees on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured.

Whereas, this policy satisfies the requirements of Government Code sections 53232.2 and 53233.3.

Whereas, this policy supplements the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources.

Whereas, this policy also supplements the definition of necessary and reasonable expenses for purposes of federal and state income tax laws.

Whereas, this policy also applies to any charges made to a City credit card, cash advances or other line of credit.

Applicability

This policy shall apply to all City officials and City employees. For the purposes of this policy, City officials shall mean the City Council and officials appointed by the City Council including Board, Commission and Committee members, the City Attorney and the City Manager, and others the City Council designates to represent the City. City employees shall mean all employees in the exempt, competitive, part-time and temporary services, including appointees of the City Manager and contractual employees. The City Manager is authorized to adopt additional rules and regulations to implement this policy for City employees.

Authorized Expenses

City funds, equipment, titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this policy are met:

1. Communicating with representatives of regional, state and federal government on City adopted policy positions;

2. Attending educational seminars designed to improve an official or employee's skill and information levels;

3. Participating in regional, state and national organizations whose activities affect the City's interests;

4. Recognizing service to the City (for example, thanking a longtime employee with a celebration of nominal value and cost);

5. Attending City events;

6. Implementing a City Council approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member.

All other expenditures require prior approval by the City Council for officials or City Manager for employees. The following expenses also require prior City Council or City Manager approval:

1. International travel;

2. Expenses exceeding $2,000 per trip.

Examples of personal expenses that the City will not reimburse include, but are not limited to:

1. The personal portion of any trip;

2. Political or charitable contributions or events;

3. Family or guest expenses, including partner's expenses when accompanying a City official or employee on agency-related business, as well as children- or pet-related expenses;

4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;

5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and

6. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred.

Cost Control

To conserve City and keep expenses within community standards for public officials and employees, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

Transportation

The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Government and group rates must be used when available.

Airfare. To identify the lowest airfare, City officials and employees should use an online travel search engine that compares flights across major airlines. Baggage handling fees for one checked bag shall be reimbursed.

Automobile. Mileage driving using an official or employee's personal vehicle to conduct City business shall be reimbursed at Internal Revenue Service (IRS) rates in effect on the date of travel for all miles driven in the conduct of official business in excess of the official or employee's regular commute. The IRS rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.

Car Rental. Charges for rental vehicles may be reimbursed under this provision if more than one City official or employee is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation.

Ride Share/Taxis/Shuttles. Ride share, taxis or shuttles fares may be reimbursed when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time efficiency.

Airport Parking. Long-term parking must be used for travel exceeding 24-hours.

Lodging

Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. Government and group rates must be used when available.

Conferences/Meetings. If lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If group rates are not available at time of booking, the City official or employee shall secure the most economical lodging in close proximity of the conference/meeting venue.

Other Lodging. Lodging rates that are equal to or less than government rates or the IRS per diem rates for the applicable area are presumed to be reasonable and hence reimbursable for purposes of this policy. A City official or employee may stay with a friend or relative while attending an out-of-town meeting or conference; however, the City will not reimburse for any payment to the friend or relative for lodging, meals or transportation.

Meals

Meals while traveling overnight. City officials and employees will receive a daily per diem allowance to cover the cost of meals and incidentals in accordance with federal government per diem tables for the city/region of travel.

Business Meeting Meals

In the conduct of official city business, officials will be reimbursed actual meal and beverage expenses not to exceed the federal government per diem for Menlo Park, before tax and gratuities. Tax and gratuities will also be reimbursed.

Other expenses

Internet. City officials or employees will be reimbursed for Internet access connection and/or usage fees away from home, not to exceed $15.00 per day, if Internet access is necessary for official business.

Telecommunication expenses. City officials/employees will be reimbursed for actual telecommunication expenses incurred on City business. No reimbursement is made for use of personal cell phones.

Gratuities. Gratuities of up to fifteen (15) percent will be reimbursed for services customarily subject to gratuity.

Reimbursement from other entities. Expenses for which City officials/employees receive reimbursement from another agency are not reimbursable.

Cash Advance Policy

From time to time, it may be necessary for a City official or employee to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the Administrative Services Director five business days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The benefits of such expenditure(s) to the residents of Menlo Park;
3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
4. The dates of the expenditure(s).

Any unused advance must be returned to the City treasury within two business days of the City official or employee's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

In the event the Administrative Services Director is uncertain as to whether a request complies with this policy, such individual must seek resolution from the City Council.

Credit Card Use

The City does not issue credit cards to individual office holders but does have an agency credit card for selected City expenses. City officials or employees may use the City's credit card for such purposes as airline tickets and hotel reservations by following the same procedures for cash advances. Receipts documenting expenses incurred on the City credit card and compliance with this policy must be submitted within five business days of use.

City credit cards may not be used for personal expenses, even if the City official or employee subsequently reimburses the City.

Expense Report Content and Submission Deadline

All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the City. All expenses reported on the form must comply with the City's policies relating to expenses and use of public resources. The information submitted on the form is a public record. Penalties for misusing public resources and violating the City's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability.

Expense reports must document that the expense in question met the requirements of this policy. For example, if the meeting is with a legislator, the City official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.

City officials and employees must submit their expense reports within 30 days of an expense being incurred, accompanied by receipts documenting each expense. Detailed restaurant receipts for official business meetings, in addition to any credit card receipts, are also part of the necessary documentation. No documentation is required for daily per diem allowances.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the City official or employee.

Audits of Expense Reports

All expenses are subject to verification that they comply with this policy.

Authorization for Travel and Other Related Expenses

Attendance of City officials at conferences, seminars and meetings shall be subject to prior approval by the City Council. Approval by the City Council shall occur with the adoption of the annual budget. For out-of-state travel, the prior approval of a majority of the City Council obtained during a public meeting is required.

The City Manager or his/her designee shall authorize and approve travel and reimbursement expenses for City employees. Out-of-state travel must be approved by the City Manager. City employees may not authorize nor approve reimbursement for their own travel and business expenses. The City Manager may adopt additional procedures to implement this policy as it relates to City employees.

Reports to City Council

At the first City Council meeting following any meeting/conference for which a City official seeks City reimbursement, the official shall briefly report on the meeting/conference. No reimbursement shall be provided until the report is given to the City Council.

If multiple City officials attended, a joint report may be made. The report may be made orally or in writing.

Compliance with Laws

City officials and City employees should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

Violation of This Policy

Under state law, use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the agency's reporting the expenses as income to the City official or City employee to state and federal tax authorities, 4) civil penalties of up to $1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

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ATTACHMENT B

RESOLUTION NO. 6460

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO RESCINDING CITY COUNCIL PROCEDURE NO. CC-91-0002 AND ADOPTING UPDATED TRAVEL, MEETING, CONFERENCE, TRAINING AND MEAL EXPENSES POLICY

WHEREAS, this policy provides guidance to City officials and employees on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured.

WHEREAS, this policy satisfies the requirements of Government Code sections 53232.2 and 53233.3.

Whereas, this policy supplements the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources.

NOW, THEREFORE, IT IS RESOLVED that the City Council of the City of Menlo Park hereby rescinds Procedure No. CC-91-0002 and in its place adopts the City of Menlo Park Travel, Meal and Lodging Policy recommended by staff and presented to the City Council on the eleventh day of September, 2018, incorporated herein as Exhibit A.

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the eleventh day of September, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this eleventh day of September, 2018.

____

Judi A. Herren, City Clerk

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ATTACHMENT C

City of Menlo Park	City Council Policy	
Department City Council	**Page 1 of 10**	**Effective Date** 03-13-1991
Subject Travel, Meeting, Conference, Training and Meal Expenses	**Approved by:** Motion by the City Council on 03-12-1991	**Procedure #** CC-91-0002

PURPOSE:

To establish a policy for authorizing attendance at, travel to and reimbursement of expenses for City employees and officials attending conferences, training, meetings, functions and attending to other business that is necessary to the performance of official duties and provides direct benefit to the City. P.O.S.T. is not paid for by the City, but is reimbursed through a revolving fund and is not included in this policy.

This policy is to ensure that City employees and officials follow appropriate procedures when arranging for travel, lodging, and other expenses and are paid for reasonable expenses incurred for travel, conferences, meetings, activities and meals as a result of conducting authorized City business. This policy is also to ensure that payments made by the City are for actual and necessary expenses incurred for City business.

