



## REGULAR MEETING AGENDA

**Date:** 10/18/2022  
**Time:** 6:00 p.m.  
**Locations:** [Zoom.us/join](https://zoom.us/join) – ID# 829 9908 0429 and  
City Council Chambers  
701 Laurel St., Menlo Park, CA 94025

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

Consistent with Government Code section 54953(e), and in light of the declared state of emergency, and maximize public safety while still maintaining transparency and public access, members of the public can listen to the meeting and participate using the following methods.

#### How to participate in the meeting

- Access the live meeting, in-person, at the City Council Chambers
- Submit a written comment online up to 1-hour before the meeting start time:  
[city.council@menlopark.org](mailto:city.council@menlopark.org)  
Please include the agenda item number you are commenting on.
- Access the meeting real-time online at:  
[Zoom.us/join](https://zoom.us/join) – Meeting ID 829 9908 0429
- Access the meeting real-time via telephone at:  
(669) 900-6833  
Meeting ID 829 9908 0429  
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Channel 26
  - City Council Chambers

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

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

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

## Regular Session

### A. Call To Order

### B. Roll Call

### C. Agenda Review

### D. 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.

### E. Study Session

- E1. Provide direction regarding a zero-emission landscape equipment (ZELE) ordinance to regulate gas-powered equipment such as leaf blowers ([Staff Report #22-207-CC](#)) ([Presentation](#))

### F. Consent Calendar

- F1. Adopt a resolution to continue conducting the City’s Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings ([Staff Report #22-201-CC](#))
- F2. Approve an amendment to the agreement with AECOM to conduct the next phase of work for the Caltrain grade separation project ([Staff Report #22-197-CC](#))
- F3. Authorize the city manager to enter into an amended contract with ICF Jones & Stokes Inc. to prepare an environmental impact report for the proposed master plan project at 333 Ravenswood Avenue (Parkline) for the amount of \$688,817 and future augments as may be necessary to complete the environmental review for the proposed project ([Staff Report #22-200-CC](#))
- F4. Authorize the Mayor to sign the City’s response to the San Mateo County Civil Grand Jury Report: “Waiter! There’s a Car in My Soup!” ([Staff Report #22-202-CC](#))

### G. Regular Business

- G1. Adopt a resolution authorizing installation of no parking zones on both sides of Middle Avenue, installation of an all-way stop at Middle Avenue and San Mateo Drive, replacement of an all-way stop at Middle Avenue and University Drive with a roundabout with yield control, and temporary closure of Blake Street at Middle Avenue ([Staff Report #22-198-CC](#)) ([Presentation](#))
- G2. Provide direction on the process for recommending stop sign installation and consider adopting a resolution to install stop signs at several intersections ([Staff Report #22-203-CC](#)) ([Presentation](#))
- G3. Consider and adopt a resolution approving the water supply assessment for the Housing Element Update Project ([Staff Report #22-199-CC](#)) ([Presentation](#))

## **H. Informational Items**

- H1. City Council agenda topics: October 20 – November 15, 2022 ([Staff Report #22-205-CC](#))
- H2. Preliminary considerations for commemorative park amenities ([Staff Report #22-204-CC](#))
- H3. Consideration of recommended sustainable reach codes for inclusion as part of the upcoming 2022 California Building Standards Code adoption process ([Staff Report #22-206-CC](#))

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

## **J. City Councilmember Reports**

## **K. Adjournment**

At every regular meeting of the City Council, in addition to the public comment period where the public shall have the right to address the City Council on any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City Council's consideration of the item.

At every special meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

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

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at [jaherren@menlopark.org](mailto:jaherren@menlopark.org). Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

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**STAFF REPORT**

**City Council**

**Meeting Date:**

**10/18/2022**

**Staff Report Number:**

**22-207-CC**

**Study Session:**

**Provide direction regarding a zero-emission landscape equipment (ZELE) ordinance to regulate gas-powered equipment such as leaf blowers**

**Recommendation**

Staff recommends the City Council review the policy recommendation to regulate gas-powered landscaping equipment. If the City Council desires to pursue a ZELE ordinance (or specific elements of the proposed recommendation), staff recommends the City Council direct the preparation of a draft ordinance for consideration in 2023.

**Policy Issues**

In 2019, the City Council declared a climate emergency (Resolution No. 6535) committing to catalyze accelerated climate action implementation. In July 2020, the City adopted a new 2030 Climate Action Plan (CAP) with the bold goal to reach carbon neutrality by 2030. Menlo Park currently regulates gas-powered landscaping equipment through the City's noise ordinance (Chapter 8.06) and a leaf blower ordinance (Chapter 8.07.)

**Background**

Menlo Park does regulate landscaping equipment through its noise ordinance (Chapter 8.06) by limiting its use to specific hours of the day, and limits generating noise above 85 decibels.

Gas-powered leaf blowers have further restrictions detailed in Chapter 8.07 of the Menlo Park Municipal Code. Gas-powered leaf blowers may also only operate during specific hours, but unlike other landscaping equipment, cannot exceed 65 decibels, and must be certified per American National Standards Institute (ANSI.)

During the City Council's 2021 work plan development, numerous requests were made from community members desiring a ban on gas-powered leaf blowers to enhance the quality of life in Menlo Park and reduce air pollution and greenhouse gas emissions. As a result, the City Council referred consideration of a gas-powered leaf blower ordinance to the Environmental Quality Commission (EQC) (March 9 and March 27, 2021.)

The EQC recommended that City Council consider bans on gas-powered leaf blowers done by neighboring cities to avoid reinventing the wheel. The EQC also approved forwarding a memorandum on the topic by Commissioner Elkins (Attachment A.)

On November 16, 2021, the EQC presented its recommendation to the City Council to consider a prohibition on gas-powered leaf blowers and received several public comments in favor of the EQC recommendation. The City Council directed staff to engage with landscaping stakeholders and return to City

Council with a study session item to evaluate enforcement, implementation and staff resources needs.

Based upon the findings from research and the City's overall goal to be carbon neutral by 2030, staff recommends that the City Council consider adopting a ZELE ordinance that would include regulating lawn mowers, string trimmers, hedge trimmers, chainsaws and leaf blowers. Enforcement of equipment would use a phased approach starting with leaf blowers and string trimmers (commonly referred to as weed whackers) July 1, 2024, remaining equipment would start January 1, 2029.

## **Analysis**

### 2030 CAP goals

While gas powered leaf blowers alone make up a small percentage of greenhouse gas emissions, requiring all landscaping equipment to be zero emissions would yield greater reductions. It is equally important to recognize that some emissions sources like landscaping equipment are difficult to measure and are not captured in local greenhouse gas inventories but remain an important aspect to meet climate goals.

Gas-powered landscaping equipment generally uses gasoline. Burning/using one gallon of gasoline emits around 20 pounds of carbon dioxide. Prohibiting the use of gas-powered landscaping equipment within Menlo Park City limits would immediately reduce greenhouse gas emissions from this source and improve overall air quality as a result. According to the California Air Resources Board (CARB), lawn and garden equipment comprises 86 percent of the total population of small off-road engine equipment (SORE) in the state.

### State legislation Assembly Bill (AB) 1346 and other local government regulations on landscaping equipment

Implementing a ZELE ordinance would also build upon state regulations (AB 1346<sup>1</sup>) that would prohibit the sale (not use) of gas-powered landscaping equipment starting January 1, 2024. The state will be providing \$30 million in incentives to support landscapers and gardeners in the transition starting November 7 2022.<sup>2</sup> However, the incentives would not apply to residents, commercial business not considered landscaping or gardening operations, or local government. The City Council may want to consider providing an incentive program to community members that would be ineligible to receive the state incentives. Redwood City and San Mateo currently provide incentive programs to replace gas powered landscaping equipment.

Many local governments in the Bay Area have already prohibited the use of gas-powered landscaping equipment, mainly leaf blowers, before the implementation of AB 1346. Those researched for the purposes of developing a policy in Menlo Park include:

- Los Altos: banned gas-powered leaf blowers in 1991
- Palo Alto: banned gas-powered leaf blowers in residential neighborhoods in 2000
- Los Gatos: banned gas-powered leaf blowers in 2014
- Portola Valley: banned gas-powered leaf blowers in 2019. Offered time limited trade-in gas-powered for electric leaf blower incentive program.
- Berkeley: banned gas-powered leaf blowers in 1990
- Oakland: banned gas-powered leaf blowers and gas-powered string trimmers. Implementation began in 2021.
- Eight cities in Marin County have also adopted gas powered leaf blower bans

<sup>1</sup> Press release from CARB: <https://ww2.arb.ca.gov/news/carb-approves-updated-regulations-requiring-most-new-small-road-engines-be-zero-emission-2024>

<sup>2</sup> <https://californiacore.org/how-to-participate-professional-landscape/>

### Health and air quality affects from landscaping equipment

Research into the environmental harm caused by gas-powered landscaping equipment, particularly leaf blowers, is extensive. According to CARB, operating a gas-powered commercial backpack leaf blower for just one hour emits smog-forming pollution comparable to driving a new light-duty passenger car about 1,100 miles — approximately the distance from Los Angeles to Denver (over 15 hours of driving.) Both the noise and health effects of gas-powered leaf blower are also significant and well-researched. According to the Centers for Disease Control, operating a gas-powered leaf blower emitting 90 decibels without ear protection for two hours may lead to hearing loss. In addition, gas powered landscaping equipment emit high concentrations of nitrogen oxides (NOx), reactive organic gases (ROG), and particulate matter (PM), creating health risks for both operators and the public.

### Availability of zero emission equipment

The CARB has stated that zero-emission landscaping equipment is widely available and has greatly improved over the last few years. Since 2018, CARB has operated the Zero-Emission Equipment Roadshow, which loans the equipment free of cost for three weeks to municipalities and other entities that express interest. There are approximately 50 pieces of professional equipment from eight manufacturers included in the Roadshow. The Roadshow has been to 25 organizations throughout the state. Many users who may have complained about early zero-emission equipment models have become enthusiastic supporters (examples include the Los Angeles Unified School District, UC Irvine, Santa Barbara Parks and Recreation, Capitol Park in Sacramento, and more.) Menlo Park was lined up to participate, but the pandemic began and halted participation in the program. However, the city has been piloting four electric leaf blowers for small-scale tasks.

CARB also provides resources such as links to available zero-emissions commercial and residential equipment<sup>3</sup>, and zero-emissions equipment reviews and testimonials<sup>4</sup>.

### Menlo Park landscaper and gardener outreach

The City Council directed staff to engage with landscaping stakeholders regarding regulations for gas-powered leaf blowers, specifically the Bay Area Gardener's Association (BAGA.) The organization does not appear to exist anymore based on research, but there are other types of associations that staff reached out and include the California Landscape Contractors Association (CLCA) and its local chapter the San Francisco Bay Area CLCA. No response or call backs were received.

Staff did find a public statement from the CLCA regarding the state regulations to prohibit the sale of gas-powered SORE equipment. While generally supportive of transitioning to zero-emissions equipment, the CLCA expressed feasibility concerns about the 2024 deadline.<sup>5</sup> These concerns center around the cost and performance of available commercial landscaping equipment and recommended delaying the ban of new commercial SOREs sales, including landscape equipment, until 2028. CARB remained unchanged in requiring enforcement in 2024.

Due to the lack of responses from landscape and gardener association outreach, an online survey was launched in late May 2022 that targeted landscaping and gardening businesses in Menlo Park. The survey was active for four weeks and asked questions about all types of landscaping equipment used. Using Menlo Park's business license database, the survey was emailed to 102 (out of 130) active and inactive landscaping and gardening businesses with email addresses, and included a Spanish version. In addition,

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<sup>3</sup> CARB: [ww2.arb.ca.gov/our-work/programs/zero-emission-landscaping-equipment/zero-emission-lawn-equipment](http://ww2.arb.ca.gov/our-work/programs/zero-emission-landscaping-equipment/zero-emission-lawn-equipment)

<sup>4</sup> CARB: [ww2.arb.ca.gov/our-work/programs/zero-emission-landscaping-equipment/zero-emission-lawn-equipment-reviews-and](http://ww2.arb.ca.gov/our-work/programs/zero-emission-landscaping-equipment/zero-emission-lawn-equipment-reviews-and)

<sup>5</sup> CLCA: [clca.org/news/clca-works-for-responsible-transition-to-zero-emission-equipment/](http://clca.org/news/clca-works-for-responsible-transition-to-zero-emission-equipment/)

staff advertised the survey in Menlo Park's weekly digest email newsletter and social media platforms (e.g., Nextdoor, Facebook, Instagram, etc.) encouraging residents and businesses to forward the survey to their landscape and gardening professionals.

Five survey respondents identified as a landscaping or gardening professional and 107 responses identified as property owners. The survey summary, questions, and aggregated responses are included in Attachment B.

Three of the five landscaping and gardening professionals indicated that they own electric leaf blowers; two reported owning electric lawnmowers. Most were unaware of the upcoming 2024 state ban on the sale of gas-powered landscaping equipment. One supported a ban on gas-powered landscaping equipment while one did not. The small sample size of landscape/gardener respondents makes it challenging to validate the results of the survey in relation to the industry impacted as a whole.

#### Study session outreach and planned outreach for ZELE ordinance adoption

Using the City's business license database, staff emailed 102 (out of 130) landscape and gardening professionals about this study session and how to participate and provide feedback between October 14 and 18. Staff also published information in the weekly digest email newsletter October 17, and on social media platforms.

If the City Council directs preparation of a draft ZELE ordinance, the following tasks could be implemented between December 2022 and April 2023 to keep stakeholders informed on the process and opportunities for additional feedback:

- Post information on the city website and allow subscribers to receive updates on the process of adopting a ZELE ordinance, and inform the community about the webpage.
- Send a mailer to community and landscapers/gardeners to provide information on meeting dates, how to provide feedback, and where to find additional information. Include Spanish translation of communications.
- Include information in the city's waste bill insert in January for residential, commercial and multifamily customers.
- Hold a virtual meeting/webinar for community and landscape and gardening professionals to inform them about the proposed requirements and capture feedback. Post recorded videos on city YouTube page and webpage.
- Launch an online survey regarding the proposed ZELE ordinance to capture feedback from the community and landscaping/gardening professionals.

The City Council may wish to provide additional direction and feedback on the proposed outreach approach.

#### Draft ordinance elements

Should the City Council direct the drafting of a ZELE ordinance to consider adopting in 2023, the following elements will be incorporated into the draft ordinance unless otherwise directed by the City Council, and include best practice policies from other local governments:

1. Applies to all properties, including residential, commercial and City properties
2. Enforcement of zero-emission leaf blowers and string trimmers (commonly referred to as weed whackers) would begin July 1, 2024
  - A. Allows time for landscapers and gardeners to utilize state incentives to secure electric equipment.
3. Enforcement of all other zero-emissions landscaping equipment types (lawnmowers, hedge trimmers and chain saws) would begin January 1, 2029

4. Hours of allowable operation would remain the same for electric powered equipment: 8 a.m. to 6 p.m. Monday through Friday. Residents only on Saturdays, Sundays and holidays during the hours of 9 a.m. to 5 p.m.
5. Violations would be tied to the property owner and not the landscaping or gardening business.
  - A. This provides an incentive for the property owner to educate their landscaper or gardener about the city requirement, enabling greater compliance and equitable and effective enforcement.
  - B. Landscapers and gardeners are by nature a mobile business, and often times have left the property by the time city personnel arrive on scene, making it difficult to identify or track down the business. In addition, the landscaper or gardener may be an employee of a business and may not have decision-making power over type of equipment used.
6. Staff is evaluating penalties for noncompliance of the ordinance and will likely recommend that the ordinance involve the issuance of citations pursuant to a citywide administrative citation ordinance which the City is currently analyzing and will be bringing forth to the City Council.

The City Council may wish to direct staff differently on the proposed ZELE ordinance elements described above.

#### Enforcement and implementation

Enforcement of the ordinance would likely be done by the City's code enforcement division. Currently, there are two code enforcement positions and two community service officer positions. Only one position of these four is currently filled.

Using code enforcement and community service officers is a traditional approach used by other communities to enforce zero-emission landscaping equipment ordinances. Enforcement and implementation can range from a verbal discussion with education on the municipal code, incentives available, alternative equipment, issuance of a warning notice, and issuance of administrative citations. Staff continues to explore whether there may be alternative methods for enforcing municipal code violations that could be presented if the City Council directs to draft an ordinance in 2023.

In addition, an ordinance for administrative citations is being prepared to support effective implementation of all municipal code violations and will be submitted to the City Council in the future.

Staff will likely request a full time employee at minimum to support implementation and enforcement of the proposed ZELE ordinance.

#### City operation and budget impacts

A ZELE ordinance will impact how Public Works maintenance staff perform duties that require landscaping equipment. The first phase of the ZELE ordinance would require using zero-emission leaf blowers and string trimmers starting July 1, 2024.

A transition to electrically-powered leaf blowers and string trimmers would include buying new equipment, establishing a storage and charging area suitable for electrically-powered devices, and training staff on proper and safe operation of the new equipment. The estimated total cost to convert the City's gas-powered leaf blowers and string trimmers to electrically-powered units is \$189,600. The Bay Area Air Quality Management District and CARB could provide funding through the Carl Moyer Program, to purchase zero-emission professional landscaping equipment on a first come first serve basis each year.

In addition, the City employs private contractors to perform maintenance across the City and many of the contractors utilize leaf blowers and string trimmers. Initial discussions indicate there will be a price increase for contractors to acquire the equipment plus an increase in labor costs. However, it is likely city contractors



will be able to access state incentives to replace equipment starting November 7, 2022.

It is important to note that Menlo Park and its contractors will be unable to purchase small gas powered landscaping equipment starting January 1 2024 under AB 1346, and transitioning sooner will support meeting 2030 CAP goals.

During heavy leaf season in the fall, there may be trade-offs to fully transition to electric leaf blowers. Hand raking and extra work to collect the debris during heavy leaf season may be required. If more time is spent collecting debris (i.e., leaves, small branches, etc.), other maintenance tasks may be eliminated or deprioritized during this period of each year. More community engagement would also be required to explain slower response times to maintenance requests, and park and facility beautification efforts.

Attachment C provides further details on city operational impacts.

### Next steps

Staff recommends drafting a ZELE ordinance that includes all the proposed elements described above to address noise, health and safety, and achieve greenhouse gas reductions from all small engine landscaping equipment, and begin proposed outreach in the community to prepare for a first reading in 2023.

### Alternatives

The City Council has options and could consider alternative direction such as the following:

1. Bring back a draft ordinance that only considers regulating gas-powered leaf blowers
2. Bring back a draft ordinance that only considers regulating gas-powered leaf blowers and string trimmers
3. Add to or limit the public outreach proposal based on city priorities and staff resources
4. Do not draft an ordinance at this time, and continue to implement Menlo Park's current noise restrictions regarding gas powered leaf blowers

### **Impact on City Resources**

Staff anticipates requesting an additional full time employee in fiscal year 2023-24 to enable a quicker compliance rate in the community if the City Council adopts the proposed ZELE ordinance in 2023 with the projected effective date of July 1, 2024.

Staff resources will be allocated for public outreach and engagement before the first reading of the ordinance in 2023. After adoption, resources will also be required to prepare the community and city operations to adhere to the ZELE ordinance requirements. Staff can provide an overview of the implementation plan at the first reading of the ordinance.

The fiscal impact of transitioning all City-owned leaf blowers to electrically-powered models is estimated to cost approximately \$189,600. This additional funding requirement is not included in the adopted budget for fiscal year 2022-23, but staff will explore applying for the Carl Moyer program that could cover the cost of replacing equipment if an ordinance is adopted in 2023.

### **Environmental Review**

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

### **Public Notice**

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

### **Attachments**

- A. Memorandum from EQC member Leah Elkins
- B. Menlo Park survey results
- C. Public Works memorandum on operational impacts

Report prepared by:  
Rebecca Lucky, Sustainability Manager

Reviewed by:  
Nira Doherty, City Attorney  
David Norris, Police Chief  
Brian Henry, Assistant Public Works Director

To: City Council  
From: Environmental Quality Commission  
Date: Sept. 24, 2021

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### **Recommendation**

At council direction, the EQC has examined the impacts of gas-powered leaf blowers (GLBs) and found that, while impacts on climate are likely to be far less than 1% of total impacts, there are significant impacts of GLBs on human health, safety, and well-being. EQC recommends that City Council consider bans on GLBs done by neighboring cities to avoid reinventing the wheel. As such, the EQC recommends that City Council explore this idea as a health and safety issue, to be handled by the appropriate department. Time and resources spent on this issue by staff and City Council should not detract from those resources already dedicated to CAP implementation, passed 5-0 (London and Price absent).

### **Background**

Menlo Park residents have increasingly complained to the City Council about the harmful impacts caused by the operation of gasoline-fueled leaf blowers (GLBs) operating in the city. The City Council has directed the Environmental Quality Commission (EQC) to prepare a report and recommendation regarding the continuing operation of GLBs in Menlo Park.

The three concerns repeatedly cited by local residents are (1) noise pollution, (2) air pollution and (3) the effects of each on human health. Our state government has notably committed to address the global climate change crisis by mandating that California reduce its Greenhouse Gas Emissions (GHG) emissions to 40% below 1990 levels by 2030. <https://www.ca.gov/archive/gov39/2015/04/29/news18938/index.html>. Governor Newsom's Executive Order No. N-79-20 of September 23, 2020, has further directed that the California Air Resources Board (CARB) implement strategies to achieve 100% zero emissions from small off-road equipment by 2035, where feasible and cost-effective. Menlo Park itself has set an even bolder goal of becoming carbon neutral (zero emissions) by the year 2030.

This study examines the three concerns above and the extent to which they are addressed - or not addressed - by Menlo Park's existing regulation of GLB use in Menlo Park Municipal Code Chapter 8.07. The study also examines other public health issues related to GLB operation and use. As discussed below, all of the available evidence strongly indicates that public health in Menlo Park would be best served by phasing out GLBs in favor of battery-powered alternatives. The study concludes by examining methods for how to do so in as equitable a manner as possible.

It is important to note at the outset that the pollution that is created by GLBs is NOT a significant contributor to climate change. The emissions from these machines amount to far less than 1% of the world's GHG emissions. This report will demonstrate, however, that GLBs are a

significant and pernicious harm to human health and well-being due to their high decibel and low frequency noise profile and their emission of cancer causing chemicals and ozoning-forming air pollutants.

## **Noise Pollution and Health**

### *High Decibel Noise*

Menlo Park has committed to minimize noise levels within the city “to protect the peace, health and safety of its citizens from unreasonable noises from all sources including, but not limited to, those specified in this chapter.” Menlo Park Municipal Code Chapter 8.07.

In Chapter 8.07, entitled “Leaf Blowers,” the city acknowledges that “[i]t has been found that internal fuel combustion engine leaf blowers cause considerable noise and air pollution and have been the source of numerous complaints by persons working and residing in the city. This chapter is intended to regulate the use of internal fuel combustion engine leaf blowers to minimize noise and air pollution in the city.” To that end, only “certified leaf blowers” may be operated during the permitted hours of 8 am to 5 pm, Monday through Friday. Residents only may operate them on Saturdays from 11 am until 3 pm. Chapter 8.07.020, Section 2 states, “**Certified leaf blower**” means only those leaf blowers measured at sixty-five (65) dB(a) or less at a distance of fifty feet (50’) by an independent laboratory per American National Standards Institute (‘ANSI’) standard B175.2-1996, as certified by the manufacturer.”

Noise ratings of gas-powered backpack leaf blowers available from typical suppliers indicate that most operate at the ANSI standard. See Leaf Blower Ratings, Consumer Reports Buying Guide (Oct 2019) <https://www.consumerreports.org/products/leaf-blower/ratings-overview/>. The reality of urban environments like Menlo Park, where smaller lots are common, is that an operating GLB will frequently be within fifty feet of adjacent residents. When an operating GLB is fewer than fifty feet away, hearing protection is recommended. *Id.* Expecting residents to purchase and don ear protection whenever a GLB is operating nearby is neither reasonable nor practicable, particularly for infants and children.

The existing ordinance consequently does not actually address the noise concerns of city residents. Moreover, enforcing the ordinance is difficult as a practical matter because complaint calls are given low priority by the Police Department, which has many competing public safety concerns. By the time a complaint is made and an officer arrives at the scene, the GLB is usually no longer being used. The ordinance’s intent of protecting the peace and health of Menlo Park residents from GLB noise has not been achieved by the attempt to regulate these blowers.

### *Low Frequency Noise*

The existing ordinance also does not take into account the low frequency nature of GLB noise. A study by the Harvard University School of Public Health shows that low frequency sound

travels farther and penetrates walls and buildings more effectively than higher pitched sound. Jamie L Banks, Erica Walker, *Characteristics of Lawn and Garden Equipment Sound: A Community Pilot Study*, Harvard T.H. Chan School of Public Health, <https://sciforschenonline.org/journals/environmental-toxicological-studies/JETS-1-106.php>. The study concluded that a single GLB could negatively impact up to ninety surrounding homes in typical urban densities versus six homes for a powerful electric blower. Electric engines operate at higher frequencies, explaining why they are significantly less "noisy" than GLBs. This part of the problem is not addressed by an attempt to regulate decibel levels.

### *Health Impacts of Excessive Noise*

The noise that GLBs generate poses a health risk. Prolonged or repeated exposure to sound levels above 85dB (common with backpack style leaf blowers at close proximity) can cause permanent hearing loss. Center for Disease Control and Prevention, "*Too Loud! For Too Long! Loud noises damage hearing*" <https://www.cdc.gov/vitalsigns/hearingloss/index.html>. Multiple studies have found a correlation between exposure to ambient noise over 55dB and a higher incidence of arterial hypertension and cardiovascular diseases due to increased mental stress. Munzel, Gori, Babisch, Basner, *Cardiovascular effects of environmental noise exposure*, European Heart Journal (Apr. 2014) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3971384/>.

Another study found that people living in areas with more traffic noise were 25% more likely to exhibit symptoms of depression than those living in quieter neighborhoods. Researchers suspect that greater noise aggravates existing health conditions by inducing higher levels of stress. <https://www.brainfacts.org/thinking-sensing-and-behaving/diet-and-lifestyle/2018/noise-pollution-isnt-just-annoying-its-bad-for-your-health-062718>; see also <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4873188/> (depression and anxiety increased with the degree of overall noise annoyance).

Studies have also indicated that noise induced stress can cause the release of cortisol, a hormone that helps to restore homeostasis in the body after a bad experience, and a decrease in dopamine, which controls the flow of information from other parts of the body. "Excess cortisol impairs function in the prefrontal cortex—an emotional learning center that helps to regulate 'executive' functions such as planning, reasoning and impulse control. . . Changes to this region, therefore, may disrupt a person's capacity to think clearly and to retain information. . . [and] decrease higher brain function, impairing learning and memory." <https://www.scientificamerican.com/article/ask-the-brains-background-noise/>. Excessive noise has specifically been shown to negatively impact cognitive development in children. <https://www.frontiersin.org/articles/10.3389/fpsyg.2013.00578/full>. Aside from issues of physical or mental health, GLB noise can disrupt children's ability to learn, as well as adults' ability to work from home.

## Air Pollution and Health

### *What Type of Pollution is Caused by GLBs?*

As mentioned, compared to the transportation and electricity production sectors, GLBs represent a minor source of overall greenhouse gases.

<https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>. GLBs are, however, a significant contributor to air pollution.

According to the Environmental Protection Agency, air pollution is any visible or invisible particle or gas found in the air that is not part of the natural composition of air. Ozone (also known as ground-level ozone or O<sub>3</sub>), a gas, is a major component of smog and is one of the most common air pollutants. Air pollution may also contain particulate matter (PM), carbon monoxide (CO), and unburned fuel in the form of benzene, formaldehyde, and acetaldehyde.

In addition to pollution from toxic exhaust fumes, gas leaf blowers kick up several particulate matter types in the form of “fugitive dust,” including mold, pollen, animal and bird feces, pesticides, and fertilizers. CARB has stated that leaf blowers are a principal generator of fugitive dust in urban areas.

[http://media.metro.net/projects\\_studies/sustainability/images/3\\_Fugitive\\_Dust\\_Handbook\\_from\\_CARB.pdf](http://media.metro.net/projects_studies/sustainability/images/3_Fugitive_Dust_Handbook_from_CARB.pdf).<sup>1</sup>

The majority of gas-powered leaf blowers in the US use small two-stroke engines (sometimes referred to as small off-road engines, or “SOREs”) that lack an independent lubrication system. The fuel is thus mixed with oil. Approximately 30% of the fuel does not fully combust, resulting in significant emission of toxic pollutants - including carbon monoxide, nitrous oxides, and non-methane hydrocarbons (which together cause smog and acid rain by reacting with sunlight.)

<https://www.sustainability.wustl.edu/rethinking-lawn-equipment-2/>.

A widely cited study conducted at the American Automobile Association's Automotive Research Center and commissioned by Edmunds InsideLine.com, found that a typical two-stroke GLB emits hundreds of times more hydrocarbons than the Ford F-150 Raptor Pickup truck used as a control. “The hydrocarbon emissions from a half-hour of yard work with the two-stroke leaf blower are about the same as a 3,900-mile drive from Texas to Alaska in a Raptor.”

<https://www.edmunds.com/about/press/leaf-blowers-emissions-dirtier-than-high-performance-pick-up-trucks-says-edmunds-insidelinecom.html>. The EPA has also stated that gas-powered

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<sup>1</sup> Because electric blowers create these same fugitive dust problems (as well as degradation of top soil and harm to beneficial insect habitats), I chose not to get into this factor too extensively. However, there is an argument to be made that all blowers should be restricted in favor of rakes and brooms or, at the very least, that blower use be limited to hardscape only. This is the course taken in Portola Valley. [https://library.municode.com/ca/portola\\_valley/codes/code\\_of\\_ordinances?nodet=TIT8HESA\\_CH8.32LEBLUSCHSHGOINEFJA232021#:~:text=It%20is%20unlawful%20to%20use,or%20other%20non%2Dhard%20surfaces.&text=%C2%A7%201%2C%202019\)-,8.32.,blowers%20over%20sixty%2Dfive%20decibels](https://library.municode.com/ca/portola_valley/codes/code_of_ordinances?nodet=TIT8HESA_CH8.32LEBLUSCHSHGOINEFJA232021#:~:text=It%20is%20unlawful%20to%20use,or%20other%20non%2Dhard%20surfaces.&text=%C2%A7%201%2C%202019)-,8.32.,blowers%20over%20sixty%2Dfive%20decibels).

lawn and garden equipment is a prevalent source of high levels of air pollution.

<https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf>.

While manufacturers have made steady reductions in two-stroke engine emissions, they are still one of the largest sources of air pollutants in this country, exceeding even the emissions of large automobiles, which are regulated to reduce and capture air pollutants via the use of catalytic converters. <https://sustainability.wustl.edu/rethinking-lawn-equipment-2/>. CARB has projected that due to increased adoption of electric vehicle technology and stricter emissions standards for automobiles, along with the increasing numbers of lawn and garden equipment powered by small gasoline engines, total smog forming pollution emissions from small engines will exceed those from passenger cars by 2020. *Small Engine Fact Sheet, California Air Resources Board, July 2018*, [https://ww3.arb.ca.gov/msprog/offroad/sm\\_en\\_fs.pdf?\\_ga=2.57772970.1807115685.1562651154%20-1700486834.1557971923](https://ww3.arb.ca.gov/msprog/offroad/sm_en_fs.pdf?_ga=2.57772970.1807115685.1562651154%20-1700486834.1557971923). By 2031, CARB states, small engine emissions will be more than twice those from passenger cars. *Ibid.* CARB has recommended a major shift toward electric equipment in order to hit state emissions reduction targets.

Therefore, small actions such as banning the use of GLBs can make a significant difference in improving regional air quality.

#### *Health Impacts of Poor Quality Air*

As seen, air pollution like CO, nitrogen dioxide, and hydrocarbons, as well as harmful chemicals, are released when fossil fuels are incompletely burned and enter the atmosphere. Inhaling such pollutants can cause damage that lasts for years, if not for life, and may even lead to death. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7044178/pdf/fpubh-08-00014.pdf>. Those most vulnerable to illness and premature death related to air pollution include children, pregnant women, the elderly, and those with pre-existing heart or lung disease. <https://www.lung.org/clean-air/outdoors/who-is-at-risk> and <https://www.ahajournals.org/doi/10.1161/CIRCULATIONAHA.120.050252>. In studying the health effects of leaf blower created pollution, CARB found that “with exposure to CO, subtle health effects can begin to occur, and exposure to very high levels can result in death.” <https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf>. Symptoms of acute CO poisoning cover a wide range depending on severity of exposure, from headache, dizziness, weakness, and nausea, to vomiting, disorientation, confusion, collapse, coma, and at very high concentrations, death. At lower doses, central nervous system effects, such as decreases in hand-eye coordination and attention in healthy individuals, have been noted. [https://www.cdc.gov/disasters/co\\_guidance.html](https://www.cdc.gov/disasters/co_guidance.html). These neurological and cardiovascular effects can be especially serious in children. <https://www.lung.org/clean-air/outdoors/who-is-at-risk/children-and-air-pollution>. Older people are more likely to suffer a heart attack, stroke, atrial fibrillation, and pneumonia because of air pollution. <https://www.nrc.gov/docs/ML1006/ML100601201.pdf> at pg. 97.

Benzene, a component of gasoline, depresses the central nervous system and causes cancer. Acetaldehyde is classified as a Group B2 probable human carcinogen; acute exposure to which causes irritation of the eyes, skin, and respiratory tract. Formaldehyde is highly irritating to eye and respiratory tract tissues, triggering or exacerbating asthma.

<https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf> Studies have confirmed these chemicals' connection to increased cancer risk in gasoline station employees.

<https://www.hoajonline.com/jeees/2050-1323/1/1>. All three are listed as Group 1 known human carcinogens by the American Cancer Society. <https://www.cancer.org/cancer/cancer-causes/general-info/known-and-probable-human-carcinogens.html>.

It has been firmly established that breathing ozone results in short-term decreases in lung function and damages the cells lining the lungs. It also increases the incidence of asthma-related hospital visits and premature deaths. Confalonieri, U., B. Menne, R. Akhtar, K.L. Ebi, M. Hauge, R.S. Kovats, B. Revich, and A. Woodward, 2007: Human health. In: Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Parry, M.L., O.F. Canziani, J.P. Palutikof, P.J. van der Linden, and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, UK, and New York, pp. 391-431.

“Adverse health effects from the [GLB] emissions are well known. Benzene, 1,3 butadiene, and formaldehyde are listed among the four top ranking cancer-causing compounds. They cause lymphomas, leukemias, and other types of cancer. Ground level ozone and fine PM cause or contribute to early death, heart attack, stroke, congestive heart failure, asthma, chronic obstructive pulmonary disease, and cancer. Growing evidence suggests these pollutants also contribute to developmental and neurological disorders, including autism. The mounting evidence on the dangers of short term exposure is especially concerning.” See

<https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf> and citations therein.

As for fugitive dust pollution, the epidemiological literature demonstrates statistically significant associations between ambient PM levels and negative human health outcomes, including mortality, hospital admissions, respiratory symptoms, and illness.

[http://media.metro.net/projects\\_studies/sustainability/images/3\\_Fugitive\\_Dust\\_Handbook\\_from\\_CARB.pdf](http://media.metro.net/projects_studies/sustainability/images/3_Fugitive_Dust_Handbook_from_CARB.pdf). Asthma sufferers are particularly sensitive to pollens and other allergens aerosolized by blowers. <https://www.aafa.org/air-pollution-smog-asthma/>.

Two new studies just presented at the Alzheimer's Association International Conference 2021 found that reducing air pollution can reduce the risk of cognitive ailments such as dementia and Alzheimer's. See <https://www.newsweek.com/reducing-air-pollution-could-lower-risk-dementia-alzheimers-1613671?amp=1>. “Breathing in pollutants, especially those that result from the burning of fuel and those so small they are invisible to the naked eye, has been associated with increased risk for a diverse cross-section of diseases, disorders, and other conditions, including but not limited to: mouth cancer, poor bone health and mental illnesses such as bipolar disorder and major depression.” *Ibid*.



As stated by Dr. Mahdiah Danesh Yazdi of the Harvard School of Public Health, “[e]ven if air pollution can’t be fully mitigated, we should strive to do better. Levels of pollutants now considered safe can still have harmful effects and result in bad outcomes.”

<https://www.nytimes.com/2021/06/28/well/live/air-pollution-health.html?referringSource=articleShare>.

## Operator Impacts

The health risks associated with lawn and garden equipment are highest for those who operate this equipment continuously. <https://www.epa.gov/sites/default/files/2015-09/documents/banks.pdf> at pg 12. A study published in *Nature* in 2006 found that emissions from small gas engines “may lead to elevated air pollution exposures for a number of gaseous and particulate compounds, especially for individuals whose occupations require the use of these engines daily, such as landscapers.” <https://www.nature.com/articles/7500471>. And while workers are exposed to very high levels of pollutants for many hours each day, they are also exposed to very high noise levels that can, as seen, induce permanent hearing loss if proper ear protection is not worn at all times.