BACKGROUND:

Government Code Section 36514.5 provides for reimbursement to Council Members, employees and other City officials for actual and necessary expenses incurred in the performance of official duties. Menlo Park Municipal Code Section 2.04.180 also provides for the reimbursement of expenses for actual and necessary expenses incurred in the performance of official duties for the City.

GENERAL:

Authorization for travel and expense reimbursement shall be limited to conference, meetings, training, meals and other functions/activities from which the City derives a specific benefit through attendance. Only that conference/meal/travel/meeting/activity, etc. which services a municipal purpose and is deemed necessary to the performance of official duties for the City of Menlo park shall be approved and reimbursed.

The City recognizes the benefit in training and attendance at meetings, functions and activities which advance professional knowledge and provide opportunities to exchange information related to municipal government operations and issues.
For the purposes of this policy, City employees shall mean all employees in the exempt, competitive, part-time and temporary services, including appointees of the City Manager and contractual employees. City officials shall mean the City Council and officials appointed by the City Council including Board, Commission and Committee members, the City Attorney and the City Manager, and others the City Council designates to represent the City.

Implementation of this policy is the responsibility of the City Council for Council Members and appointed officials and the responsibility of the City Manager for all employees. All expenses for City Council Members and other appointed officials must be posted in the City

Council Office for a minimum of seven days from submittal. Attendance of City officials at conferences, seminars and meetings shall be subject to prior approval by the City Council. Approval by the City Council shall occur with the adoption of the annual budget; except that the City Council must review and approve, during a regular City Council meeting, all requests for out-of-state travel prior to the commitment and expenditure of any such travel.

The attached chart, (Exhibit A) identifies certain conferences and meetings considered to be candidates for attendance by City officials. This chart is to be used in budget development and is not considered to be all inclusive.

The City Manager shall authorize and approve travel and reimbursement expenses for employees. The City Manager may designate department heads or other staff members to authorize travel and approve reimbursement requests for employees. The City Manager shall file a memorandum documenting these designations with the Finance Department. A department head may designate another staff member of the department to authorize travel and reimbursement forms for employees of their department by filing the appropriate memorandum, approved by the City Manager, with the Finance Department. In any event, employees may not authorize nor approve reimbursement for their own travel and business expenses.

All expenses must be actual and clearly substantiated prior to reimbursement. If a receipt or other documented evidence of the expense incurred is not available, and the expense is $15.00 or less, an explanation of why documentation can not be provided together with the amount, date, place and essential character of the expense must be provided. If the expense is $25.00 or more documented evidence, e.g. a receipt, is required. Unnecessary or exorbitant expenses will be disallowed.

All payments and reimbursements must be in compliance with City Council approved budget appropriations and are subject to the City's internal audit procedures.

Reasonable charges for vehicle parking, rental cars, local transportation, business telephone calls, meals or any other necessary expenses while traveling and/or conducting official City business will be allowed.

No personal expenses, such as laundry barbering, valet service or personal telephone calls shall be allowed. Fines for traffic violations, private auto repair and alcoholic beverages are examples of non-allowable expenses.

Expenses incurred by family members or guests who accompany a City official or employee shall not be reimbursed.

Compensation received for attendance at a meeting must be deducted from expenses that the City is requested to pay,

A City official or employee may stay with a friend or relative while attending an out-of-town meeting or conference; however, the City will not reimburse for any payment to the friend or relative for lodging meals or transportation.

Costs incurred while entertaining (as opposed to conducting business with) colleagues or business associates shall not be reimbursed.

Expenses incurred as part of election campaign activities shall not be reimbursed.

The City may issue credit cards for use by employees and the City Manager. Expenses incurred must be in compliance with the provisions of this policy.

If it is determined that expenses that were covered by prepayment to a sponsoring or service providing organization or by advance payment or reimbursement to an employee or official, do not comply with this policy, the value must be refunded by the benefiting official or employee to the City.

PROCEDURE FOR EXTENDED OUT-OF-TOWN CONFERENCES OR MEETINGS:

For the purposes of this policy extended out-of-town conferences or meetings shall mean a conference or meeting that is longer than two days in duration.

Authorization for Travel

<u>City Council and City Council Appointed Officials</u>

Attendance of City officials at conferences, seminars and meetings shall be subject to prior approval by the City Council. Approval by the City Council shall occur with the adoption of the annual budget. For out-of-state travel, the prior approval of a majority of the City Council obtained during a public meeting is required.

<u>City Employees including City Manager Appointees</u>

Prior to the commitment or expenditure of any City funds for extended out-of-town conference or meeting reservations or arrangements, the employee shall obtain approval for attendance for the City Manager or the City Manager's designee; out-of-state travel must be approved by the City Manager.

<u>Authorization Form</u>

A Request for Travel and Meeting Expense Authorization form must be completed and should include an estimate of total expenses and a copy of the conference or meeting notice and registration form must be attached. Any special arrangements, such as car rentals, non-standard rooms, extending the stay for personal reasons, or use of a travel route or mode that is more expensive and/or of a greater than direct route should be identified on this form.

Registration Fees

Registration fees must be payable to the conference/sponsoring organization and shall be those expenses indicated in the published information attached to the Travel and Meeting Expense Authorization form to be attached to the payment request form. Any deadlines for receipt of the registration should be identified prominently on the face of the payment request, to ensure timely payment.

Lodging Expense

Prepayment of hotel expenses may be made by submittal of a payment request form, with the Travel and Meeting Expense Authorization form attached.

Prepayment may either be made for the first day only, to guarantee the room or may be for the full number of days, including room tax (if known.) Prepayment, or reimbursement of hotel bills, will be limited to the cost of standard, non-deluxe accommodations and will cover only the room charges for the City official or employee.

If the City official or employee has secured accommodations other than the above, it is their responsibility to find out the single, standard, non-deluxe rate and provide a written explanation of the difference; in no event will the City reimburse or pay for the difference.

Transportation

Air Transportation

Reimbursement or payment will be limited to economy class commercial air carrier. Air reservations should be made as early as feasible to obtain the greatest discount, and the use of alternate, but nearby airports with ground transportation should be considered to take advantage of the lowest fates. Extension of the trip to cover a Saturday stayover to obtain a lower air fare, if no City business is to be conducted, should not be used.

Rental Vehicle

The necessity for additional transportation requirements at the point of destination of an extended trip, requiring the use of rental car, must be established by the City official or employee on the Travel and Meeting Expense Authorization form, and employees must receive prior approval by the appropriate authority. Only standard or economy car models may be rented unless the upgrade is provided by the rental agency at no increase in cost.

Private Vehicles

Private vehicles may be used for personal or group transportation on extended trips. Reimbursement shall be at the I.R.S. approved rate. Mileage reimbursement shall not exceed the cost of a refundable round trip air transportation (economy class), for a reservation made at least 7 days in advance of the trip. Employees and officials with car allowances, may receive mileage reimbursement. Employees must receive prior approval on the Travel and Meeting Expense Authorization form from the appropriate authority. Proof of automobile insurance, in amounts specified by the City must be on file with the City.

City Vehicles

City vehicles normally may not be used for transportation on extended out-of-City trips. Vehicles assigned to specific divisions and/or individuals should also not be used for extended out-of-City trips. Requests for use of City vehicles for this purpose must be approved in advance by the City Manager.

Alternate Transportation Methods

Alternate methods of transportation, such as train or bus transportation, may be used on extended trips. The amount paid by the City shall not exceed the cost of a refundable roundtrip air transportation (economy class), for a reservation made at least 7 days in advance of the trip.

Meals

Meal reimbursement, including tips, is limited to the <u>lower</u> of the total actual daily cost or the total daily maximum meal reimbursement limit.

Reimbursement will be for actual expenses, supported by receipts. Meals which are included in registration fee as stated in meeting or conference literature must be subtracted from the total daily maximum.

Meal Reimbursement guidelines:

Breakfast	$10.00
Lunch	$15.00
Dinner	<u>$35.00</u>
Total daily maximum	$60.00

Incidentals

The City will reimburse for incidentals such as business telephone calls, local transportation, vehicle parking or other necessary expenses. Such expenses must be accompanied by proof of payment or an appropriate explanation of why documentation could not be provided together with the amount, date, place and essential character of the expense. The per day expense for incidentals should not exceed $30.00.

Advance for Meals and Incidentals

An employee or official may submit a payment request (supported by a Travel and Meeting Expense Authorization form) for advance funds for payment of meals and incidentals.

If meals are provided as part of conference registration costs, or included with the air fare, the advance will be reduces by $10.00 for breakfast, $15.00 for lunch and $35.00 for dinner. The conference agenda should be highlighted to indicate meals known to be included in the conference registration.

Reconciliation and Reimbursement

Within 10 business days after the City official's or employee's return from the trip, a Travel and Meeting Expense form, with appropriate approvals, must be filed with the Department of Finance. If billings for the expenses incurred have not been received in ten (10) days, the form with all expenses for which have been received to date shall be filed noting that not all expenses are included and a supplemental report shall be filed immediately upon the receipt of bills beyond the ten (10) day period. Original receipts for lodging and transportation (airline ticket), shall be attached as well as necessary receipts to support additional expenditures to be reimbursed and/or to support expenditures for which an advance payment was received. If a receipt or other documented evidence of the expense incurred is not available, and the expense is $25.00 or less, an explanation of why documentation can not be provided together with the amount, date, place and essential character of the expense must be provided. If the expense is $25.00 or more, documented evidence, e.g. a receipt, is required.

PROCEDURE FOR LOCAL AND TWO-DAYS OR LESS MEETING, CONFERENCE, TRAINING, TRAVEL AND MEAL EXPENSES

Authorization

City Council and City Council Appointed Officials

Prior authorization for local and two-days or less travel and meal expenses shall occur with the adoption of the annual budget. The City Council must review and approve during a regular City Council meeting requests for out-of-state travel prior to commitment and expenditures of any funds for such travel. Depending on the nature of the expense, such expense may be prepaid by the City. Within 30 days of the expenditure, the City official must submit to the Finance Department a complete Local and Two-Days or Less Travel and Meal Expense form; this is required whether the expense was prepaid by the City or the expense was paid by the individual and reimbursement is being requested.

City Employees including City Manager Appointees

Prior authorization for local and two-days or less travel and meal expenses of $50.00 or less, incurred by City employees and $100,00 or less, incurred by City Manager appointees, is not required. Depending on the nature of the expense, it may be prepaid by the City. Within 30 days of the expenditure, the employee must submit, to the Finance Department, a completed and approved Local and Two-Days or Less Travel and Meal Expense form; this is required whether the expense was prepaid by the City or the expense was paid by the individual and reimbursement is being requested.

Local and Two-Days or Less Travel and Meal Expense Form

A Local and Two-Days or Less Travel and Meal Expense form must be completed and approved for all expenses whether prepaid by the City or paid by the individual and for which reimbursement is being requested. It must be accompanied by appropriate receipts, agendas, meeting announcements, etc.

Meals

The City will pay or reimburse for local meals according to the guidelines below. In addition to necessary receipts, agendas, meeting announcements, etc., requests must also contain the nature of the City business discussed or transacted, an explanation of why it was necessary for the conduct of City business to have the meal and the date and duration of the business discussion. Requests must also include the names, occupations and employers of all persons who attended unless impractical because more than 10 people were in attendance (for example a Council of Cities meeting). If all people in attendance did not take part in the business discussion, indicate those that did. Indicate those whose meal expense the City is being requested to pay.

1. The following types of meal expenses are eligible for payment or reimbursement.

    a. Meals which are an integral part of or directly related to a formal meeting of a recognized organization whose purpose is directly related to City business. Examples of such organizations include the San Mateo County Council of Cities, the League of California Cities Peninsula Division, committees of the League of California Cities and various professional associations or groups such as County and State-wide City Manager, Finance Officers, Police Chiefs, etc. Associations.
    b. Meals or refreshments taken during meetings consisting solely of City employees or City employees and officials, which are exclusively working sessions where employees, or employees and officials are required to continue working through a meal period whenever possible, meetings should be scheduled to avoid this occurrence.

    c. Meals or refreshments taken during meetings consisting solely of the City Manager and/or City employees which have been planned and scheduled, and for which an agenda has been prepared which indicates that the purpose of the meeting is to conduct City-related business. Such meetings must be authorized in advance by the City Manager or the City Manager's designee.

d. Meals taken during meetings and/or interviews with prospective job applicants.

e. Meals taken during meetings with non-City employees or officials to discuss business directly related to City projects or operations when necessary for the conduct of City business. Such meetings should be held during non-meal periods unless scheduling conflicts make it impractical.

f. Meals taken during assigned training, the conduct of field surveys or attendance at meetings and the individual's normal meal period occurs during the time of travel or assignment. Meal reimbursement for training or professional meetings within a 50 mile radius of Menlo Park, conducted between the hours of 8:00 a.m. and 5:00 p.m.; will be limited to lunch expense only, if it is not provided with the event.

2. Reimbursement guidelines for meals, including tips, per person for business meetings are as follows; these guidelines may be exceeded if the charges are reasonable and not exorbitant:

   Breakfast - $10.00 Lunch - $15.00 Dinner - $25.00

3. If a receipt or other documented evidence of the expense incurred is not available, and the expense is $25.00 or less, an explanation of why documentation can not be provided together with the amount, date, place and essential character of the expense must be provided. If the expense is $25.00 or more documented evidence, e.g. a receipt, is required.

4. If a department is hosting a non-luncheon meeting, at which the majority of representatives are non-City employees or officials, on City-related issues, refreshments in an amount not to exceed $50.00 may be authorized by the City Manager or department head.

Incidental Expense

All incidental expenses related to attending local meetings (e.g., public transit fares, parking, bridge tolls, etc.) are eligible for reimbursement. Such expenses must be accompanied by proof of payment or an appropriate explanation of why proof of payment cannot be provided together with the amount6, date, place and essential character of the expense.

Transportation

If available, City vehicles may be used for local meetings and/or to complete specific job functions. Personal vehicles may also be used if proof of liability insurance in an amount specified by the City, is on file with the City's Finance Department. Employees with car allowances shall not be reimbursed for mileage. Reimbursements shall be at the I.R.S. approved rate. Mileage reimbursement for use of personal vehicles will only be made for travel that is in connection for a specific job function or assigned off-site training or meeting related directly thereto, excluding breakfast or luncheon meetings within a 5 mile radius of Menlo Park or the official's place of business, if it is not in Menlo Park, and for dinner meetings within a 5 mile radius of the individual's place of residence.

If the meeting is outside the nine-county Bay Area and the use of air transportation will result in the travel and meeting being completed in two-days or less, the expense of such air travel is less than the total expense of hotels, meals and other travel expenses if the trip were to be extended beyond two-days and the travel distance is greater than 200 miles one way, air transportation may be used. Reimbursement of payment will be limited to economy class commercial air carrier.

Registration Fees

Registration fees must be payable to the meeting, conference or training sponsoring organization, and shall be those expenses indicated in the published information to be attached to the Local and Two-Days or Less Travel and Meal Expense form.

Exhibit A

Chart of Conferences and Meetings

League of California Cities Annual Conference

Annual Meeting of the City Manager's Division of the League of California Cities

Annual League of California Cities Planning Commissions Institute

Annual Legislative Conference of the League of California Cities

San Mateo County City Manager's Association Meetings

San Mateo Council of Cities Meetings and Task Forces, Committees, Boards

San Mateo City/County Association of Governments Meetings and Task Forces, Committees, Boards

Peninsula Division of the League of California Cities Meetings

Association of Bay Area Governments Meetings

Chamber of Commerce Progress Seminar

San Mateo County Convention & Visitors Bureau Meetings

Annual League of California Cities Community Services Conference

Policy Committee Meetings of the League of California Cities

Meetings of Committees/Boards, such as the Criminal Justice Council, when representing the Council of Cities

League of California Cities Mayor's and Councilmembers Orientation Institute

League of California Cities Leadership Team Workshop

League of California Cities Mayors and Councilmembers Executive Forum

Annual California Redevelopment Association Conference

League of California Cities Financial Management Seminar

San Mateo County Transportation Authority

Affiliate Organizations to the League of California Cities

League of California Cities Board of Directors Meetings

Financial Management Seminars

Dedicated Workshop Programs

Council of Cities Santa Clara: Join Meetings, State Officer, Sub-Committees

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Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC
Email advice: advice@fppc.ca.gov
Web site: *www.fppc.ca.gov*

April 2017

Introduction

The Political Reform Act[1] (the "Act") imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,[2] excluding judges;[3]
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
- Candidates[4] for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. It contains highlights of the law, but does not carry the weight of law. For more information, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. Public officials may also be subject to local restrictions on gifts, honoraria, or travel.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as $5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)

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[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

[2] Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

[3] The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

[4] For purposes of the gift limit and honoraria prohibition, an individual becomes a "candidate" when he or she files a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If an individual is an unsuccessful candidate, he or she will no longer be subject to the gift limit and honoraria prohibition when he or she has terminated his or her campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

Gifts

Limitations

Local elected officers, candidates for local elective office, local officials specified in Government Code Section 87200, and judicial candidates, may not accept gifts from any single source totaling more than $470 in a calendar year. (Section 89503.)[5]

Employees of a local government agency who are designated in the agency's conflict of interest code may not accept gifts from any single source totaling more than $470 in a calendar year if the employee is required to report receiving income or gifts from that source on his or her statement of economic interests (Form 700). (Section 89503(c).)