Workers are also required to routinely handle gasoline, engine oil, and maintenance chemicals, most often under unsafe conditions. <https://www.greenindustrypros.com/mowing-maintenance/engines-parts-shop-equipment/article/12228422/gas-can-safety-for-landscapers-and-lawn-care-contractors> Exposure to gasoline fumes is a health hazard as is skin contact. <https://wwwn.cdc.gov/TSP/MMG/MMGDetails.aspx?mmgid=465&toxid=8>.

GLBs, particularly those carried on the operator’s back, also cause vibration impacts to the body and hands. Prolonged exposure to vibration can cause injuries known as Hand-Arm Vibration Syndrome.

[https://www.researchgate.net/publication/334361296\\_Vibration\\_Transmitted\\_to\\_the\\_Hand\\_by\\_Backpack\\_Blowers](https://www.researchgate.net/publication/334361296_Vibration_Transmitted_to_the_Hand_by_Backpack_Blowers). This condition causes changes in the sensation of the fingers which can lead to permanent numbness of fingers, muscle weakness and, eventually, wasting which can leave a sufferer unable to continue working with power tools. <https://patient.info/bones-joints-muscles/hand-arm-vibration-syndrome-leaflet>.

Dan Mabe of American Green Zone Alliance (AGZA) has worked with many landscape maintenance professionals while transitioning them to electric tools. He states that workers “love the smoothness of the electric tools – less vibration, they feel less fatigued. And they love the fact they don’t have to work with any gas or oil or solvents. They can go home and not feel like a gas can walking into the house.” <https://cleantechnica.com/2021/06/19/the-fully-electric-future-of-landscape-maintenance/>.

These operators are typically low wage workers, and often do not have a say in which equipment they use. The continued use of GLBs thus puts additional disproportionately high health risks upon a population who are some of the least able to avoid those risks.

## Environmental Damage

Even putting aside issues of the localized poisoning of communities, residents, and workers, GLBs are harming our global environment at a rate that should not be dismissed out of hand simply because other sources are larger culprits. “According to the US Department of Energy, 1.2 billion gallons of gasoline are consumed annually in the US for lawn and garden maintenance, and a significant portion of that is spilled while filling gas tanks. Roughly 25 pounds of CO<sub>2</sub> are emitted per gallon of gasoline burned, which means nearly 15 million tons of CO<sub>2</sub> are emitted per year for lawn maintenance.”

[https://afdc.energy.gov/files/u/publication/lawn\\_equip\\_2014.pdf](https://afdc.energy.gov/files/u/publication/lawn_equip_2014.pdf).

But even beyond this, the daily use of GLBs produces thousands of pounds of solid toxic and plastics waste yearly in the form of contaminated air and fuel filters, spark plugs, gaskets, and plastic two cycle oil containers that are sent to landfills. Filling gas tanks and mixing two cycle oil often results in spillage of toxic liquids and residual oil from used containers can find its way into water systems and harm local ecosystems. Common fluids used for engine maintenance – such as carburetor cleaners and engine degreasers - are highly toxic fluids themselves which require care in use and special disposal procedures. [www.agza.net](http://www.agza.net)

## Alternatives to Gas

Fortunately, a clean technology exists that can largely replace GLBs and perform most tasks effectively and efficiently. Consumer Reports says that, for ordinary yards, electric leaf blowers perform comparably to gas-powered models. The New York Times consumer product team also found many electric blowers to be as effective as gas powered models, although corded versions still tend to outperform battery versions.

<https://www.nytimes.com/wirecutter/reviews/best-leafblowers/>. The electric Toro F700, for example, “is light, with an easy one-handed speed control, and it moves leaves with a fury . . . at less than \$60.” *Ibid* “The Ego LB5604 doesn’t have the raw leaf-blasting power of the corded models, but in our tests its more focused airstream was better at getting under a dense mat of wet leaves, and its turbo button can produce an extra burst of power.” *Id*.

According to *Chainsaw Journal*, “cordless [electric] leaf blowers offer all the benefits of gas without any of the weakness. No fumes, no mixing gas and oil, easy to start, and highly maneuverable . . . You can even find professional-grade cordless backpack leaf blowers, such as the DeWalt DCBL590X1, which is powered by a 40V 7.5Ah lithium ion battery pack for increased power and runtime. . . . Some of the backpack cordless models accept dual batteries so they can deliver more blowing power and extended runtime for professional landscaping jobs. The Greenworks cordless 80V backpack leaf blower is on the higher end of the power spectrum with 580CFM and 145MPH.” <https://www.chainsawjournal.com/electric-vs-gas-leaf-blower/>.

While commercial grade electric blowers may cost more upfront than gas fuel models, manufacturers and green organizations make the case that they more than pay for themselves

in gas savings and maintenance cost. In one study by the University of Arkansas, comparing the gas blower then currently in use to maintain the campus to two electric models, they found the electric blower to represent an overall savings - "If you look at the amount of gasoline it takes to fuel the leaf blower over a five-year period . . . you see how quickly the cost of refueling these [gas machines] can be. [https://sustainability.uark.edu/resources/publication-series/project-reports/reports-electric power tools ua-2017-ofs.pdf](https://sustainability.uark.edu/resources/publication-series/project-reports/reports-electric_power_tools_ua-2017-ofs.pdf).

An analysis by California State Senator Josh Becker's office shows that the cost of a commercial grade electric blower is surpassed by the cost of fueling a comparable gas blower after less than 1000 hours of use. <https://docs.google.com/spreadsheets/d/1JNGM0eW3VsOgFSnPJ5NgiOJHSeXNDsvDsM8WYwzz5us/edit#gid=0>. Assuming a blower is used only 2 hours a day for 50 weeks a year, the electric version has paid for itself in 2 years.

AGZA also states that the savings in switching to electric begins at year two. (AGZA.net Service Pro Workshop)

Moreover, electric tools have a much simpler design, with fewer moving parts and do not need to be cleaned and serviced routinely like a gas machine, representing additional cost savings.

Although the Menlo Park Public Works Department currently believes that electric blowers are not up to the task of maintaining city properties, AGZA has shown that, with proper training and education on best practices, even very large areas can be maintained. In AGZA's model, grounds crews are encouraged to use gas tools only for jobs that absolutely cannot be handled without the extra power of gas. In such cases it recommends the use of 4-stroke equipment only which is substantially cleaner than 2-stroke. See [www.AGZA.net](http://www.AGZA.net).

Jose Diaz, a landscaping coordinator in Los Angeles who has given testimony against proposed local gas-powered SORE limitation laws, has even acknowledged that electric "leaf blowers work just fine." <https://californiaglobe.com/section-2/bill-that-would-ban-sales-of-new-small-gas-powered-engine-machines-introduced-in-assembly/>.

Our city's parks, playgrounds, and public areas, including schools, are some of the places we most want clean air and a quiet background. Our city government should take steps to make this possible even if it involves rethinking the current approach to keeping these areas free of leaves, hazardous materials and debris.

### **Organizations, Municipalities and Industry are going Electric**

At least ninety California municipalities have enacted restrictions on leaf blowers, as outlined in the table below. Most of these towns and cities restrict leaf blower usage by ordinance to certain times of the day, or through their noise regulations. Approximately thirty of these cities have explicit bans on gas-powered leaf blowers, while at least two cities have banned all motorized blowers outright.

California Cities Banning Gas Leaf Blowers (GLB)	Effective date of gas leaf blower ban
Belvedere	1987
Berkeley	1991
Beverly Hills	1976
Carmel	1975
Claremont	1991
Del Mar	Mid 1980s
Encinitas	2019
Hermosa Beach	Early 1990s
Indian Wells	1990
Laguna Beach	1993
Larkspur-Corte Madera	2020
Lawndale	2018 or earlier
Lomita	1986
Los Altos	1991
Los Gatos	2014
Malibu	2019
Manhattan Beach	1998
Mill Valley	1993
Monterey City	2021
Oakland	2021
Ojai (Public Works maintenance zero emissions)	2017
Pacific Grove	2021
Palm Springs	2019
Palo Alto	2005
Piedmont	1990
Portola Valley	2021
Rancho Palos Verdes	2020
Redondo Beach	2018
San Clemente	2021
San Francisco (Recreation and Parks Dept)	Jan. 2023
Santa Barbara City	1997
Santa Monica	2018
Sonoma	2016
South Pasadena (All municipal properties zero emissions, maintained by AGZA)	2016
South Pasadena*	Oct. 2022
West Hollywood	1986

\* As reiterated at July 7, 2021 City Council meeting (meeting video available on city website).

Other institutions and organizations that have adopted electric garden equipment include high schools, golf courses, sports complexes, and universities.

<https://www.brightview.com/resources/press-release/penn-switches-all-electric-landscaping-equipment-help-brightview>; <https://www.washingtonpost.com/climate-solutions/2021/06/30/electric-lawn-care/>. Yerba Buena High School in San Jose was the

nation's first AGZA Green Zone high school and its grounds department performs all routine landscaping maintenance on over 30 acres of serviceable area with all-electric equipment. <https://agza.net/agza-gz-ybhs-press-release/> Pennsylvania State University, with a campus of nearly 8000 acres, has also recently recognized the benefits of switching from gas to electric landscaping equipment and has found that electric equipment performs as well as gas. [https://www.collegian.psu.edu/news/campus/penn-state-s-office-of-physical-plant-seeks-to-prevent-pollution-through-electric-landscaping-equipment/article\\_4112fcaa-0f80-11ec-812d-67faa2311a21.html?fbclid=IwAR0CVKY8qHkp29oiCzu6GSGellWW3uWSxN6kvPG6MYRXIOggX9AzPifzJPs](https://www.collegian.psu.edu/news/campus/penn-state-s-office-of-physical-plant-seeks-to-prevent-pollution-through-electric-landscaping-equipment/article_4112fcaa-0f80-11ec-812d-67faa2311a21.html?fbclid=IwAR0CVKY8qHkp29oiCzu6GSGellWW3uWSxN6kvPG6MYRXIOggX9AzPifzJPs).<sup>2</sup>

CARB last submitted a report on GLBs to the California Legislature in February, 2000. At that time, CARB did not recommend a ban on GLBs due to the landscaper's "need" for such equipment despite its detriments to air quality and public health and because of the lack of acceptable alternative tools. <https://ww2.arb.ca.gov/sites/default/files/2018-11/Health%20and%20Environmental%20Impacts%20of%20Leaf%20Blowers.pdf> at p. 56. At that time electric leaf blowers were limited either to corded models or largely underpowered battery models. But at this point, according to CARB's current website, "[l]eaf blowers have . . . been deemed an ideal candidate for electrification in both the residential and commercial market. *Ibid* "Furthermore, in an effort to reduce the amount of PM that is stirred up by the leaf blowers, alternatives such as leaf vacuums can and should be considered by both the commercial and residential sector." *Id*.

Thus, it is only a matter of time before GLBs are banned statewide and Menlo Park should take the lead by demonstrating a commitment to electrification in all ways large and small.<sup>3</sup>

### **State Action will not Adequately Address Citizen Concerns**

California State Assemblymember Marc Berman, D-Menlo Park, in response to CARB's statements (above), submitted legislation (AB 1346) that would require new sales of SOREs to be zero-emission by 2024 or whenever CARB determines is feasible, whichever is later. The bill also requires CARB to make funding available for commercial rebates to support the transition to zero-emission SORE. <https://a24.asmdc.org/press-releases/20210329-berman-and-gonzalez-bill-will-phase-out-gas-powered-small-engines>. This bill has now passed both houses of the California Legislature and currently awaits Governor Newsom's signature. <https://www.sacbee.com/news/politics-government/capitol->

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<sup>2</sup> The landscaping crews at Penn State still use GLBs in the fall months when electric blowers are not powerful enough for specific tasks.

<sup>3</sup> It might behoove the city to think ahead to the time when GLBs will simply be unavailable and only electric blowers will be used – are we going to be satisfied to have them operated such that they continue to harm habitat for beneficial insects, destroy topsoil, and create fugitive dust and associated PM? If we are going to legislate now, perhaps we should consider an ordinance that restricts blower use to hardscape, and directs that dust and other debris shall not be deposited onto a neighboring property or into a street, gutter, or storm drain, (while, of course, continuing to restrict hours of use and db levels). For an example of such an ordinance see [https://encinitas.granicus.com/MetaViewer.php?view\\_id=7&clip\\_id=1968&meta\\_id=101104](https://encinitas.granicus.com/MetaViewer.php?view_id=7&clip_id=1968&meta_id=101104).

[alert/article254086403.html](https://www.sacbee.com/news/politics-government/capitol-alert/article254086403.html)<https://www.sacbee.com/news/politics-government/capitol-alert/article254086403.html>

While this law will finally begin to address the dangers and nuisance of gas-powered leaf blowers, the fact is that its impact will not actually be felt for many years. It only bans the sale of GLBs within California and does nothing to prevent the operation of equipment purchased before December 31, 2023, nor any equipment bought out of state. This could potentially leave GLBs operating within the state for years to come.<sup>4</sup> If the City Council wants to address the concerns of Menlo Park residents over the noise and pollution effects of GLBs in our neighborhoods well past 2030, they need to take steps now to educate residents and workers of the dangers associated with operating and living near GLBs.

On the positive side, the law will provide \$30 million in funding to provide incentives to persuade users to switch from gas equipment to zero emission electric equipment. While it is yet to be decided if these funds will be directed towards local municipalities or whether a statewide program will be created, there will be money available to gardeners who go electric.

### **Implementing a Ban Equitably**

Electric is actually cheaper than gas in the long run. Thus the only financial hardship to professional users would be the upfront cost. If AB1346 is signed by the governor, it will require CARB to make funding available for commercial rebates to support the transition to zero-emission SORE. <https://a24.asmdc.org/press-releases/20210329-berman-and-gonzalez-bill-will-phase-out-gas-powered-small-engines>.

In Encinitas, \$10,000 was set aside to provide incentives to local professionals to turn in their gas machines. The city staff estimated this could provide up to 50 rebates. [https://encinitas.granicus.com/MetaViewer.php?view\\_id=7&clip\\_id=1968&meta\\_id=101104](https://encinitas.granicus.com/MetaViewer.php?view_id=7&clip_id=1968&meta_id=101104). Portola Valley was also able to fund a buyback program, allotting \$6000. <https://www.almanacnews.com/news/2019/11/26/portola-valley-town-to-buy-back-leaf-blowers-add-church-to-housing-program>. If Menlo Park is committed to clean and healthy air and the protection of low income workers, it could similarly fund such a program if regional or statewide incentive programs cannot be found.

A phase-in period can also alleviate financial burdens by allowing owners of non-compliant equipment the time to prepare for a switch to clean technology. The California Landscape Contractors Association agrees “that efforts to prohibit outmoded equipment should be accompanied by buy-back programs that permanently remove the equipment from service. At a

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<sup>4</sup> As noted by landscaper Jose Diaz, “you can buy a gas-powered version in Mexico or Arizona or some place out of state and it’s not illegal to bring it in. If you can do that, or with the way we’re moving to online shopping, just order a gas-powered lawnmower [or blower] from out of state without consequence, what is the point of this?” <https://californiaglobe.com/section-2/bill-that-would-ban-sales-of-new-small-gas-powered-engine-machines-introduced-in-assembly/>.

minimum, bans on outmoded equipment should go into effect at least one year after a decision is made. This would give users crucial lead time to phase out their non-compliant equipment.”  
<https://www.clca.org/advocacy-2/current-issues/leaf-blowers/>.

A robust campaign that would educate property owners and commercial users about all the issues involved, from human health, to noise pollution, to habitat preservation, and including information about the costs and savings related to an upgrade to electric, could encourage those who employ landscape crews to pay a little extra to make up for increased costs and any lost productivity that is attributed to battery life. Time currently spent blasting leaves out of planting beds and borders could be saved if property owners can be persuaded that a garden provides beneficial habitats for bugs, birds and other life and does not need to look like a golf course. Homeowners can ask their gardening crews to use blowers only on hardscape. The city could also suggest that property owners themselves could invest in an inexpensive electric blower to be kept available for the workers’ use. Portola Valley Councilman John Richards noted that he knew “of several people in town who have stepped up to purchase electric blowers for their gardeners, or have helped finance them,” after his city’s ban went into effect.  
[https://www.almanacnews.com/news/2021/08/03/portola-valley-quieter-after-gas-powered-leaf-blower-ban?utm\\_source=express-2021-08-03&utm\\_medium=email&utm\\_campaign=express](https://www.almanacnews.com/news/2021/08/03/portola-valley-quieter-after-gas-powered-leaf-blower-ban?utm_source=express-2021-08-03&utm_medium=email&utm_campaign=express).

South Pasadena is one of the California cities that has most recently approved a ban. They will phase in the law over a one-year period, using that one year to educate residents and landscapers about the dangers of gas blowers. <https://southpasadenan.com/leaf-blower-ban-as-ordinance-takes-effect-city-seeks-to-educate/> The city plans to hold demonstrations of the power and efficiency of electric equipment, partner with AGZA in it’s outreach campaign, create a webpage dedicated to the ban, distribute information via a city e-newsletter and flyers handed out at farmers markets, city offices and libraries, and publish ads in local newspapers, among other efforts. *Ibid*.

Because workers are the ones most vulnerable to the health impacts of GLBs, helping low income operators to acquire and use cleaner technology should be a goal of this council. The City of San Mateo recently announced a rebate program which provides residents up to \$100 towards the purchase of an electric blower while professional landscapers can receive a rebate of up to \$500. <https://climaterwc.com/2021/08/11/san-mateo-launches-electric-leaf-blower-rebate-program-to-reduce-noise-pollution/>.

Finally, enforcement issues are less important if education is prioritized. Any fines should be preceded by effective education and multiple documented warnings and the option to fine the employer rather than the worker can be written into any ordinance.

## **Conclusion**

Citizens have made it known that the noise impacts alone are sufficient reason to ban GLBs but the vast evidence shows that routine use of this tool in the vicinity of residential neighborhoods, schools, parks, and other public spaces is exposing the public as well as landscape workers to

unnecessary and preventable health risks. Recent racial and socio-economic reckoning makes the need to protect the operators of GLBs more apparent and imperative.

As stated by 350 Bay Area, a local non-profit working to address climate change, “[r]eining in these engines is a climate, health, and environmental justice issue.”

<https://350bayareaaction.org/support-ab-1346-and-electrify-landscaping-equipment-for-climate-health-justice/>. And Asm. Berman has stated in connection with AB1346: “[w]e must look beyond transportation if we are to achieve the emissions reductions needed to fight climate change and improve air quality and health in our communities.” <https://a24.asmdc.org/press-releases/20210329-berman-and-gonzalez-bill-will-phase-out-gas-powered-small-engines>.

A recent article in the Almanac on the local efforts to ameliorate the harmful effects of GLBs elicited the following comment from Menlo Oaks resident “Ms Walker:”

“I despair of we [sic] as a society ever doing anything about the climate crisis if we can’t even ban the use of a “gardening” tool that the California Air Resources Board has determined is a major source of air pollution and that has an electric alternative tool already available to use. If we can’t even take this simple step (which would have a beneficial effect on our health), what does it say about our ability to take bold action?”

[https://www.almanacnews.com/news/2021/08/03/portola-valley-quieter-after-gas-powered-leaf-blower-ban?utm\\_source=express-2021-08-03&utm\\_medium=email&utm\\_campaign=express](https://www.almanacnews.com/news/2021/08/03/portola-valley-quieter-after-gas-powered-leaf-blower-ban?utm_source=express-2021-08-03&utm_medium=email&utm_campaign=express).

Equitable solutions can be found to help landscape professionals transition from gas to electric with minimal financial impact. The benefits to the workers themselves, the public at large and the very planet are well worth the resources the city will need to expend to implement a ban.

## **Recommendation**

The Sub-committee therefore proposes that the Environmental Quality Commission recommend that the City Council direct city staff to prepare a report regarding the implementation of a ban on gas-powered leaf blowers in Menlo Park.



**Summary of Fossil Fuel-Powered Landscaping Equipment Survey Results - June 2022**

The purpose of the survey:

- Keep the community aware of this ongoing effort and the upcoming state ban
- Provide a space for affected stakeholders to provide input
- Establish a baseline/state of the current community fleet of fossil fuel-powered landscaping equipment.

Landscaping/Gardening Professionals (up to 5 responses)	Property Owners (up to 107 responses)
<p>Community electric landscaping fleet by equipment type:</p> <ol style="list-style-type: none"> <li>1. Leaf blower</li> <li>2. Lawnmower</li> <li>3. No other equipment identified</li> </ol> <p>Note: All three respondents that identified as landscaping/gardening company owners reported owning electric leaf blowers, two of the three also reported owning electric lawnmowers.</p>	<p>Community electric landscaping fleet by equipment type:</p> <ol style="list-style-type: none"> <li>1. None (46 responses)</li> <li>2. Leaf blower (35 responses)</li> <li>3. String trimmers (13 responses)</li> <li>4. Lawn mowers (12 responses)</li> <li>5. Other (8 responses, only 2 respondents identified equipment: two hedgers and one mulcher)</li> <li>6. Chainsaw (7 responses)</li> </ol> <p>Note: 17 respondents selected more than 1 equipment categories</p>
<p>Suggestions to incentivize this group to electrify:</p> <p>Only three respondents in this group.</p> <ol style="list-style-type: none"> <li>1. Believes electrification would threaten the viability of their business (identified as resident)</li> <li>2. Supported adoption of an equipment ban</li> <li>3. Stated any additional costs incurred would be passed through to customer</li> </ol>	<p>Top suggestions to incentivize this group to electrify:</p> <ol style="list-style-type: none"> <li>1. Monetary incentives such as rebates, buyback, trade-in program (14 responses)</li> <li>2. Education (6 responses)</li> <li>3. Adoption of an equipment ban (6 responses)</li> <li>4. Financing (5 responses)</li> </ol> <p>Note: Seven respondents believe that electrification of landscaping equipment is not feasible. Six responses included more than one suggestion. 43 total responses.</p>
<p>60% of this group were unaware of the upcoming 2024 ban on <i>new</i> electric landscaping equipment sales (3 respondents)</p>	<p>40% of this group were unaware of the upcoming 2024 ban on <i>new</i> electric landscaping equipment sales (46 respondents)</p>
<p>Two responses from this group:</p> <ol style="list-style-type: none"> <li>1. Against electrification</li> </ol>	<p>35% of this group support a fossil-fuel equipment ban (19 responses)            17% of this group expressed concern about noise/nuisance, health, pollution, and/or climate impact (9 responses)</p>

Landscaping/Gardening Professionals (up to 5 responses)	Property Owners (up to 107 responses)
2. Supportive of electrification	15% of this group are against electrification of landscaping equipment (8 responses)

# Gas powered landscape equipment survey

Landscape/gardening service companies

MOVE

OPTIONS

All participants

Filtered by Participant Segment

## Project Engagement

VIEWS

294

PARTICIPANTS

4

RESPONSES

23

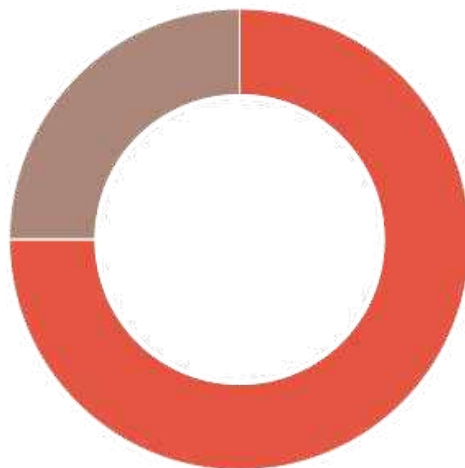
COMMENTS

1

All participants

Filtered by Participant Segment

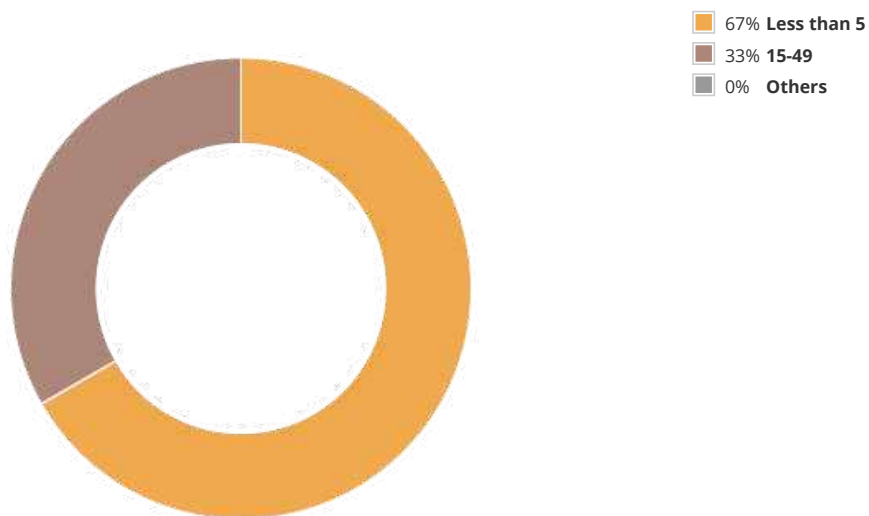
1. Are you a Menlo Park resident, or own/operate landscape/gardening service company within Menlo Park?



- 75% **Landscape/gardening service company owner that operates in Menlo Park**
- 25% **Landscape/gardening service company technician that works in Menlo Park**
- 0% **Others**

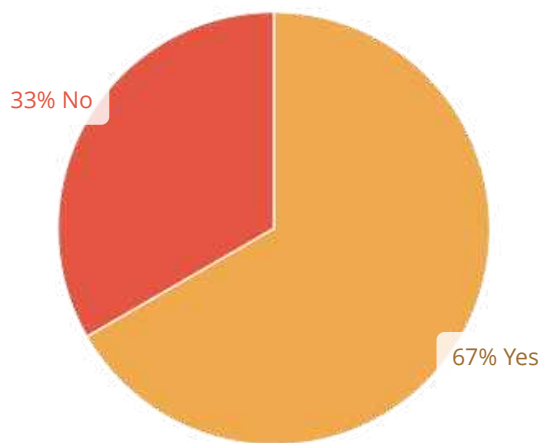
4 respondents

1a. For landscaping/gardening service company owners/operators, how many employees (including full-time, part-time, and/or seasonal) your company have?



3 respondents

2. Are you aware California passed a bill to phase out the sale of new small off-road engines like lawn mowers, leaf blowers, string trimmers, and chainsaws, by 2024?



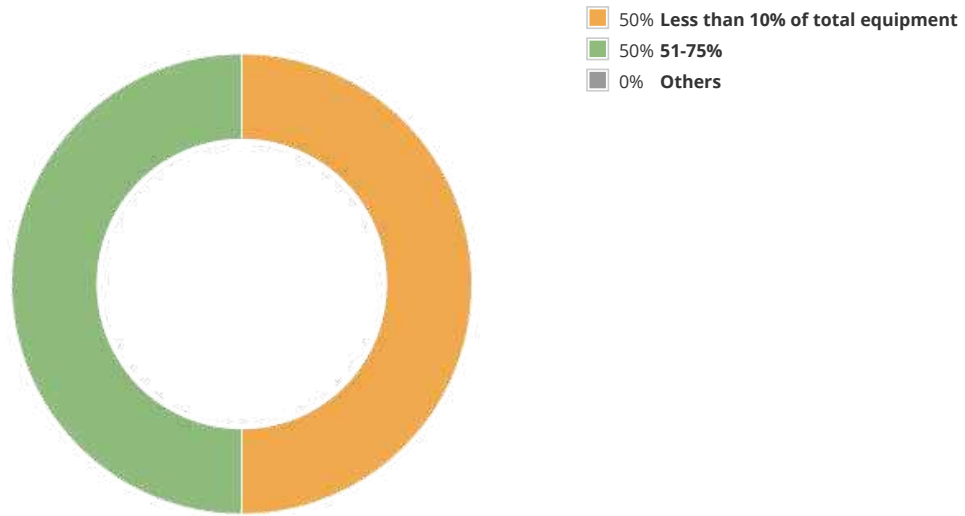
3 respondents

3. Do you have any electric landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.)? Check all that apply.

100%	Leaf blower	2 ✓
50%	Lawn mower	1 ✓
0%	String trimmer	0 ✓
0%	Chainsaw	0 ✓
0%	No	0 ✓
0%	Other	0 ✓
0%	I do not own any electric equipment	0 ✓

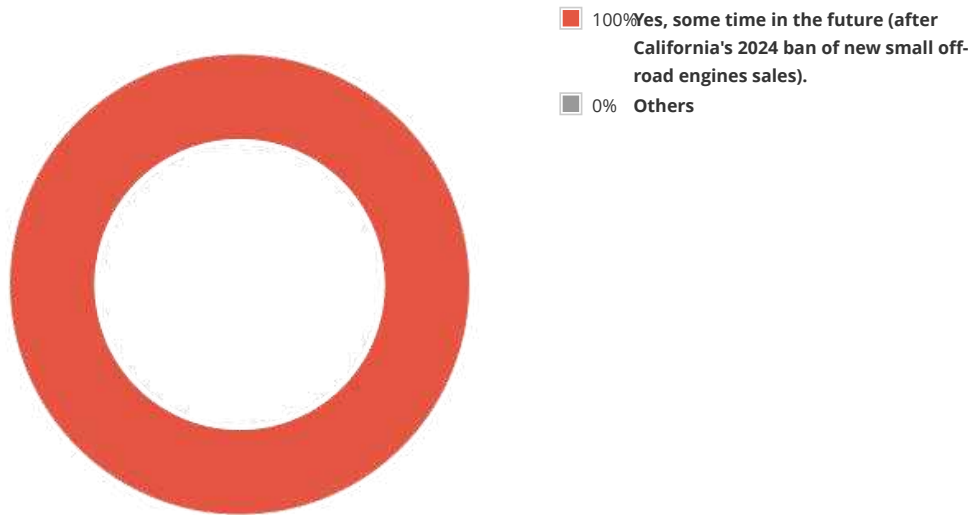
2 Respondents

3a. If yes, how much of your landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.) is all-electric?



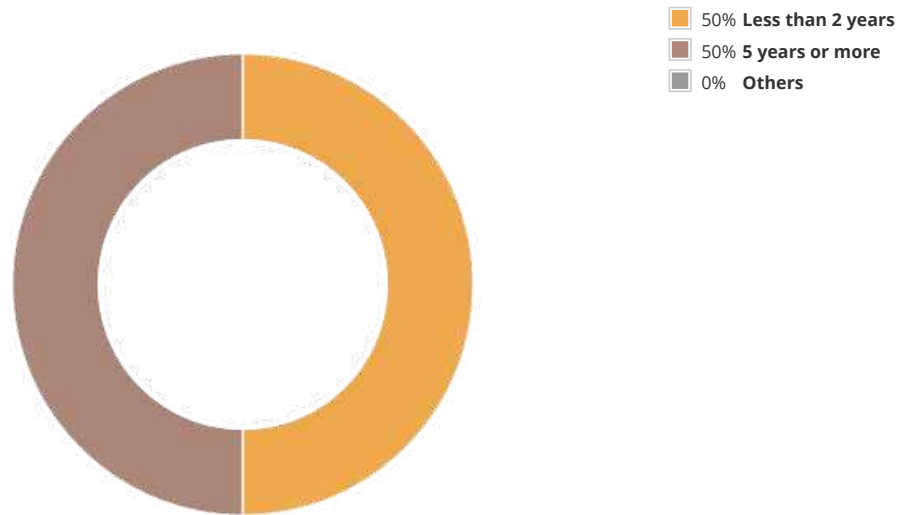
2 respondents

3b. If no, do you plan to buy electric landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.)?



1 respondent

4. Given current available technology and trends, how long would you expect it to take to transition to all-electric landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.)?



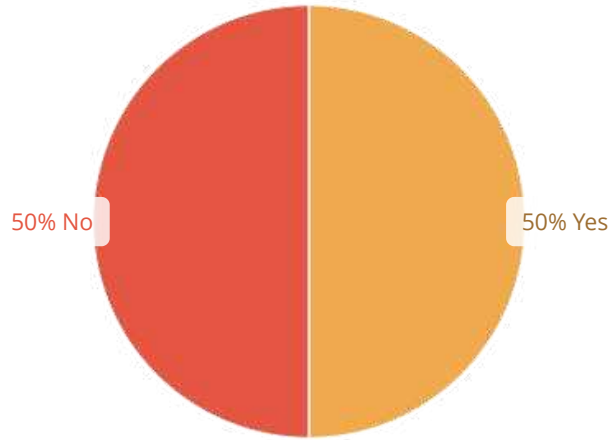
2 respondents

5. What programs or support could be provided to accelerate electrification of your landscaping equipment?

Enforce this all electric mandate, so that I'm not the only one switching to electric!

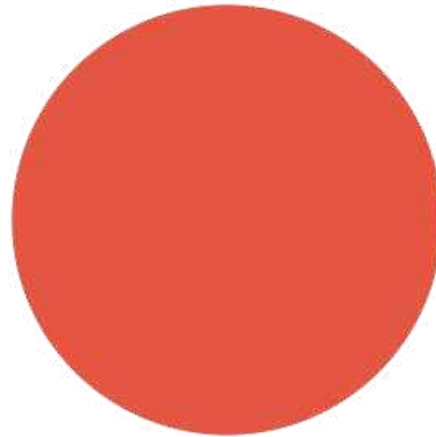
3 months ago

6. If you work in other San Mateo County cities, are you aware of incentive programs (for example City of San Mateo and Redwood City) which offer electric leaf blower rebates to both residents and commercial operators?



2 respondents

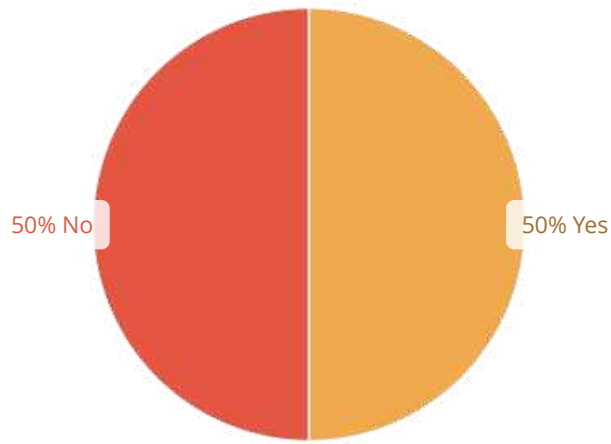
6a. If yes, have you applied for a rebate on a newly purchased electric leaf blower? Please include any feedback on the application process, requirements, and/or general program comments.



100% No

1 respondent

6b. If no, do you plan to, now that you are aware of the program? Please explain why or why not, and include any feedback on these programs.



2 respondents

7. We want to hear from you, please provide any additional comments.

Loading more report objects...



# Gas powered landscape equipment survey - Residents

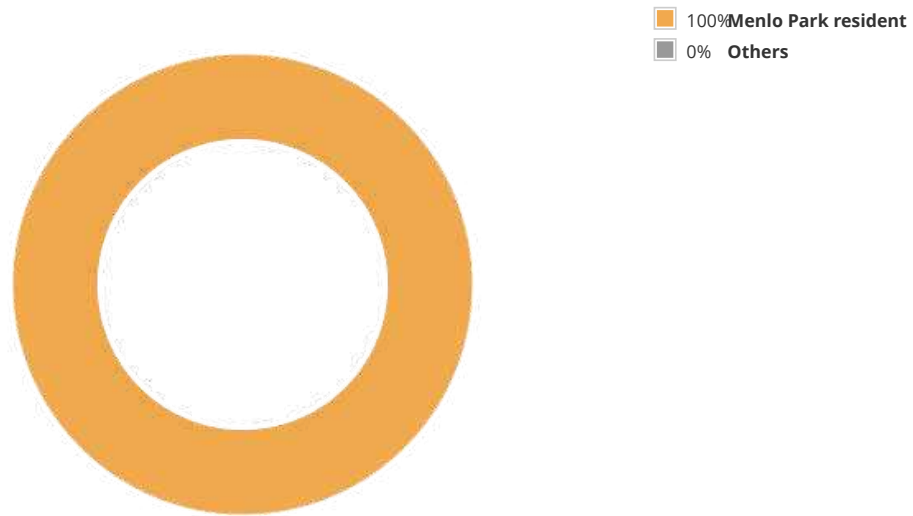
Residents  
MOVE + FILTER BY SEGMENT FILTER BY SEGMENT OPTIONS . . . . . </> . . . . .  
All participants Filtered by Participant Segment

## Project Engagement

VIEWS	PARTICIPANTS
294	108
RESPONSES	COMMENTS
630	127

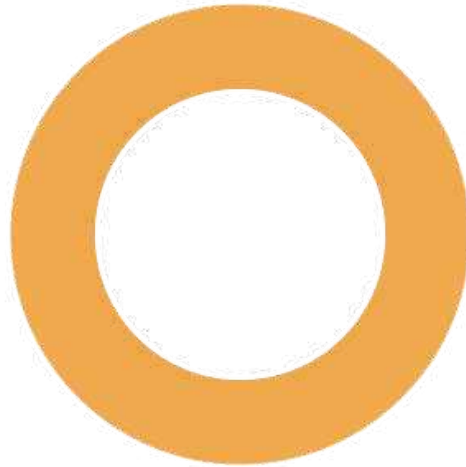
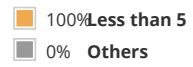
All participants Filtered by Participant Segment

1. Are you a Menlo Park resident, or own/operate landscape/gardening service company within Menlo Park?



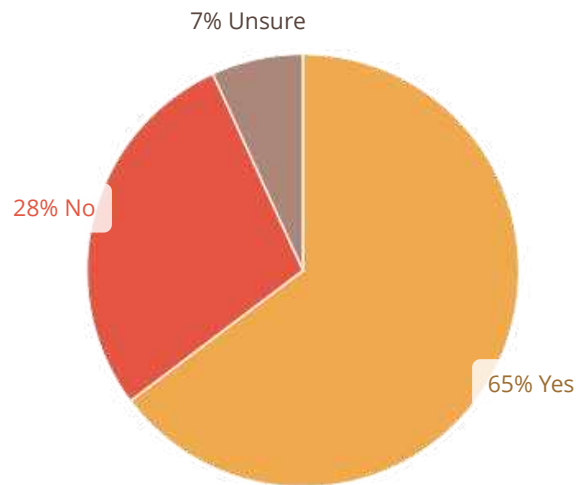
108 respondents

1a. For landscaping/gardening service company owners/operators, how many employees (including full-time, part-time, and/or seasonal) your company have?