What is a "Gift"?

A "gift" is any payment or other benefit that confers a *personal* benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, a public official has "received" or "accepted" a gift when he or she has actual possession of the gift or when he or she takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

Gifts to Family Members

Under certain circumstances, a gift to an official's family member***** is considered a gift to the official. (Regulation 18943.) Anything given to a family member is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

*For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of his or her own support.

[5] The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2017-2018, the gift limit is $470. (Section 89503; Regulation 18940.2.) Gifts from a single source aggregating to $50 or more must be disclosed, and gifts aggregating to $470 or more during any 12-month period may subject an official to disqualification with respect to the source. (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on the Form 700 are not subject to the $470 gift limit but still may subject the public official to disqualification.

Source of Gift

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, the public official must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls must be aggregated as one source to comply with the reporting and limit requirements. For example, separate gifts from the owner of a company and from the company itself would be treated as if from one source if the owner has more than a 50 percent interest in the company, unless the making of the gift was determined by someone else in the company. In that case, the gift from the company would be aggregated with any gifts made by that determining individual. (Regulation 18945.1.)

Group gifts, where a public official receives a single gift from multiple donors (such as a retirement gift from coworkers), need not be reported unless any person contributes $50 or more to the total cost of the gift. In that case, the public official would only report a gift from each of those persons. (Regulation 18945.2.)

Valuing Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

General Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
No	No	No	No

The following payments are exceptions to the definition of gift and are not considered gifts or income.

1. **Return or Reimbursement of Gift.** Items that are returned (unused) to the donor, or for which the public official reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)

2. **Donation of Gift to Nonprofit Group.** Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)

3. **Gifts from Family.** Gifts from the public official's spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.

4. **Informational Material.** Informational material provided to assist the public official in the performance of his or her official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

“Informational material” may also include scale models, pictorial representations, maps, and other such items. However, if the item’s fair market value is more than $470, the public official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging. Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. **Inheritance.** A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. **Campaign Contributions.** Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)) and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Plaques.** Personalized plaques and trophies with an individual value of less than $250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. **Ceremonial Role.** Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers’ game, so long as the official’s agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under “Gifts Exceptions Requiring Alternate Reporting.”)

9. **Event Where Official Makes a Speech.** Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. **Attending Wedding Reception.** Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. **Bereavement Offerings.** Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. **Acts of Neighborliness.** Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. **Campaign or Nonprofit Fundraiser.** Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. **Unused Passes or Tickets.** Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the public official does not use and do not give to another person. (Regulation 18946.1.)

15. **Items Provided to Government Agency.** Subject to certain conditions, items provided to a government agency and used by public officials in the agency for agency business. This may include

passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under "“Gift Exceptions Requiring Alternate Reporting.”) Contact the FPPC for detailed information.

16. **Emergency Leave Credits.** Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by the public official’s employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

17. **Disaster Relief.** Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

18. **Agency Raffle.** Items awarded in an agency raffle received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

19. **Employee Gift Exchange.** Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

Limited Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
No	No	No	No

1. **Home Hospitality.** Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual’s home when the individual or a member of his or her family is present. (Regulation 18942(a)(7).) For this exception to apply, the official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official’s position and the hospitality must be provided as part of that relationship. Generally, this means functions like children’s birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

2. **Reciprocal Holiday Gifts.** Gifts commonly exchanged between an official and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

3. **Reciprocal Exchanges.** Reciprocal exchanges between an official and another individual that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is $470 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

4. **Dating Relationship.** Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner has certain business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

5. **Acts of Human Compassion.** Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942 (a)(18)(B).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

6. **Long-Time Friend.** Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

7. **Existing Personal Relationship.** Benefits received from an individual where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

Very Limited Gift Exception

Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
Yes - ½ value as gift	Yes	No	No

Wedding Gifts. Wedding gifts are not subject to the $470 gift limit. However, wedding gifts are reportable, but for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

Gift Exceptions Requiring Alternate Reporting

Form 700 Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
Yes - As Income	Yes	No	No

Prize or Award. A prize or award received in a bona fide contest or competition, or game of chance. **Note: Unlike the other exceptions, payments that fall into this exception <u>must be reported as income if valued at $500 or more.</u>** To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

Agency Reports

Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
Yes - On 801 or 802	No	No	No

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801 – Payment to Agency Report: This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual's statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions: This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

Behested Payments Reports

Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
Yes - Form 803 Behested Payment	No	No	No

Behested Payments. Generally, payments made at the behest of an official that do not confer a personal benefit on an official such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature, are not gifts. However, when a local elected officer is making the behest, in some cases these payments may be considered "behested payments" under Section 82015(b)(2)(B)(iii) and (b)(3) and require disclosure by that elected officer.

Form 803 – Behested Payment Report

- Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, a local elected official may ask a third party to contribute funds to a school in her district, or to a job fair or health fair.
- Generally, a donation will be "made at the behest" if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by his or her agent or employee.
- A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting.
- Behested payments totaling $5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official's agency within 30 days of the date of the payment(s). (Section 82015; Regulation 18215.3.)

Honoraria

What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.).

The Prohibition

Local officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of local agencies who file statements of economic interests (Form 700) under the agency's conflict of interest code ("designated employees") may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the "disclosure category" portion of the conflict of interest code. (Section 89502.)

Honoraria Exceptions that also apply to gifts and income

1. **Returned.** An honorarium that the public official returns (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. **Donated to General Fund.** An honorarium that is delivered to the official's local agency within 30 days for donation to the agency's general fund and for which the public official does not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. **Made to Nonprofit Organization.** A payment that is not delivered to the public official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

- The official may not make the donation a condition for his or her speech, article, or attendance;
- The official may not claim the donation as a deduction for income tax purposes;
- The official may not be identified to the non-profit organization in connection with the donation; and
- The donation may have no reasonably foreseeable financial effect on the public official or on any member of his or her immediate family. (Regulation 18932.5.)

4. **Payment from Family Member.** A payment received from the public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. **Payment for Performance or Book.** Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

6. **Reimbursement for Travel Where Official Provides Consideration.** Reimbursements for reasonable travel expenses provided to the public official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the public official provides equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

Honoraria Exceptions where the payment may still be considered income (or a gift, if consideration of equal or greater value is not provided by the official)

1. **Admission to Event Where Official Gives Speech.** Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which he or she gives a speech, participates in a panel or provides a similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

2. **Earned Income from a Business.** Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, the public official must meet certain criteria to establish that he or she is conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 –18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. **Travel from a Government Agency.** Travel payments provided to the public official by his or her government agency or by any state, local, or federal government agency which would be considered income and not a gift. (Section 89506(d)(2).) See discussion under "Travel Payments" below.

Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for his or her travel, that payment is a reportable gift or income under the Act. The term “travel payment” includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act’s $470 gift limit. If the payment is income, it may, in some cases, be an honorarium. Whether a payment is a gift or income, the official may be required to disqualify him or herself from any decision that will have a foreseeable materially financial effect on the source.

Certain Travel Payments are not a Gift, Income or Honorarium

Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
No	No	No	No

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act’s gift limits or the honorarium ban.

1. **Travel from a Non-Reportable Source.** A payment for travel from a source that is not reportable on the official’s statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official’s agency.

2. **Travel from Government Agency for Training.** A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)

3. **Sharing a Ride with Another Official.** A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)

4. **Certain Travel from a Government Agency or 501(c)(3).** Travel payments provided to the official by any state, local, or federal government agency as part of the official’s employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.

5. **Travel for Official Agency Business.** Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a “personal benefit” to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.

6. **Campaign Contribution.** A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Travel Payments Fulfilling Terms of Contract.** Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the $470 Gift Limit or Honoraria Ban of the Act.

Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
Yes	Yes	No	No

Travel for a Public Purpose Under Section 89506(a). Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either

(a) *Travel for Speech.* In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately proceeding, the day of, and the day immediately following the speech and the travel is within the United States, or

(b) *Travel paid for by government agency or 501(c)(3) organization.* Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

These payments are still reportable on the Form 700 and may create a conflict of interest issue for the official.

Payments for Travel in Connection with a Business

Reporting	C/I § 87100	Honoraria Ban	$470 Gift Limit
Yes - as Income	Yes	No	No

Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

Loans

Personal loans received by certain local officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

Officials Must Not Receive Loans from Agency Staff. If the public official is a local elected officer or an official specified in Section 87200 (see page 2), he or she may not receive a personal loan that exceeds $250 at any given time from an officer, employee, member, or consultant of his or her government agency or an agency over which his or her agency exercises direction and control. (Section 87460(a) and (b).)

Officials Must Not Receive Loans from Agency Contractors. In addition, the public official may not receive a personal loan that exceeds $250 at any given time from any individual or entity that has a contract with his or her government agency or an agency over which his or her agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to his or her official status. (Section 87460(c) and (d).)

Loans to Elected Officials Must be in Writing

In addition to the limitations above, if the public official is elected, he or she may not receive a personal loan of $500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. **Campaign Loans.** Loans received by an elected officer's or candidate's campaign committee.

2. **Loans from Family Members.** Loans received from the public official's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

- The date the loan was made;
- The date the last payment of $100 or more was made on the loan; or
- The date upon which the public official have made payments aggregating to less than $250 during the previous 12 months. (Section 87462.)

The following loans will not become gifts:

- A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution and must be reported accordingly.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

ATTACHMENT E

FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

May 9, 2014

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Re: Your Requests for Advice
Our File Nos. 14-071, 14-072, 14-078 & 14-079

Dear Counsel:

This letter responds to your collective requests for advice regarding the gift provisions of the Political Reform Act (the "Act").[1] Please note that the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders advice, (*In re Oglesby* (1975) 1 FPPC Ops. 71), and our advice is based solely on the provisions of the Act.

[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

QUESTION

Are payments for travel, lodging and subsistence made to the Mayors participating in the Silicon Valley Mayors' China Trip in June 2014 subject to reporting and gift limits?[2]

CONCLUSION

Payments for the Mayors' travel, lodging and subsistence are reportable gifts, not subject to gift limits because they will be provided in connection with a legislative or governmental purpose by both a foreign government and a 501(c)(3) organization. Any other payments will be reportable gifts subject to gift limits.

FACTS

Twelve Mayors have been invited to travel to China from June 16-27, 2014, as part of the Silicon Valley Mayors' China Trip. The purpose of this all-expenses paid trip is to facilitate investment and international trade between China and the Silicon Valley region. While in China, the delegation will visit Beijing, Shanghai, Wuhan and Shenzhen. In addition, they will have the opportunity to participate in meetings with local government officials and CEOs from top local high tech companies.

As mentioned, this is an all-expenses paid trip. The international air travel expenses to and from China, approximately $2,000 per person, will be covered by the American Asian Economic and Cultural Association ("AAECA"), a 501(c)(3) tax exempt organization. The remaining expenses which include travel, lodging and meals within China, approximately $3,000 per person, will be paid for by the city governments of the four cities visited by the Mayors. Thus, the estimated market value of the trip is roughly $5,000 per participant.[3]

The principal purpose of the trip involves facilitating investment and international trade between China and the Silicon Valley, and the Mayors are attending in their official capacities to

---

[2] We received requests for advice on behalf of Mayors Dutra-Vernaci, Mueller and Mayor Pro Tem Salinas. Because the requests all share the same facts and issues, we are treating them as a single request. Also, this advice applies to the remaining Mayors traveling as part of the delegation to China from June 16-27, 2014, assuming the sources of funding are the same as those provided herein.

[3] We note that initially there was some confusion as to whether China Silicon Valley Business Development ("China SV") and/or another organization, Chinese People's Association for Friendship with Foreign Countries ("CPAFFC"), were paying for these expenses. However, it was confirmed by counsel for Mayor Dutra-Vernaci that China SV is only coordinating and sponsoring the trip, not providing any funds or services with monetary value. In addition, the city governments of the four cities being visited are coordinating their payments of the participants' expenses while in China through CPAFFC, making the four city governments the true source of those payments. (See Regulation 18945(a) ["The person who makes the gift to the official(s) is the source of the gift unless that person is acting as an intermediary"].) Based on the facts provided, CPAFFC is simply an intermediary for the payments provided by the four city governments.

represent their respective cities. The Invitation Letter for the trip explains the importance behind personal attendance by the Mayors:

> As innovation in China takes off, Chinese companies are increasingly looking outside of China for business opportunities and technology partnerships. On the other side of the Pacific, Silicon Valley has attracted top notch researchers, engineers and developers from around the world and has provided a perfect environment for the growth of creative ideas.
>
> Although the potential gains of a closer relationship between Silicon Valley and China may seem obvious, they are far from guaranteed. Of the $1.3 billion Chinese investment in California since 2000, Silicon Valley/South Bay region is only the third most attractive area for Chinese investment. This is partially due to lack of information exchange and effective people-to-people investment promotion activities that help Chinese investors fully appreciate the abundant opportunities here in Silicon Valley. A traditional hands-off approach is outdated and inadequate. Encouraging support for local initiatives and joint efforts from both government and private sectors are required.

Draft Itinerary

The Mayors are scheduled to leave from San Francisco to China on June 16, 2014, and return on June 27. As mentioned, they will visit Beijing, Shanghai, Wuhan and Shenzhen during the 11-day trip. The details are as follows:

Beijing: Arrival on June 17

June 18 Morning – Chinese national officials and city officials of Beijing Municipality meet with SV Mayors: during the meetings, SV Mayors will listen to the general introduction to the "China Dream" policies, and provide suggestions and recommendations as to how Silicon Valley can be involved in the development of China.

June 18 Afternoon – Visit the Ministry of Technology, Ministry of Commerce and the Ministry of Education: during the meetings, SV Mayors will introduce the invention, promotion and encouragement policies adopted by each of the Silicon Valley cities and discuss the possible cooperation among the parties.

June 19 Morning – Zhongguancun – Silicon Valley Innovation Round Table Conference: during the meetings, SV Mayors and the representatives from high-tech enterprises will visit the major high-tech enterprises located in Zhongguancun, and will have meetings with the CEOs from the major high-tech enterprises.

June 19 Afternoon – Free time.

Shanghai: Arrival on June 20

June 20 Afternoon – Meetings with city officials of Shanghai Municipality.

June 21 Morning – Visit Shanghai Free Trade Zone: during the visit, SV Mayors and the representatives from high-tech enterprises will take a tour in Shanghai Free Trade Zone and will have meetings with the officials of Shanghai Free Trade Zone and representatives from enterprises located in Shanghai Free Trade Zone to discuss the local policies and the development of Shanghai Free Trade Zone, and the possible cooperation among the parties.

June 21 Afternoon – Sino-US Financial and Venture Investment Conference: representatives from Silicon Valley financial institutions will introduce their successful experiences of providing funding support for innovative companies, and will discuss the possibility of establishing a platform for financial communication between Silicon Valley and Shanghai.

June 22 Morning – Free Time.

Wuhan: Arrival on June 22

June 23 Morning – Meetings with officials from Overseas Chinese Affairs Office of the State Council, and from Hubei Province and Wuhan Municipality: SV Mayors will listen to an introduction to Conference on Overseas Chinese Pioneering and Developing in China ("OCPD"), and discuss the possible cooperation between Silicon Valley and Optics Valley in Wuhan.

June 23 Afternoon – Silicon Valley and OCPD Innovation Round Table Conference: SV Mayors and representatives from high-tech enterprises will introduce the successful experiences of Silicon Valley and roles and responsibilities of government and private enterprises in the development of Silicon Valley.

June 24 Morning – Meetings with Mayors from cities around Wuhan: SV Mayors will learn the development of the third-tier cities in China from introductory report made by city Mayors in China. SV Mayors will also introduce the successful experiences of Silicon Valley and promote the city-level communication.