12 respondents

2. Are you aware California passed a bill to phase out the sale of new small off-road engines like lawn mowers, leaf blowers, string trimmers, and chainsaws, by 2024?



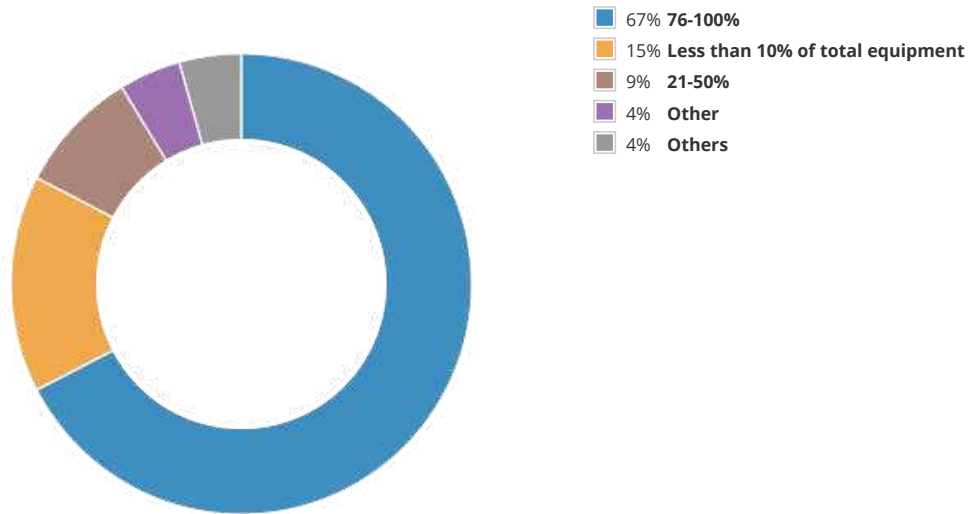
102 respondents

3. Do you have any electric landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.)? Check all that apply.

37%	Leaf blower	32 ✓
32%	No	28 ✓
26%	I do not own any electric equipment	23 ✓
15%	String trimmer	13 ✓
11%	Lawn mower	10 ✓
9%	Other	8 ✓
8%	Chainsaw	7 ✓

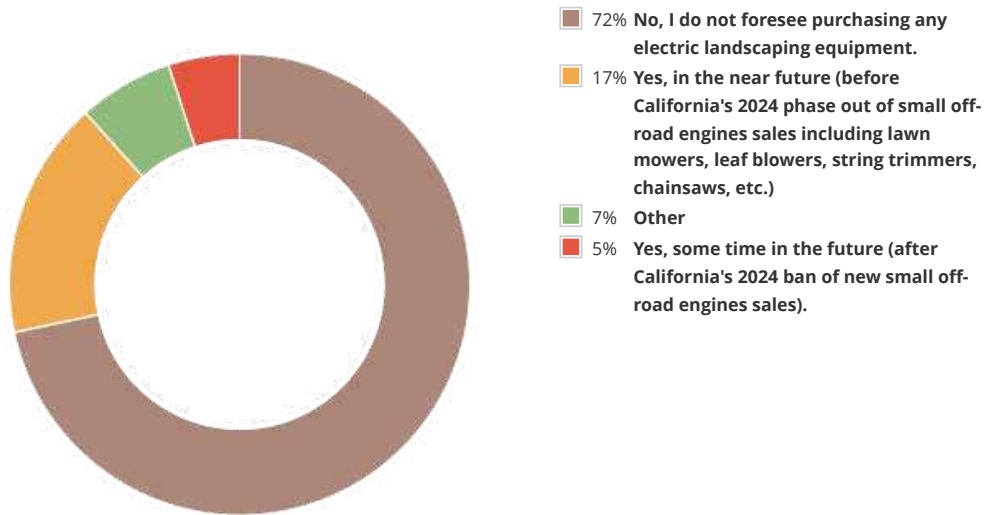
87 Respondents

3a. If yes, how much of your landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.) is all-electric?



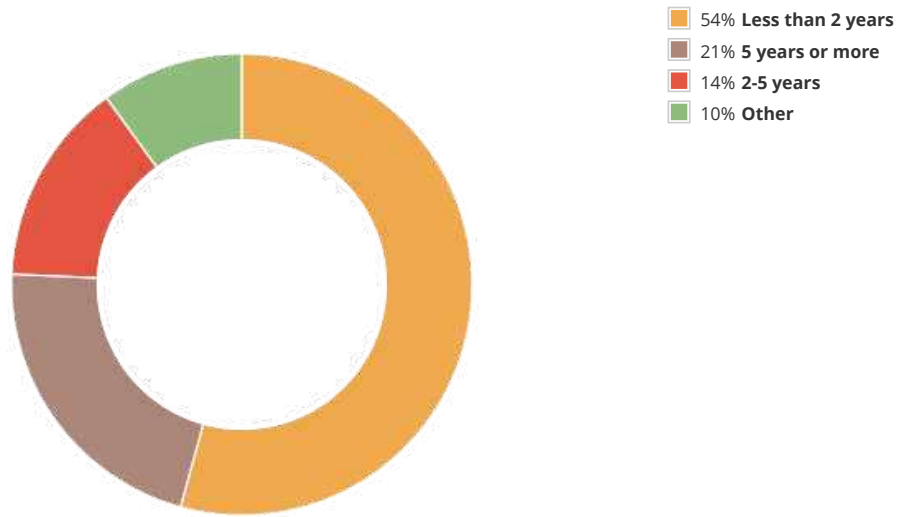
46 respondents

3b. If no, do you plan to buy electric landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.)?



60 respondents

4. Given current available technology and trends, how long would you expect it to take to transition to all-electric landscaping equipment (lawn mowers, leaf blowers, string trimmers, chainsaw etc.)?



70 respondents

## 5. What programs or support could be provided to accelerate electrification of your landscaping equipment?

---

I'd like to see the city create a registry of landscape companies that use electric equipment and preferably do NOT use leafblowers AT ALL.

3 months ago

This is not applicable to me. As an apartment dweller, I have no need for landscaping equipment. However, we suffer from the noise and air pollution generated by leafblowers used by landscapers on our grounds and on the grounds of every neighboring apartment! Electrification is a great step, and I'd like to see a program encouraging owners and landlords to pledge to 'go electric' ASAP. Moreover, I'd like to see some outreach/education about how ALL leafblowers are destructive to the environment because they remove the topsoil and its nutrients. They also destroy the habitat of ground-nesting birds and destroy sources of food and nesting material for all birds.

3 months ago

Have the city and/or state offer incentives that would cover the cost difference between the more expensive electric landscaping equipment, and the gas powered landscape equipment.

3 months ago

rebates

3 months ago

Provide coupons for these items to be purchased thru a local vendor or big box store : Home Depot, Lowe's , Walmart etc. or a rebate program of some sort.

3 months ago

more public information regarding the health hazard to all humans and animals from the fumes and noise.

But there are fairly sound research indicating the even the particular thrown into the air by blowers of any kind is harmful to our long eyes.....as well as the constant noise pollution.

3 months ago

Provide rebates/trade-ins for gardeners - even though we have an electric leaf-blower our gardeners use gas and I think they'd have a hard time affording powerful enough alternatives (our electric one is pretty weak).

3 months ago

My lawnmower, string trimmer, chain saw and leaf blower are all ICE powered and enable me to manage my own garden and trees. I do have a couple of hedge trimmers that are electrically powered but they use mains voltage. I was an electrical engineer for over half a century and have remained up-to-date with the development of battery systems but the issue of "energy density" (i.e. weight of a battery able to provide the equivalent amount of energy that is stored in a typical gasoline fuel tank) remains, as does the unpleasant issue of pollution caused during the exploration for, recovery, processing and eventual disposal of the REEs (rare earth elements) required to make viable "portable" batteries (obviously, we're not considering developments such as "flow batteries" that are now being used for electrical power storage for distribution systems relying upon wind/solar generation). When, for instance, I am removing all the leaves from the flat roofs of my home, I have to climb up with a leaf blower (the supplier of the roof said "No brooms, rakes or other similar equipment as that would destroy the roof surface) and the lighter the blower the easier and safer it is for me (I'm in my 80th year on this planet). The most recent testing by Popular Mechanics (a very well known and respected technical, monthly publication) showed that there was little difference between the ICE and battery leaf blowers with the same output, so I don't envisage reduced noise as a benefit for battery blowers. I have \$ invested in the powered equipment i have that is serving me well, meets my needs with regard to physical effort as I continue to age and thus retains my independence with respect to maintaining my home. I have continued to update the equipment I have to ensure it meets the latest CA requirements and so I would be more than unhappy to be compelled to cease to use it. There would also be the negative fiscal impact upon anyone like myself, now on a fixed (social security) income where it be compulsory to cease to use my existing (in excellent condition) equipment and attempt to purchase the battery powered alternative. (Plus my experience with battery powered tools, for example, drills, has not been positive with respect to, for example, battery life, certainly when compared with the longevity of ICE powered equipment.)

3 months ago

Replace the equipment payed for people who want all electric.

3 months ago

Get a reliable electrical grid.

It's crazy to try to force the use of more electricity when they can't keep everything working now.

3 months ago

Our HOA contracts with a professional landscaping company and these should be forced to go electric and manual instead of gas-powered.

3 months ago

If I am required to purchase new equipment this will put me out of business

3 months ago

Buy back options

3 months ago

City-provided yard signs that say something like "zero-emission landscape" for residents, with a QR code that links to further info about incentives etc.

3 months ago

Provide low-interest loans for small independent gardeners to switch to electric. Provide city-sponsored bulk buying power to assist small operators in affording new equipment.

3 months ago

My observation is that the gardeners are often using their blowers to blow dirt, street curbs, and other unnecessary use of the blowers. The households who hire gardeners need to be educated about the impact of this activity and trained/requires to manage their gardeners to request use of rakes and brooms for cleaning rather than the blowers. Generally we have small lots here, the work is probably just as quick with non-electrical/gas powered tools

3 months ago

no comment

3 months ago

Buying everyone a broom and a rake!

3 months ago

Ensure that that there is sufficient reliable energy sources, natural gas and nuclear power to back up the interment energy supplied by wind and solar

3 months ago

Local law to can gas powered leave blowers. Please!!! It's way overdue.,

3 months ago

Buy back, rebates

3 months ago

everyone should know that gas is toxic and disgusting

3 months ago

Low cost equipment or financial aid for smaller gardening operations

3 months ago

I think the impact to my gardener would be huge and create a crippling expense for his business

3 months ago

I'm xeriscaping my front lawn

3 months ago

The main problem is that the electric equipment on the market doesn't last long enough on a charge to be feasible for a small landscape business

3 months ago

As a homeowner I'm finished converting from gas to electric

3 months ago

Gas powered buy back program

3 months ago

THE LAW !!!!!

3 months ago

Our block Crane St .Menlo Park has 5 conrtacts in same area at least Every day is sure of one or two blowers no quiet

3 months ago

Electric equipment would need to have longer lasting batteries before they would be useful for commercial gardeners - we use a commercial gardener and do not do our own yard work

3 months ago

For registered landscaping business in Menlo Park providing \$500 incentives would be helpful. Fir residents based on income and age.

3 months ago

small business loans to facilitate trade in for gass powered to electric or battery powered

3 months ago

Ban all gas powered landscaping equipment.

3 months ago

Huge discount on change of equipment or a buy back program as they do with firearms.

3 months ago

Trade in

3 months ago

Trade-in/trade-up program or something that would provide a credit upon receipt of gas powered equipment to use towards electric equipment. Or rebates.

3 months ago

Rebates

3 months ago

Purchasing incentives. Buyback programs of gas powered equipment. Rebates. Economic incentives. Then laws and fines

3 months ago

Ban the use of gas-powered landscaping equipment

3 months ago

Rebates

3 months ago

Maybe a small cash for clunkers program to buy and recycle gas fired two stroke engine equipment. e.g. Pay \$10 per machine turned in, limit 12 per business and 2 per adult resident

3 months ago

Understanding the needs/concerns of the folks who take care of my garden. I'd start there, see what's needed, then proceed.

3 months ago

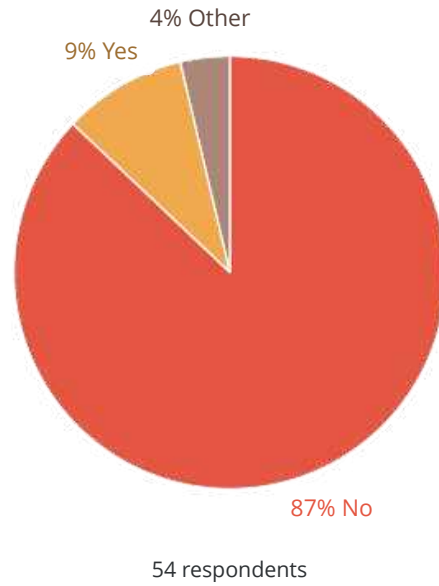
not applicable - I don't have any power equipment now, nor do I plan to purchase any

3 months ago

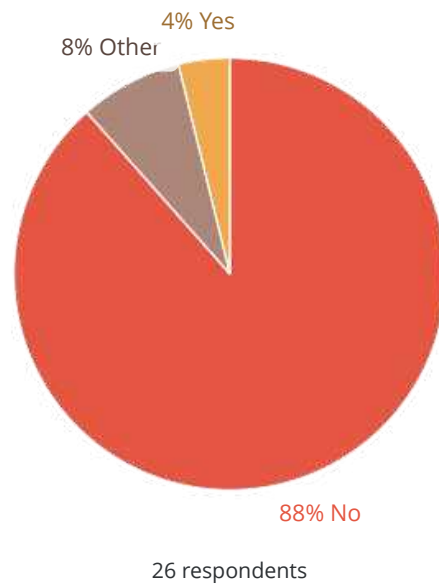
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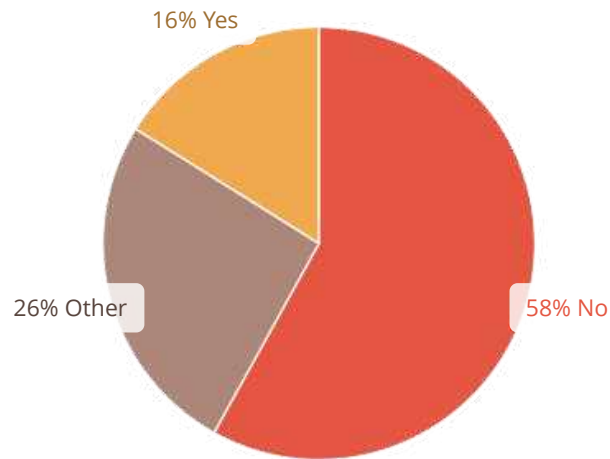
6. If you work in other San Mateo County cities, are you aware of incentive programs (for example City of San Mateo and Redwood City) which offer electric leaf blower rebates to both residents and commercial operators?



6a. If yes, have you applied for a rebate on a newly purchased electric leaf blower? Please include any feedback on the application process, requirements, and/or general program comments.



6b. If no, do you plan to, now that you are aware of the program? Please explain why or why not, and include any feedback on these programs.



31 respondents

## 7. We want to hear from you, please provide any additional comments.

---

There isn't a day during the week when we aren't bombarded by the air and noise pollution generated by landscapers and their leafblowers. They're either working on our apartment building or on one of the neighboring buildings. As renters, we don't have any control over how the landscapers do their job. I would love to see some outreach to homeowners and landlords to encourage their transition to electric (see my comment above). That said, there's abundant evidence that both gas AND electric leafblowers are terrible for the natural environment. Leafblowers remove the top soil along with all the nutrients in that soil. They are a threat to ground nesting birds, and they eliminate sources of food and nesting material for all birds.

3 months ago

In speaking with city maintenance employees, they have indicated that the cost for their electric leaf blower and auxiliary battery pack is \$1200+. The inexpensive electric leaf blowers offered at Home Depot/Lowes do not provide adequate power, or battery run time for me to do perform my yard work. I hope council does not think these inexpensive electric leaf blowers are a comparable substitute for gas powered leaf blowers.

3 months ago

Let get this past ASAP with aggressive education, facts, a relate program, and do what is feasible in our neighborhoods for the healthier wellbeing apof all residents.

3 months ago

This has been bantered about for over a decade. It's a burden for the landscapers to financially afford a good quality Blower or mower system. They would also need several back up batteries as well to get even a full days work with the electric versions. Then they also must have a means and location to charge them. Some neighbors in our neighbor hood who have the same Gardner. Ought him a very good electric blower with 2-3 back up batteries. He loves it? Keep in mind landscapers now are faced with very high fuel price for their daily work as well.

3 months ago

Working and at one time, living, in the far East for over three decades has made me very sensitive with regard to environmental pollution that is usually ignored here, in the USA but is caused during the acquisition of raw materials and the production of supposed "environmentally friendly" products that are favoured in our domestic markets.

3 months ago

Stop regulating every little thing. We have bigger fish to fry.

3 months ago

I think we should allow gas leaf blowers continue to be used until those equipments stop working. Or have a buy back program that a resident can give a gas blower to the county and get an electric one at the same power at no additional cost.

3 months ago

Gas powered leaf blowers are a major nuisance and way overused in our suburban setting. They pollute (noise, exhaust and particulate) and remove plant debris that would otherwise decompose and help build the soil. As I write this comment at home now (Monday June 6 at noon), I can hear the constant whining of these annoying machines. I have asked my gardener not to use them on my property. Please ban immediately.

3 months ago

I very much support switching to electric

3 months ago

Please provide mower rebates

3 months ago

Moving from gas to electric is not a "solution" to anything, it's just a "trade off". Everything has positives and negatives. You can't make a perfect world. Stop regulating my life to try to do so.

3 months ago

California Air Resource Board has put together a ZEE (Zero Emission Equipment) Roadshow. A trailer with a few readily available brands of ZEE equipment so organizations can test before investing. For more info contact Christopher.Burford@arb.ca.gov

3 months ago

Renter in a unit here in Menlo Park - almost every day of the week people are using noisy/air polluting blowers / gas powered hedge trimming devices on one side or the other of us (including our own yard which is managed by the landlords).

I would love to just see an outright ban on blowing particulates (pollution) into the air entirely (and noise trimming devices). Sometimes this is happening as early as 8am immediately outside my bedroom window.

I have lived in many cities and no where is as obsessed with blowing stuff around (from one lawn to the next etc) - it's frustrating to live with this noise and have to close windows to escape breathing this in (with no AC or insulation whatsoever - house is ancient and no upgrades)... i'm not sure this is helpful but wanted to give some input as a renter here. I would be speculating here but my guess is landlords here DGAF and want to maximize \$\$\$\$ so hire people at bottom rates. Perhaps the city should incentivize 'greening' lawns in a way that they need less maintenance and don't need every leaf moved back and forth and every bush shaped into an unnatural orb - let thy beauty of nature prevail.

3 months ago

Our gardeners are already struggling. Imposing restrictions like this would be detrimental to the business. I and many of my fellow home owners in the Willows do NOT support this initiative.

3 months ago

I still have to pay

3 months ago

How can we get the garden maintenance companies to conform to these rules? They are the real problem.

3 months ago

would love to see the gas powered machines gone...climate emergency as most important reason

3 months ago

I do my own yard maintenance on my single family lot in Linfield Oaks. It is extremely easy to use a rake or broom and dustpan and takes less than 30 minutes a week. I have lived in many other parts of the county - New England, the Mid-Atlantic, the Southeast, and the Midwest. The overuse of gas-powered equipment in this area is insane and uncalled for.

3 months ago

We have a gardener who doesn't use electric

3 months ago

I'd like information about good alternatives (enough power, affordable) to gas-powered equipment. My gardener says that current offerings are not powerful enough to be practical.

3 months ago

Ban gas powered and ticket homeowners who employ gas powered landscapers. Limit hours for blowing to a reasonable range.

3 months ago

I simply don't understand why these tools are even needed in this area. Pay the gardeners a fair wage to clean the yards in a no to low environmental impact

3 months ago

Nancy: Thanks for working on this issue and for helping Menlo Park become carbon neutral. I am so worried about climate change for future children and the collapse of civilization.

3 months ago

Do not feel the need for a power blower on my small property

3 months ago

None of the properties in Menlo Park are so huge that raking, sweeping, and using a push lawn mower would be an onerous task. I mostly see people using blowers that just stir up giant dust clouds and are actually pretty inefficient in cleaning an area. Glad there is action against this!

3 months ago

As a Menlo Park homeowner, I wish this were proceeding faster. Aren't businesses operating in the City required to be licensed by the City? Simply contact licensed landscaping and gardening businesses, give them 30 days to respond to the survey, and be done with it. We need to move ahead with a ban as other communities have done.

3 months ago

I am in full support of creating a community with no gas powered landscaping equipment.

3 months ago

Nancy, thank you for starting this survey. Absolutely critical to ban the gas leaf blowers in MP. We have our own electrical equipment for a number of years now, as it was hard finding any gardeners that commit to only electric services. I believe there are a lot of half hearted excuses from other residents to avoid switching, make their gardeners use electric equipment instead of the gas blowers. Once you know the severe impact though on our environment, it's a "no brainer"

3 months ago

Gas powered should be banned period. Electric has been around for 8+ years so no excuse for not being all electric

Both of my next door neighbor's mow and blow guys use gas and we don't close the windows, our house smells like gas inside and our children cannot be outside during the blow time.

3 months ago

I work from home several days a week - the noise from leaf blowers interferes with my ability to do my job. Why are we tiptoeing around? Provide low cost equipment and be done with it.

3 months ago

Please help to pass regulations against gas blowers at the very least. There is no reason for these. However the gardeners do need financial incentives or rebates to switch.

3 months ago

Offer independent operators a way to get a break on the cost of replacing their gas equipment with electric.

3 months ago

A transition should not be mandated until equipment is available that is feasible for small landscape business owners. Current equipment doesn't last long enough on a single charge.

3 months ago

In 1998 MP banned gas powered leaf-blowers. This became a big issue in the subsequent council election and as a result the City suffered through 8 years of gas-powered leaf blower booster Nicholas Jellins on the Council.

3 months ago

please ban all gas landscaping machines and tools

3 months ago

Only other comment is why are people using loud blowers every Sat and Sun? There need to be limits and enforce or how will upcoming changes happen

3 months ago

Ban all gas powered machines

3 months ago

Again it comes down to Public Demands and our vote for the new Regs to be accepted and followed. Perhaps a thought? Get several volunteers to "document " levels of action of areas and the number of actins a day or week ? submit to MP Council Board for attention. ? Thank You for your devotion to our cause.

3 months ago

Any switch in technology would need to have a long grace period so as to not drive owner operators out of business.

3 months ago

I already own an electric leaf blower but would consider taking advantage of other incentives to purchase additional types of electric yard equipment. I think our family might be in the minority in that we do all our own yard work. I strongly support providing support for any landscaping company working in Menlo Park to convert their equipment to all electric.

3 months ago

As a resident and someone who works at home I find the noise pollution to be quite objectionable. Also, I am concerned about the having to regularly inhale fumes from gas-powered equipment and the long-term health impacts.

3 months ago

I strongly support banning or limiting the use of gas powered landscaping equipment.

3 months ago

The gas powered leaf blowers are very loud and noisy. Most gardening / landscaping people who come just move leaf's from one place to other. More awareness among residents by sending email to inform will become necessary. On their own they will not inform their landscaping folks

3 months ago

Besides the pollution created by gas, there should have been a question about the noise.

3 months ago

No need for additional equipment. We support a full ban on gas powered landscaping equipment.

3 months ago

How much rebate?

3 months ago

Gas blowers are stinky and loud. All my neighbors hire landscapers who use them. Is there no agency to report the high decibels or exhaust until the city switches to electric?

3 months ago

Please, please get rid of gas-powered leaf blowers in Menlo Park and enforce the ban!! They are so obnoxious and polluting!!

3 months ago

The faster the transition the better. Also not sure if it's a thing, but specific hours in which gas powered equipment can be used while the transition happens

3 months ago

Please ban all gas powered outdoor gardening tools

3 months ago

Please ban the use of gas-powered landscaping equipment and fully enforce the corresponding noise ordinance code.

3 months ago

Q's 1a, 3b, 6, 6a and 6b are un-answered because they don't apply to me because of the "ifs".

3 months ago

For perspective, I'm just a resident with human powered tools and an electric string trimmer and electric chainsaw.

I support the decreased use of gas powered yard tools. I support the use of (rakes and brooms) hand tools. I could support electric powered yard vacuums that don't spew dust and pollen on neighbors. Gasoline powered leaf blowers should only be allowed indoors (where the walls and windows can contain the noise, pollution and dust onsite), not outdoors where it impacts others.

3 months ago

I'll never go to an electric mowe

3 months ago

I do not have a landscaping service, but I am very bothered by the noise, pollution, health impacts, and climate impacts of the MANY gas devices used every single day in my neighborhood.

3 months ago

Please ban gas powered leaf blowers in Menlo Park!

4 months ago

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**MEMORANDUM**

**Date:** 10/3/2022  
**To:** City Council  
**From:** Brian Henry, Assistant Public Works Director - Maintenance  
**Re:** Impact of Zero-Emission Landscaping Equipment Policy on Public Works Operations

A Zero-Emission Landscape Equipment (ZELE) ordinance will affect how Public Works maintenance staff perform duties that require landscaping equipment. The first phase of the ZELE ordinance would require zero-emission leaf blowers and string trimmers starting July 1, 2024.

Public Works maintenance staff currently operate 20 leaf blowers and 9 string trimmers. A transition to electrically-powered leaf blowers and string trimmers would include buying new equipment following the City's Purchasing Policy, establishing a storage and charging area suitable for electrically-powered devices, and training staff on proper and safe operation of the new equipment. The estimated total cost to convert the City's gas-powered leaf blowers and string trimmers to electrically-powered units to meet the minimum operational needs is \$189,600 as outlined below:

- 15 battery powered leaf blowers ~\$7,000. The Public Works Department regularly use leaf blowers to clean streets, parks, and pathways on a year-round basis. However, the department needs to be well-resourced to handle peak demand in the fall season to prevent the City's storm drains from clogging from leaves and debris and mitigate the risk of flooding.
- 9 string trimmer units ~\$5,000
- 40 back-pack style batteries ~\$62,300. The rechargeable batteries have a run time of about two- to four-hours. Staff anticipate that maintenance workers will use two fully-charged batteries per leaf blower during a typical 10-hour work shift. During wet weather months, when leaves are weighed down by water, the need will likely increase to three batteries per leaf blower in a shift.
- 21 charging stations for the batteries ~\$5,300. One charging station per battery pack will allow all devices to be fully recharged overnight and ready for the next shift.
- 20 Class D fire extinguishers ~\$10,000. Each electrically-powered leaf blower will also have a dedicated fire extinguisher. The specialized Class D fire extinguishers are specifically meant for use with lithium-ion backpack batteries.

A storage area is needed for the new zero emission equipment, batteries, and chargers. The storage needs to be climate controlled because lithium-ion batteries have a recommended temperature range of 32°F to 68°F. Staff anticipate a cost of \$100,000 to convert an existing storage room at the Corporation Yard with the addition of an air conditioning unit and upgrades to the electrical panel and outlets to accommodate 20 battery chargers. The lead time to procure new electric equipment and modify the storage area is expected to be between three- to



six- months due to ongoing supply chain issues.

Currently the Parks section has four electric blowers in their inventory. The electric blowers are assigned to select projects. These smaller projects involve dry debris, as heavier wet material is difficult to move with the electric blowers. To fully transition to electric leaf blowers, hand raking and extra work to collect the debris during heavy leaf season will be required. By introducing equipment that is lower performing than our current inventory of blowers, there will be an increase in time required to complete daily maintenance duties. If more time is spent collecting debris (i.e., leaves, small branches, etc.), other maintenance tasks may be eliminated or deprioritized. More community engagement would also be required to explain slower response times to maintenance requests, and park and facility beautification efforts. Examples include:

- Longer time span for lane closures; there could be instances of jobsites in traffic lanes delaying traffic for longer time periods.
- Increased time involved in sweeping operations downtown; there would need to be an increase in time allowed for cleaning downtown before businesses open up. This will require an earlier start time for the regularly scheduled work, and could disturb residences in the area resulting in increased complaints about noise.

The City employs private contractors to perform maintenance across the City and many of the contractors utilize leaf blowers and string trimmers. Examples include contractors that trim street streets, perform sidewalk repair, spread woodchips in parks, clean sidewalks and medians, and paint and stripe streets. Contracts will need to be renegotiated to comply with the ordinance. Initial discussions indicate there will be a price increase for contractors to acquire the equipment plus an increase in labor costs.

The fiscal impact of transitioning all City-owned leaf blowers and string trimmers to electrically-powered models is estimated to cost approximately \$189,600. This additional funding requirement is not included in the adopted budget for fiscal year 2022-23. Should the City Council adopt a ZELE ordinance, staff will prepare a budget amendment for consideration at a future City Council meeting, if no grant funding is identified. It is likely that the city will be able to use the Carl Moyer Program to cover the cost to replace the equipment. Funding is available each year to apply



# ZELE ORDINANCE STUDY SESSION

Rebecca Lucky, Sustainability Manager



## TONIGHT'S REQUEST

- No formal action will be taken tonight
- Consider directing staff to prepare a draft Zero Emission Landscaping Equipment (ZELE) Ordinance
  - Includes public outreach and engagement leading up to the first reading of the ordinance in 2023
- Alternative options are presented in the staff report



## BACKGROUND

<b>March 2021</b>	City Council directs Environmental Quality Commission (EQC) to review a prohibition on gas powered leaf blowers
<b>September 2021</b>	EQC recommends prohibition on gas powered leaf blowers
<b>November 2021</b>	<ul style="list-style-type: none"><li>• EQC presents recommendation to City Council</li><li>• City Council directs staff to engage with landscaping stakeholders and return to City Council with a study session item to evaluate enforcement, implementation and staff resource needs</li></ul>



## OUTREACH RESULTS MAY-JUNE 2022



- Landscaping and gardening professionals
  - No responses received back from landscaping and gardening associations
  - Online survey emailed to 102 Menlo Park landscaping and gardening professionals
    - 5 respondents
  - Three reported owning electric leaf blowers and two reported owning electric lawn mowers
  - One supported a prohibition on gas powered landscaping equipment, and one did not
- Property owners and other stakeholders (107 respondents)
  - Community members reported owning electric leaf blowers (35 respondents), string trimmers (13), lawn mowers (12), chainsaws (7), and hedgers (2)
  - 19 respondents stated specific support for regulating gas powered landscaping equipment
  - 9 expressed concerns about noise and air pollution and would likely favor regulating gas powered landscaping equipment
  - 8 stated they were against electrification of landscaping equipment

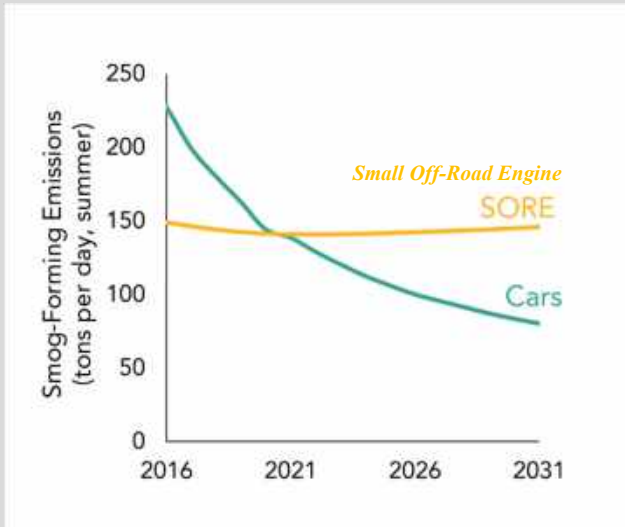


## PROPOSED ZELE ORDINANCE CONSIDERATIONS

- Considers Climate Action Plan goals to be carbon neutral by 2030 by proposing to require all small landscaping equipment to be zero emission by a certain date
  
- Builds upon Assembly Bill (AB) 1346 to prohibit the sale (not use) of gas powered small off-road engine equipment
  - Starts January 1, 2024
  - Includes all small landscaping equipment
  - \$30 million in state incentives for landscapers and gardeners starting November 7
    - Would not include property owners or non-landscaping businesses
  
- Other cities with prohibitions on gas powered leaf blowers:
  - 3 in Santa Clara County
  - 1 in San Mateo County
  - 2 in Alameda County- one includes string trimmers
  - 8 cities in Marin County



# HEALTH AND ENVIRONMENTAL CONCERNS



Source – California Air Resources Board



## PROPOSED ORDINANCE ELEMENTS



- Applies to all properties, including residential, commercial and city properties
- Enforcement of zero emission leaf blowers and string trimmers would begin **July 1, 2024**
- Enforcement of all other zero emission landscaping equipment types (lawn mowers, hedge trimmers and chainsaws) would begin **January 1, 2029**
- Hours of operation would remain unchanged
- Responsible party for any enforcement will be the property owner
  - Not the landscaping or gardening professionals
- Citations to the property owner would follow citywide administrative citation ordinance that is currently underway





## PROPOSED OUTREACH DECEMBER 2022 - APRIL 2023

- Information on city's website
- Send one mailer to all property owners
- Send one mailer to landscaping and gardening professionals in Menlo Park
- Include information in waste billing insert
- Record and hold one virtual meeting for community and professionals
- Launch another online survey





## OPERATIONAL IMPACTS

- Involves staff resources from various departments and divisions before and after ordinance adoption
  
- Exploring various enforcement approaches
  - Traditionally code enforcement handles municipal code violations
  - Enforcement can range from education and warnings to administrative citations
  - Likely request hiring additional staff to support implementation and enforcement
  
- City maintenance activities
  - Would require purchasing zero emission equipment - incentives available
  - City contracts would need to be amended to address any labor increases
  - Increased labor needs during the fall



## TONIGHT'S REQUEST

- Consider directing staff to prepare a draft Zero Emission Landscaping Equipment (ZELE) Ordinance as proposed
  - Includes public outreach and engagement leading up to the first reading of the ordinance in 2023
- Alternative options are presented in the staff report



**THANK YOU**



## STAFF REPORT

### City Council

**Meeting Date:** 10/18/2022

**Staff Report Number:** 22-201-CC

**Consent Calendar:** **Adopt a resolution to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings**

### Recommendation

Staff recommends that the City Council adopt a resolution (Attachment A) to continue conducting the City's Council and advisory body meetings remotely due to health and safety concerns for the public and to authorize the use of hybrid meetings.

### Policy Issues

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

### Background

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

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

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

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

A hybrid meeting allows members of City Council and advisory bodies, staff, and members of the public to participate in meetings either virtually and in-person.

In March 2020, due to the COVID-19 pandemic, all advisory body meetings were canceled until June 2020. Since that time, all advisory body meetings have been conducted virtually, whereas the City Council initiated hybrid meetings in November 2021. On August 23, the City Council requested that staff begin the

process of bringing advisory body meetings to a hybrid platform. Staff has connected with advisory body members to ensure that current meeting start times and days will work for in-person and hybrid meetings and gauge in-person participation. Staff has also identified technological and logistical needs to conduct advisory body meetings on a hybrid platform. Table 1 shows the tentative hybrid schedule:

Table 1: Advisory body tentative hybrid meeting schedule			
Body	Location	Date	Time
Complete Streets Commission	City Council Chambers	Wednesday, November 9, 2022	6:30 p.m.
Environmental Quality Commission	Downtown Conference Room (City Hall)	Wednesday, November 16, 2022	6 p.m.
Finance and Audit Committee	Downtown Conference Room (City Hall)	October 2022	5:30 p.m.
Housing Commission	Oak Room (Arrillaga Family Recreation Center)	Wednesday, November 2, 2022	6:30 p.m.
Library Commission	Senior Annex (Menlo Park Library)	Monday, January 16, 2023	6:30 p.m.
Parks and Recreation Commission	Oak Room (Arrillaga Family Recreation Center)	Wednesday, January 25, 2023	6:30 p.m.
Planning Commission	City Council Chambers	Monday, November 7, 2022	7 p.m.

**Analysis**

The City is still under a local state of emergency and the emergency findings required under AB 361 are still in effect. San Mateo County is still in the Low COVID-19 Community Level category and the Centers for Disease Control and Prevention (CDC) recommends that people may choose to mask at any time and people with symptoms, a positive test, or exposure to someone with COVID-19 should wear a mask. The resolution authorizes the use of hybrid meetings, whereby City Councilmembers, participants, and staff may choose to attend either remotely or in person due to health and safety concerns and needs.

The City Council finds that reducing the number of persons present in City Council chambers may continue to reduce imminent health risks associated with large groups and/or members of varying households gathering indoors.

**Impact on City Resources**

Additional technologies will need to be purchased and implemented in the Menlo Park Library (Senior Annex), Cypress Room (Arrillaga Family Recreation Center), and the Downtown Conference Room (City Hall) in order to hold hybrid meetings. There will also be the need to train staff and advisory body members on the new technology.

**Environmental Review**

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

**Public Notice**

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

**Attachments**

A. Resolution

Report prepared by:

Judi A. Herren, Assistant to the City Manager/City Clerk

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

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

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

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

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

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

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

WHEREAS, the SARS-CoV-2 Delta and Omicron Variants are highly transmissible in indoor settings; and

WHEREAS, the Omicron subvariants of the SARS-CoV-2 virus is overtaking other variants in San Mateo County; and

WHEREAS, according to data from the County's Health Administrator and County website, the County is averaging approximately nine new cases per 100,000 of COVID-19 per day; and

WHEREAS, although the City has returned to in-person meetings, due to the prevalence of BA strains of the SARS-CoV-2 virus overtaking other variants in San Mateo County, the City Council finds that reducing the number of persons present in City Council chambers is necessary to reduce imminent health risks associated with large groups and/or members of varying households gathering indoors; and

WHEREAS, the State of California and the City of Menlo Park continue to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (DPH), and/or County of



San Mateo, as applicable, including facial coverings when required; and based upon that guidance, in-person attendance indoors at public meetings continues to present a health risk for certain segments of the population, necessitating the need to reduce the number of in-person meeting attendees; and

WHEREAS, the City Council, acting as a legislative body pursuant to Government Code section 54952(a) and for the benefit of the commissions, committees and other bodies that were created by the City Council pursuant to Government Code section 54952(b) (collectively referred to as “Legislative Bodies”), finds that the current conditions meet the circumstances set forth in Government Code section 54953(e)(3) to allow Legislative Bodies to continue to use teleconferencing to hold open and public meetings if the Legislative Bodies comply with the requirements set forth in Government Code section 54953(e)(2) to ensure the public can safely participate in and observe local government meetings.

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

1. Find that current conditions authorize teleconference public meetings of Legislative Bodies. Based on the California Governor’s continued declaration of a State of Emergency and current conditions, the City Council finds that meeting in person, without the option for certain populations and persons to participate remotely, would present imminent risks to the health or safety of attendees. The City Council does therefore find that Legislative Bodies and members of Legislative Bodies of the City may elect to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.
2. Authorize Legislative Bodies to conduct teleconference meetings. The Legislative Bodies are hereby authorized to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e)(2) and other applicable provisions of the Brown Act.
3. Authorize Legislative Bodies to conduct hybrid meetings. The Legislative Bodies are hereby further authorized to conduct meetings in a “hybrid” format, where both members of the Body may elect to be present in person, utilizing appropriate distancing and masking practices, or participate by teleconferencing technology. Such meetings of the Legislative Bodies that occur using teleconferencing technology will provide an opportunity for any and all members of the public who wish to address Legislative Bodies and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing.

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I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the eighteenth day of October, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this \_\_ day of October, 2022.

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Judi A. Herren, City Clerk



## STAFF REPORT

### City Council

Meeting Date:

10/18/2022

Staff Report Number:

22-197-CC

Consent Calendar:

**Approve an amendment to the agreement with AECOM to conduct the next phase of work for the Caltrain grade separation project**

### Recommendation

Staff recommends that City Council approve an amendment to AECOM's existing agreement for the Caltrain grade separation project (Attachment A.) A substantively similar scope of work, but not an agreement, was approved by the City Council January 14, 2020, which was then put on hold due to staffing reductions during the COVID-19 pandemic.

### Policy Issues

The project is a City Council priority and is consistent with the City Council rail policy and with the 2016 general plan goals to increase mobility options to reduce traffic congestion and greenhouse gas emissions; increase safety; improve Menlo Park's overall health, wellness, and quality of life through transportation enhancements; support local and regional transit that is efficient, frequent, convenient and safe; provide a range of transportation choices for the Menlo Park community; and to promote the safe use of bicycles as a commute alternative and for recreation.

An update to the rail policy is underway to reflect the City Council's dissolution of the rail subcommittee in late 2021 and will return for City Council approval in the future.

### Background

In March 2016, City Council authorized the city manager to enter into an agreement with a consultant team, led by AECOM, to perform the Caltrain grade separation project study report (PSR.) The project was funded by a grant from the San Mateo County Transportation Authority (SMCTA.) Over 50 meetings were held for the project and feedback received was incorporated into the project analysis.

On March 5, 2019, City Council approved the Final PSR identifying Alternative C – a hybrid separation of Ravenswood Avenue and Oak Grove Avenue (i.e., the rail is partially raised and the roadways partially lowered) as the preferred alternative. As the PSR was going through the approval process, staff also heard feedback from public meetings, Rail Subcommittee meetings, and City Council meetings on pursuing additional grade separation options, including a fully elevated option and a multi-City tunnel option.

On May 21, 2019, the City Council received a presentation from Professor Michael Bennon of the Stanford Global Project Center regarding the feasibility of a rail tunnel in Menlo Park and information regarding the proposed land use densities that could be needed to finance a rail tunnel.

On July 21, 2019, the Rail Subcommittee provided direction to proceed as follows:

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

On January 14, 2020, City Council approved an amendment to the existing AECOM agreement to evaluate fully elevated options for grade separation, to conduct an aesthetic assessment, and to assess construction impacts. Although the scope of the additional work was attached to the staff report, the agreement was not attached.

Shortly after this, the City put the project on hold due to staffing reductions that resulted from the onset of the COVID-19 pandemic. Despite being on hold, staff submitted an updated application to the California Public Utilities Commission (CPUC) Section 190 program in late 2021, which provides funding for grade separation. While the total amount of funding provided by this program is limited (up to \$15 million), it does help the City potentially leverage funding from other State and Federal sources. The City’s most recent application to the CPUC was ranked fourth in the State among submitted applications. Only Burlingame has submitted an application along the Caltrain corridor that was ranked higher (first.)

## Analysis

As other transportation projects in the city have progressed, staff are working to restart the City’s efforts on the Caltrain grade separation project. A substantively similar scope of work amendment for the project was approved by City Council January 14, 2020. This scope of work has been updated to reflect the work that staff completed to submit the CPUC Section 190 grant and to update the cost to reflect the nearly three years that has passed since the initial scope of work was approved.

The scope of work for this amendment includes two phases:

- Feasibility study assessment and community engagement process
- Technical evaluation of noise, vibration and potential real estate impacts

The first phase of the scope of work approved by City Council in 2020 includes preliminary engineering to identify feasible options for a fully elevated option and public outreach through a set of meetings, including public outreach meetings, City Council, Complete Streets Commission and Planning Commission. Staff are proposing to conduct a combination of in person and virtual public meetings to maximize the opportunities for residents to participate in the process. Staff would also propose to conduct a staff-led online survey to reach residents who may not be able to attend either the virtual or in person meetings.

The scope contemplates two future decision points for City Council:

- Selecting two potential fully elevated options from up to 6 potential rail profiles – estimated review by City Council in early 2023
- Considering the preferred alternative selection. Options include selecting a new preferred alternative, requesting additional work or retaining Alternative C (hybrid) as the preferred alternative. The timing of

this step will depend on whether this determination is made after completion of Phase 1 of the current scope of work or after completion of the additional technical studies in Phase 2.

After completing the next scope of work and confirming or updating the preferred alternative, the next steps for the grade separation project are shown in Table 1. The next step (preliminary engineering/environmental) builds on an approved preferred alternative and cannot begin until the current scope of work is complete.

Before beginning the next phase of work, the City would also need to enter into an agreement with Caltrain and seek funding, likely from the SMCTA Measure A, which includes dedicated funding for Caltrain grade separations. Staff is also aware that the FY2022-23 California State Budget allocated \$350 million to grade separation projects through the Transit and Intercity Rail Capital Program. Staff is currently reviewing the draft guidelines and will provide additional information as appropriate.

Project phase	Duration	Estimated cost
PSR update	6-9 months	\$300,000
Preliminary Engineering/Environmental (PE/ENV)	18-24 months	3-5% of CON
Final Design (PS&E)	18-24 months	10-15% of CON
Right of Way (ROW)	TBD	\$20-\$60 M (current estimates)
Construction	Three to five years	\$150-\$350 M (current estimates)*

\* These costs will be updated based on updated PSR

### Impact on City Resources

The City’s five-year capital improvement plan includes \$300,000 to advance this project. The consultant cost to deliver the scope of work (Attachment A) is included in Table 2.

Phase	Cost
Phase 1: Elevated alternative feasibility assessment	\$147,000
Phase 2: Technical evaluations (including optional task for architect’s services)	\$111,000
<b>Subtotal</b>	<b>\$258,000</b>

### Environmental Review

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

The results of the current scope of work will identify required environmental reviews and studies required to

advance the project. Environmental reviews and studies will be completed as part of the next phase of work.

### **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 notifications are being made through the project webpage (Attachment B) and an email to individuals who have previously expressed interest in this project.

### **Attachments**

- A. Agreement amendment with revised scope of additional work
- B. Hyperlink – Project page: [beta.menlopark.org/Government/Departments/Public-Works/Capital-improvement-projects/Caltrain-grade-separation](https://beta.menlopark.org/Government/Departments/Public-Works/Capital-improvement-projects/Caltrain-grade-separation)

Report prepared by:  
Hugh Louch, Assistant Public Works Director

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

# AGREEMENT AMENDMENT

City Manager's Office  
701 Laurel St., Menlo Park, CA 94025  
tel 650-330-6620

ATTACHMENT A



Amendment #:

## AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND AECOM TECHNICAL SERVICES, INC.

THIS SECOND AMENDMENT is made and entered into this \_\_\_\_\_, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and AECOM TECHNICAL SERVICES, INC., hereinafter referred to as "FIRST PARTY."

1. Pursuant to Section 4. COMPENSATION AND PAYMENT of Agreement No. 2083, ("Agreement"), Section 4. COMPENSATION AND PAYMENT [amendment to section] to read as follows"

"A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed \$1,063,064 as described in Exhibit "A, A-1, A-2, A-3," Scope of Services. This compensation shall be based on the rates described in Exhibit "A, A-1, A-2, A-3." All payments, including fixed hourly rates, shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable."

Except as modified by this Amendment, all other terms and conditions of Agreement No. 2083 remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SIGNATURE PAGE TO FOLLOW

**FOR FIRST PARTY:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Tax ID#

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Nira F. Doherty, City Attorney

\_\_\_\_\_  
Date

**FOR CITY OF MENLO PARK:**

\_\_\_\_\_  
Justin I. C. Murphy, City Manager

\_\_\_\_\_  
Date

**ATTEST:**

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

\_\_\_\_\_  
Date



October 4, 2022

Hugh Louch  
Assistant Public Works Director  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025

**RE: Ravenswood Avenue Railroad Crossing Project, Extra Work Request (Amendment 3)**

Dear Hugh:

At the May 8, 2018 City Council meeting, Council directed that additional scope items be considered for the Ravenswood Avenue Railroad Crossing project. Per these City Council meeting minutes, additional scope items were to include: “(1) a financial assessment for a trench/tunnel and (2) a conceptual design, noise, tree, and visual impact assessment of a fully elevated alternative.” Subsequent to the City Council meeting, the Rail Subcommittee recommended on July 16, 2019 that the financial assessment for the trench/tunnel be removed following a presentation to the City Council by Professor Michael Bennon of the Stanford Global Project Center on May 21, 2019.

A scope of work and fee from AECOM for the additional scope items was reviewed and approved by City Council in January 2020, however, a notice-to-proceed was never issued since City priorities changed as a result of the pandemic. The City is now ready to move forward with the additional work. Below and attached is a revised description of the scope of work, budget and schedule for evaluating a fully elevated alternative only.

**SCOPE OF WORK**

The scope of work is structured in two phases to evaluate the potential feasibility of a fully elevated alternative in downtown. Under Phase 1 (Feasibility Assessment) the AECOM Team will conduct a feasibility study and review of similar built projects to provide examples of how a project might look and be integrated into the community. In addition, Phase 1 includes a community engagement process via public meetings to provide input and direction on fully elevated alternative in the downtown.

Depending on the outcome of Phase 1, the City may direct the AECOM Team to proceed with Phase 2 (Technical Evaluations). Phase 2 activities would include a noise study, real estate analysis, and development of the Comparison Matrix.

In addition to Phase 1 and Phase 2 activities, this scope of work includes optional tasks for future consideration.

**Phase 1: Feasibility Assessment****Task 1: Project Management****Task 1.1 Project Administration**

AECOM will provide project management services for the period of 6 months from receipt of a written Notice to Proceed. These services include:

- Coordinating with in-house design staff, subconsultants, and the City
- Conducting additional check-in conference calls
- Monitoring schedule and budget status and preparing invoices

## Task 7: Fully Elevated in Downtown Alternative Analysis

### Task 7.1 Collection of Sample Projects

AECOM will identify up to three and provide photographs of fully elevated rail systems from other, similar (elevated rail) projects around the world. AECOM will also provide order-of-magnitude (square foot) cost estimates, as available, of these sample projects.

### Task 7.2 Preliminary Engineering

AECOM will develop preliminary vertical geometry for up to six alternative that will include a fully elevated rail profile between Ravenswood Avenue and Oak Grove Avenue with an iterative process to evaluate the elevations at the remainder of the corridor within the Menlo Park city limits. Examples could include conforming near the Atherton city limit or near Encinal Avenue, as well as varying the grade of the railroad. Part of the task below will include determining the resulting profile at Glenwood Avenue and Encinal Avenue for various criteria and constraints. This task will include conducting track profile analyses for a range of fully elevated alternatives (maximum of six) with the following design options:

1. Minimize elevation gain of the railroad tracks at Encinal Avenue as a result of using the maximum grade possible north of Oak Grove Avenue.
2. Similar to #1 above, except use a maximum grade of 1% (Caltrain's maximum allowable grade that does not require a design exception).
3. Begin elevation gain at Menlo Park-Atherton city limits and vary the railroad grades to minimize impacts (elevation and/or right way) to Encinal Avenue.

Each rail profile option will provide vertical clearance under the railroad tracks on an elevated structure in the downtown station area, between Ravenswood Avenue and Oak Grove Avenue, such that minor modifications, if any, of these two roads and their access points are required.

A maximum of six track profiles will be developed to illustrate rail elevation, construction limits, and roadway depths. Based on City Council input, two of the six track profiles will be selected to complete the following tasks.

- Track and road profiles, shoofly track alignment, and all other basic geometric features of the alternative required to determine the limits of construction and approximate quantities to complete an order-of-magnitude cost estimate. This includes potential construction impacts such as staging and temporary road closures.
- Utility and Right-of-Way requirements and impacts.
- Alternative Matrix similar to Figure 14 of the Project Summary Report
- Preliminary cost estimate (using a similar format that was used for Alternatives A & C).

### Task 7.3 Meetings

AECOM will attend and prepare PowerPoint slides for up to six (6) separate meetings: City Council (2), Planning Commission (1), Complete Streets Commission (1), and public meetings (2). It is assumed that the two public meetings will be in-person or hybrid (in-person and virtual) meetings. All other meetings will be virtual.

### Task 7.4 Visual Renderings

AECOM will develop renderings that illustrate the visual elements from two different vantage points (camera locations) at up to three (3) locations along the Menlo Park Caltrain corridor for each of the two track profiles considered, for a maximum total of twelve (12) renderings.

### Task 7.5 Draft Technical Memorandum (Fully Elevated Alternatives)

AECOM will prepare a Draft Technical Memorandum to summarize the items prepared as part of Tasks 7.1, 7.2 and 7.4.

## Task 7.6 Develop Final Technical Memorandum (Fully Elevated Alternatives)

AECOM will provide responses to one set of agency comments and prepare a final Technical Memorandum.

## Phase 2: Technical Evaluations

If directed by the City Council through staff, AECOM will conduct the following technical evaluations for a fully elevated over downtown alternative and previously defined alternatives as described in each task below.

### Task 1: Project Management

#### Task 1.1 Project Administration

AECOM will provide project management services for the period of 5 months from receipt of the written Notice to Proceed. These services include:

- Coordinating with in-house design staff, subconsultants, and the City
- Conducting additional check-in conference calls
- Monitoring schedule and budget status and preparing invoices

### Task 8: Noise Study

AECOM will evaluate how each of the four proposed alternatives, noted below, would affect noise levels; both on a single event (pass-by) basis as well as average daily exposure (such as day-night noise level,  $L_{dn}$ ) which would likely be used to assess environmental noise impacts as per Federal Transit Administration (FTA) noise impact criteria.

The study will include a round of noise measurements describing single event and daily noise exposure for existing conditions. The study will also include prediction of expected changes in noise level (single event and daily exposure) for the different alternatives. The alternatives to be studied are as follows:

1. Existing (Baseline) Condition (No Build)
2. Alternative A: Hybrid with one grade separation at Ravenswood Avenue
3. Alternative C: Hybrid with three grade separations at Ravenswood, Oak Grove, and Glenwood Avenues
4. Alternative D: Fully elevated with up to four grade separations (two alternatives)

#### Task 8.1 Review Project information

The AECOM noise team will review provided and relevant project information including other available and relevant noise studies. At the conclusion of this review, the noise team will develop a data request to the City and/or Caltrain, for any additionally required information.

#### Task 8.2 Site Visit and Noise Measurements

Two AECOM noise specialists will visit the project area and conduct a series of long-and short-term measurements of current existing conditions. The long-term measurements will run for at least 24 hours at two different locations in the noise study area, and short-term measurements will be conducted for a shorter duration (typically 15-30 minutes each) to document ambient conditions and individual train events at another 4 to 8 locations representing a variety of noise-sensitive land uses throughout the study area. The noise team will also carefully identify and document other existing noise sources present as well as buildings, topography and other features that could influence acoustical propagation in the study area.

## Task 8.3 Analyze Noise Measurement Data

The noise measurement data will be analyzed and developed into charts and tables to represent the varying noise environment over the course of the day at each of the measurement locations as well as detailed noise levels for individual train events identifying individual contributions from train cars, locomotives and horn soundings on a per event basis (to the degree possible).

## Task 8.4 Conduct FTA and CadnaA Noise Modeling

AECOM will conduct an FTA style spreadsheet analysis to predict and compare project related 24-hour ( $L_{dn}$ ) noise levels consistent with methods described in the FTA Transit Noise and Vibration Impact Assessment Manual (FTA VA-90-1003-06), general noise assessment method, at up to 20 different point locations representing noise sensitive locations within the project area. The noise team will also develop more detailed noise models using the CadnaA noise model platform to produce noise contour data for typical maximum noise levels for each alternative.

## Task 8.5 Conduct Comparative Vibration Analysis

AECOM will conduct a comparative operational train vibration analysis in accordance with FTA general assessment methods for the four identified alternatives. The general assessment does not include or rely upon vibration measurements and employs some relatively conservative assumptions regarding soil characteristics, track structures and rail vehicles.

## Task 8.6 Develop Draft Noise and Vibration Technical Memorandum

AECOM will prepare a technical noise memorandum reporting the methodology, results and conclusions of Tasks 8.1 to 8.5.

## Task 8.7 Develop Final Noise and Vibration Technical Memorandum

AECOM will provide responses to one set of agency comments and prepare a final technical memorandum.

## **Task 9: Real Estate Impacts**

### Task 9.1 Develop Draft and Final Real Estate Analysis Technical Memorandum

AECOM will develop a memorandum that will include some examples from past studies to derive order of magnitude estimates of the livability impacts due to changes in the visual and noise conditions as a result of each of the four alternatives described in Task 8.

The memorandum will also include a qualitative assessment, focusing on the differences of each Build alternative in the impacted areas (i.e. number/type of affected properties).

## **Task 10: Develop Comparison Method**

### Task 10.1 Develop Comparison Method

AECOM will develop a comparison matrix/method based on community and stakeholder feedback, to reflect impacts of each of the two alternatives identified in Task 7.2, plus the two alternatives identified in the PSR (Alternatives A and C), on local land uses in each of the three main area segments of Menlo Park along the Caltrain corridor as defined in the July 16, 2019 Rail Subcommittee meeting:

1. Northern Segment (North of Oak Grove Avenue)
2. Downtown Segment (Between Oak Grove Avenue and Ravenswood Avenue)
3. Southern Segment (South of Ravenswood Avenue)

## **Optional Tasks**

### **Task 11: Architectural Evaluation (Optional Task)**

## Task 11.1 Develop Enhanced Aesthetic Concepts

AECOM will have an architect provide examples and approximate costs of some aesthetic features that can be used to help soften the visual appearance of the elevated structure.

## Task 11.2 Customize Renderings

AECOM will customize the renderings for Task 7.4 for up to two unique aesthetic concepts.

## **DELIVERABLES LIST**

The below listed deliverables will be provided in electronic format as part of Phase 1 and 2 as well as the Optional Tasks.

### Phase 1:

- Visual Renderings (Task 7.4)
- Draft & Final Technical Memorandum of Fully Elevated Alternative (Tasks 7.5 & 7.6)

### Phase 2:

- Draft & Final Noise and Vibration Technical Memorandum (Tasks 8.6 & 8.7)
- Draft & Final Real Estate Analysis Technical Memorandum (Task 9.1)
- Comparison Matrix (Task 10.1)

### Optional:

- Samples and Costs of Aesthetic Treatments (Task 11.1)
- Customized Renderings (Task 11.2)

## **FEE ESTIMATE**

A detailed level of effort per task for this Extra Work (Amendment 3) is provided as an attachment (Table 1), including the maximum amount to complete the scope work as outlined above and estimated at \$258,000. Billings to City of Menlo Park for this work will be based on a staff person's actual hourly rate actual hours spent, plus an overhead rate of 128.43% and a fee of 10%. Hourly rates shown in Table 1 are estimated. Subcontracted services will be billed at cost plus 5%. All other costs will be billed at actual cost with no mark-up.

We look forward to working with the City to complete these additional tasks. If you have any questions, please contact Millette Litzinger at 408.510.8139 or [millette.litzinger@aecom.com](mailto:millette.litzinger@aecom.com).

Yours sincerely,

**AECOM Technical Services, Inc.**



Millette Litzinger, PE  
Project Manager

Attachments

**CITY OF MENLO PARK**  
**Ravenswood Avenue Grade Separation Preliminary Engineering, Public Outreach, & PSR**  
**Table 1: COST PROPOSAL, EXTRA WORK REQUEST, 10/4/2022**

Classification ==>	PROJECT MGMT	CIVIL					NOISE			ARCHITECTURE	ECONOMISTS		RAIL			TRAFFIC			SUBS	ODCs	Total Hours (incl subs)	TOTAL \$	
		Sr PM	Lead PE	Proj Controls	Lead Rail Engr	Sr Designer	Project Simulation Specialist	Sr Noise Lead	Staff Analyst	Noise Tech	Lead Architect	Sr Economist	Staff Economist	Sr Rail Designer	Rail Designer	Staff Rail Designer	Traffic Mangr	Sr. Traffic Engineer	Traffic Engr				APEX
Hourly Billing Rate ==>	\$302 Litzinger	\$270 DeStefano	\$225 Moreland	\$244 Hartman	\$165 Shields	\$153 Jones	\$220 Burge	\$115 AlKhalaf	\$80 Vasquez	\$286	\$203 Carlson	\$108 Reynolds	\$210	\$159	\$118	\$260	\$126	\$99	\$1.05	\$1			
<b>PHASE 1: FEASIBILITY ASSESSMENT</b>																							
<b>1.0 PROJECT MANAGEMENT</b>																							
1.1 Project Administration (Phase 1, 6 months)	24	12	6																			42	\$11,848
Subtotal Hours	24	12	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	42	
Subtotal Cost	\$7,257	\$3,242	\$1,349	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$11,848
<b>7.0 FULLY ELEVATED ALTERNATIVE ANALYSIS</b>																							
7.1 Collection of Sample Projects	2	4		8	16																	30	\$6,283
7.2 Preliminary Engineering	8	32		40	120																	200	\$40,662
7.3 Meetings (6)	24	48		48	12																	132	\$44,965
7.4 Visual Renderings	2	4		4	4	80																90	\$15,059
7.5 Draft Technical Memorandum (Fully Elevated Alternative)	2	8		40	24																	74	\$16,497
7.6 Final Technical Memorandum (Fully Elevated Alternative)	2	4		32	10																	48	\$11,399
Subtotal Hours	40	100	0	168	186	80	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	574	
Subtotal Cost	\$12,094	\$27,016	\$0	\$41,009	\$30,742	\$12,212	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,440	\$1,350	\$134,864
<b>PHASE 2: TECHNICAL EVALUATIONS</b>																							
<b>1.0 PROJECT MANAGEMENT</b>																							
1.1 Project Administration (Phase 2, 5 months)	20	10	5																			35	\$9,873
Subtotal Hours	20	10	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	35	\$0
Subtotal Cost	\$6,047	\$2,702	\$1,124	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$9,873
<b>8.0 NOISE STUDY</b>																							
8.1 Review Project Information							8	16														24	\$3,599
8.2 Site Visit and Noise Measurements							8	32	32													72	\$9,999
8.3 Analyze Noise Measurement Data							4	16														20	\$2,720
8.4 Conduct FTA and CadnaA Noise Modeling							12	64														76	\$9,999
8.5 Conduct FTA General Vibration Assessment							32	8														40	\$7,956
8.6 Develop Draft Noise Technical Memorandum	1	2		24	40	16	8	16														83	\$12,000
8.7 Develop Final Noise Technical Memorandum	1	2		8	16																	27	\$4,442
Subtotal Hours	2	4	0	0	0	0	96	192	48	0	0	0	0	0	0	0	0	0	0	0	0	342	
Subtotal Cost	\$605	\$1,081	\$0	\$0	\$0	\$0	\$21,108	\$22,080	\$3,840	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,000		\$50,713
<b>9.0 REAL ESTATE</b>																							
9.1 Real Estate Analysis Technical Memorandum	4	8									32	40										84	\$14,213
Subtotal Hours	4	8	0	0	0	0	0	0	0	0	32	40	0	0	0	0	0	0	0	0	0	84	
Subtotal Cost	\$1,209	\$2,161	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,507	\$4,335	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$14,213
<b>10.0 Develop Comparison Method</b>																							
10.1 Develop Comparison Method/Matrix	4	20		12	12																	48	\$11,525
Subtotal Hours	4	20	0	12	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	48	
Subtotal Cost	\$1,209	\$5,403	\$0	\$2,929	\$1,983	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$11,525
<b>OPTIONAL TASKS</b>																							
<b>11.0 Architectural Evaluation (Optional)</b>																							
11.1 Develop Enhanced Aesthetic Concepts	2	4									40											46	\$13,132
11.2 Customize Renderings	1	8				60																69	\$11,623
Subtotal Hours	3	12	0	0	0	60	0	0	0	0	40	0	0	0	0	0	0	0	0	0	0	115	
Subtotal Cost	\$907	\$3,242	\$0	\$0	\$0	\$9,159	\$0	\$0	\$0	\$11,446	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$24,755
<b>TOTAL Hrs</b>	<b>97</b>	<b>166</b>	<b>11</b>	<b>180</b>	<b>198</b>	<b>140</b>	<b>96</b>	<b>192</b>	<b>48</b>	<b>40</b>	<b>32</b>	<b>40</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,240</b>	
<b>TOTAL Cost (Not Including Optional Tasks)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$233,246</b>
<b>TOTAL Cost (Including Optional Tasks)</b>	<b>\$29,329</b>	<b>\$44,846</b>	<b>\$2,474</b>	<b>\$43,938</b>	<b>\$32,725</b>	<b>\$21,372</b>	<b>\$21,108</b>	<b>\$22,080</b>	<b>\$3,840</b>	<b>\$11,446</b>	<b>\$6,507</b>	<b>\$4,335</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$10,649</b>	<b>\$3,350</b>	<b>\$258,000</b>	

- NOTES:
- 1) Billings to City of Menlo Park for this work will be based on a staff person's actual hourly rate at time of service, actual hours spent, plus an overhead rate of 128.43% and a fee of 410%.
  - 2) Hourly billing rates shown are estimated.
  - 3) Subcontracted services will be billed at cost plus 5%.
  - 4) All other costs will be billed at actual cost with no mark-up.
  - 5) It is assumed that the two public meetings will be in-person or hybrid (in-person and virtual) meetings. All other meetings will be virtual.



**STAFF REPORT**

**City Council Meeting Date:** 10/18/2022  
**Staff Report Number:** 22-200-CC

**Consent Calendar:** Authorize the city manager to enter into an amended contract with ICF Jones & Stokes Inc. to prepare an environmental impact report for the proposed master plan project at 333 Ravenswood Avenue (Parkline) for the amount of \$688,817 and future augments as may be necessary to complete the environmental review for the proposed project

**Recommendation**

Staff recommends that the City Council authorize the city manager to execute the amended contract, attached hereto as Attachment A, with ICF Jones & Stokes Inc. (ICF) for the amount of \$688,817 and future augments as may be necessary to complete the environmental review for the proposed Parkline project.

**Policy Issues**

ICF has requested revisions to the City's form professional services agreement which was approved by the City Council September 20, 2022. The revisions have been reviewed by and are acceptable to the City Manager and City Attorney.

**Background**

On September 20, 2022, the City Council authorized the city manager to enter into an agreement with ICF for the amount of \$688,817 and future augments as may be necessary to complete the environmental review for the proposed Parkline project. A hyperlink to the September 20, 2022 staff report is included as Attachment B and provides background information on the proposed project, the environmental review process, the environmental impact report (EIR) consultant selection process and the agreement with ICF.

**Analysis**

Since the authorization of the agreement with ICF September 20, 2022, ICF has provided staff with requested amendments to the agreement related to invoicing, liability, insurance and rights to ICF's work product. ICF has requested similar amendments in the past that have been incorporated into other professional services agreements between the City and ICF. Table 1 below includes the proposed amendments to the agreement in red, with deletions in strikethrough and additions underlined. A clean version of the revised agreement is included as Attachment A to this report. The proposed changes do not impact the scope or cost of ICF's work.

Table 1	
Section of the agreement	Text
4 (E) - Compensation and Payment	<u>If CITY reasonably and in good faith disputes Charges set forth in an invoice, CITY shall notify FIRST PARTY in writing within ten (10) days of receipt of such invoice setting forth in reasonable detail the specific basis or bases for objection (the “Disputed Charges”). CITY and FIRST PARTY shall diligently pursue an expedited resolution of such Disputed Charges. If the Parties are unable to resolve any such dispute within thirty (30) days after the date notice of the Disputed Charges, the Parties may exercise the rights available under the Dispute provisions of this Agreement. If CITY does not object to an invoice within the designated period, the fees and other charges set forth therein shall be deemed to be approved.</u>
6 (A) - Assignment of Agreement and Transfer of Interest	FIRST PARTY shall not assign this agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, <u>which shall not be unreasonably withheld,</u> provided, however that claims for money due or to become due to the FIRST PARTY from the CITY under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.
10 - Hold Harmless	The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from <u>all-third party</u> claims, suits or actions that arise out of, pertain to, or relate to the <u>gross</u> negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code. <u>Notwithstanding any other provision to herein, FIRST PARTY’s liability shall be strictly limited to direct damages and shall in no event exceed the agreement value. In no event shall either party be liable for any indirect, incidental, special or consequential damages whatsoever (including but not limited to lost profits or interruption of business) arising out of or related to the services provided under this Agreement, even if advised of the possibility of such damages.</u>
11(A) - Insurance	FIRST PARTY shall not commence work under this agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with <u>insurance industry standard ACORS form</u> certificates of insurance evidencing the required coverage.
11(B) - Insurance	There shall be a contractual liability endorsement extending the FIRST PARTY’s coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this agreement. <u>All insurance policies and the Certificate of Insurance shall indicate that should the policy be canceled before the expiration date thereof written notice of said cancellation will be delivered in accordance with the policy provisions which shall not be less than thirty (30) days notice of cancellation except for non-payment of premium which shall not be less than ten (10) days notice of cancellation</u> <del>These certificates shall specify or be endorsed to provide that thirty (30) days’ notice must be given, in writing, to the CITY,</del> at the address shown in Section 9, of any pending cancellation of the policy. FIRST



	PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.
11(B)(2) - Insurance	<u>Liability Insurance</u> : The FIRST PARTY shall take out and maintain during the life of this agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY's operations under this agreement, whether such operations be by FIRST PARTY <del>or by any sub-consultant</del> or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in aggregate, or one million dollars (\$1,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this agreement in an amount of not less than one million dollars (\$1,000,000) for each accident combined single limit or not less than one million dollars (\$1,000,000) for any one (1) person, and one million dollars (\$1,000,000) for any one (1) accident, and three hundred thousand dollars, (\$300,000) property damage.
11(C) - Insurance	CITY and its subsidiary agencies, and their officers, <del>agents,</del> employees and servants shall be <u>named-included</u> as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies and their officers, <del>agents,</del> employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
11(E) - Insurance	<del>Before the execution of this agreement, any deductibles or self-insured retentions must be declared to and approved by CITY.</del>
14 – Ownership of Work Product	<u>Work products of FIRST PARTY for this project, which are delivered under this agreement or which are developed, produced and paid for under this agreement, shall become the property of CITY. The reuse of FIRST PARTY's work products by City for purposes other than intended by this agreement shall be at no risk to FIRST PARTY. In addition to the rights granted under this Section 14., the FIRST PARTY shall maintain all rights, title and interest in FIRST PARTY Property. The term FIRST PARTY Property shall mean all preexisting material, including, but not limited to, any products, software, materials and methodologies proprietary to FIRST PARTY or provided by FIRST PARTY or its suppliers and any derivative works, trade secrets, know-how, methodologies and processes related to FIRST PARTY's products or services, all of which shall remain the sole and exclusive property of FIRST PARTY or its suppliers. Subject to the terms of this Agreement, FIRST PARTY grants to CITY a non-exclusive, non-transferable, irrevocable license to use the FIRST PARTY Property contained in the deliverables provided hereunder for the purposes of this Agreement only.</u>

**Impact on City Resources**

The contract amount remains the same as the not to exceed contract amount previously authorized by the

City Council.

### **Environmental Review**

An EIR will be prepared for the proposed project evaluating all applicable topic areas required under California Environmental Quality Act (CEQA.) The EIR will analyze the potential environmental impacts of the proposed project.

### **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. Amended consultant services agreement with ICF
- B. Hyperlink – September 20, 2022 City Council Staff Report # 22-183-CC:  
[beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/city-council/2022-meetings/agendas/20220920-city-council-agenda-packet.pdf#page=112](https://beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/city-council/2022-meetings/agendas/20220920-city-council-agenda-packet.pdf#page=112)

Report prepared by:  
Corinna Sandmeier, Acting Principal Planner

Report reviewed by:  
Deanna Chow, Assistant Community Development Director

**CONSULTANT AGREEMENT**

City Manager's Office  
701 Laurel St., Menlo Park, CA 94025  
tel 650-330-6620



Agreement #:
<b>AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND ICF JONES &amp; STOKES, INC.</b>
THIS AGREEMENT made and entered into at Menlo Park, California, this _____, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and ICF JONES & STOKES, INC., hereinafter referred to as "FIRST PARTY."
<p>WITNESSETH:</p> <p>WHEREAS, Lane Partners, LLC, propose a master plan development to comprehensively redevelop the SRI campus with a residential, office, research and development (R&amp;D), and retail mixed-use project at 333 Ravenswood Avenue (062-390-660, 062-390-670, 062-390-730, 062-390-760, 062-390-780), Menlo Park, hereafter referred to as the "Project", and</p> <p>WHEREAS, the City has determined that under the California Environmental Quality Act and its applicable guidelines the Project requires the preparation of an Environmental Impact Report, hereinafter referred to as the "EIR"; and</p> <p>WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.</p> <p>NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:</p>
<b>1. SCOPE OF WORK</b>
In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit "A," Scope of Services.
<b>2. SCHEDULE FOR WORK</b>
<p>FIRST PARTY's proposed schedule for the various services required pursuant to this agreement will be as set forth in Exhibit "A," Scope of Services. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit "A." Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other's employees and agents.</p> <p>FIRST PARTY shall commence work immediately upon receipt of a "Notice to Proceed" from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY's activities required under this agreement.</p>

### 3. PROSECUTION OF WORK

FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY. (See Exhibit "A," Scope of Services).

### 4. COMPENSATION AND PAYMENT

- A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed \$688,817 as described in Exhibit "A," Scope of Services. All payments shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.
- B. FIRST PARTY's fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.
- C. Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.
- D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.
- E. If CITY reasonably and in good faith disputes Charges set forth in an invoice, CITY shall notify FIRST PARTY in writing within ten (10) days of receipt of such invoice setting forth in reasonable detail the specific basis or bases for objection (the "Disputed Charges"). CITY and FIRST PARTY shall diligently pursue an expedited resolution of such Disputed Charges. If the Parties are unable to resolve any such dispute within thirty (30) days after the date notice of the Disputed Charges, the Parties may exercise the rights available under the Dispute provisions of this Agreement. If CITY does not object to an invoice within the designated period, the fees and other charges set forth therein shall be deemed to be approved.