June 24 Afternoon – Free time.

Shenzhen: Arrival on June 25

June 25 Afternoon – Meetings with city officials.

June 26 – Visit Tecent, TCL and BYD. One of the similarities between Silicon Valley and Shenzhen is that both embrace multiple well-known high-tech enterprises. Hopefully, these visits and face-to-face discussions will encourage the outbound investment by Chinese companies.

June 27 Afternoon – Free time; fly back

ANALYSIS

Gifts, Generally

A gift is defined under Section 82028(a) as "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status."

In an effort to reduce improper influences on public officials, the Act regulates the receipt of gifts by local public officials in three ways:

First, the Act places limitations on the acceptance of gifts by certain public officials. The current limit is $440 from a single source in a calendar year. (Section 89503; Regulation 18940.2.) This gift limit applies to all Mayors, among others. (Sections 89503(a) & 87200.)

Second, so that the public is made aware of any potential influences from gifts, the Act imposes reporting obligations on certain public officials, including Mayors, requiring that any gift (or any gifts that aggregate to $50 or more from the same source) received during the calendar year are disclosed on the officials' statements of economic interests. (Sections 87200 – 87210.)

Third, the Act prohibits any public official from making, participating in making, or using his or her position to influence the outcome of a governmental decision involving the donor of a gift or gifts with an aggregate value of $440 or more provided to, received by, or promised to the official within the 12 months prior to the date the decision is made. (Sections 87100 & 87103(e); Regulations 18700 & 18703.4.)

Gifts of Travel

Under the Act and unless stated otherwise in Commission regulations not applicable here (see footnote 4), any travel is presumed to confer some personal benefit on a public official. In addition, travel costs paid for by a third party generally are reportable gifts under the Act. Therefore, absent an exception, the value of all travel-related expenses to China will be considered a reportable gift to each of the Mayors. (Section 82028; *Gault* Advice Letter, No. A-07-158.)

Gift of Travel - Exceptions

Under some circumstances, even though a payment for transportation, lodging, and subsistence may be a reportable gift under the Act, the gift is not subject to the Act's current $440 gift limit. In this regard, Section 89506(a) provides an exception from the gift limits for certain travel payments:

> (a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:
>
> (1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elected state office or local elected office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.
>
> (2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

To summarize, gifts of travel are generally reportable and subject to limits unless the travel falls under an exception. Relevant to the present situation is Section 89506(a)(2), which provides that travel expenses reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international policy, are *not prohibited or limited* if they are provided by certain specified sources such as governmental agencies, bona fide public or private educational institutions, or non-profit 501(c)(3) organizations.

1. *Are the travel expenses reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy?*

According to the facts, the twelve Mayors will travel to China for the specific purpose of facilitating investment and international trade between China and the Silicon Valley cities. The invitation explains that Silicon Valley region has only been the third most popular area in California for Chinese investment since 2000, and that face-to-face meetings with the Chinese people will be important in helping them to fully appreciate the significant opportunities in the Silicon Valley region. Moreover, the draft itinerary for the trip indicates that the Mayors will have several meetings with Chinese officials and business leaders in Beijing, Shanghai, Wuhan and Shenzhen in order to promote their respective cities, among other things. It is plain, therefore, that the Silicon Valley Mayors' China Trip is directly related to a legislative or governmental purpose.

2. *Are the travel expenses being provided by an entity described in Section 89506(a)(2)?*

According to the facts, two separate sources will provide funding for the expenses involved with the trip. The payment for the international air travel will be covered by AAECA, which is a 501(c)(3) tax exempt organization. The remaining expenses incurred while in China will be paid through an intermediary, CPAFFC, by the city governments of the four cities visited by the Mayors. Therefore, the sources of funding for the Mayors' travel, the AAECA and the foreign city governments, fall within the purview of Section 89506(a)(2).

Accordingly, payments provided by AAECA and the foreign government entities through CPAFFC for the Mayors' transportation (airfare) to China, transportation during their stay, and any lodging or subsistence are reportable gifts that are not subject to gift limits pursuant to Section 89506(a)(2). Please note, however, that any payments made for items other than travel and related lodging and subsistence may be considered a reportable gift subject to the $440 gift limit and the conflict of interest provisions of the Act, because those items would not be related to a legislative or governmental purpose.[4]

The "Informational Material" Exception

Regardless of the source, not all goods and services supplied to program participants are necessarily "gifts." The Act excludes from its definition of "gift" items classed as "informational material," a term that includes "any item which serves primarily to convey information and which is provided for the purpose of assisting the recipient in the performance

---

[4] There was a suggestion that Regulation 18950.1 may apply to the present situation. Regulation 18950.1 provides criteria for determining when payments for travel made in conjunction with official agency business have no personal benefit to an official and do not constitute gifts or income to the official. Based on the facts you have provided, we do not view this situation as one that comes within the reach of that Regulation. In any event, Regulation 18950.1 is inapplicable by virtue of our finding that the payments to the Mayors, although not prohibited or limited by the Act's gift limits, are nonetheless gifts under the Act.

of his or her official duties or of the elective office he or she seeks." (Section 82028(b)(1); Regulation 18942.1.) "Informational material" may include "[b]ooks, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars." (Regulation 18942.1(a).) This does not, of course, include payments for travel, which would include costs of transportation, lodging or subsistence. (Section 82028(b)(1).) You have provided no facts relevant to this gift exception so we do not address it further.

Conflict of Interest Disqualification

As mentioned, a public official who receives gift(s) of $440 or more may have a financial conflict of interest under the Act. (Sections 87100 et seq.) The official must disqualify himself or herself from voting or otherwise participating in a governmental decision affecting that source, if the payment was received or promised to the official within 12 months preceding the decision. Therefore, if the Mayors accept gifts from the sources identified above valued at $440 or more, they may be prohibited from participating in governmental decisions affecting those sources. If this occurs, they should seek further assistance.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Jack Woodside
Senior Counsel, Legal Division

JW:jgl

CITY OF MENLO PARK

STAFF REPORT

City Council
Meeting Date: **9/11/2018**
Staff Report Number: **18-174-CC**

Informational Item: **Update on the Willow Road and highway 101 interchange construction, upcoming traffic changes and planned weekend roadway closure**

Recommendation

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

Policy Issues

The Willow Road Interchange Project was included in the fiscal year 2012-13 Capital Improvement Plan and is included in the 2018 City Council work plan. While not a City project, as a Caltrans project it has significant impacts on Menlo Park. The project is currently in construction and this report is intended to provide an update on the construction staging, upcoming traffic changes and planned weekend roadway closure.

Background

Caltrans is modifying the interchange at Willow Road and highway 101 from its former "full cloverleaf" style to a "partial cloverleaf" style similar to the Marsh Road and Highway 101 interchange. This will eliminate the short merge weaves both on Willow Road and the freeway. The project is replacing the existing interchange with a new, wider bridge; adding sidewalks, bicycle lanes and separated bicycle lanes on both sides of Willow Road; and adding two signalized intersections. Caltrans awarded the construction contract in February 2017, and construction began in May 2017. Construction is expected to last approximately two years.

The Caltrans construction of the project is being performed in four stages.

<u>Stage 1</u>
Site preparation and early demolition and was completed at the end of October 2017.

<u>Stage 2</u>
Installation of two temporary traffic signals on Willow Road at the freeway ramps, change in ramp locations, construction of sound walls, demolition of outside bridge structure, construction of new outside portion of bridge structure and construction of new ramp locations and associated storm drainage. Stage 2 began in early November 2017 and is anticipated to be complete in mid-September 2018.

As a result of the community reports of increased neighborhood traffic upon the commencement of Stage 2, coordination with Caltrans and direction from the City Council, several measures were implemented in December 2017, ranging from the addition of "no thru traffic" signs around the neighborhood to addition of turn restrictions at four locations, all to address the additional congestion from neighborhood cut-through traffic. The specific measures were listed in the Informational Item staff report from the January 16, 2018, City Council meeting. Based on ongoing staff observations and community feedback, these changes have been effective in reducing cut through traffic in this neighborhood. Staff will continue to make field observations for the duration of the construction.

Stage 3

Scheduled to begin Fall 2018 and will include tasks such as completion of bridge construction, completion of new ramp location installations, pavement restoration and street lighting installation. The beginning of Stage 3 includes a change in lane locations across the bridge, change in ramp locations, change in temporary traffic signals and a 54-hour weekend closure of Willow Road to make the switch. Stage 3 is anticipated to last approximately eight months.