### 5. EQUAL EMPLOYMENT OPPORTUNITY

- A. FIRST PARTY, with regard to the work performed by it under this agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap, marital status or age in the retention of sub-consultants, including procurement of materials and leases of equipment.
- B. FIRST PARTY shall take affirmative action to insure that employees and applicants for employment are treated without regard to their race, color, religion, sex, national origin, marital status or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training including apprenticeship.
- C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, marital status or handicap.
- E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.
- F. FIRST PARTY shall incorporate the foregoing requirements of this section in FIRST PARTY's agreement with all sub-consultants.

## 6. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST

- A. FIRST PARTY shall not assign this agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, which shall not be unreasonably withheld, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.
- B. In the event there is a change of more than 30 percent of the stock ownership or ownership in FIRST PARTY from the date of this agreement is executed, then CITY shall be notified before the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this agreement.

## 7. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY's services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

## 8. CONSULTANT QUALIFICATIONS

It is expressly understood that FIRST PARTY is licensed and skilled in the professional calling necessary to perform the work agreed to be done by it under this agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in a skillful manner usual to the profession. The acceptance of FIRST PARTY's work by CITY does not operate as a release of FIRST PARTY from said understanding.

## 9. NOTICES

All notices hereby required under this agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight courier service. Notices required to be given to CITY shall be addressed as follows:

Deanna Chow  
 Community Development  
 City of Menlo Park  
 701 Laurel St.  
 Menlo Park, CA 94025  
 650-330-6733  
 dmchow@menlopark.org

Notices required to be given to FIRST PARTY shall be addressed as follows:

Heidi Mekkelson, Principal  
 ICF Jones & Stokes, Inc.  
 201 Mission Street, Suite 1500  
 San Francisco, CA 94105  
 heidi.mekkelson@icf.com

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.

## 10. HOLD HARMLESS

The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from 3<sup>rd</sup> party claims, suits or actions that arise out of, pertain to, or relate to the gross negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code. Notwithstanding any other provision to herein, FIRST PARTY's liability shall be strictly limited to direct damages and shall in no event exceed the agreement value. In no event shall either party be liable for any indirect, incidental, special or consequential damages whatsoever (including but not limited to lost profits or interruption of business) arising out of or related to the services provided under this Agreement, even if advised of the possibility of such damages.

## 11. INSURANCE

- A. FIRST PARTY shall not commence work under this agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with insurance industry standard ACORS form certificates of insurance evidencing the required coverage.
- B. There shall be a contractual liability endorsement extending the FIRST PARTY's coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this agreement. All insurance policies and the Certificate of Insurance shall indicate that should the policy be cancelled before the expiration date thereof written notice of said cancellation will be delivered in accordance with the policy provisions which shall not be less than thirty (30) days notice of cancellation except for non-payment of premium which shall not be less than ten (10) days notice of cancellation, at the address shown in Section 9, of any pending cancellation of the policy. FIRST PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.
1. Workers' compensation and employer's liability insurance:  
The FIRST PARTY shall have in effect during the entire life of this agreement workers' compensation and Employer's Liability Insurance providing full statutory coverage. In signing this agreement, the FIRST PARTY makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this agreement" (not required if the FIRST PARTY is a Sole Proprietor).
  2. Liability insurance:  
The FIRST PARTY shall take out and maintain during the life of this agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY's operations under this agreement, whether such operations be by FIRST PARTY or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in aggregate, or one million dollars (\$1,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this agreement in an amount of not less than one million dollars (\$1,000,000) for each accident combined single limit or not less than one million dollars (\$1,000,000) for any one (1) person, and one million dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage.
  3. Professional liability insurance:

FIRST PARTY shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of FIRST PARTY pursuant to this agreement, in the amount of not less than one million dollars (\$1,000,000) per claim and in the aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

- C. CITY and its subsidiary agencies, and their officers, employees and servants shall be included as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- D. In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CITY, at its option, may, notwithstanding any other provision of this agreement to the contrary, immediately declare a material breach of this agreement and suspend all further work pursuant to this agreement.

## **12. PAYMENT OF PERMITS/LICENSES**

Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, before commencement of said work/services or forfeit any right to compensation under this agreement.

## **13. RESPONSIBILITY AND LIABILITY FOR SUB-CONSULTANTS AND/OR SUBCONTRACTORS**

Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its sub-consultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its sub-consultants and/or subcontractors.

## **14. OWNERSHIP OF WORK PRODUCT**

Work products of FIRST PARTY for this project, which are delivered under this agreement or which are developed, produced and paid for under this agreement, shall become the property of CITY. The reuse of FIRST PARTY's work products by City for purposes other than intended by this agreement shall be at no risk to FIRST PARTY. In addition to the rights granted under this Section 14., the FIRST PARTY shall maintain all rights, title and interest in FIRST PARTY Property. The term FIRST PARTY Property shall mean all pre-existing material, including, but not limited to, any products, software, materials and methodologies proprietary to FIRST PARTY or provided by FIRST PARTY or its suppliers and any derivative works, trade secrets, know-how, methodologies and processes related to FIRST PARTY's products or services, all of which shall remain the sole and exclusive property of FIRST PARTY or its suppliers. Subject to the terms of this Agreement, FIRST PARTY grants to CITY a non-exclusive, non-transferable, irrevocable license to use the FIRST PARTY Property contained in the deliverables provided hereunder for the purposes of this Agreement only.

## **15. REPRESENTATION OF WORK**

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit "A" or as otherwise specified in Exhibit "A."

## **16. TERMINATION OF AGREEMENT**

- A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this agreement in whole or in part at any time, either for CITY's convenience or because of the failure of FIRST PARTY to fulfill its

contractual obligations or because of FIRST PARTY's change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:

1. Immediately discontinue all services affected (unless the notice directs otherwise); and
  2. Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this agreement, whether completed or in process.
- B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- C. If the termination is due to the failure of FIRST PARTY to fulfill its agreement, CITY may take over the work and prosecute the same to completion by agreement or otherwise. In such case, FIRST PARTY shall be liable to CITY for any reasonable additional cost occasioned to the CITY thereby.
- D. If, after notice of termination for failure to fulfill agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this Section.
- E. The rights and remedies of the CITY provided in this Section are in addition to any other rights and remedies provided by law or under this agreement.
- F. Subject to the foregoing provisions, the CITY shall pay FIRST PARTY for services performed and expenses incurred through the termination date.

**17. INSPECTION OF WORK**

It is FIRST PARTY's obligation to make the work product available for CITY's inspections and periodic reviews upon request by CITY.

**18. COMPLIANCE WITH LAWS**

It shall be the responsibility of FIRST PARTY to comply with all State and Federal Laws applicable to the work and services provided pursuant to this agreement, including but not limited to compliance with prevailing wage laws, if applicable.

**19. BREACH OF AGREEMENT**

- A. This agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this agreement, shall constitute a breach of this agreement and may be cause for termination at the election of the CITY.
- B. The CITY reserves the right to waive any and all breaches of this agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of agreement.

**20. SEVERABILITY**

The provisions of this agreement are severable. If any portion of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

**21. CAPTIONS**



The captions of this agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this agreement.

## **22. LITIGATION OR ARBITRATION**

In the event that suit or arbitration is brought to enforce the terms of this agreement, the prevailing party shall be entitled to litigation costs and reasonable attorneys' fees. The Dispute Resolution provisions are set forth on Exhibit "B," 'Dispute Resolution' attached hereto and by this reference incorporated herein.

## **23. RETENTION OF RECORDS**

Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and /or audit of the City, a federal agency, and the state of California.

## **24. TERM OF AGREEMENT**

This agreement shall remain in effect for the period of September 21, 2022 through June 30, 2024 unless extended, amended, or terminated in writing by CITY.

## **25. ENTIRE AGREEMENT**

This document constitutes the sole agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document's date. Any prior agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties to this agreement.

## **26. STATEMENT OF ECONOMIC INTEREST**

Consultants, as defined by Section 18701 of the Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations, are required to file a Statement of Economic Interests with 30 days of approval of a contract services agreement with the City of its subdivisions, on an annual basis thereafter during the term of the contract, and within 30 days of completion of the contract.

Based upon review of the Consultant's Scope of Work and determination by the City Manager, it is determined that Consultant IS NOT required to file a Statement of Economic Interest. A statement of Economic Interest shall be filed with the City Clerk's office no later than 30 days after the execution of the agreement.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

**FOR FIRST PARTY:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Tax ID#

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Nira F. Doherty, City Attorney

\_\_\_\_\_  
Date

**FOR CITY OF MENLO PARK:**

\_\_\_\_\_  
Justin I.C. Murphy, City Manager

\_\_\_\_\_  
Date

**ATTEST:**

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

\_\_\_\_\_  
Date

## EXHIBIT "A" – SCOPE OF SERVICES

### A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY's Community Development Department. In the event of any discrepancy between any of the terms of the FIRST PARTY's proposal and those of this agreement, the version most favorable to the CITY shall prevail. FIRST PARTY shall provide the following services:

Provide general consultant services for projects as determined by the CITY. The detailed scope of work for each task the CITY assigns the consultant shall be referred to as Exhibit A -1, which will become part of this agreement. A notice to proceed will be issued separately for each separate scope of work agreed to between the CITY and FIRST PARTY.

FIRST PARTY agrees to perform these services as directed by the CITY in accordance with the standards of its profession and CITY's satisfaction.

### A2. COMPENSATION

CITY hereby agrees to pay FIRST PARTY at the rates to be negotiated between FIRST PARTY and CITY as detailed in Exhibit A-1. The actual charges shall be based upon (a) FIRST PARTY's standard hourly rate for various classifications of personnel; (b) all fees, salaries and expenses to be paid to engineers, consultants, independent contractors, or agents employed by FIRST PARTY; and shall (c) include reimbursement for mileage, courier and plan reproduction. The total fee for each separate Scope of Work agreed to between the CITY and FIRST PARTY shall not exceed the amount shown in Exhibit A-1.

FIRST PARTY shall be paid within thirty (30) days after approval of billing for work completed and approved by the CITY. Invoices shall be submitted containing all information contained in Section A5 below. In no event shall FIRST PARTY be entitled to compensation for extra work unless an approved change order, or other written authorization describing the extra work and payment terms, has been executed by CITY before the commencement of the work.

### A3. SCHEDULE OF WORK

FIRST PARTY'S proposed schedule for the various services required will be set forth in Exhibit A-1.

### A4. CHANGES IN WORK -- EXTRA WORK

In addition to services described in Section A1, the parties may from time to time agree in writing that FIRST PARTY, for additional compensation, shall perform additional services including but not limited to:

- Change in the services because of changes in scope of the work.
- Additional tasks not specified herein as required by the CITY.

The CITY and FIRST PARTY shall agree in writing to any changes in compensation and/or changes in FIRST PARTY's services before the commencement of any work. If FIRST PARTY deems work he/she has been directed to perform is beyond the scope of this agreement and constitutes extra work, FIRST PARTY shall immediately inform the CITY in writing of the fact. The CITY shall make a determination as to whether such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the CITY determines that such work does constitute extra work, it shall provide compensation to the FIRST PARTY in accordance with an agreed cost that is fair and equitable. This cost will be mutually agreed upon by the CITY and FIRST PARTY. A supplemental agreement providing for such compensation for extra work shall be negotiated between the CITY and the FIRST PARTY. Such supplemental agreement shall be executed by the FIRST PARTY and may be approved by the City Manager upon recommendation of the Assistant Community Development Director.

**A5. BILLINGS**

FIRST PARTY's bills shall include the following information: A brief description of services performed, project title and the agreement number; the date the services were performed; the number of hours spent and by whom; the current contract amount; the current invoice amount; Except as specifically authorized by CITY, FIRST PARTY shall not bill CITY for duplicate services performed by more than one person. In no event shall FIRST PARTY submit any billing for an amount in excess of the maximum amount of compensation provided in Section A2.

The expenses of any office, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by FIRST PARTY in the performances of this agreement shall be incurred at the FIRST PARTY's discretion. Such expenses shall be FIRST PARTY's sole financial responsibility.

## EXHIBIT “B” - DISPUTE RESOLUTION

- B1.0** All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:
- B2.0 Mediation**
- B2.1** The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator’s fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph B3.1.
- B3.0 Arbitration**
- B3.1** Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph B2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the agreement.
- B3.2** The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:
- B3.3** Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.
- B3.4** The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years’ experience in construction litigation.
- B3.5** All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.
- B3.6** The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.
- B3.7** Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.
- B3.8** The prevailing party shall be awarded reasonable attorneys’ fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.
- B3.9** Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.
- B3.10** The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.



## STAFF REPORT

### City Council

Meeting Date: 10/18/2022

Staff Report Number: 22-202-CC

Consent Calendar: Authorize the Mayor to sign the City's response to the San Mateo County Civil Grand Jury Report: "Waiter! There's a Car in My Soup!"

### Recommendation

Staff recommends that the City Council approve the City's response to the San Mateo County's Civil Grand Jury Report: "Waiter! There's a Car in My Soup!" and authorize the Mayor to sign the letter.

### Policy Issues

There are no immediate policy implications as a result of the City responding to the grand jury report regarding outdoor dining guidelines. However, by approving the City's response to the grand jury report, the City Council is agreeing to the grand jury's second recommendation to give direction to city staff about whether to develop permanent outdoor dining regulations for potential adoption by March 31, 2023.

### Background

Empowered by the state judicial system, the San Mateo County grand jury is a fact-finding body that makes specific recommendations on a wide range of topics to help improve local government operations.

The 2021-22 San Mateo County Civil Grand Jury issued a report titled "Waiter! There's a Car in My Soup!" July 25, 2022 (Attachment A.) This report is concerned with how many cities in San Mateo County adapted and learned from the outdoor dining emergency measures that were put in place during the COVID-19 pandemic, and how they plan to apply those experiences to future outdoor dining policies.

The City of Menlo Park, along with five other San Mateo County cities (Burlingame, Millbrae, Redwood City, San Carlos and San Mateo), is required to submit responses to the findings and recommendations listed in Attachment A pertaining to the matters over which it has some decision-making authority. Per Attachment A, the responses are due within 90 days from the date the report was issued. The City Council's response to the report is due no later than October 25, 2022. Response letters must be approved by the governing body of each jurisdiction at a public meeting.

### Analysis

In response to the COVID-19 pandemic, many cities adopted or expanded outdoor dining regulations that fast-tracked permits for outdoor dining, and most of these regulations were only approved on a temporary basis. The 2021-22 San Mateo County Civil Grand Jury investigated several cities temporary outdoor dining policies. The grand jury reported four findings and two recommendations related to outdoor dining. The grand jury recommended that City Councils of the subject cities:

1. Determine the extent to which they intend to enforce their current outdoor dining regulations

2. Determine whether they wish to adopt permanent outdoor dining regulations.

The Menlo Park City Council adopted the original temporary outdoor permit program regulations as part of an urgency ordinance June 19, 2020, and have since reviewed and revised the program several times, most recently January 25, 2022.

### **Impact on City Resources**

There is no impact on City resources.

### **Environmental Review**

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

### **Public Notice**

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

### **Attachments**

- A. San Mateo County's Civil Grand Jury Report: "Waiter! There's a Car in My Soup!"
- B. City of Menlo Park response letter to grand jury report

Report prepared by:  
Kirstin Hinds, Senior Advisor with HdL Companies

Report reviewed by:  
Justin Murphy, City Manager



Superior Court of California, County of San Mateo  
Hall of Justice and Records  
400 County Center  
Redwood City, CA 94063-1655

ATTACHMENT A

NEAL TANIGUCHI  
COURT EXECUTIVE OFFICER  
CLERK & JURY COMMISSIONER

(650) 261-5066  
www.sanmatocourt.org

July 25, 2022

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

Re: Grand Jury Report: "Waiter! There's a Car in My Soup!"

Dear Councilmembers:

The 2021-2022 San Mateo County Civil Grand Jury filed the above-titled report on July 25, 2022, which contains findings and recommendations pertaining to your agency. Your agency must respond, within 90 days, to the Hon. Amarra A. Lee. Your agency's response is due no later than October 25, 2022.

There are several requirements for **the content** of your response. The response should indicate that it was approved by your governing body at a public meeting. In addition, please be aware that your agency is expected to adhere to the wording, as instructed below, when responding to the findings and recommendations of the Grand Jury report.

For each Grand Jury finding, your agency **must indicate** one of the following:

1. The respondent **agrees** with the finding; or
2. The respondent **disagrees wholly or partially with the finding**, specifying the portion of the finding that is disputed and including an explanation of the reasons therefor.

For each Grand Jury recommendation, your agency **must indicate** one of the following actions:

1. The recommendation **has been implemented**, with a summary of the implemented action;
2. The recommendation **has not yet been implemented**, but will be implemented in the future, with an **estimated date** for implementation;
3. The recommendation **requires further analysis**, with an explanation and the scope and parameters of an analysis or study, and an estimated date (**no later than six months from the publication date of the report**) for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable; or
4. The **recommendation will not be implemented** because it is not warranted or reasonable, with an explanation therefor.



Kindly submit your responses in ALL the following formats.

1. Responses to be placed on file with the Clerk of the Court by the Court Executive Office:

- Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address, and mail to:

Hon. Amarra A. Lee  
Judge of the Superior Court  
c/o Jenarda Dubois  
Civil Grand Jury Coordinator  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655.

2. Responses to be placed at the Grand Jury website:

- Scan response and send by e-mail to: [grandjury@sanmateocourt.org](mailto:grandjury@sanmateocourt.org). (Insert agency name at the top of your response if it is not indicated.)

3. Responses to be placed with the clerk of your agency:

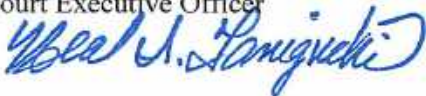
- File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.

The 2021-22 Grand Jury foreperson is available to clarify the recommendations of the Grand Jury report until August 15, 2022. To reach the foreperson, please contact Jenarda Dubois, Civil Grand Jury Coordinator, at (650) 261-5066.

If you have any questions regarding these procedures, please do not hesitate to contact David Silberman, Chief Deputy County Counsel, at (650) 363-4749.

Very truly yours,

Neal Taniguchi  
Court Executive Officer



Enclosure

cc: Hon. Amarra A. Lee  
David Silberman



## WAITER! THERE'S A CAR IN MY SOUP!

*Release Date: July 25, 2022*

### ISSUE

How have cities in San Mateo County adapted and learned from the outdoor dining emergency measures they adopted during the COVID-19 pandemic, and how do they plan to apply those experiences to their future outdoor dining policies?

### SUMMARY

Prior to the COVID-19 pandemic, outdoor dining in San Mateo County was limited to sidewalk cafes and outdoor dining areas on restaurant property. Some cities experimented with early "parklet" programs that placed dining areas in some street parking. At times, city events such as farmers' markets and festivals also provided patrons with outdoor dining opportunities.

In response to COVID-19, the State of California issued a series of emergency orders limiting business activities and ordering residents to shelter in place. When businesses were allowed to reopen, some cities adopted temporary regulations that fast-tracked permits for outdoor dining. Cities discovered that outdoor dining kept many restaurants in business, while patrons embraced outdoor dining. In some cities, the municipal experience with outdoor dining policies is expected to be reflected in permanent policy changes.

The Grand Jury investigated several cities' temporary outdoor dining policies. We discovered that some cities conducted no documented inspections of their outdoor dining facilities. Where inspections were performed, corrections of deficiencies were generally not documented.

Temporary ordinances are relatively easy for cities to adopt because they require little public input. In contrast, before permanent policies can be adopted as part of cities' zoning codes, they must go through a time-consuming series of steps that allow the public to weigh in on the process. As of June 7, 2022, the City of San Mateo was the only city to have completed the process and transitioned away from emergency outdoor dining regulations to permanent policies. Most of the cities we interviewed had not yet begun the process.

The Grand Jury recommends that city councils of the subject cities:

1. determine the extent to which they intend to enforce their current outdoor dining regulations; and
2. determine whether they wish to adopt permanent outdoor dining regulations.

## GLOSSARY

**ADA** - The Federal Americans with Disabilities Act (ADA) protects disabled people from discrimination, including by requiring that public accommodations be free from architectural barriers that make them inaccessible for use by disabled individuals.

**Encroachment** – An encroachment exists when a portion of the public right of way is taken for private use, such as when an eating establishment uses sidewalk or street parking space for table service.

**Parklet** - A space, typically converted from a public parking space, that extends from the sidewalk into the street and is set aside for amenities or commercial activity such as outdoor dining, is known as a parklet.

## BACKGROUND

Throughout San Mateo County, cities responded to the 2020 COVID-19 pandemic by embracing the concept of outdoor dining both to help restaurants stay in business and to provide a safe environment for diners to eat and socialize. These efforts took advantage of the County's generally mild weather and its several attractive downtown areas. Early in 2020, County emergency health orders prohibited indoor dining, compelling restaurants to rely on delivery and takeout sales, and threatening their economic viability. Nationwide, 36% of accommodation and food services establishments, employing 5.7 million workers, experienced government-mandated closures.<sup>1</sup> In addition to expanding their takeout and delivery options, restaurants in the County sought to move operations outdoors. To support local restaurants, cities adopted temporary changes to municipal codes, permit requirements, and other regulations to enable expanded outdoor dining facilities. Over time, as the utility and popularity of these temporary arrangements became evident, cities began to examine whether their temporary policies should be permanent.

### Types of Outdoor Dining

Whether on privately-owned restaurant patios or in spaces shared with the public's right-of-way, outdoor dining is enjoyed in many forms throughout cities around the world. Dining "*al fresco*" or "all'aperto" adds an element of entertainment to eating out at a restaurant. Open air dining allows families to enjoy eating together in a more informal and relaxed atmosphere. Not only does eating outdoors offer diners a special ambiance, but it also allows restaurants to increase their seating, serve more meals and raise their revenue.

When cities are incorporated, they generally set aside some of the available land as a right-of-way for public use. The right-of-way is used for automobile traffic, parking, bike lanes, sidewalks, and other pedestrian areas. When cities permit outdoor dining spaces to extend into the public right-of-way, food vendors can operate in public travel easements such as sidewalks

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<sup>1</sup> "Impact of the Coronavirus Pandemic on Businesses and Employees by Industry." U.S. Bureau of Labor Statistics, Spotlight on Statistics, July 2021

and streets. Examples of dining opportunities within the public right-of-way include sidewalk cafes, parklets, festivals, street vendors, food trucks, and farmers markets. Belden Place in San Francisco, Redwood City's theater district, Burlingame Avenue, and B Street in the City of San Mateo have all taken cues from the sidewalk cafes of Europe by extending their restaurants into public spaces. These city uses of public space for outdoor dining have dramatically supplemented prior outdoor dining configurations provided by some restaurants, such as rooftop cafes, beer gardens, and patio or courtyard tables.

The outdoor dining atmosphere seems to resonate well with customers. Restaurant parklets and other outdoor dining formats have become a common sight in downtowns throughout the County since 2020 through experimental temporary changes to local outdoor dining regulations.

### **Outdoor Dining in San Mateo County**

Outdoor dining has existed in San Mateo County for many years. For example, cities experimented with closing streets to automobile traffic, extending restaurant seating into public spaces, and widening sidewalks to make more room for sidewalk cafes. San Carlos, Menlo Park, and Redwood City were among the first to accept the parklet concept as a matter of public policy, converting a limited number of parking spaces to outdoor dining patios on an experimental basis. Redwood City, San Mateo, and Burlingame all had significant projects prior to 2020. Redwood City created Theatre Way, a pedestrian-friendly, restaurant-friendly corridor by closing a section of Middlefield Road, creating dedicated outdoor dining areas in the street. San Mateo helped to create an outdoor mall lined with outdoor dining running parallel to B Street, connecting theaters to parking garages. As far back as May 2013, Burlingame eliminated angled parking on Burlingame Avenue in order to widen sidewalks for a variety of sidewalk cafes.<sup>2</sup> In July 2015, San Carlos approved an 18-month pilot program for outdoor dining on Laurel Street.

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<sup>2</sup> Bay Area News Group, "Burlingame Avenue undergoes short-term pain for long-term gain," East Bay Times, June 10, 2013

## A Brief History of Parklets

San Francisco is credited with creating the first “parklet” and coining the term; it was a parking space that was repurposed into a small park-like space for public recreation – not for private business. In 2005, an urban activist group known as Rebar fed coins into a parking meter, unrolled some grass turf, and added a potted plant to create an urban “park.” Since then, cities gradually began to capitalize on the idea to include outdoor dining patios that expand business opportunities for eating establishments and attract more diners to downtown areas.



**The First Parklet**

Source: [https://nacto.org/docs/usdg/parklets\\_tiny\\_parks\\_with\\_big\\_impacts\\_for\\_city\\_streets\\_gould.pdf](https://nacto.org/docs/usdg/parklets_tiny_parks_with_big_impacts_for_city_streets_gould.pdf)

## City Ordinances

City regulations, such as those governing outdoor dining, are generally created through city ordinances that are codified in the municipal code. California law mandates how such ordinances are adopted. First, the city staff drafts a proposal with input from various boards, commissions and committees as appropriate. The city council then solicits public input from specialized committees, by written or emailed comment, as well as public input

at a public meeting of the city council that approves the ordinance.<sup>3</sup> The following diagram illustrates the process by which a municipal zoning ordinance is adopted.

### Ordinance Process Example

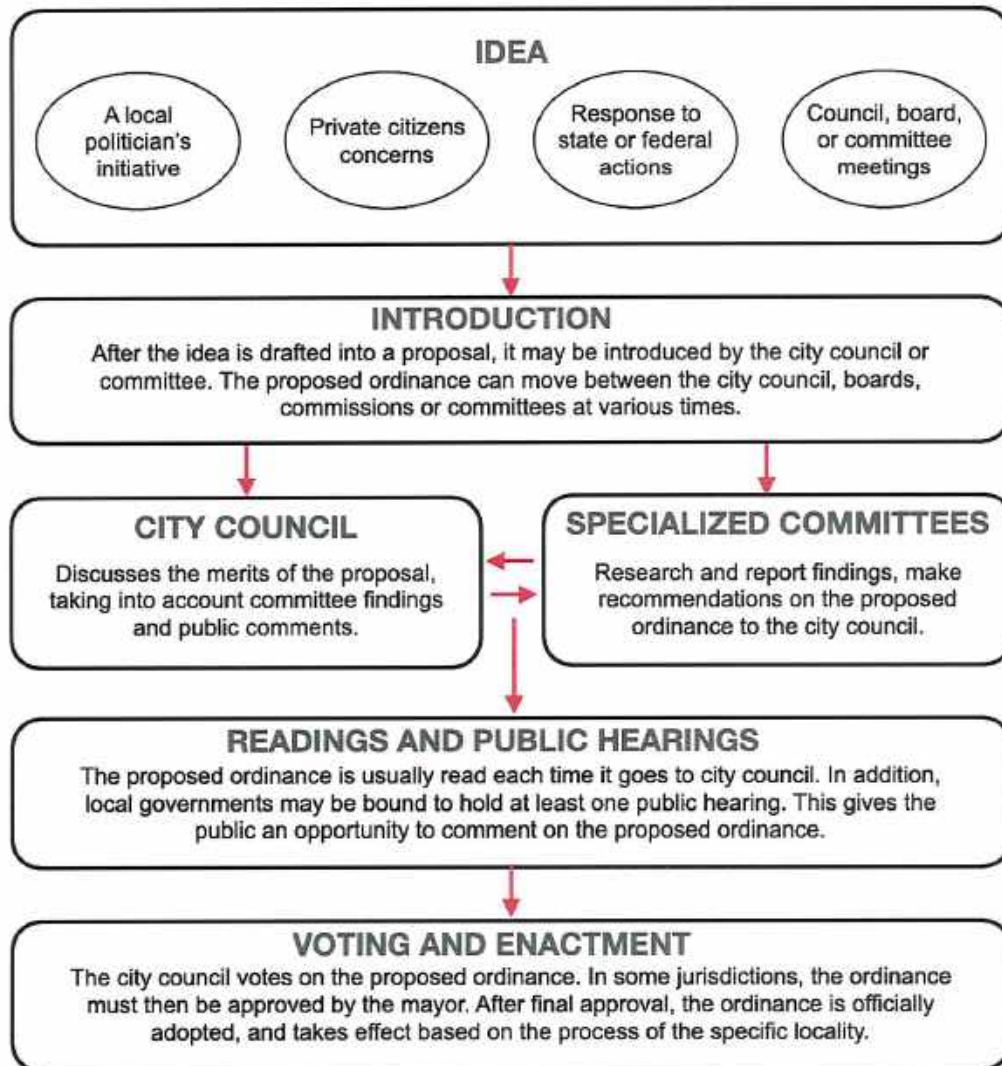


Figure 1. Ordinance Process Example<sup>4</sup>

<sup>3</sup> Charter cities can be governed by provisions in their own charters rather than the general law of California, but the process is similar.

<sup>4</sup> Excerpted from “Ordinance Process,” Statescape. <https://www.statescape.com/resources/local/ordinance-process/>

Adopting a new city ordinance is a complex and lengthy process. However, mechanisms are available when local emergencies or other urgent conditions require a city to adopt new laws and regulations for limited periods of time. In the event of a local emergency, California law permits a city to declare local emergencies when a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.<sup>5</sup> Alternatively, a local government can pass an urgency ordinance to take effect immediately where necessary for the immediate preservation of public peace, health, or safety and passed by a four-fifths vote of the city council.<sup>6</sup> Both emergency orders and urgency ordinances generally lapse when the emergency or threat to public health conditions requiring their adoption ceases.

### **Building Outdoor Dining in the Public Right-of-Way**

If a restaurant wishes to make use of public space, such as the city sidewalk or adjacent parking spaces, it must obtain a special permit from the city for encroachment in the public right-of-way prior to construction. Such permits specify the conditions that must be met for that encroachment. Typically, the applicant seeking the permit is required to indemnify the city from lawsuits, maintain a specified minimum amount of liability insurance, and comply with operational standards to ensure public safety. After a permit is issued and the facility is constructed, the city conducts inspections to ensure that what is built complies with the permit specifications. When inspections are completed, the permit is signed off and the restaurant can open to the public. If there are any permit compliance deficiencies, they must be resolved before the permit can be signed off.

Local agencies responsible for restaurant permit compliance inspections typically include the city planning department, building department, and the fire department. The planning department may have a permit process for the right-of-way encroachment. The building department may inspect construction for compliance with building codes, as well as ADA requirements. The fire department may inspect new construction for the adequacy of its fire suppression measures and execute periodic checks for sprinklers and fire extinguishers. Should any required inspections find something non-compliant, the issue must be rectified prior to final approval. The space cannot be occupied by the public until the permit has final approval.

Cities do not inspect restaurants' daily operations, such as compliance with the food safety requirements, because that task is the responsibility of the County Health Department, which monitors compliance with food safety and similar legal requirements. Health Department inspections are primarily concerned with kitchen and bar operations, so their influence on outdoor dining regulation is limited.

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<sup>5</sup> Gov. Code § 8610 and § 8634

<sup>6</sup> Gov. Code § 36937(b)

## **The COVID-19 Health Emergency Orders**

With the emergence of the COVID-19 virus in March 2020, the six Bay Area counties responded with declarations and emergency orders based on health and public safety conditions. The first order issued by the counties restricted business activities and ordered residents to shelter at home, which was followed by Orders from the California Governor's office.<sup>7</sup> Counties directed bars and clubs to close and restaurants to open only for drive-through or pick-up and delivery.<sup>8</sup> In June 2020, the County released an emergency order that temporarily suspended outdoor dining use permit and zoning requirements, allowing restaurants in the unincorporated areas to move more operations outdoors.<sup>9</sup> The cities issued their own temporary orders allowing outdoor dining, similar to the County order.

## **Impact on Restaurants**

In 2021, the National Restaurant Association reported restaurant sales at \$799 billion, down \$65 billion from 2019's pre-pandemic levels. The number of restaurant employees at the end of 2021 was 14.5 million, down one million from 2019's pre-pandemic levels. Ninety thousand restaurant locations were temporarily or permanently closed.<sup>10</sup>

San Mateo County estimated that about 230 of its roughly 3,700 food facilities went out of business during the pandemic.<sup>11</sup> Even restaurants with outdoor dining facilities were closed for a portion of the year, but those without outdoor dining options were particularly hard hit.

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<sup>7</sup> Executive Department, State of California, Executive Order N-33-20, March 19, 2020

<sup>8</sup> Office of Governor Gavin Newsom, "California Takes Action to Combat COVID-19"

<sup>9</sup> County of San Mateo, Director of Emergency Services, Emergency Regulation No. 1 for the COVID-19 Emergency

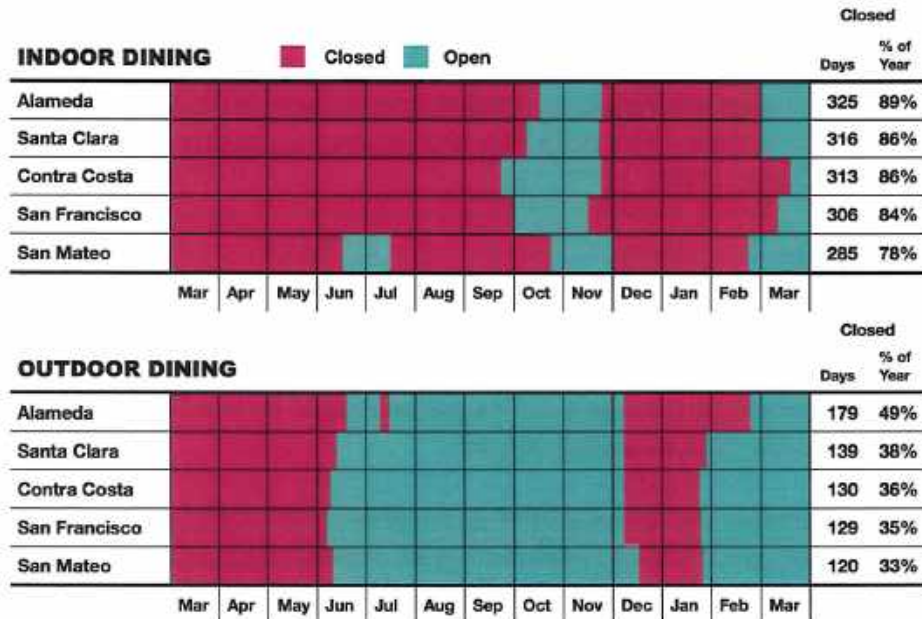
<sup>10</sup> National Restaurant Association, "Restaurant Industry Facts at a Glance"

<sup>11</sup> Pender, Kathleen, "COVID-19 pandemic takes businesses on rough ride", Climate Online Redwood City, March 15, 2021



Specifically, between March 2020 and March 2021, restaurant indoor dining was closed 78% of the year, while outdoor dining was closed only 33% of the year, as shown in Figure 2.<sup>12</sup>

**Portion of the Year Bay Area Restaurants Were Closed March 2020 to March 2021  
(By County)**



**Figure 2. Portion of the Year Restaurants Closed**

Cities were quick to respond by fast-tracking permit applications for outdoor dining encroachment, waiving fees and streamlining the process. Sidewalk cafes and parklets rapidly became a familiar sight throughout the county, keeping many businesses from being shuttered.

As cities experimented or struggled with temporary measures during the COVID-19 crisis, some also began to think about the possibility of making permanent provisions for more outdoor dining.

**DISCUSSION**

This Grand Jury investigation examined how jurisdictions implemented their temporary outdoor dining regulations in the public right-of-way, and whether or how they planned to convert them into permanent policies.

<sup>12</sup> Sulek and Rowan. "A year of COVID lockdowns: This Bay Area county stayed open months longer than others. So what was the impact?", The Mercury News, March 21, 2021

## Survey

The Grand Jury investigation began in late 2021. In order to understand the scope of outdoor dining in the County, we prepared a short survey about cities' practices. We sought to identify cities with outdoor dining regulations prior to the pandemic, cities that created or modified outdoor dining regulations in response to the pandemic, and cities that anticipated adopting permanent outdoor dining regulations. The surveys were sent to the city managers of all 20 cities in the County (leaving aside unincorporated areas where County regulations would apply). We received responses from all, and the respondents agreed to a 10 to 20 minute follow-up telephone interview to confirm the survey responses. The survey and its results can be found in Appendix A.

### Select Cities Interviewed in Depth

After reviewing the results of the survey and follow-up interviews, the Grand Jury selected six cities for in-depth interviews – Burlingame, Menlo Park, Millbrae, Redwood City, San Carlos, and San Mateo. The selection criteria included:

- Experience with permitted commercial establishments providing food or drink in outdoor public spaces prior to 2020;
- Sizable increases in the number of permitted commercial establishments providing food or drink in outdoor public spaces during the pandemic (by December 2021); and
- The intention to develop or modify permanent regulations for these establishments after the pandemic.

Menlo Park, Redwood City, and San Carlos all had pre-COVID-19 parklet experience. The number of outdoor dining establishments in Burlingame, Millbrae, and San Mateo had more than doubled. These six cities all indicated their intention to develop permanent outdoor dining regulations post-COVID-19.<sup>13</sup>

### Growth in Outdoor Dining

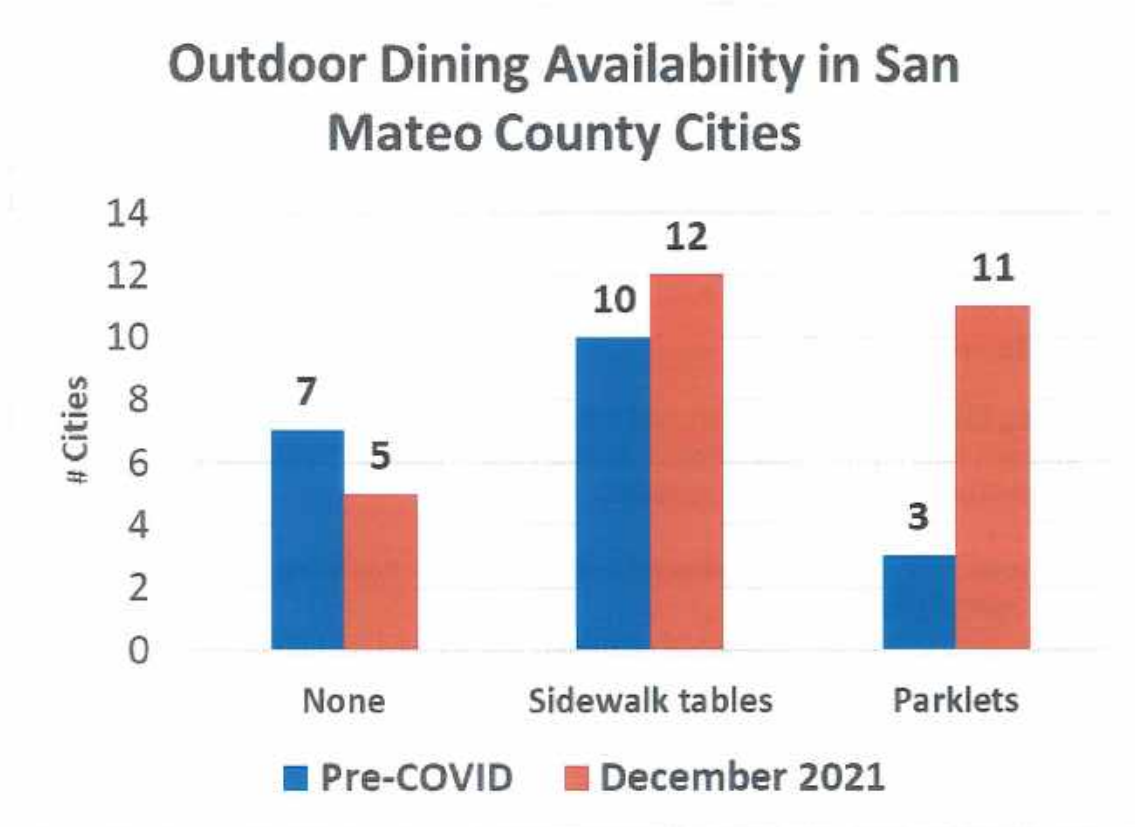
Prior to 2020, most cities had some form of outdoor dining experience, such as sidewalk tables, parklets, on-site private outdoor space, and food vendors at temporary farmers markets or festivals. Survey results indicated that, by late 2021, the number of cities that reported parklets had more than tripled from the year before.<sup>14</sup>

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<sup>13</sup> Grand Jury survey

<sup>14</sup> Grand Jury survey

The number of cities that saw sidewalk tables and outdoor dining parklets in use increased as shown below:



**Figure 3. Outdoor Dining Availability (Source): Grand Jury Survey**

#### Temporary Emergency Measures

The Governor’s emergency proclamation in response to the COVID-19 pandemic both prompted and enabled cities to adopt emergency ordinances to respond to the crisis.<sup>15</sup> City officials were empowered to proclaim the existence of a local emergency with instructions as to how the city should respond.<sup>16</sup> The six cities we focused on all issued similar proclamations to allow outdoor dining.<sup>17</sup>

As the impact of the pandemic continued, cities repeatedly extended their temporary orders. For example, Redwood City’s orders were extended four times, most recently set to expire July 5, 2022.<sup>18</sup>

<sup>15</sup> Executive Department, State of California Executive Order N-33-20, March 19, 2020

<sup>16</sup> City of Redwood City, City Code § 10.6

<sup>17</sup> For example, see Redwood City’s proclamation attached as Appendix B.

<sup>18</sup> Grand Jury interviews

The six cities the Grand Jury interviewed at length temporarily relaxed zoning standards and waived permitting fees in an effort to help their business community. Restaurant owners were required to apply for temporary encroachment business permits.<sup>19</sup>

### **City Oversight of Outdoor Dining**

Once cities determined that they would permit outdoor dining under some conditions, they also assumed an obligation to verify compliance with those requirements. For example, they had new responsibilities for inspections of parklet facilities, adequacy of traffic barriers, and following up on complaints about COVID-19 protocol compliance. This proved a challenge for some cities. When we asked cities about their oversight process, we found that they exercised different levels of oversight – ranging from actively walking around to engage with the restaurants to simply following up on complaints from the public.<sup>20</sup>

We discovered that when the temporary orders allowed the option of outdoor dining, a number of restaurants took the initiative to start building outdoor dining facilities even before temporary permits were made available. Due to the nature of the emergency, cities were lenient and worked with these restaurants to fast-track the permitting process and issue permits.<sup>21</sup>

Each of the cities required permits in order to build outdoor dining facilities within the public-right-of-way (see Appendix B for an example). In only one of the six cities interviewed in depth by the Grand Jury were we able to locate evidence of documented permit compliance inspections. In that city, the permit inspection form included a checklist of a dozen items specific to building and fire safety codes (see Appendix C). The city's process required the business owner to complete the form in order to schedule an inspection. The completed form was then used by the city's inspection team as a checklist to verify compliance.<sup>22</sup> The city issued 36 permits, of which 30 were provided to us. Of those, we found that 18 had deficiencies and that only one correction notice was documented.<sup>23</sup> In the other cities, the Grand Jury was unable to obtain any evidence of permit compliance inspections.

Although their ordinances require all construction to be compliant with the requirements of the Americans with Disabilities Act (ADA), the cities emphasized that the onus is on the businesses to make sure they are ADA compliant. The Grand Jury found no evidence that compliance with ADA construction standards was an inspection item at any of the cities we interviewed in depth.

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<sup>19</sup> Grand Jury interviews

<sup>20</sup> Grand Jury interviews

<sup>21</sup> Grand Jury interviews

<sup>22</sup> Grand Jury interview

<sup>23</sup> Grand Jury correspondence

## **Planning for the Future**

In responding to our December 2021 survey, 12 of the 20 cities (and all six we interviewed in greater depth) responded that they planned to modify their outdoor dining regulations once the emergency order was lifted.<sup>24</sup> At the time we finalized this report, only one of the cities we interviewed in depth had completed the full process of transitioning from temporary to permanent regulations. The temporary programs in cities that have not yet adopted permanent regulations are at risk for expiration once their emergency orders are lifted.

The experiences of three cities illustrate the complexity of developing a modern outdoor dining program:

### **Burlingame**

Burlingame began its process in May 2021 when a city council subcommittee began discussion of a fee structure for permanent parklet regulations. Two months later, the city council requested that the staff distribute a survey to get public input on parklets, which reconfirmed the popularity of the parklet program and the need to provide additional certainty to businesses.<sup>25</sup> At the December 2021 meeting, the city council approved the extension of the parklet program with the provision that a rent be charged for use of publicly owned space.<sup>26</sup> Thus far, the process has taken seven months.

### **Redwood City**

Redwood City responded to the COVID-19 shutdowns by relaxing the zoning and permit requirements for outdoor dining, allowing the expansion of outdoor dining operations.<sup>27</sup> A task force composed of city staff and economic partners developed its temporary outdoor dining program.<sup>28</sup> They met on a bi-monthly basis for most of 2021 until the program stabilized. For almost a year, multiple departments worked with consultants to develop more permanent guidelines.<sup>29</sup> The effort was supported by business and community surveys that showed overwhelming support for the parklet program. Staff met regularly to review and discuss design, guidelines, fees, transition from the temporary program, ordinance amendments, and ADA requirements for a permanent outdoor dining program. In May 2022, city staff conducted a City Council study session for public input and Council feedback on a comprehensive outdoor business activities program.<sup>30</sup> So far, this process has taken more than a year.

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<sup>24</sup> Grand Jury survey

<sup>25</sup> City of Burlingame City Council meeting, August 16, 2021

<sup>26</sup> City of Burlingame City Council meeting, December 6, 2021

<sup>27</sup> Redwood City Proclamation Allowing Outdoor Dining, September 1, 2020

<sup>28</sup> Redwood City Chamber of Commerce, Redwood City Downtown Business Group and Redwood City Improvement Association

<sup>29</sup> The departments involved included: City Manager's Office, City Attorney's Office, Community Development and Transportation, Fire, Parks and Recreation.

<sup>30</sup> City Council meeting, May 23, 2022; see Staff Report attached as Appendix D

## San Mateo

The City of San Mateo began its process of converting temporary to permanent outdoor dining regulations in June 2021, when the city council adopted a resolution to establish guidelines for a long-term parklet program and associated permit fees.<sup>31</sup> After going through an eight-month process, the city council approved permanent parklet program guidelines<sup>32</sup> in February 2022 that went into effect on May 1, 2022, after the temporary program expired.<sup>33</sup>

Burlingame, Redwood City and San Mateo are all following the normal ordinance process. Their experience is presented here to illustrate the complexity and time involved in the effort to transition from temporary to permanent ordinances. In two of the three cities, more work needs to be done before a permanent program is in place.

## **FINDINGS**

Of the following findings, the first three apply to all six cities we examined in depth, and the fourth applies to all but the City of San Mateo:

- F1. The city has conducted permit compliance inspections as required under city regulations for its current outdoor dining facilities, but has not documented those inspections, which makes it difficult to manage compliance with permit requirements.
- F2. The city has not documented certain known outdoor dining permit compliance deficiencies, which makes it difficult to mandate that corrections must be completed.
- F3. The city has not documented corrections to certain known outdoor dining permit compliance deficiencies, which makes it difficult to ensure that any mandated corrections were in fact completed.
- F4. The city has failed to adopt permanent outdoor dining regulations to replace the temporary regulations, which must expire, creating unpredictability and potentially terminating the city's outdoor dining arrangements in a manner that would harm local business.

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<sup>31</sup> City of San Mateo City Council meeting, June 21, 2021, "Resolution to establish guidelines for a long-term Parklet Program and associated permit fees"

<sup>32</sup> City of San Mateo Parklet Program Guidelines, as revised February 4, 2022

<sup>33</sup> Grand Jury correspondence

## RECOMMENDATIONS

Of the following recommendations, the first applies to all six cities we examined in depth, and the second applies to all but the City of San Mateo:

- R1. The Grand Jury recommends that by March 31, 2023, the city council should give direction to city staff on how to prioritize enforcement of the entirety of its current outdoor dining regulations.
- R2. The Grand Jury recommends that by March 31, 2023, the city council should give direction to city staff about whether to develop permanent outdoor dining regulations for potential adoption.

## REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the city councils of the following cities:

Responding Agency	Finding	Recommendation
City of Burlingame	F1, F2, F3, F4	R1, R2
City of Menlo Park	F1, F2, F3, F4	R1, R2
City of Millbrae	F1, F2, F3, F4	R1, R2
City of Redwood City	F1, F2, F3, F4	R1, R2
City of San Carlos	F1, F2, F3, F4	R1, R2
City of San Mateo	F1, F2, F3	R1

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

## RESPONSE REQUIREMENTS

**California Penal Code Section 933.05**, provides (emphasis added):

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall report one of the following:

- (1) The respondent **agrees** with the finding.
- (2) The respondent **disagrees** wholly or partially with the finding; in which case the response shall **specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.**

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, **with a summary regarding the implemented action.**

(2) The recommendation has not yet been implemented, but will be implemented in the future, **with a timeframe for implementation.**

(3) The recommendation requires further analysis, **with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.**

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, **with an explanation therefore.**

## **METHODOLOGY**

### **Documents/Sources**

The Grand Jury reviewed and consulted numerous reports, news articles, and webpages in preparation of this report. Sources include the cities, the county, and the state as well as research organizations and professional associations. For a complete list see the Bibliography below.

### **Survey**

To gather basic information about outdoor dining in the County, the Grand Jury conducted a survey of the City Managers in each of the 20 cities in the County. All City Managers or their designees completed the survey, and all respondents completed a follow-up telephone call to validate the survey responses. The survey and survey responses are included in Appendix A.

### **Interviews**

As part of the investigation, the Grand Jury conducted 20 telephone interviews consisting of 10-20 minutes with each of the city survey respondents in order to validate their online survey responses. The interviewees included City Managers and other senior city staff.

From the 20 cities surveyed, the Grand Jury selected six for in-depth interviews to gain a better understanding of their experience with the creation of their outdoor dining in public spaces. The cities that were chosen represented a mix of populations and geography in the County. The Grand Jury interviewed ten responsible officials among the cities selected for in-depth interviews.



## BIBLIOGRAPHY

- Sharon Stang, "Impact of the Coronavirus Pandemic on Businesses and Employees by Industry," U.S. Bureau of Labor Statistics, Spotlight on Statistics, July 2021, <https://www.bls.gov/spotlight/2021/impact-of-the-coronavirus-pandemic-on-businesses-and-employees-by-industry/home.htm>
- Sulek and Rowan, "A year of COVID lockdowns: This Bay Area county stayed open months longer than others. So what was the impact?" The Mercury News, March 21, 2021
- City of San Mateo Parklet Program Guidelines, as revised February 4, 2022. <https://www.cityofsanmateo.org/DocumentCenter/View/85420/Permanent-Parklets-Guidelines?bidId=>
- Coronavirus Timeline: Tracking major moments of COVID-19 pandemic in San Francisco Bay Area, accessed June 8, 2022. <https://abc7news.com/timeline-of-coronavirus-us-covid-19-bay-area-sf/6047519/>
- Staff Report May 23, 2022, Outdoor Business Activity Program (Parklet and Sidewalk Café Program) Study Session. <https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/STAFFREPORT.PDF.pdf?meetingId=2338&documentType=Agenda&itemId=7269&publishId=10960&isSection=false>

## **LIST OF APPENDICES**

APPENDIX A: Civil Grand Jury Outdoor Dining Survey Results

APPENDIX B: Sample Temporary Permit – Redwood City, September 1, 2022

APPENDIX C: Temporary Outdoor Parklet Inspection Checklist

APPENDIX D: Redwood City Staff Report May 23, 2022

APPENDIX E: City of San Mateo Parklet Encroachment Permit Application, February 4, 2022

APPENDIX F: Burlingame Outdoor Dining Brochure

**APPENDIX A**

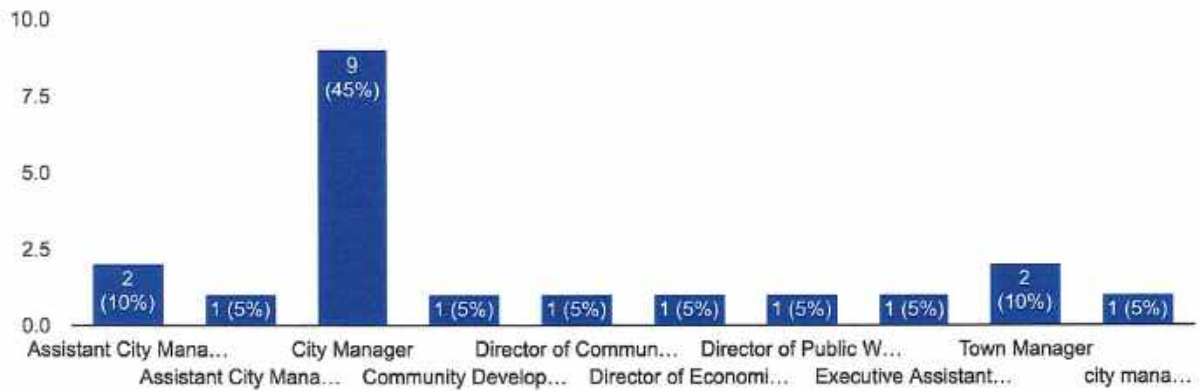
**Civil Grand Jury Outdoor Dining Survey Results**

**All 20 San Mateo County cities responded between December 2, 2021 and January 7, 2022**

The survey responses to 1) the “City Represented” and 2) the “Name of the Respondent” and email addresses are removed from the results shown below.

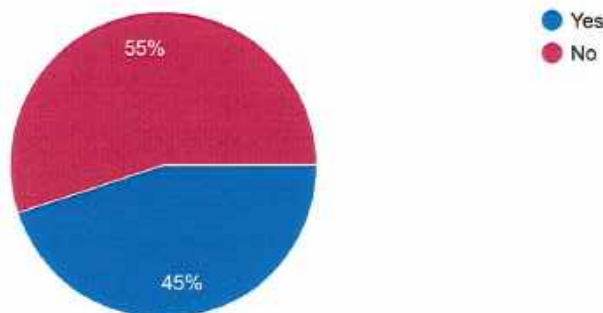
What is your job title?

20 responses



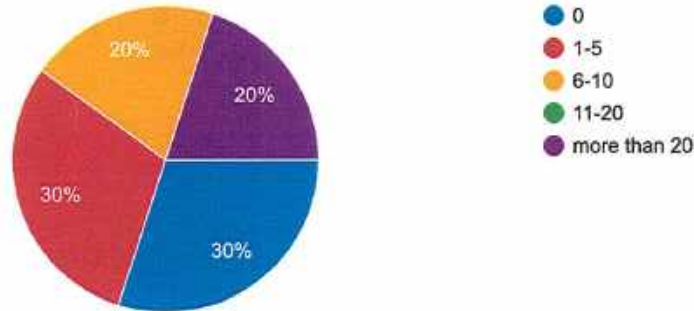
3. Prior to the COVID Public Health Emergency did your city have policies or regulations relevant to commercial provision of food or drink in outdoor public spaces?

20 responses



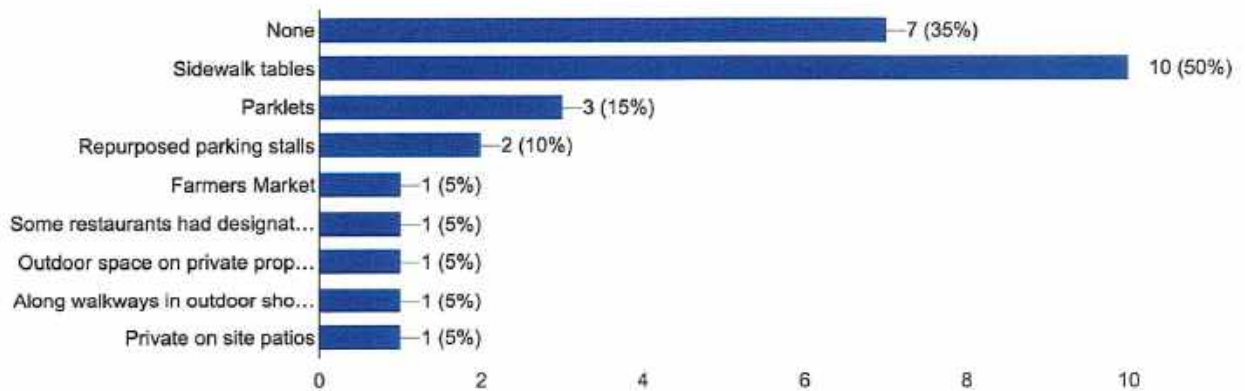
4. Prior to the COVID Public Health Emergency how many permitted commercial establishments provided food or drink in outdoor public spaces in your city?

20 responses



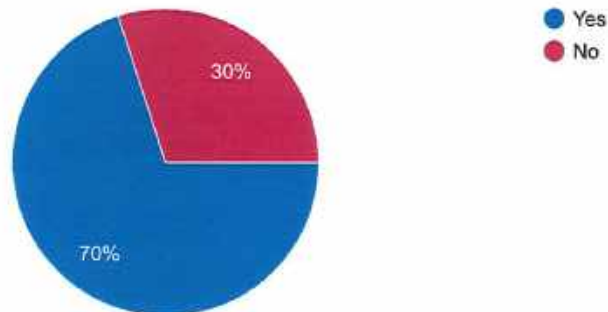
5. Prior to the COVID Public Health Emergency which if any of the following forms of establishments for outdoor consumption of food or ...were available in your city? Check all that apply:

20 responses



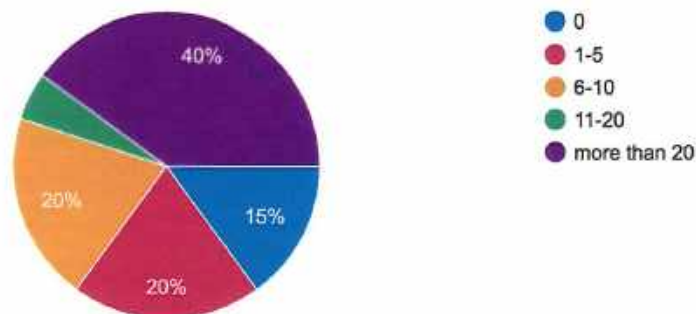
6. Since the COVID Public Health Emergency declaration has your city adopted any policies or regulations relevant to commercial provision of food or drink in outdoor public spaces?

20 responses



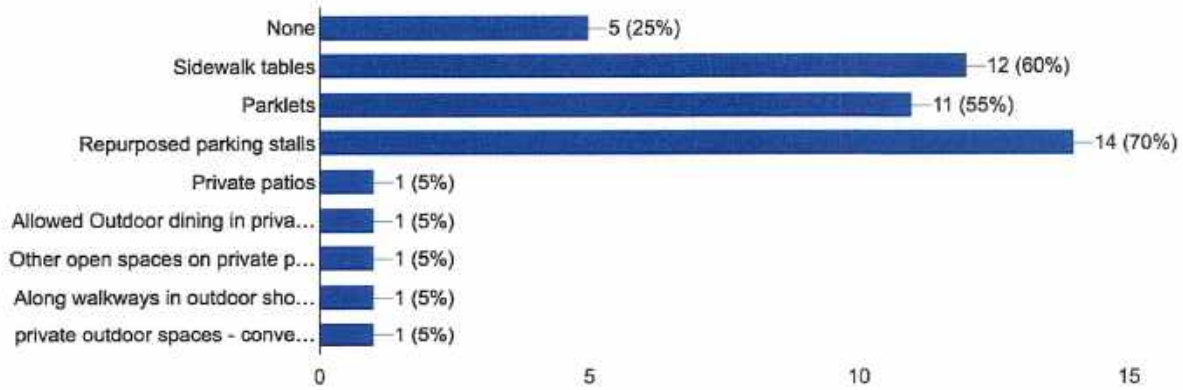
7. Currently, how many permitted commercial establishments are providing food or drink in outdoor public spaces in your city?

20 responses



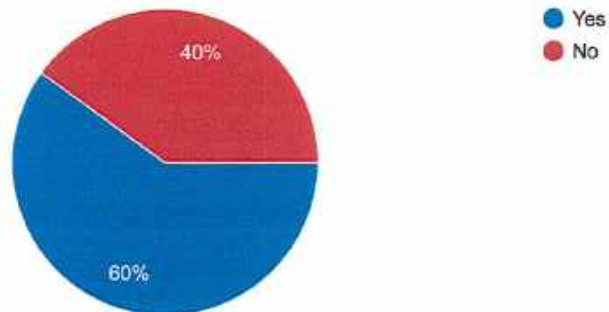
8. During the COVID Public Health Emergency which if any of the following forms of commercial space for outdoor consumption of food or drink were available in your city? Check all that apply:

20 responses



9. Are there plans to modify your city's policies or regulations relevant to commercial provision of food or drink in outdoor public spaces after San M...ounty's Covid State of Emergency Order expires?

20 responses



**APPENDIX B**  
**Sample Temporary Permit – Redwood City, September 1, 2022**

**City of Redwood City**  
COMMUNITY DEVELOPMENT  
AND TRANSPORTATION  
DEPARTMENT



1017 Middlefield Road  
P.O. Box 391  
Redwood City, CA 94064  
Telephone: 650.780.7380  
Facsimile: 650.780.7309  
www.redwoodcity.org

**TEMPORARY OUTDOOR BUSINESS PERMIT (COVID-19) FOR USE OF PUBLIC AND PRIVATE PROPERTY**

1. Address/location of proposed activity (the "Project Site") \_\_\_\_\_  
\_\_\_\_\_
2. Description of activity: \_\_\_\_\_
3. Proposed start date of activity: \_\_\_\_\_
4. Applicant(s) name(s): \_\_\_\_\_
5. Name of Business: \_\_\_\_\_
6. Mailing address: \_\_\_\_\_
7. Telephone and email: \_\_\_\_\_
8. City Business License Number or Account ID: \_\_\_\_\_
9. Check if use is on private property  or on public property   
Applicants for use of private property are subject to Section 14.  
Applicants for use of public property are subject to Section 15.
10. Provide site diagram or plan showing the outdoor activity area, path of travel, proximity to parking and/or traffic lanes, and general dimensions of furniture used.
11. Emergency Proclamation. The terms of the September 1, 2020 Proclamation of the Director of Emergency Services Allowing Outdoor Business Activity During the COVID-19 Emergency ("Emergency Proclamation") are hereby incorporated by reference.
12. Special Provisions. Applicants must comply with the requirements of Exhibit A (Operational Standards) and Exhibit B (General Terms and Conditions), attached hereto and incorporated by reference.
13. Parking. Where Applicant has exclusive use of a Project Site that is a parking lot, Applicant shall ensure that the Outdoor Activity does not generate adverse parking impacts on adjacent streets.
14. Requirements for Use of Private Property:
  - A. Provide private property owner's written, dated and signed consent for use of area to be used for the outdoor business activity (e.g., a parking lot) by signing this application. This is particularly important

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where the Applicant does not have exclusive use of the area to be used for outdoor business activity, e.g. a shopping center parking lot.

- B. ADA parking space(s) must not be used for outdoor business activity under this permit. A minimum of one (1) pick-up/drop-off customer space must be maintained close to the business entrance.
- C. For private parking lots, Applicant has met the following requirements:
  - i. ADA parking space(s) and a minimum of one (1) pick-up/drop-off customer space is maintained close to the business entrance; and
  - ii. Applicant has exclusive use of parking lot, and no more than 30% of the parking is used for outdoor dining or a site plan is provided showing the desired amount of parking spaces. Design should not generate overspill parking impacts to adjacent businesses or residents; or
  - iii. Applicant does not have exclusive use of the parking lot, but has obtained approval from the owner/landlord who holds these exclusive rights as acknowledged by signing the site plan showing the desired amount of parking to be used for outdoor dining and by signing this Temporary Outdoor Business Permit.

15. **Requirements for Use of Public Property – Indemnification and Insurance.** Section 15 shall apply where the Applicant is using City Property and/or Right of Way (as defined in City Code Section 29.2) for any work or activity performed under this Permit, including but not limited to outdoor business activity. Section 15 is not applicable to the use of private property.

- A. Applicant agrees to defend, indemnify, and hold City and its City Council, officers, officials, employees, agents and representatives (all of the foregoing collectively "**Indemnitees**") harmless from and against all actual and alleged liability, loss, cost, claims, demands, causes of action, suits, legal or administrative proceedings, penalty, deficiency, fine, damage and expense (including, without limitation, reasonable attorneys' fees and costs of litigation) (all of the foregoing collectively "**Claims**") resulting from or arising in connection with work performed by Applicant pursuant to this Permit, Claims resulting from or arising in connection with the failure on Applicant part to perform work under this Permit, Claims resulting from or arising in connection with the use of the Project Site or the improvements located thereon by Applicant or Applicant's agents, employees, invitees, contractors or subcontractors; or Claims arising as a result of or in connection with any release of any hazardous material in, on, under or about the Project Site by Applicant, or Applicant's agents, employees, invitees, contractors, or subcontractors, or any other violation of any environmental law by Applicant or Applicant's agents, employees, invitees, contractors or subcontractors. Applicant's indemnification obligations under this Permit do not apply to any Claims caused solely by the gross negligence or willful misconduct of any of the Indemnitees. Applicant's preceding indemnification obligations shall survive the expiration or earlier termination of this Permit.
- B. Applicant shall file and maintain on file with the City evidence of self-insurance or a certificate of insurance demonstrating public liability and property damage insurance coverage of a type and in amounts determined sufficient by the City's Risk Manager. The insurance coverage shall insure the Applicant and the City, its City Council, officers, agents, officials and employees, against any loss by reason of injuries to, or death of persons, or damages to property arising out of or related to any work performed by the Applicant, its agents or employees performed under this permit, or arising out of the failure on the Applicant's part to perform work under this permit, or arising from, or caused by the structures or encroachments placed in, on, under or over the surface of any right-of-way or City property pursuant to this permit. Such insurance shall be primary and provide coverage for all liability assumed by the Applicant for work performed under this permit and shall be provided by the Applicant in minimum amounts as required by the City's Risk Manager.



**Applicant(s) Acceptance of City's Permit Terms and Operational Standards:**

*Applicant(s) hereby accepts this permit subject to all terms and conditions set forth in the permit application and attached Operational Standards form, and agree(s) that all of said terms, conditions and provisions shall be binding on Applicant(s), co-owners, heirs, assigns, transferees and successors of interest of every nature.*

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**---- City of Redwood City Staff Use Only ----**

**Permit No:** \_\_\_\_\_ **Applicant:** \_\_\_\_\_

<b>PERMIT GRANTED BY CITY ENGINEER, CITY OF REDWOOD CITY</b>	
<b>Permit Valid Beginning:</b>	_____
<b>Evidence of insurance Provided:</b>	_____
<b>Address/Location of Activity:</b>	_____
<b>Conditions:</b>	<b><u>Permit Subject to Terms in the Attached Exhibit A and Exhibit B</u></b>
<b>Permit Issued By:</b>	_____ <b>On this date:</b> _____

## INSTRUCTIONS FOR COMPLETING APPLICATION

### I. GENERAL

- A. Complete the Application for the Temporary Outdoor Business Permit (COVID-19) by filling in all requested information, and by signing the application as the Applicant on the second page.
- B. Fees for encroachments under City Code Section 29.26 are waived by the Director of Emergency Services/City Manager.

### II. INSURANCE (City Property or Right of Way)

- A. Companies writing the insurance required under the Application shall be licensed to do business in the State of California, or be permitted to do business under the Surplus Line Law of the State of California.

#### COVERAGE REQUIRED

- B. Where Applicant is using City property or Right of Way, Applicant shall procure and maintain throughout the duration of this permit the following insurance coverage:

Commercial General Liability Insurance. This insurance shall protect the Applicant from claims for bodily injury and property damage that may arise because of work performed pursuant to this permit.

1. Type of Coverage. This policy of insurance shall include the City of Redwood City, its Council, boards, commissions, officers, employees, and agents as insureds under this policy, but solely as respects liability arising out of all operations of the Applicant for work performed pursuant to this permit. This policy shall provide coverage to each of the said insureds with respect to said work. Both bodily injury and property damage insurance must be on an occurrence basis, and said policy shall provide that the coverage afforded thereby shall be primary coverage to the full limit of liability stated in the declaration, and if the said insureds have other insurance against the loss covered by said policy that other insurance shall be excess insurance only.
2. Amount of Coverage. The bodily injury and property damage liability coverage for the comprehensive general liability insurance policy and the automobile liability insurance policy shall each provide for the following limits of liability coverage: \$1,000,000 on account of any one occurrence with an aggregate limit of not less than \$1,000,000 combined single limit.

3. *Umbrella Policy.* At the option of the Applicant, primary limits may be less than required, with an Umbrella Policy providing the additional limits needed. This form of insurance will be acceptable provided that the Primary and Umbrella Policies both provide the insurance coverages herein required.

*Worker's Compensation and Employers' Liability Insurance.* In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the Applicant is required to secure the payment of compensation to their employees, and for that purpose, obtain and keep in effect adequate Workers' Compensation Insurance. If the Applicant, in the sole discretion of the City of Redwood City, satisfies the City of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, they may so act, and in such case, the insurance required by this paragraph need not be provided.

The Applicant is advised of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provision of that code, shall comply with such provisions and have Employer's Liability limits of \$1,000,000 per accident before commencing the performance of any work authorized by this permit.

### III. PROOF OF COVERAGE

- A. Prior to beginning work, Applicant shall furnish the City with copies of the insurance certificate and endorsements. The endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- B. Insurance must include endorsements naming the City of Redwood City, its Council members, officers, boards, commissions, employees, and agents as additional, primary insureds.
- C. The endorsements are required for the General Liability Insurance.
- D. The insurance certificates and endorsements are to be received and approved by the City before work commences.

**Exhibit "A"**  
**Operational Standards**

**Eligibility**

1. Outdoor Activities on private property shall be available only for those current tenants of the shopping center or commercial building and shall not be available to mobile businesses, or on vacant property, or on property without commercial tenants.
2. All Outdoor Activities conducted on private property must be done with consent of the property owner.
  - a) Outdoor dining may operate on private property and within the public right-of-way.
  - b) Retail may operate on private property and within the public right-of-way but limited to the sidewalk area only where space allows, consistent with applicable law including but not limited to ADA requirements. No use of on-street parking or closed streets is permitted.
  - c) Personal Services may operate on private property only. Electrolysis, tattooing and piercings are not allowed outdoors. Personal Services is defined in Zoning Ordinance Article 2 (Definitions), and any applicable Precise Plan, and includes but is not limited to hair salons, barbershops, nail salons, massage parlors, body waxing, facials and threading.
  - d) Fitness uses may operate on private property or in public parks. Use of public parks is considered by the Parks, Recreation and Community Services Department at (650) 780-7250 and not through the Outdoor Business Permit process. Fitness uses include but are not limited to gymnasiums, exercise studios, martial arts studios, health clubs, and similar uses.

**Safety, Location, Accessibility**

3. All Outdoor Activities shall be consistent with State Guidelines (including Statewide Industry Guidance), Executive Orders and County Health Requirements issued by the State and County in response to COVID-19 ("State and County Orders"). Outdoor Activities must, at all times, be operated in accordance with State and County Orders, including but not limited to, health guidelines regarding number of patrons, disinfectants, table spacing, use of shared materials, staff hygiene, and social distancing.
4. No permanent item or structures shall be installed on City property. No permanent or temporary signage shall be affixed to any publicly owned structure, including but not limited to streetlights, benches, bus shelters, or similar appurtenances.
5. The Outdoor Activity area shall be contiguous to commercial structures or walkways immediately adjacent to commercial structures. Businesses on private property shall utilize outdoor space contiguous to their tenant space unless authorized by the landlord to use other space contiguous to commercial structures or walkways immediately

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adjacent to structures. Notwithstanding the foregoing, a landlord may designate an alternative location for consolidated outdoor dining of take-away meals or retail pickup provided all other provisions of this Proclamation and State and County Orders are followed.

6. Temporary barriers not exceeding three (3) feet in height shall be placed in a safe manner around the Outdoor Activity area.

7. The Outdoor Activity area must remain clear of drive aisles and fire lanes necessary to provide adequate vehicular circulation and access by public safety vehicles in the event of a fire, medical, or other emergency.

8. A temporary accessible ramp from curb to Outdoor Activity area is required if a permanent ramp is not already available.

9. Accessible parking stalls, accessible van loading areas, and associated paths of travel shall not be impeded by Outdoor Activity areas.

10. Businesses shall not be permitted to expand beyond pre-Covid-19 capacity.

11. No permanent items or structures shall be installed within the Outdoor Activity area.

12. All walkways and sidewalks shall maintain a five-foot clear path of travel.

#### **Operations**

13. Temporary canopies or tents must comply with fire requirements. Permits from the Redwood City Fire Department are required for canopies or tents over 400 square feet. Only one side of the tent or canopy can be closed at any given time.

14. Hours of operation for Outdoor Activity uses shall not exceed the normal hours of operation for the corresponding business with which the outdoor use is associated.

15. Outdoor Activity areas shall be regularly maintained free of trash and debris.

16. Use of electric powered tools such as hair dryers, cutters, curling irons, steam machines, equipment for polishing or electric nail drills shall only be allowed if the cords are kept from the path of travel, and shall be removed at the end of each day. Hair blowers cannot be used outside.

17. Any outdoor alcohol consumption shall be in compliance with the rules and regulations of the Department of Alcoholic Beverage Control and State and County Orders.