Stage 4

The contractor will install all final signing, striping and traffic signals to prepare the interchange for opening the final structure.

Analysis

An Informational Item came before the City Council on August 6, 2018 (see Attachment A for Staff Report). At that time, the Willow Road interchange project was scheduled to begin Stage 3 of the construction schedule in mid-September with a full closure of Willow Road from September 14 through September 17, 2018. Since that time, an unforeseen construction issue caused that schedule to be postponed and the current tentative date for the Willow Road closure is now Friday, September 28, 2018, at 10 p.m. until Monday, October 1, 2018, at 4 a.m. Distribution of outreach materials has been postponed until a definite date is provided by the Caltrans construction team.

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 proposes 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. Staff report, City Council meeting, August 6, 2018

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

Report reviewed by:
Justin Murphy, Public Works Director

Public Works

CITY OF MENLO PARK

STAFF REPORT

City Council
Meeting Date: **8/6/2018**
Staff Report Number: **18-150-CC**

Informational Item: **Update on the Willow Road and highway 101 interchange construction, upcoming traffic changes and planned weekend roadway closure**

Recommendation

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

Policy Issues

The Willow Road Interchange Project was included in the City's 2012-13 Capital Improvement Program and is included in the 2018 City Council Work Plan. While not a City project, as a Caltrans project it has significant impacts on Menlo Park. The project is currently in construction and this report is intended to provide an update on the construction staging, upcoming traffic changes and planned weekend roadway closure.

Background

Caltrans is modifying the interchange at Willow Road and highway 101 from its former "full cloverleaf" style to a "partial cloverleaf" style similar to the Marsh Road and highway 101 interchange. This will eliminate the short merge weaves both on Willow Road and the freeway. The project is replacing the existing interchange with a new, wider bridge; adding sidewalks, bicycle lanes and separated bicycle lanes on both sides of Willow Road; and adding two signalized intersections. Caltrans awarded the construction contract in February 2017, and construction began in May 2017. Construction is expected to last approximately two years.

The Caltrans construction of the Project is being performed in four stages.

<u>Stage 1</u>
Site preparation and early demolition and was completed at the end of October 2017.

<u>Stage 2</u>
Installation of two temporary traffic signals on Willow Road at the freeway ramps, change in ramp locations, construction of sound walls, demolition of outside bridge structure, construction of new outside portion of bridge structure and construction of new ramp locations and associated storm drainage. Stage 2 began in early November 2017 and is anticipated to be complete in mid-September 2018.

As a result of the community reports of increased neighborhood traffic upon the commencement of Stage 2, coordination with Caltrans and direction from the City Council, several measures were implemented in December 2017, ranging from the addition of "no thru traffic" signs around the neighborhood to addition of turn restrictions at four locations, all to address the additional congestion from neighborhood cut-through traffic. The specific measures were listed in the Informational Item staff report from the January 16, 2018, City Council meeting. Based on ongoing staff observations and community feedback, these changes have been effective in reducing cut through traffic in this neighborhood. Staff will continue to make field observations for the duration of the construction.

Stage 3
Scheduled to begin in mid-September 2018 and will include tasks such as completion of bridge construction, completion of new ramp location installations, pavement restoration and street lighting installation. The beginning of Stage 3 includes a change in lane locations across the bridge, change in ramp locations, change in temporary traffic signals and a 54 hour weekend closure of Willow Road to make the switch. Stage 3 is anticipated to last approximately eight months.

Stage 4
The contractor will install all final signing, striping and traffic signals to prepare the interchange for opening the final structure.

Analysis

The Willow Road interchange project is scheduled to begin Stage 3 of the construction schedule in mid-September. This marks a milestone in that outside portions of the new bridge structure will be completed and opened to traffic and the demolition of the remaining portion of the existing bridge structure will begin. In order to transition the roadways from the current stage of construction into Stage 3, Willow Road must be completely closed to all traffic over a weekend for a period of 54 hours. This work is tentatively scheduled to start on Friday, September 14, 2018, at 10 p.m. and open back up to traffic by 4 a.m. Monday, September 17, 2018. Preparation of outreach materials began the week of July 23, 2018, and distribution will begin the week of August 13, 2018. Detours will be in place during this closure of Willow Road

Activities happening during full closure include:
- Construction of pavement to connect Willow Road and new bridge structure
- Construction of pavement to connect new ramp locations and new bridge structure
- Modification of traffic signals at both ramp locations

When Willow Road is reopened early Monday, traffic patterns and interchange layout will be different from the current stage of construction. Attachment A shows the Stage 3 layout including open lanes, traffic signal locations, ramp locations and traffic patterns. Notable differences include:
- All turns from Willow Road onto the freeway will be right turns with dedicated right turn lanes
- Off-ramp locations from both northbound and southbound highway 101 onto Willow Road will be moved to the opposite side of Willow Road from where they are now
- Traffic lanes on Willow Road will be moved to the outside of the construction area and work will begin in the middle of the Willow Road bridge

At the beginning of Stage 3, Caltrans is considering performing nighttime demolition work on the existing bridge.

Caltrans Public Information Office will be performing extensive outreach regarding the weekend closure of Willow Road including the following activities:
- Notifications to local news media including radio, television and printed news outlets
- Mailers to local residents and businesses
- Notifications to local elected officials

- Updates to the Caltrans project webpage
- Placement of portable changeable message signs at least one week in advance of full closure weekend

Additionally, City staff has been performing outreach activities to supplement Caltrans' outreach work, including this informational item, as well as the following:

- Coordination with Police Department and Menlo Park Fire Protection District
- Notifications to local schools
- Article in City Council Weekly Digest
- Notices to the Almanac and Daily Post
- Public Works e-mail blast
- NextDoor post
- Posts on City's various social media, including Facebook and Twitter
- Updating City project webpage
- Informational Item to Complete Streets Commission
- Submitting updated mapping information to Waze, Google Maps and Apple Maps

Typically, traffic changes to lanes and/or traffic signals can take one to three months for driver behaviors to normalize after a significant change in patterns. City and Caltrans staff will continue to monitor traffic conditions through the construction process.

Impact on City Resources

City funds and staff resources are available to continue to coordinate with Caltrans for the anticipated construction remaining. Funding for construction is provided to Caltrans by the San Mateo County Transportation Authority.

Public Notice

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Additional outreach to the community is being done through a variety of methods including the following:

- Notifications to Bay Area news media outlets
- Mailers to local residents and businesses
- Portable changeable message signs
- Notifications to Police Department and Fire Protection District
- Notifications to local schools
- City Council Digest article
- Notices to local news media (Almanac and Daily Post)
- Public Works e-mail blast
- NextDoor post
- City social media posts
- Maintaining City's project webpage
- Informational Item to Complete Streets Commission
- Submitting updated mapping information to Waze, Google Maps and Apple Maps