18. No outdoor music or entertainment is permitted.

19. Outdoor cooking or grilling is not permitted.

Exhibit "B"

**General Terms and Conditions**

1. Applicant shall not use the Project Site to transport or store any hazardous materials.
2. The Outdoor Activity shall not restrict visibility to any traffic control devices or signs.
3. The Outdoor Activity shall not occupy exclusive bike lanes (where parking is not permitted), bus stops, or "no parking zones."
4. Upon request by the City, Applicant shall maintain and/or re-establish access to any blocked or covered utility pole, manhole, vault, cleanout, valve, junction box, meter box or other facility.
5. Applicant shall maintain Outdoor Activity and the Project Site in a good and safe condition.
6. Applicant shall ensure adequate visibility of the Outdoor Activity during daytime and nighttime hours.
7. Any public and/or private improvements damaged by the Outdoor Activity must be repaired or replaced in-kind to the satisfaction of the improvement owner and at Applicant's expense.
8. Applicant shall, at Applicant's expense, remove said Outdoor Activity, and this permit shall terminate upon expiration of the Emergency Proclamation, or within thirty (30) days after written notice from the City Engineer, whichever is sooner. Applicant agrees that in the event of failure to remove such Outdoor Activity within the time specified, the same may be removed by the City at Applicant's expense, which cost shall be reimbursed by Applicant to City.
9. Applicant shall comply with applicable City noise ordinances. Applicant shall also comply with all applicable local, state and federal laws, regulations, rules and orders, including without limitation all environmental laws, and further including City Code Chapter 29 (Streets, Sidewalks and Work in or Use of City Right of Way) except where exempted under the Emergency Proclamation.
10. If the Project Site is City property or Right of Way, Applicant shall make no alterations whatsoever to the Project Site unless authorized in writing in advance by City. Any alterations authorized by City shall be constructed in strict conformance with plans approved by City.
11. This Permit, together with these General Terms and Conditions and any referenced exhibits, attached hereto and incorporated herein by reference, constitutes the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statement with respect thereto. This Permit may be amended only by a written instrument executed by the parties hereto. If any term, provision, or condition of this Permit is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Permit shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged thereby.

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12. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Permit nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right. No waiver of any breach of any covenant or provision of this Permit shall be deemed a waiver of any subsequent breach of the same or any other covenant or provision hereof. No waiver shall be valid unless in writing and executed by the waiving Party.
13. The rights granted hereby are personal to Applicant and may not be transferred or assigned by operation of law or otherwise without the written consent of City. Nothing in this Permit is intended to or shall confer upon any person other than the Parties any rights or remedies hereunder.
14. Working hours are limited to normal operating business hours. Applicant shall be solely responsible for providing all protective and safety measures necessary.
15. Applicant shall provide for safe movement of vehicular, bicycle, and pedestrian traffic including persons with disabilities in accordance with the Americans with Disabilities Act (ADA) through and around construction operations.
16. Final Decision; Appeal. The issuance of this permit shall constitute the final decision of the Community Development and Transportation Department. If Applicant wishes to dispute any condition of approval listed in this Permit, it has fifteen (15) days from the date of permit issuance to file an appeal to the City Manager or designee, which may be a hearing officer. The appeal shall be heard as soon as feasible and informally conducted.

**APPENDIX C**  
**Temporary Outdoor Parklet Inspection Checklist**

**Temporary Outdoor Parklet Inspection Checklist**

Use of sidewalks, parking places, or City streets for dining, gathering, or display of retail wares requires an encroachment permit from the [REDACTED]. Encroachment permits are for temporary use only and may be discontinued or revoked at any time. By filling out the blanks and checking each box below, you acknowledge that you are in compliance with all requirements herein. Please complete this checklist and information form and submit them online to the following: [REDACTED] by January 18, 2021.

Business Name:

Business Owner:

Business Address:

Contact Mobile Number:

- An encroachment permit from the Public Works Department is required for all temporary outdoor parklets. (Public Works) Your Encroachment Permit No: \_\_\_\_\_ (Public Works)
- Parklets may only contain seating, tables, umbrellas, tents, canopies, membrane structures, and other types of shade or weather coverings. (Public Works)
- Every permitted parklet shall have a worksite specific plan and must be posted at the front door. (Public Works)
- Any tent, canopy, fabric, or membrane structure material must be fire resistant and have a label sewn into the fabric indicating it is approved by California State Fire Marshal (CSFM) or CPA184. (Fire)
- Any tent over 400 square feet requires a tent permit from the Fire Department. (Fire)
- If over 400 square feet, provide Your Fire Permit No: \_\_\_\_\_ (Fire)
- All floor coverings inside any tent, canopy, or membrane structure must be fire resistant. (Fire)
- Propane heaters, natural gas heaters, fire pits, and open flame devices are prohibited to be used under any tent, canopy, umbrella, or membrane structure or within five (5) feet of any combustible material. (Fire)
- The use of any permitted parklet after dark requires means of egress illumination. (Fire)
- The use of any electrical extension cords, multi-plug adaptors and outlets, and gas powered generators are prohibited. (Fire)



- Each parklet must have at least one (1) fire extinguisher with a minimum rating 2A10BC for every fifty (50) feet of travel distance mounted no more than 42” off the finished floor. (Fire).
- "No smoking" signs must be posted in a conspicuous location inside each tent, canopy, or membrane structure. (Fire)
- Electrical lighting used to provide means of egress must be installed by a C-10 licensed electrical contractor. (Building)
- The use of electric heaters may be allowed if each heater is directly plugged into a GFCI socket and installed with an electrical permit by a C-10 licensed electrical contractor. (Building)

**APPENDIX D**  
**Redwood City Staff Report May 23, 2022**



**STAFF REPORT**

**To the Honorable Mayor and City Council**  
**From the City Manager**

**DATE:** May 23, 2022

**SUBJECT**

Outdoor Business Activity Program (Parklet and Sidewalk Café Program) Study Session

**RECOMMENDATION**

Hold a Study Session on the proposed Outdoor Business Activity Program, guidelines, fees, proposed ordinance revisions, and receive public input and individual City Councilmember feedback. No final City Council action will occur at this meeting.

**STRATEGIC PLAN GUIDING PRINCIPLE**

Economic Vitality

**BACKGROUND**

On June 6, 2020, San Mateo County's Shelter in Place (SIP) order to address the COVID-19 pandemic was revised and San Mateo County Order No. c19-5f allowed "outdoor dining" in cities within the County. On June 15, 2020, the City Manager as the Director of Emergency Services issued a Proclamation to allow expanded outdoor restaurant dining citywide on private property and in the public right-of-way to address the serious economic impacts COVID-19 experienced by restaurants and provide safe dining options for customers.

On June 22, 2020 the City Council ratified the Proclamation and approved the street closures and staff implemented the street closures and designated parking spaces for outdoor dining for grab-and-go delivery on June 26, 2020. The initial term for the outdoor dining program was from June 26, 2020 to September 30, 2020.

On September 14, 2020, the City Council adopted a resolution ratifying the September 1, 2020 Proclamation by the Director of Emergency Services allowing Temporary Outdoor Business Activity for the duration of the COVID-19 emergency and on this same date, City Council adopted a resolution authorizing the temporary closure of City streets to be extended through January 31, 2021.

On January 11, 2021, an extension of temporary street closures through December 31, 2021 to allow for continued outdoor business activity was approved. On November 22, 2021, the street closure was extended through July 5, 2022.

For detailed background information regarding the temporary street closures and the Temporary Outdoor Business Activity Program during the COVID-19 emergency, please refer to the November 22, 2021 [staff report](#).

As part of the Study Session this evening, staff is seeking individual City Councilmember feedback on the following questions:

1. Are the proposed fees, costs, and initial first year Program Use Fee Waiver appropriate?
2. Is the application intake window, time allowed for temporary parklet removal, and length of the Outdoor Business Activity Program adequate?
3. Is it appropriate to continue the temporary closure of the 2000 block of Broadway (between Jefferson and Main)? Staff is contemplating reopening the section of Broadway between Jefferson and Redwood Creek Crossing to provide vehicle access to the Marshall Street Garage and Main Street Parking Lot from Broadway.
4. Are the proposed Outdoor Businesses Activity Program Guidelines appropriate?

## **ANALYSIS**

Over the past two years, the temporary outdoor business activity and street closure programs have been a success, with positive feedback and minimal complaints from the public as well as businesses expressing continued support for the program. About 40 businesses in the vicinity of Downtown have created temporary outdoor dining areas utilizing the temporary outdoor business activity program (two are located outside of the Downtown). However, after evaluating the success of the temporary program, most businesses are now ready to undertake additional investments in their outdoor dining areas as they recognize that is now the preferred method for customers to dine. Customers have consistently expressed to businesses that their preference is to not dine inside, but outside, and that is not likely change in the near future. Without a longer term outdoor business activity program in place or defined program parameters, businesses are uncertain on how to move forward. Now after two years, most businesses have expressed that it makes financial sense for them to pursue a longer term outdoor business activity program and are eagerly awaiting action from the City.

#### Outdoor Dining History and Outdoor Business Activity Program

Based on feedback from the community and businesses, staff has been hard at work developing a longer term replacement to the Temporary Outdoor Business Activity Program. See below for a brief history of outdoor dining in Redwood City:

- **Sidewalk Café Program** – In operation since about 1977, allows outdoor dining located along sidewalk areas
- **Sidewalk Café Pilot Program**– A pilot program established around 2014, allows outdoor dining in parking stalls on built platforms
- **Temporary Outdoor Business Activity Program** – Established in June 2020 (along with temporary street closure), allows businesses to utilize parking stalls for outdoor business activity, typically outdoor dining, on a temporary basis. The temporary street closure is set to expire on July 5, 2022. On June 27, 2022, staff plans to recommend a modified street closure for a portion of the 2000 block of Broadway between Redwood Creek Crossing (the roadway providing vehicle access to the Main Street parking lot and Marshall Street Garage from Broadway) and Main St.. This modified temporary closure will allow for vehicle access and traffic flow to the Main Street parking lot behind City Hall and the Marshall Street garage. This will allow better access for trash pick-up and deliveries and free up additional parking stalls adjacent to the building located at 2075 Broadway. The Downtown Precise Plan Update will be exploring a longer term street closure of the 2000 block of Broadway (between Main and Jefferson) in the context of development activity as a whole in the Downtown; analysis is currently underway.

The proposed Outdoor Business Activity Program will replace all previous programs listed above.

In a traditional sense, parklets are typically built platforms converting curbside parking spaces into more active amenity space. In Redwood City's situation, these converted spaces would be used as an extension of business' operation, typically used for outdoor dining and for private use only. Businesses have expressed this as important to the success of the Outdoor Business Activity Program, as it will enable the business to exercise control over the space, to maintain, clean, and monitor these areas at their own cost, and to limit their liability should an incident occur in their outdoor space of business.

Outdoor business activity on private property is not subject to this program, and businesses must work separately with the Planning Division on review and approval of their proposal.

Under the Outdoor Business Activity Program, both sidewalk cafes and parklets will allow any business to apply to use the public right-of-way, and would not be limited to outdoor dining only. Although the provided templates focus on tables and chairs, staff can work with each individual business to understand how they intend to use the outdoor space for their business needs.

#### Outdoor Business Activity Guidelines and Templates

To streamline the process and unify the disparate programs and program guidelines, design templates were created by M-Group, a planning and design consulting firm that the City sought, to create an easy to understand guiding document for businesses to use (Attachment A).

Multiple departments and divisions, including the City Manager's Office, City Attorney's Office, Community Development & Transportation (Building, Engineering, Planning, Transportation,), Fire, Parks and Recreation, worked with consultants to develop these guidelines over the course of almost a year. Staff met regularly to review and discuss design templates, guidelines, fees, street closures, permitting and process, program operations, the transition from the temporary program, history of outdoor dining, ordinance amendments, business outreach, ADA requirements, license agreements, and many other components of the Outdoor Business Activities Program. This effort led to a comprehensive Outdoor Business Activities Program for City Council review.

The proposed Outdoor Business Activity Guidelines include both Parklets and Sidewalk Cafes, and contain the following:

- Application checklist (application form, insurance, plans/drawings, license agreement, etc.)
- Design templates for different street configurations (plans drawings must still be created and submitted for building permit review)
- Overview of the permit review approval process, timing and requirements
- Design components and furnishings
- Additional design requirements and special conditions

To condense the information and provide an overview of the program more easily and readily to businesses, a two-page handout was created to provide a snapshot of the Outdoor Business Activity Program (Attachment B).

#### Key Features of the Outdoor Business Activity Program

The following are some key features of Redwood City's Outdoor Business Activity Program:

- As expressed by many of our business interactions, the parklets in Redwood City's Outdoor Business Activity Program will be an extension of the businesses' operation and for **private use** only.
- Application for Outdoor Business Activity Permit requires **both business and property owner consent**. In situations where a shared parklet or sidewalk cafe is desired, all businesses and property owners fronting the parklet or sidewalk cafe must agree to the shared parklet or sidewalk cafe.
- Outdoor Business Activity will be **limited to the business's storefront**, but a request to extend the activity beyond the business's storefront may be entertained on a case by case basis. If use of a neighboring business's frontage is proposed, consent must be obtained from both the neighboring business and property owner.
- In the event that a business that is requesting a parklet is fronting a **colored curb**, such as a red or yellow curb, staff will work with the business to accommodate their parklet request where feasible, which may include relocating colored curbs and/or coordinating with neighboring businesses to accommodate a subject businesses' parklet request.
- Outdoor Business Activity Permits will be **renewed annually**, with fees and inspections due every year.

- Up to **two parallel parking stalls** fronting the subject businesses will be allowed. For businesses where diagonal parking is fronting the business, up to three stalls will be allowed fronting the business. Requests for additional stalls beyond two (parallel) or three (diagonal) stalls will be reviewed on a case by case basis.
- To maintain the open and airy feeling of outdoor dining, overhead structures, **particularly solid roof structures, are discouraged**. Fabric awnings, umbrellas, and other soft retractable material is encouraged to provide shade and limited weather protection while also allowing light in. Applications for overhead structures may be permitted as a special allowance, but will require engineered drawings and more time for staff to review and process. These overhead structures go beyond the template parameters and require a higher level of review.
- **Hours of operation** for outdoor business activity must coincide with the business's hours of operation, except outdoor business activity shall not take place beyond 11 p.m. on weeknights, 12 a.m. on Saturday, and 10 p.m. on Sunday.
- Outdoor Business Activity Permits are **non-transferable**, and any new business requesting to use a previous businesses' parklet or sidewalk cafe must reapply for a permit.

Fees and Costs

A cost comparison of parklet program in other cities, whether long-term or temporary, are included below for comparison:

Parklet Fee Comparison (Approximate)			
City	Parklet 1st Year (2 Stalls/360 sq. ft.)	Annual	Notes
Los Altos	\$500	\$100	\$500 initial application fee
Morgan Hill	\$672		\$672/7 Years for Encroachment Permit, \$1,000 Annual Rental Fee Waived Until 2024, \$1000 Security Deposit
Pleasanton	\$1,000		Encroachment permit (minimum)
San Mateo	\$1,000		\$500 permit application, \$500 encroachment (\$250 per stall)
Redwood City (Proposed, See Below)	\$2,226	\$583	See analysis in body of staff report
San Carlos	\$2,533	\$289	\$539 encroachment, \$1289 for 2 stalls (\$3.58/sq. ft.), \$705 annual cleaning
Redwood City (Existing)	\$2,538		\$2,488 permit, \$50 application
Mt View "Castro St"	\$3,349	\$205	\$769 processing, \$2,400 for 2 stalls, \$180 annual cleaning
Burlingame	\$5,100		Sidewalk encroachment application is \$431, plus \$1 for each square foot over 200 sq. ft., \$1,500 annual rental, \$3,000 annual cleaning

For Redwood City, the proposed permit fees are about average for the first year when compared to other neighboring jurisdictions. Among peer cities of a similar size, Redwood City is one of the first proposing a long-term Outdoor Business Activity program that is not temporary in nature. Many other cities also do not currently charge for parking like Redwood City where parklets are proposed, complicating what they believe is appropriate to charge because they do not need to factor in the loss of meter revenue. Furthermore, the City contracted with Matrix Consulting Group to conduct a fee study to calculate the full cost associated with Outdoor Business Activity permits and recommend the amount that the City is able to charge in accordance with State law (Attachment C). The fee study prepared by Matrix has detailed the total maximum cost that the City is able to charge for the Outdoor Business Activity Program, which includes appropriate staff time to review each parklet and/or sidewalk café, is also known as the Processing Fee.

To recoup the City's costs for business use of City right-of-way, a Use Fee is also proposed to offset the loss of meter revenue and/or cost for sidewalk repair/maintenance. To limit the cost of businesses to build parklets and sidewalk cafes, staff recommends waiving the Use Fee for the first full year of operation. See below for what the City is allowed to charge per the Matrix fee study and a proposed breakdown of encroachment permit fees for Outdoor Business Activities:

<b>Outdoor Business Activity - Encroachment Fees*</b>			
<b>Parklet</b>	<b>1st Year</b>	<b>2nd Year Renewal</b>	<b>Subsequent Year(s) Renewal</b>
Outdoor Business Activity Permit (Processing Fee)	\$2,226	\$583	Increased by CPI
Use of Space Offset†, New (Use Fee, \$10.16 per sq. ft., 2 stalls/360 sq. ft. average)	\$3,657.60	\$3,657.60	Increased by CPI
Maximum Cost (2 Stalls/360 sq. ft. average):	\$5,883.60	\$4,240.60	Increased by CPI
<b>Recommended Cost (Waive** Use Fee for 1<sup>st</sup> year):</b>	<b>\$2,226</b>	<b>\$4,240.60</b>	<b>Increased by CPI</b>
<b>Sidewalk Café Only (with or without structures)</b>	<b>1st Year</b>	<b>2nd Year Renewal</b>	<b>Subsequent Year(s) Renewal</b>
Outdoor Business Activity Permit (Processing Fee)	\$2,226	\$583	Increased by CPI
Use of Space Offset†, New (Use Fee, \$10.16 per sq. ft., 150 sq. ft. average)	\$1,524	\$1,524	Increased by CPI
Maximum Cost (150 sq. ft. average):	\$3,750	\$2,107	Increased by CPI
<b>Recommended Cost (Waive** Use Fee):</b>	<b>\$2,226</b>	<b>\$2,107</b>	<b>Increased by CPI</b>

\* Rates are based on staff fully burdened rates, and includes direct costs (time), and indirect costs (departmental and Citywide). Does not include other City fees, such as building permit fees.

†Based on Option 2 of the Matrix Fee Study

\*\*Acknowledging the significant first year program and capital costs for businesses, staff proposes waiving the City's use fee for the first year of the program to help businesses recover their parklet/sidewalk café initial expenses.

The Outdoor Business Activity Permit (Processing Fee) plus Use of Space Fee (Total Square Footage) equals the Annual Operating Cost.

To allow for this Outdoor Business Activity Permit, appropriate municipal code changes to Chapter 29 (Streets, Sidewalks and Work in or Use of City Right-Of-Way Ordinance) and Chapter 33A, Article II (Use of The Downtown Sidewalk Café Area) will be presented to Council at a later date. The changes include defining the different types of outdoor business activities, clarifying the revocation and appeal process, relocating the code section related to portable signs, and other terms and conditions. A second reading will be required for both ordinance amendments.

#### Parklet Supply and New Business Applications

Of the 40 businesses that are currently participating in the Temporary Outdoor Business Activity Program, most have signaled interest in applying for the proposed Outdoor Business Activity Program. Staff does not anticipate that the current supply of parking stalls (100) occupied by Temporary Outdoor Business Activity Program will exceed the demand for the proposed Outdoor Business Activity program, therefore there is no proposal at this time to limit the maximum number of parking stalls to be made available for businesses interested in parklets. New businesses can apply for parklets, and staff will assess the feasibility along with the available parking supply and parklet saturation to determine if additional parklets can be accommodated. Staff does not believe there will be the same constraints with the sidewalk cafés which have no impact on the parking supply.

#### Land Use and Business License

Businesses applying for permits under the Outdoor Business Activity Program will only be allowed to expand the operations of the approved business and use, and may not expand their business operations to a different use without prior City approval (e.g., a flower shop may not apply for an Outdoor Business Activity to serve food and beverage fronting their business). The license agreement will stipulate that businesses may not grant a third-party use of the subject businesses' parklet or sidewalk café space. All businesses will be required to obtain a valid business license prior to approval of any Outdoor Business Activity.

#### Application Intake Process and Oversight

Staff is exploring using an existing City permitting systems to intake Outdoor Business Activity permit applications when the application window opens, approximately August 2022. In addition to the application form being accessible online, a paper application form will also be made available. Community Development and Transportation (CDT) staff will implement and administer the program, as the parklets and sidewalk cafés are within the City's right-of-way and the Temporary Outdoor Business Activity Program was administered by CDT staff.

#### Enforcement and Compliance

Staff will work closely with our Code Enforcement and Building Divisions to ensure all parklets and sidewalk cafés are built and inspected according to approved plans. Annual renewals are required, and any unauthorized changes that are discovered must be corrected within a timely manner or it can be considered grounds for permit and license revocation.



#### Business Outreach in Developing this Program

Two surveys were conducted October to November 2021: a parklet survey for interested businesses and a community parklet survey. A summary of both survey results follows:

#### *Businesses Interest Survey:*

- 43 respondents identified themselves as interested businesses
- 61% are a restaurant, eatery or café
- 61% are participating in the temporary parklet program
- 71% have indicated the temporary parklet program has been helpful for their business operations, with 8% indicating it has not been helpful, and 21% indicating it has been neither helpful nor unhelpful
- 73% of businesses who are participating in the temporary program would be interested in the parklet program, with 5% not interested; 22% are not participating in the temporary program
- 73% of businesses would still interested in the parklet program if a fee of \$3,000 per parking stall per year (\$6,000 for two stalls) was required

#### *Community Parklet Survey:*

- Almost 800 respondents completed the survey
- 91% of respondents indicated they dine at restaurants, cafes, and or/bars when visiting downtown
- 89% of respondents have experienced the temporary parklet program in downtown
- 58% of respondents indicated they would visit more often if parklets were permitted on an annual basis, while 36% indicated they would visit about the same amount
- 67% of respondents indicated they had no concerns with the impacts of parklets
- 96% of respondents have experienced the temporary street closure along the 2000 block of Broadway
- 59% of respondents indicated they would visit more often if the 2000 block of Broadway was closed longer term, while 33% indicated they would visit about the same amount, and 8% indicating they would visit less often
- 85% of respondents indicated they would like the 2000 block of Broadway (between Main St and Jefferson Ave.), to remain closed, with 53% of respondents indicating they would like the segment between Main St. and Redwood Creek Crossing closed, with 11% not wanting to see any street segments closed.
- 62% of respondents indicated that they have no concerns with impacts related to the street closure

In coordination with the Downtown Business Group (DBG), City staff conducted almost 40 in-person outreach meetings over 10 days with Downtown businesses in October and November of 2021. We were seeking ways to better understand their concerns regarding the proposed parklet program, their needs, and what has and has not been working under the temporary program. We also took this opportunity to describe the goals of the Outdoor Business Activity Program, discuss potential costs, timing, challenges,

and gain a deeper understanding of how important this program would be for the survival of their business.

Staff held a Parklet Q&A Session for interested businesses who still had outstanding questions on March 31, 2022 with about 40 in attendance. Additionally, two Small Business Roundtable Meetings were held on April 6 and 7, 2022, with about 30 total in attendance across both meetings, where Parklets were one of two primary topics of discussion. The City had also presented the Outdoor Business Activity Program to the DBG's first in-person membership meeting on March 1, 2022, and staff presented to the Redwood City Improvement Association (RCIA) Board on April 13, 2022. Staff has worked very closely with the DBG, Chamber, and RCIA to understand business needs, share information related to the Outdoor Business Activity Program, and work through points of concern. RCIA graciously provided \$60,000 to the City towards development of the Outdoor Business Activity Program Guidelines and to support businesses within the Downtown.

#### Next Steps

Staff plans to return to the City Council on June 27, 2022 to propose introduction of ordinance amendments to Chapter 29 and Chapter 33A, adoption of the Outdoor Businesses Activity Program and Guidelines, adoption of Program fees, and extension of the temporary street closure along the 2000 block of Broadway.

## **EQUITY IMPACT STATEMENT**

**Equity and/or inclusion was considered in development or implementation of item through the following:**

Engagement with relevant Redwood City communities through public meetings, surveys, or other means:

- Extensive outreach was conducted throughout the in-person outreach phase conducted in September and October 2021 to almost 40 businesses. Two surveys were conducted between October to November 2021: a parklet survey for interested businesses and a community parklet survey. The City most recently held a Parklet Q&A Session for interested businesses who still had outstanding questions on March 31, 2022 with about 40 in attendance. Additionally, two Small Business Roundtable Meetings were held on April 6 and 7, 2022, with about 30 total in attendance across both meetings, where Parklets were one of two primary topics of discussion. The City also presented the Outdoor Business Activity Program to the DBG's first in-person membership meeting on March 1, 2022, and to the Redwood City Improvement Association (RCIA) Board on April 13, 2022. All of the existing temporary parklets are within the Downtown vicinity and parklet interest is concentrated here, so the City's outreach efforts were in alignment geographically. However, any business within the City may apply for the Outdoor Business Activity Program.

**Learnings related to equity consideration include:**

In developing the Outdoor Business Activity program, sought to ensure a low barrier for entry for all businesses who may be interested in a parklet or sidewalk café. Recommendations to waive use fees in the first year will encourage all businesses to apply to the program.

**FISCAL IMPACT**

City parking revenue will continue to be forfeited where temporary parklets are installed. See below for an estimate of meter revenue lost to date/to be forfeited:

Parking Meter Revenue Lost* and Restaurant Sales (Approximate)			
June 2020† - July 2022	July 2022 - September 2023^	Total: June 2020 - September 2023	Restaurants w/Temporary Parklets, Gross Receipts (Calendar Year 2020)
\$591,200 - \$960,700	\$336,000 - \$546,000	<b>\$927,200 - \$1,506,700</b>	<b>\$28,400,000</b>

\*Average of \$8-\$13 revenue lost per meter per day, 100 stalls total  
 †Temporary parklet program start  
 ^Additional time that stalls are not available and use fees are not collected

Over the span of more than two years, it is estimated that approximately \$1 million in parking meter revenue (based on 2019 pre-pandemic parking revenue figures) has been/will be lost to outdoor business activities.

For an estimate of the use fees to be collected in the second year of operation, refer to the below table:

Outdoor Business Activity - Use Fees To Be Collected in Second Year* (Approximate)		
Parklet†^	Sidewalk Café†‡	Both: Parklets + Sidewalk Cafes
\$182,880	\$50,000 - \$75,000	<b>\$232,800 - \$257,880</b>

\*Second year is September 2023 - September 2024 (first year use fee is waived)  
 †\$10.16/sq ft use fee for parklets and sidewalk cafes  
 ^Assuming 180 sq ft per parking stall, 100 stalls total in Downtown,  
 ‡Assuming 150 sq ft for average sidewalk café, 25-50 businesses total

In the second year (September 2023 – September 2024), use fees will be collected, and will range from \$232,800 - \$257,880. On average, \$292,000 - \$474,500 of annual meter revenue (based on 2019 parking revenue figures) is lost per year (average of \$8-\$13 revenue per meter per day, 100 stalls total), with an ongoing loss of about \$59,000 - \$215,000 per year.

On balance, that amount is likely offset by the additional sales tax generated from business activity taking place on those parklets over the replaced parking stalls, specifically for restaurant businesses. Restaurants who have applied for the Temporary Outdoor Business Activity Program collectively generated more than \$28,000,000 in gross receipts in the 2020 calendar year, and the increase in outdoor dining space will provide the City increased sales tax revenue in future years.

Although a significant sum of parking revenue is lost, which is notable as the Parking Fund is currently subsidized by the General Fund, the Outdoor Business Activity Program would advance the economic recovery of the City following pandemic losses, and supports the City's Strategic Priority of Economic Vitality. A vibrant Downtown promotes more business and sales tax activity, and the proposed Program provides additional outdoor amenity space for customers, workers, and visitors alike. The additional parklet square footage is estimated to add approximately 18,000 square feet of new retail space, and has the potential to increase labor and employment opportunities for workers due to the expanded business activity with the addition of more commercial space in our City.

## **ENVIRONMENTAL REVIEW**

This study session does not constitute a project under the California Environmental Quality Act (CEQA) as defined in CEQA Guidelines section 15378, because it has no potential for resulting in either a direct or reasonable foreseeable indirect physical change in the environment. The proposed Outdoor Business Activity Program discussed as part of this study session is a project that is categorically exempt under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, Section 15304 (e) (Class 4. Minor Alterations to Land) because the project entails only minor public alterations in the condition of land and having no negligible or no permanent effect on the environment. Similarly, it is exempt under CEQA Guidelines, Section 15301 (Class 1. Existing Facilities) because it would involve the operation, permitting, or minor alteration of existing public facilities or topographical features, involving negligible or no expansion of existing or former use.

In addition, the proposed activity falls within the scope of CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question, namely installation (in some instances) of platform structures over existing paved areas to facilitate outdoor business activity, will have a significant effect on the environment.

## **PUBLIC NOTICE**

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

## **ALTERNATIVES**

The Study Session is an opportunity for City Councilmembers to provide individual input that will inform the Outdoor Business Activity Program; no final action will occur at the Study Session.

**ATTACHMENTS**

Attachment A – Outdoor Business Activity Guidelines dated May 9, 2022  
Attachment B – Outdoor Business Activity Program handout  
Attachment C – Matrix Parklet Program Fee Analysis dated March 30, 2022

**REPORT PREPARED BY:**

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**APPROVED BY:**

Alex Khojikian, Assistant City Manager  
Melissa Stevenson Diaz, City Manager

**APPENDIX E**  
**City of San Mateo Parklet Encroachment Permit Application - February 4, 2022**



**CITY OF SAN MATEO PARKLET  
ENCROACHMENT PERMIT  
APPLICATION**

February 4, 2022

## **PARKLET ENCROACHMENT PERMIT GENERAL INFORMATION**

The intent of the parklet program is to create sidewalk extensions that may be utilized by businesses during operating hours to offer outdoor dining and create economic vitality and vibrancy for residents and visitors. Parklets are a partnership between the City and local businesses to extend the sidewalk by converting parking spaces into an area for residents and visitors to passively recreate.

### **Things to know before applying:**

- The COVID-Temporary Outdoor Dining Encroachment program expires on April 30, 2022.
- Businesses who would like to retain existing parklets after April 30, 2022 must submit a permit application. Please review the full application and [Parklet Program Guidelines](#).
- A Parklet Encroachment Permit is required for parklet within the City right-of-way.
- Permit applicants must pay the Parklet Encroachment Permit Application fee and the Parklet Encroachment Permit fee (which is based on the number of parking spaces used for the parklet installations) and obtain the property owner's signature on the application before a Parklet Encroachment Permit can be issued.
- Proposed parklets may only be installed directly adjacent to the frontage of the business storefront requesting the parklet encroachment permit.
- Proposed parklets will be considered private space under the control of the permit holder/applicants. The permit holder is responsible for securing the parklet, any fixtures and furnishings, and will need to keep the area clean, free of litter, refuse and debris.
- Property owners may not charge rent for the proposed parklet located in the public right-of-way.
- Parklet Encroachment Permits are non-transferable. If there is a transfer of business owners, the new business owner will need to reapply for the parklet.
- Expiration date notwithstanding, the Parklet Encroachment Permit can be revoked in the event of noncompliance with a permit condition or not renewed by the City at any time.
- The permittee is responsible for removal of the parklet and restoration of the public right-of-way if and when the permit is revoked or not renewed. If the permittee fails to remove the parklet and restore the public right-of-way, the property owner will be responsible.

1

- Applicant is responsible for a one-time application fee, an annual parklet encroachment permit fee (based on the number of parking stalls), and a Fire inspection fee. The rates are defined in the [City of San Mateo Fee Schedule](#) and the [San Mateo Consolidated Fire Fee Schedule](#) and are updated annually.

**Parklet encroachment application must be submitted before the construction of any new parklet or the modification of any existing parklet permitted under the Temporary Outdoor Dining Encroachment Program. After April 30, 2022, businesses without a Parklet Encroachment Permit will need to remove their existing installations and return the parking spaces to their previous condition.**



## **PARKLET ENCROACHMENT APPLICATION DETAIL**

**Step 1:** Read City of San Mateo [Parklet Program Guidelines](#)

**Step 2:** Propose and submit Parklet Encroachment Permit Application with the following documents via email to [ichen@cityofsanmateo.org](mailto:ichen@cityofsanmateo.org) in **one pdf file**.

Parklet Encroachment Permit Application Cover (See Page 5-6)

Proposed Parklet Details (See Page 7)

Insurance Documents – please follow City of San Mateo Standards for Insurance (See Pages 11-13)

Proposed Parklet Plan Set with the following **required** information

**The City recommends that plans are prepared by licensed architect or engineer.**

- a. Site plan shall be **drawn to scale** on 11 x17 tabloid paper, include all pertinent dimensions and the following information:
  1. Location of the business frontage
  2. Dimensions of the parklet platform
  3. ADA accessibility measurements
  4. Set-backs from adjacent parking spaces and the adjacent traffic lane
  5. Show dimension of existing parking stalls and travel lanes in immediate area and in the proposed parklet
  6. Locations of traffic protection improvements such as wheel stops and posts or bollards
  7. Location of public utilities including any manhole covers, gutter drains, fire hydrants, and etc.
  8. Any adjacent installations on the sidewalk including parking meters, utility boxes, street signs, etc.
- b. Elevation drawing showing the following information:
  1. Height and design of platform railings/guards or edge buffers
  2. Storm water drainage
  3. Cross-section drawing of parklet
- c. Photos: The application should include at least 3 photos showing existing built parklet, if applicable, the proposed parking space(s) converted into a parklet, adjacent sidewalk and store frontage

- d. Materials palette showing the following information:
1. Proposed materials for platform
  2. Proposed materials for railings or edge buffers
  3. Proposed furnishings

**STEP 3:** Staff will determine if the application is complete. If the application is not complete, the application will be deemed incomplete and returned to the applicant. The application will need to resubmit the full application with the missing documents or elements.

**STEP 4:** Once the application is deemed complete, the Applicant will be responsible for payment of one-time permit application fee to the City of San Mateo once the application is deemed complete, the annual permit encroachment fee which is based on the number of parking spaces included in the parklet, as well as an inspection fee from San Mateo Consolidated Fire as defined in the [SMCF Fee Schedule](#). The City permit application and annual permit encroachment fees are updated in the [City's Comprehensive Fee Schedule](#).

**STEP 5:** Review of Application. The City of San Mateo will review the full application and provide feedback on any design modifications required.

**STEP 6:** Permit Issuance: After the Parklet Encroachment Permit has been issued, the applicant may begin construction. The permit shall expire if work on the encroachment described within does not commence within 12 months from the date of approval. The final issued encroachment permit will include the permit number, issue date, project address, final approved parklet plans, scope of work, applicant contact information, and permit expiration date.

**STEP 7:** Inspections. Before the parklet can be occupied by the public for business use, the City will need to complete its inspections of the parklet. Applicant will need to contact the City to schedule final inspections from Public Works, San Mateo Consolidated Fire, and Building Department.

**CITY OF SAN MATEO**  
**PARKLET ENCROACHMENT APPLICATION COVER**  
330 W. 20TH AVE SAN MATEO, CA 94403  
(Page 1/2)

**APPLICANT INFORMATION**

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Valid City of San Mateo Business License Number: \_\_\_\_\_

Business Owner Name: \_\_\_\_\_

Contact Number \_\_\_\_\_

Alternate Contact Number \_\_\_\_\_

Email \_\_\_\_\_

Mailing address if different than Business Address:  
\_\_\_\_\_

I hereby certify that I am the business owner at the property described and I approve of the action requested herein.

As the applicant, I agree to abide by the Parklet Guidelines, insurance requirements, and Public Works Parklet Encroachment Permit Conditions.

Print \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**CITY OF SAN MATEO**  
**PARKLET ENCROACHMENT APPLICATION COVER**  
330 W. 20TH AVE SAN MATEO, CA 94403  
(page 2/2)

**PROPERTY OWNER INFORMATION**

Property Owner Name/Contact: \_\_\_\_\_

Property Owner Address: \_\_\_\_\_

Property Owner Phone: \_\_\_\_\_

Property Owner Email: \_\_\_\_\_

Business Name of Parklet: \_\_\_\_\_

Business Address of Parklet: \_\_\_\_\_

I am the property owner for the Permittee's business and I approve of the submittal of this application. I have read the Parklet Encroachment Permit Guidelines and Conditions of Approval. I understand that, if the Permittee fails to remove the parklet at the City's request, it will be my responsibility to remove the parklet.