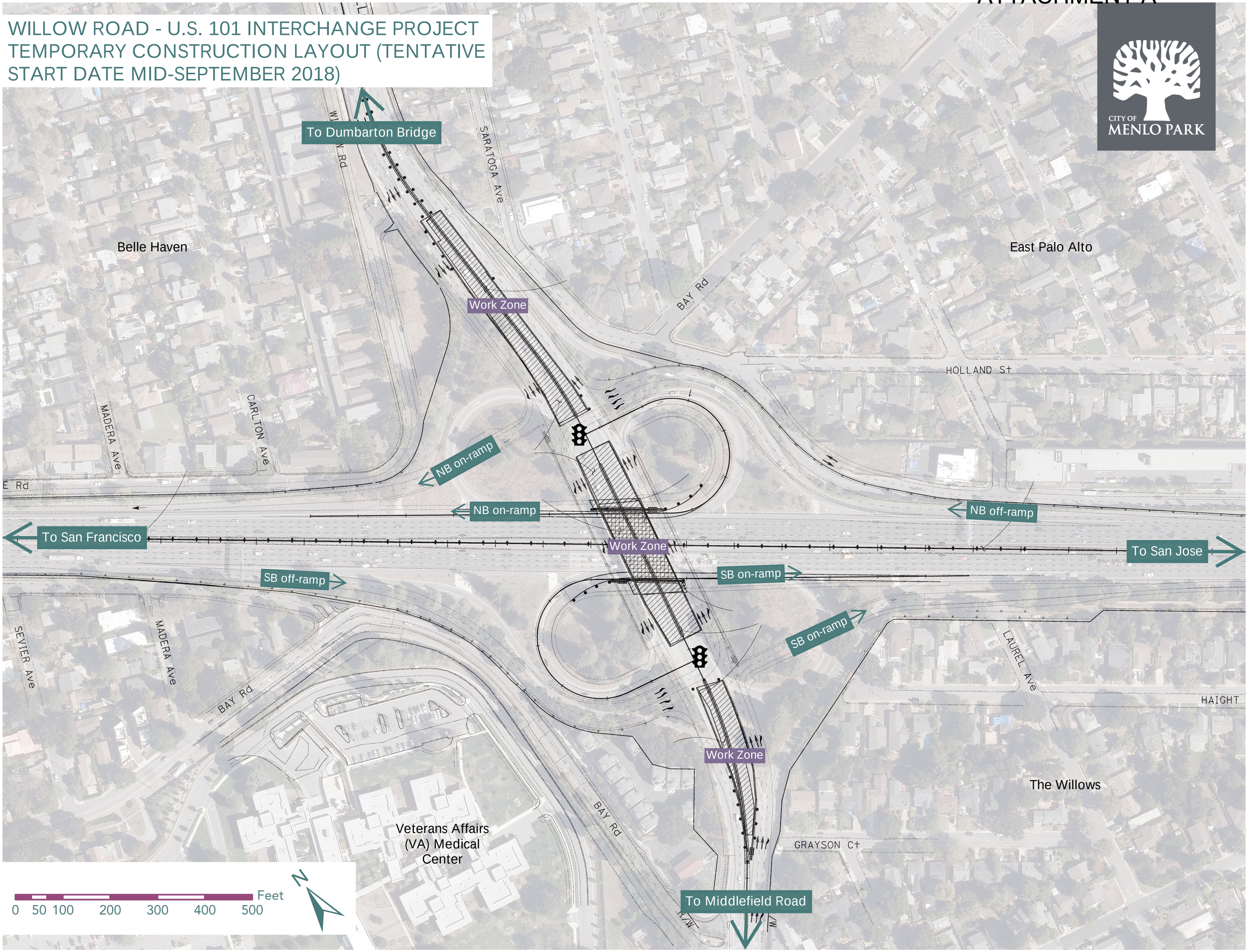
Attachments

A. Map of Willow Road and highway 01 Interchange Project, Stage 3 traffic layout

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

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

ATTACHMENT A



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STAFF REPORT

City Council	
Meeting Date:	**9/11/2018**
Staff Report Number:	**18-178-CC**
Informational Item:	**Update on the Menlo Park shuttle program and schedule**

Recommendation

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

Policy Issues

The City of Menlo Park shuttle program is consistent with the 2016 general plan goal and policies to support local and regional transit that is efficient, frequent, convenient and safe. These policies seek to promote the use of public transit and to promote the use of alternatives to the single-occupant automobile.

Background

The City of Menlo Park has been offering shuttle service since 1989, starting with the Marsh and Willow shuttles that take passengers between Caltrain and the business parks. Over the years, additional routes have been added to serve local residents in addition to commuters. The current fixed-route shuttles, the Menlo midday and the Belle Haven, are the successors to the former midday shuttle, while the shoppers' shuttle is a door-to-door service. The Menlo midday shuttle is a new service started in March 2017, connecting Sharon Heights with the rest of the City via Santa Cruz Avenue and Sand Hill Road.

The City's shuttle program takes advantage of a joint contract with the Peninsula Corridor Joint Powers Board (DBA Caltrain) and the Peninsula Traffic Congestion Relief Alliance (DBA Commute.org). This joint contract, which is managed by Caltrain, is with MV Transportation to provide shuttle service within San Mateo County and Santa Clara County. These shuttles serve first and last mile connections with BART and Caltrain, along with local community routes in cities such as Menlo Park.

Beginning in October 2017, MV Transportation began having staffing issues and could not staff drivers on every single route in the contract. As a result, service on two-bus routes, such as the Belle Haven and Marsh shuttles, were reduced to only one bus. Although this is an inconvenience to Menlo Park riders, it would ensure that other one-bus shuttle routes in the system would not be canceled.

Staffing issues at MV Transportation have continued over the course of the last year. There have been many recruitments, but many drivers are still leaving for other similar jobs. Due to this staffing issue, there have been random service disruptions on one-bus routes including those in Menlo Park. The lack of drivers means that when a driver calls in sick, there are few backups to cover the shift and the shuttle run for the day is canceled. For example, the Menlo midday shuttle was canceled at least once a week in July and August 2018 due to the driver shortage.

Per the January 2018 Staff Report to City Council (Attachment A), the Menlo midday shuttle will be combined with the Belle Haven shuttle to create the all-new crosstown shuttle. This will connect Sharon

Heights, Stanford medical center, Stanford shopping center, downtown Palo Alto, downtown Menlo Park, Menlo Park library, and Belle Haven as a one-seat ride service. Not only will it offer connectivity to more destinations, but it will also offer all-day service between 7 a.m. - 6 p.m. for riders in Belle Haven, Sharon Heights and everywhere in between.

Analysis

Effective September 4, 2018, the Belmont-Hillsdale and Menlo midday shuttles were suspended. The Belmont-Hillsdale shuttle is a commuter shuttle while the Menlo midday shuttle is a community one. The justification was based on ridership numbers. Table 1 shows the average ridership numbers for Menlo Park shuttles.

Table 1: Menlo Park shuttle ridership (by route, July 2018)

Shuttle route	Average daily ridership (passengers)
Belle Haven	59
Marsh Road*	92
Menlo Midday	6
Shoppers	16
Willow Road*	75

**Commuter routes*

Table 2 shows a sampling of various San Mateo County shuttles for location and ridership numbers, as the entire data range has over 20 routes serving the County. The low end for average daily ridership on San Mateo County shuttles is typically around 40 to 50 riders, with the highest at 200 to 300 riders. With an average daily ridership of 6 and 62, the Menlo midday and Belmont-Hillsdale Shuttles (respectively) are on the lower end of the ridership spectrum.

Table 2: Selected San Mateo County shuttle ridership (by route, July 2018)

Shuttle route	Average daily ridership (passengers)
Belmont-Hillsdale	62
Crocker Park (Brisbane)	347
Norfolk (San Mateo)	70
Oyster Point Caltrain (South San Francisco)	125
South San Francisco shuttle*	216
Twin Dolphin (Redwood City)	74

**Community route*

Based on the continued staffing issues, Caltrain and the City discussed options to suspend shuttle service. Due to the unstable staffing levels and frequent cancellations during summer 2018, suspension of shuttles with low ridership was considered to help prevent cancellations on other heavily used routes in the system. The suspension of the Menlo midday shuttle was decided after discussions between City staff and Caltrain to identify the least impactful options.

The decision to temporarily suspend the Menlo midday shuttle was made for two main reasons. The first is that it had very low ridership and thus had extremely high per passenger costs. For example, the cost in June 2018 was approximately $60/passenger when in comparison, the benchmark for commuter shuttles is $5-$10 per passenger and paratransit on the expensive end is $40 per passenger. Secondly, the shoppers' shuttle exists as an alternative service. The shoppers' shuttle offers service to Redwood City on Tuesdays, and around the Menlo Park/Palo Alto area on Wednesdays and Saturdays. This free service only runs three times a week, but is a door-to-door service in comparison to the Monday to Friday Menlo midday shuttle.

As stated above, a new crosstown shuttle will connect Sharon Heights, Stanford medical center, Stanford shopping center, downtown Palo Alto, downtown Menlo Park, Menlo Park library and Belle Haven as all-day, one seat ride service. The start date for this crosstown shuttle is still to be determined, but will be implemented as soon as driver-staffing levels are stable. Proper outreach and refreshing of the shuttle stops with new signage will also be completed at that time to improve knowledge and visibility of the shuttles that are serving the Menlo Park community.

Staff will continue to monitor the situation and work with its partners to minimize impacts to passengers. The City's goal is resumption of normal levels of service as soon as possible to support local and regional transit with reliable first and last mile mobility options.

Impact on City Resources

There are no impact to City Resources at this time.

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 proposes 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. Hyperlink: https://www.menlopark.org/DocumentCenter/View/16513/F3---FY2018-20-CCAG-TA-Shuttle-Call-for-Projects

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