Print \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**CITY OF SAN MATEO  
PROPOSED PARKLET DETAILS  
330 W. 20<sup>TH</sup> AVE SAN MATEO, CA 94403**

1. Number of parking spaces requested: \_\_\_\_\_  
(circle one) Perpendicular/Angled or Parallel
2. Do these parking spaces expand beyond your business' frontage? Yes / No
3. Color of Curb – White, Red, Blue, Green, None \_\_\_\_\_
4. Is the proposed parklet adjacent to a bike lane? Yes / No
5. What is the proposed use of the parklet?  
\_\_\_\_\_  
\_\_\_\_\_
6. Provide the hours of operation for the business: \_\_\_\_\_
7. Parklet Designer/Architect/Engineer/Construction Firm, if known  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Phone Contact: \_\_\_\_\_  
Email Contact: \_\_\_\_\_

**Please attach required parklet plan drawings and submittals to application cover and proposed parklet details.**

**CITY OF SAN MATEO**  
**PARKLET ENCROACHMENT PERMIT CONDITIONS**

1. Annual Renewal Required: Each parklet encroachment permit has a twelve-month term. An annual renewal fee is required and must be paid no later than one (1) year after the final approved permit date. Failure to pay the annual renewal fee will deem the permit expired which will result in the loss of rights to use the parklet in the public right-of-way.
2. Non-Transferrable: The permit is not transferrable in the case of a change in the ownership of the business. If the business ceases to operate for a period of over 30 days, the permit expires.
3. Failure to fully comply with the Parklet Program Guidelines, the City of San Mateo Municipal Code, City of San Mateo insurance requirements, approved construction drawings, the Americans with Disabilities Act, and Public Works Parklet Encroachment Permit Conditions will result in revocation of the permit and removal of the parklet at the business owner's or property owner's expense.
4. Responsible Party: No party other than the Permittee or its agent is authorized to work under this permit.
5. Acceptance of Provisions: Permittee understands and agrees that commencement of work authorized by the issuance of this permit shall constitute acceptance of the provisions of this permit and all attachments.
6. Allowed Hours of Work: Before starting work under the Encroachment Permit, the Permittee shall notify the City seventy-two (72) hours prior to initial start of work via email at [pwinspection@cityofsanmateo.org](mailto:pwinspection@cityofsanmateo.org), with the title of the email as follows, "(INSERT PERMIT NUMBER) Notice to Start". When work has been interrupted for more than five (5) working days, an additional 24-hour notification is required via email to [pwinspection@cityofsanmateo.org](mailto:pwinspection@cityofsanmateo.org) before restarting work unless a pre-arranged agreement has been made with the City. Construction activities are restricted to weekdays between 7:30 a.m. and 4:30 p.m. in the public right-of-way but may vary depending on scope and location. No set up or take down activities are allowed outside of these hours. Requests for work hours outside of the approved hours require submittal of a Work Hours Waiver Form. Materials delivery to and from the site are prohibited between the hours of 7:30 a.m. and 8:30 a.m., and 4:00 p.m. and 5:30 p.m. Haul routes are only allowed on the City Approved Truck Route Map (dated 2008).

7. Limits of Construction: It is understood that the limits of constructing the approved parklet are within the parking space outlined in the application. The Permittee shall be confined to the parking space at all times during the construction of the parklet. If for any reason, the Permittee will need to encroach into the vehicle travel lane and/or sidewalk require any disturbance to the flow of traffic, a traffic control plan will need to be submitted and approved by Public Works before work can continue. Email [pwencroachment@cityofsanmateo.org](mailto:pwencroachment@cityofsanmateo.org) for traffic control plan requirements.
8. Standards of Construction: All work shall be done in accordance with the most current Building Code Standards unless otherwise approved on the plans or in the permit.
9. Inspection and Approval by the City: All work shall be subject to monitoring, inspection, and approval by the City. All work must be inspected by the City prior to public use. The permittee shall request a final inspection and acceptance of the work. Acceptance of work cannot be issued until Public Works Department, Building Division and San Mateo Consolidated Fire have all approve their respective inspections.
10. Stormwater Pollution Prevention Program: Per City of San Mateo Municipal Code Chapter 7.39, Permittee shall implement and maintain measures to keep sediment, washwaters, equipment maintenance products, and other construction related materials debris from entering the storm drainage system. Dumping or discharge into the City's storm drainage system is prohibited. Measures to protect the storm drainage system shall be in place prior to start of work.
11. Making Repairs: In every case, the Permittee shall be responsible for restoring to its former condition as nearly as may be possible any portion of the City right-of-way, which has been damaged or otherwise disturbed by Permittee. The Permittee shall maintain the surface over facilities placed under any permit. If the right-of-way is not restored as herein provided for, and if the City elects to make repairs, permittee agrees by acceptance of permit to bear the cost thereof.
12. Clean Up Right-of-Way: Upon completion of the work, all brush, timber, scraps, material, etc., shall be entirely removed and the right-of-way shall be left in as presentable a condition as existed before work started.
13. Cost of Work: Unless otherwise stated on the permit or other separate written agreement, all costs incurred for work within the City right-of-way pursuant to this Encroachment Permit shall be borne by the Permittee, and Permittee hereby waives all claims for indemnification or contribution from the City for such work.

14. **Maintenance of Right-of-Way:** The Permittee agrees, by acceptance of a permit, to properly maintain any encroachment into the public right-of-way. This will require inspection and repair of any damage to City facilities resulting from the encroachment.
15. **Future Moving of Installation:** If the Encroachment Permit was issued at the request of the Permittee, it is understood that whenever Public Utilities or City construction, reconstruction or maintenance work in the public right-of-way requires the installation of the parklet to be moved, adjusted or relocated, the Permittee, at his/her sole expense, upon request of the of the Public Utilities or Public Works, shall comply with said request.
16. **Utilization of Public Parking:** By acceptance of permit, the Permittee agrees to pay for any additional utilization of any metered parking spaces for the use of debris boxes, shipping containers, storage of materials, prolonged parking of construction-related vehicles, or any usage of a metered parking space related to the encroachment permit, for as long as the parking spaces are not available for public use outside of the approved parklet footprint. The fees shall be based on the current fee schedule. For non-metered public parking spaces utilized during construction, the Permittee shall place temporary "No Parking" signs. These signs are available for purchase through the City's Public Works Department.
17. **Indemnity:** Permittee agrees to hold harmless and indemnify CITY, its elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of Permittee's activity and use of the public right-of-way, except for those claims arising out of CITY's sole negligence or willful misconduct. Permittee agrees to defend CITY, its elected and appointed officials, employees, and agents against any such claims.
18. **Insurance:** Prior to permit issuance, Permittee agrees to provide the required insurance described in these Guidelines.
19. **Parklet Removal:** Parklet permit will be revoked if/when the business affiliated with the permit is sold or closed for longer than 30 days. If the parklet is not removed by 30 days after the close of operations the City has the right to remove the parklet and dispose of the materials and charge the permittee and/or property owner for the expense.



**CITY OF SAN MATEO  
STANDARDS FOR INSURANCE  
PARKLET ENCROACHMENT PERMIT**

Permittee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with Permittee's operation and use of the public right-of-way. The cost of such insurance shall be borne by Permittee.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

**Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including liquor liability coverage, products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

**Workers' Compensation:** Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. (for Applicants with employees).

**Property Insurance:** Property insurance against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If Permittee maintains broader coverage and/or higher limits than the minimums shown above, the City of San Mateo requires and shall be entitled to the broader coverage and/or higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of San Mateo.

**OTHER INSURANCE PROVISIONS:**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

**Additional Insured Status**

The City, its elected and appointed officials, employees, and agents, are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or

operations performed by or on behalf of the permittee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Permittee's insurance (at least as broad as ISO Form CG 20 10).

Primary Coverage

For any claims related to this permit, the Permittee's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by City, its elected or appointed officials, employees, or agents shall be excess of the Permittee's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

Waiver of Subrogation

Permittee hereby grants to City a waiver of any right to subrogation which any insurer of said permittee may acquire against City by virtue of the payment of any loss under such insurance. Permittee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. At the option of the City, either: the permittee shall obtain coverage to reduce or eliminate such self insured retentions as respects the City, its elected and appointed officials, employees, and agents; or the permittee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Verification of Coverage

Permittee shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before

permitted activities begin. However, failure to obtain the required documents prior to the work beginning shall not waive the permittee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

## APPENDIX F Burlingame Outdoor Dining Brochure

### Application Steps & Requirements

1. Contact Jerred Cayabyab, Engineering Technician, at (650) 558-7272 for review and approval of the tables and chairs arrangement.
2. Fill out a Special Encroachment Permit Application Form including the following:
  - a. Business License Certificate
  - b. Insurance Certificate with a general liability of \$1,000,000 per occurrence and an Endorsements stating the following: "The City of Burlingame, its officers, employees, and agents are named as additional insured." (Standards For insurance can also be found on our website)
  - c. Submit a detailed site plan including dimensions, locations, and heights of the encroachment (ex. tables, chairs, planters, umbrellas, and heaters) per the guidelines
3. Pay a one-time application fee based on the current fee schedule (\$1,625 for fiscal year 21-22).
4. An engineering staff will review and, if approved, will prepare the agreement for the business owner's signature.
5. Engineering staff will finalize the permit and return an executed copy.
6. Per the approved agreement, the applicant is responsible to remit updated insurance on an annual basis or when the insurance expires.

**NOTE:** Agreement can be revoked and you will be fined if insurance updates are not received before expiration and if there is noncompliance with the allowable tables and chairs.

### What is it?

The City of Burlingame encourages local restaurants to take advantage of the public sidewalk space for outdoor dining and the temporary installation of tables, chairs, umbrellas, heat lamps, planters, or other movable fixtures during business hours.

Restaurants and cafes, with a Special Encroachment Permit issued by the City, can provide customers with outdoor seating that helps enliven the sidewalk environment and shopping experience. The City has established a Special Encroachment Permit to allow use of the sidewalk in the City's right-of-way as long as certain guidelines have been achieved. This is necessary to balance safety and accessibility.

### How to Apply?

Application for sidewalk dining can be started online at the following link [https://www.burlingame.org/departments/public\\_works/special\\_encroachment\\_permit.php](https://www.burlingame.org/departments/public_works/special_encroachment_permit.php) or in person at the Public Works, Engineering Department.

Revision Date: 1/20/2022

## Outdoor Dining

Requirements for sidewalk, tables, and chairs in the public right-of-way



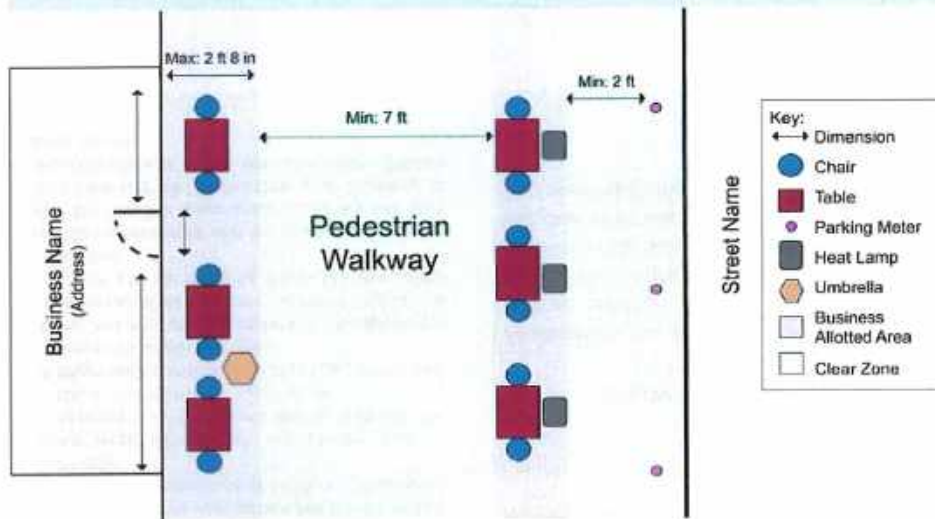
Sidewalk encroachment is regulated by Burlingame Municipal Code 12.10.020 (Ord. 1063 § 1, (1975); Ord. 1171 § 2, (1980))



Public Works - Engineering Department  
501 Primrose Road  
Burlingame, CA 94010-3997  
TEL: (650) 558-7230  
FAX: (650) 685-9310

Hours: Monday through Friday 8:00 AM—5:00 PM,  
except official holidays  
[www.burlingame.org](http://www.burlingame.org)

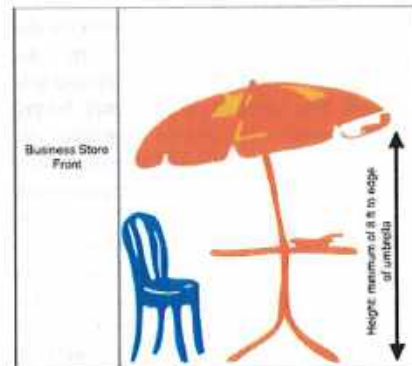
## Example Overview Diagram



### Additional Notes:

- Anything off of Burlingame Ave. only allows furniture against the side of the building and must have a minimum of 5' clear zone.
- The type and size of furniture are up to the business owners as long as our guidelines are met.
- Chairs always must be parallel to the street.
- Agreed diagram with the list of number of chairs, tables, heaters, etc. on the agreement must be posted at the business site for employees to follow.

### Example Street View



## Guidelines

- The sidewalk in front of the business must be wide enough such that a minimum of seven feet (7') of pedestrian clearance can be established (this 7' of clearance must be free of all obstructions).
- Placement of tables and chairs, including any vertical dividers, sun shades, or patio heaters, must not in any way interfere with curb ramps and driveways, nor prevent access to the building or any fire escape.
- For tables and chairs placement adjacent to the parking stalls, a two-foot clearance for parking access must be maintained. Chairs along curb area must be facing parallel with the curb.
- Placement of tables and chairs on the sidewalk cannot encroach into the adjacent property without a temporary approval form and additional insurance coverage.
- Umbrella or heat lamp base are not to extend into the 7' clear zone for pedestrians.
- Umbrellas must provide a minimum of 8' vertical clearance above ground to avoid head impact.
- Hours of operation for Sidewalk Dining shall not begin prior to 7:00 a.m. nor extend later than posted closing business hours.
- Smoking and e-cigarettes are prohibited for all outdoor dining.



October 18, 2022

The Honorable Judge Amarra A. Lee  
Judge of the Superior Court  
C/O Jenarda Dubois, Civil Grand Jury Coordinator  
San Mateo County Superior Court, Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

**RE: Civil Grand Jury Report: “Waiter! There’s a Car in My Soup!”**

Dear Honorable Judge Lee:

Thank you for the opportunity to review and respond on the above-referenced Grand Jury Report filed on July 25, 2022. The City Council of the City of Menlo Park (City) voted at its public meeting on October 18, 2022 to authorize this response to the report.

**Response to Grand Jury Findings**

- F1.** The city has conducted permit compliance inspections as required under city regulations for its current outdoor dining facilities, but has not documented those inspections, which makes it difficult to manage compliance with permit requirements.

***City Response:*** The City disagrees partially with finding F1. The Menlo Park staff did conduct permit compliance inspections for certain temporary outdoor use permits when a business requested an inspection, and the city has documented those inspections on their online permitting platform, Accela, including sending notice of compliance deficiencies via email to permit applicants. However, inspections were not required by City Council ordinance requirements and therefore certain temporary outdoor use permits do not have documented inspections.

- F2.** The city has not documented certain known outdoor dining permit compliance deficiencies, which makes it difficult to mandate that corrections must be completed.

***City Response:*** The City of Menlo Park disagrees partially with finding F2. The City has documented known outdoor dining compliance deficiencies on their online permitting platform, Accela, and staff have sent notice of compliance deficiencies via email to permit applicants of the outdoor dining facilities. The City addresses the outdoor dining program as it does all other businesses in the City; businesses’ compliance with the code is something the City continually assesses and responds to. However, the City does not enforce noncompliance in each and every instance of noncompliance, rather, the City prioritizes enforcement and compliance in order to focus resources on the highest priority matters.

- F3.** The city has not documented corrections to certain known outdoor dining permit compliance deficiencies, which makes it difficult to ensure that any mandated corrections were in fact completed.

**City Response:** *The City of Menlo Park disagrees partially with finding F3. The City has documented known corrections to outdoor dining permit compliance deficiencies and has provided approval or further instructions for compliance. However, if a business did not contact the city to re-inspect their outdoor dining, there may have been corrections made to known outdoor dining facilities with compliance deficiencies that the City is unaware of and therefore the corrections are undocumented.*

- F4.** The city has failed to adopt permanent outdoor dining regulations to replace the temporary regulations, which must expire, creating unpredictability and potentially terminating the city's outdoor dining arrangements in a manner that would harm local business.

**City Response:** *The City of Menlo Park agrees with finding F4. The City of Menlo Park has not adopted permanent outdoor dining regulations to replace the temporary regulations, which are set to expire when the COVID-19 State of Emergency Order is lifted. Menlo Park staff are researching and preparing longer-term outdoor activity and parklet standards for Council review and potential adoption.*

#### **Response to Grand Jury Recommendations**

- R1.** The Grant Jury recommends that by March 31, 2023, the City council should give direction to city staff on how to prioritize enforcement of the entirety of its current outdoor dining regulations.

**City Response:** *The recommendation has been implemented by the City of Menlo Park. On June 19, 2020, Menlo Park City Council adopted an urgency ordinance to help support local businesses by temporarily allowing expanded dining and retail options on sidewalks, on-street parking spaces, public parking plazas, and privately owned shopping areas. The program, called the Temporary Outdoor Use Permit (TOUP) program, was reviewed and revised several times throughout 2020 and 2021. The TOUP regulations are listed on Menlo Park's website [here](#). The most recent update was on January 25, 2022, when City of Menlo Park staff presented an urgency ordinance to continue the temporary closure of two blocks in Downtown, one on Santa Cruz Ave and the other on Ryans Lane. This urgency ordinance included authorizing the establishment and issuance of temporary outdoor activity permits allowing businesses to safely conduct their businesses outdoor during the COVID-19 state of emergency order. On January 25, 2022, the City council approved the urgency ordinance and directed staff to update new temporary outdoor use permit program to allow parklets/street cafes in off-street parking spaces remain on a month to month basis, and align the expiration of TOUP parklets/street cafes in off-street parking spaces with the Downtown Street closure expiration. Additionally, the City Council discussed staff returning with design standards for the parklets.*

- R2.** The Grant Jury recommends that by March 31, 2023, the City council should give direction to city staff about whether to develop permanent outdoor dining regulations for potential adoption.

***City Response:*** *This recommendation has not yet been fully implemented, but the Menlo Park City Council will provide further direction about whether to develop permanent (or longer-term) outdoor dining regulations for potential adoption by March 31, 2023. On January 25, 2022, the City Council did direct staff to return to Council with design standards for parklets, and staff currently are preparing a draft of design standards for outdoor dining and parklets. The Menlo Park City Council will provide direction to staff on whether to make the design standards for outdoor dining and parklets permanent, or longer-term, when staff returns with the draft set of standards. Staff anticipate bringing a draft to the City Council for review, discussion, and potential adoption, before March 31, 2023.*

If you have further questions, please contact Deanna Chow, Assistant Community Development Director, at [dmchow@menlopark.org](mailto:dmchow@menlopark.org) or 650-330-6733.

Sincerely,

Betsy Nash  
Mayor





## STAFF REPORT

City Council

Meeting Date:

10/18/2022

Staff Report Number:

22-198-CC

Regular Business:

**Adopt a resolution authorizing installation of no parking zones on both sides of Middle Avenue, installation of an all-way stop at Middle Avenue and San Mateo Drive, replacement of an all-way stop at Middle Avenue and University Drive with a roundabout with yield control, and temporary closure of Blake Street at Middle Avenue**

### Recommendation

Staff recommends the City Council adopt a resolution (Attachment A) authorizing installation of no parking zones on Middle Avenue on both sides of the street (Exhibit A of Attachment A) to pilot installation of buffered bike lanes, installation of an all-way stop at Middle Avenue and San Mateo Drive, replacement of an all-way stop at Middle Avenue and University Drive with a roundabout with yield control, and temporary closure of Blake Street at Middle Avenue using temporary materials.

This report also includes information requested by the City Council September 13 to define the pilot installation, schedule and plan for evaluation. Staff would return to City Council after approximately six months of the pilot to present findings and confirm final design.

### Policy Issues

This project is consistent with policies and programs stated in the 2016 General Plan Circulation Element (e.g., CIRC-1.7, CIRC-1.8, CIRC-2.7, etc.) These policies seek to maintain a safe, efficient, attractive, user-friendly circulation system that promotes a healthy, safe and active community and quality of life throughout Menlo Park.

This project is a 2021 City Council priority and continued into 2022.

Design and implementation of bicycle facilities on Middle Avenue between El Camino Real and University Drive fulfill "Mitigation Measure TRA-2.1" of the Mitigation Monitoring and Reporting Program (MMRP) established in the 500 El Camino Real (i.e., Middle Plaza) project final environmental impact report (FEIR) approved in 2017.

### Background

Middle Avenue is an important part of the Menlo Park transportation network, fronting Safeway Plaza, Nealon and Lyle Parks, senior centers, preschools and a church. The street is used by people walking, bicycling, and driving for both local and through trips. Children on bicycles use Middle Avenue as a route to Hillview Middle School and Oak Knoll Elementary School. Others use it to access the bicycle bridge at the south end of San Mateo Drive to reach Stanford University.

Over the last year, staff has been leading the Middle Avenue complete streets project, including leading outreach and engagement on the Project and development of design options. In conjunction with community and Complete Streets Commission feedback, staff developed design options for the corridor that included:

- Corridor traffic calming treatments
- Bicycle facility improvements
- Intersection improvements
- Blake Street temporary closure
- Sidewalk gap closure

The design and implementation of approved bicycle facilities on Middle Avenue between El Camino Real and University Drive will be fulfilled by Stanford University as part of the Middle Plaza MMRP.

### **Analysis**

On September 13, the City Council received an update on the Project. A hyperlink to the staff report for that meeting is included as Attachment B. At that meeting, City Council directed staff to:

- Reduce the speed limit on Middle Avenue between University Drive and Olive Street to 25 miles per hour (MPH) as part of a package of speed limit reductions on similar residential streets that are currently signed 30 MPH (action regarding this item will return to City Council separately)
- Install traffic calming at regular intervals on Middle Avenue
- Establish “no parking” zones on both sides of Middle Avenue as a pilot and install buffered bikeways on both sides of the street
- At Nealon Park, placing the bikeway within the existing perpendicular parking area adjacent to Middle Avenue and placing parallel parking on the outside of the bikeway, including exploring converting some parking spaces to loading zones
- Install a new all-way stop sign on at Middle Avenue and San Mateo Drive
- Pilot a mini-roundabout at Middle Avenue and University Drive and install permanently if the pilot is successful, contingent on resources for both the pilot and complementary educational activities
- Explore closure of Shell gas station driveway with the property owner
- Develop a temporary closure of Blake Street at Middle Avenue
- Add a project to the five-year capital improvement plan (CIP) to install continuous sidewalk on the south side of Middle Avenue

The revised Project concept based on direction provided by City Council is included as Attachment C. The attached resolution (Attachment A) authorizes staff to pursue this direction. Table 1 provides an implementation schedule, assuming approvals are received at the October 18 meeting. This schedule includes additional outreach through Complete Streets Commission (CSC), City Council, and project-specific meetings, and substantial notification to Middle Avenue residents and stakeholders about potential parking removal. The pilot has been designed to launch during the summer months, when traffic volumes are somewhat lower, providing an opportunity for staff to make adjustments before the start of school in the fall.

Table 1 – Proposed Middle Avenue complete streets schedule	
Dates	Activities
October 2022-February 2023	<ul style="list-style-type: none"> <li>• Finalize design of pilot bikeway</li> <li>• Install all-way stop at Middle Avenue and San Mateo Drive</li> <li>• Identify any budget, contracting, or contract authority needed to implement the pilot (contingent on outstanding grant application)</li> <li>• Collect before data (counts, speeds)</li> </ul>
March-May 2023	<ul style="list-style-type: none"> <li>• Collect before data (parking)</li> <li>• CSC meeting to review pilot design and schedule</li> <li>• City Council informational item on pilot design</li> <li>• Notifications to residents and stakeholders about impending parking removal</li> </ul>
June-July 2023	<ul style="list-style-type: none"> <li>• Install no parking signs (30 days before bikeway)</li> <li>• Install pilot bikeway</li> </ul>
Fall 2023	<ul style="list-style-type: none"> <li>• Collect during pilot data (counts, speeds, parking)</li> <li>• Conduct public meetings and survey</li> <li>• Additional data collection (if needed)</li> </ul>
January-March 2024	<ul style="list-style-type: none"> <li>• Return to CSC and City Council to review pilot and confirm permanent design</li> </ul>

This proposed schedule does not include the pilot mini-roundabout. Staff will develop a more detailed schedule for the mini-roundabout after completing additional design work and reviewing the level of effort required for both the pilot and the educational materials requested.

City Council also requested staff to develop an evaluation plan for the bikeway pilot. Staff anticipates that the evaluation plan will include:

- Multimodal counts – numbers of vehicles, bicycles, and pedestrians using the corridor and on parallel and cross streets, tallies or surveys of school students or parents at Oak Knoll Elementary and Hillview Middle School about their travel choices
- Speeds – data on the average and 85<sup>th</sup> percentile of vehicle speeds on Middle Avenue and on parallel and cross streets
- Collisions – reported collisions by cause and violation factor as collected by the City’s Police Department, with a comparison to pre-project conditions
- Parking – data on the extent of parking utilization on cross streets
- Public feedback – survey data and information provided through public outreach. At least two outreach events on the corridor to gather feedback from residents who live on and off Middle Avenue.

In the interest of keeping local residents of Middle Avenue and surrounding streets informed about this process, staff proposes the following:

- February/March 2023 – initial mailer to all residents of Middle Avenue and first block in each direction of cross-streets identifying the schedule for removing parking and installing the bike lane, as well as contact information about the project
- March/April 2023 – Complete Streets Commission meeting to present the proposed pilot evaluation effort including presentation of before pilot data
- May 2023 – each house on Middle Avenue to receive a postcard or door hanger indicating imminent parking removal and A-frames placed on each block
- Early June 2023 – install no parking signs
- Mid-June 2023 – install bike lanes

- Fall 2023 – public meetings along the corridor, survey available throughout the pilot period
- Spring 2023 – notification about review of the pilot

Attachment D identifies potential locations for data collection, including locations where the City has previously collected count data. Staff proposes to use a combination of direct data collection (e.g., tube counters) and big data sources, like Streetlight data, to conduct the evaluation. The City has a subscription to Streetlight data through the City/County Association of Governments for San Mateo County, which would enable a more comprehensive analysis of changes in volumes and speeds than would be possible within existing resources.

Note that, if the City is successful with the San Mateo County Transportation Authority grant that was authorized on September 20 for this Project or if other funding is identified, the raised crosswalks, speed humps, rectangular rapid flashing beacon, and speed feedback signs may be installed while the bikeway pilot is underway.

### **Impact on City Resources**

The City's CIP includes \$200,000 for the Project, which could be used for the design of all improvements or to the bikeway pilot, but may not be sufficient for both. Design and construction of bikeway improvements along Middle Avenue between El Camino Real and University Drive is the responsibility of Stanford University. Given the conditions of approval for Middle Plaza, Stanford University's responsibility only includes a single implementation (i.e., only the pilot or only the permanent installation) and does not include any of the traffic calming improvements, which are not part of the conditions of approval for Middle Plaza. Unless a different direction is provided, staff plans to direct Stanford University to implement the pilot bikeway between El Camino Real and University Drive and will use the existing funding to design and implement the pilot bikeway between University Drive and Olive Street.

Staff recently submitted a grant application to the San Mateo County Transportation Authority Pedestrian and Bicycle program to fund traffic calming and other improvements. The existing CIP funding was identified as the match for that project. If awarded grant funding, staff may need to return to City Council to program additional funding, pending further analysis of the cost of the pilot bikeway, evaluation, permanent bikeway installation, and other Project elements.

For the pilot evaluation, existing resources from the Citywide traffic data collection agreement and the City's existing access to Streetlight data could be used to fund the evaluation. If additional data collection beyond what is identified in this staff report is required, staff would return to City Council at the mid-year budget cycle to request additional funding.

### **Environmental Review**

The Middle Avenue complete street project is statutorily exempt as identified by Public Resource Code Section 21080.25 which defines the California Environmental Quality Act as not applicable to "pedestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way."

### **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 public outreach was achieved by sharing meeting information on the

project website and sending email to the project interest list.

**Attachments**

- A. Resolution
- B. Hyperlink – September 13, 2022 City Council staff report:  
[beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/city-council/2022-meetings/agendas/20220913-city-council-agenda-packet.pdf#page=175](https://beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/city-council/2022-meetings/agendas/20220913-city-council-agenda-packet.pdf#page=175)
- C. Visualization of City Council direction on Middle Avenue complete streets project
- D. Potential data collection locations

Report prepared by:  
Kevin Chen, Senior Transportation Engineer

Report reviewed by:  
Hugh Louch, Assistant Public Works Director – Transportation

## RESOLUTION NO. XXXX

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZING INSTALLATION OF “NO PARKING” ZONES ON BOTH SIDES OF MIDDLE AVENUE, INSTALLATION OF AN ALL-WAY STOP AT MIDDLE AVENUE AND SAN MATEO DRIVE, REPLACEMENT OF AN ALL-WAY STOP AT MIDDLE AVENUE AND UNIVERSITY DRIVE WITH A ROUNDABOUT WITH YIELD CONTROL, AND TEMPORARY CLOSURE OF BLAKE STREET AT MIDDLE AVENUE NECESSITATED BY THE MIDDLE AVENUE COMPLETE STREETS PROJECT**

WHEREAS, on October 10, 2017, the City Council certified the Final Environmental Impact Report and approved the Development Agreement for the Middle Plaza at 500 El Camino Real project, which, as a part of mitigation measures, requires Stanford University to develop, design and implement of Class II or Class III bicycle lanes between El Camino Real and University Drive on Middle Avenue; and,

WHEREAS, on October 13, 2020, the City Council approved the citywide engineering and traffic survey to established recommended speed limits and directed staff to return with traffic calming options on Middle Avenue to achieve a desired speed of 25 miles per hour; and,

WHEREAS, on March 9, 2021, City Council discussed yearly work plan and priorities and directed staff to develop Middle Avenue complete streets project conceptual design options, for the entire corridor, with the following objectives:

- Enhance bicyclist and pedestrian visibility and improve safety of all street users
- Provide safe and comfortable cycling and pedestrian infrastructure and encourage sustainable mode of transportation
- Increase accessibility of the corridor by supporting improvements related to Middle Plaza and ongoing study of the grade-separated pedestrian and bicycle crossing; and,

WHEREAS, California Vehicle Code Section 21351 authorizes local jurisdictions to install traffic control devices, including stop signs; and,

WHEREAS, California Vehicle Code Section 21101(a) and 21101(e) authorize local jurisdictions to temporarily or permanently close certain streets to vehicular traffic subject to certain conditions; and

WHEREAS, City of Menlo Park Municipal Code Section 11.12.010 allows the City to authorize the installation of any traffic control devices not otherwise prohibited by the California Vehicle Code; and

WHEREAS, California Vehicle Code Section 22507 authorizes local jurisdictions to install parking restrictions on local streets; and,

WHEREAS, Section 11.24.026 of the Menlo Park Municipal Code requires City Council approval of parking removal exceeding five spaces outside of the Downtown/Station Area identified in the El Camino Real/Downtown Specific Plan; and,

WHEREAS, the new proposed all-way stop at Middle Avenue and San Mateo Drive would support improved driver yielding to pedestrians crossing Middle Avenue and people bicycling to

and from the bicycle bridge at the end of San Mateo Drive that is a common route for people traveling to and from Stanford University and other nearby destinations; and

WHEREAS, in March 2022, staff held in-person and virtual public meetings to inform residents about the project and gather feedback from the community to shape potential bicycle improvements and traffic calming options; and

WHEREAS, nearly 100 people attended the public meetings and 600 people responded to a public survey, providing comments on current issues, needs, and priorities for the corridor; and,

WHEREAS, on July 13, 2022, the Complete Streets Commission recommended to the City Council a preferred conceptual design that includes, among other design elements:

- Establishment of “no parking” zones on one side of Middle Avenue to install bicycle lanes on both sides of the street, converting the parking in front of Nealon Park to parallel parking with the bicycle lane behind the parking, and additional “no parking” zones on the other side of the street where feasible
- Installation of a new all-way stop sign on at Middle Avenue and San Mateo Drive
- Piloting a mini-roundabout at Middle Avenue and University Drive and installing permanently if the pilot is successful
- Development of a temporary closure of Blake Street at Middle Avenue; and,

WHEREAS, on September 13, 2022, the City Council received a presentation about the Middle Avenue complete streets project and directed staff to:

- Reduce the speed limit on Middle Avenue between University Drive and Olive Street to 25 MPH as part of a package of speed limit reductions on similar residential streets that are currently signed 30 MPH
- Install traffic calming at regular intervals on Middle Avenue
- Establish “no parking” zones on both sides of Middle Avenue as a pilot and install buffered bikeways on both sides of the street, including converting the parking in front of Nealon Park to parallel parking with the bicycle lane behind the parking
- Install a new all-way stop sign on at Middle Avenue and San Mateo Drive
- Pilot a mini-roundabout at Middle Avenue and University Drive and install permanently if the pilot is successful, contingent on resources for both the pilot and complementary educational activities
- Explore closure of Shell gas station driveway with the property owner
- Develop a temporary closure of Blake Street at Middle Avenue
- Add a project to the five-year capital improvement plan to install continuous sidewalk on the south side of Middle Avenue; and,

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

NOW, THEREFORE, BE IT RESOLVED, the City Council of Menlo Park does hereby authorize the establishment of additional “no parking” zones on both sides of Middle Avenue, as shown on Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Menlo Park does hereby authorize the installation of an all-way stop at Middle Avenue and San Mateo Drive.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Menlo Park does hereby authorize the removal of the all-way stop of traffic control at Middle Avenue and University Drive to install a mini-roundabout, initially as a pilot.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Menlo Park does hereby find that the closure of that portion of Blake Street to motor vehicles, while retaining access for emergency vehicles, pedestrians, and bicyclists, is necessary for the safety and protection of people walking and bicycling on Blake Street and will not disrupt the operation of the transportation network.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Menlo Park does hereby authorize the closure of that portion of Blake Street to motor vehicles, while retaining access for emergency vehicles, pedestrians, and bicyclists, more specifically depicted in Exhibit A and using temporary materials to be maintained or removed at the direction of the City Public Works Director or designee.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the eighteenth day of October, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this \_\_\_ day of October, 2022.

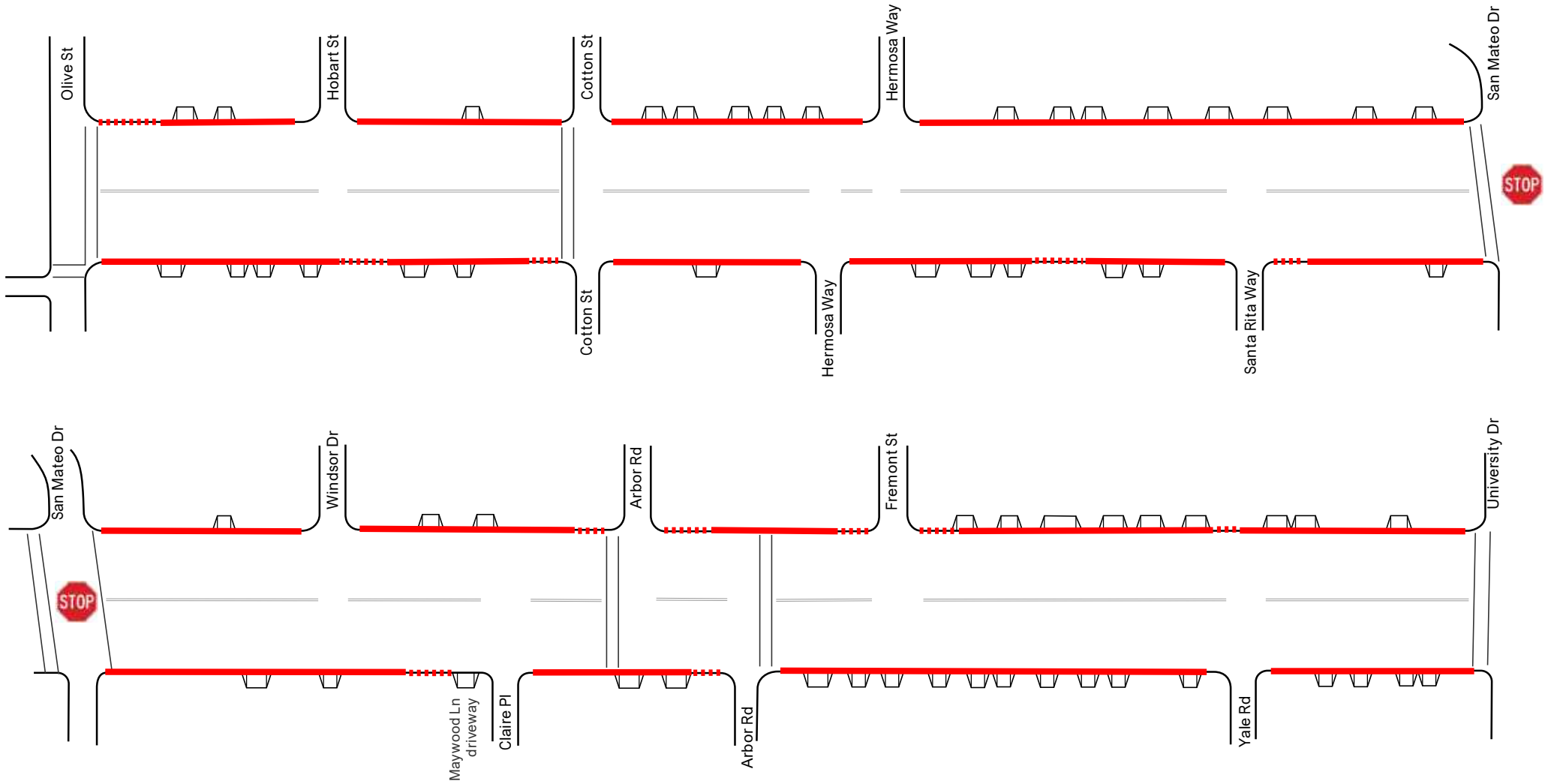
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Judi A. Herren, City Clerk

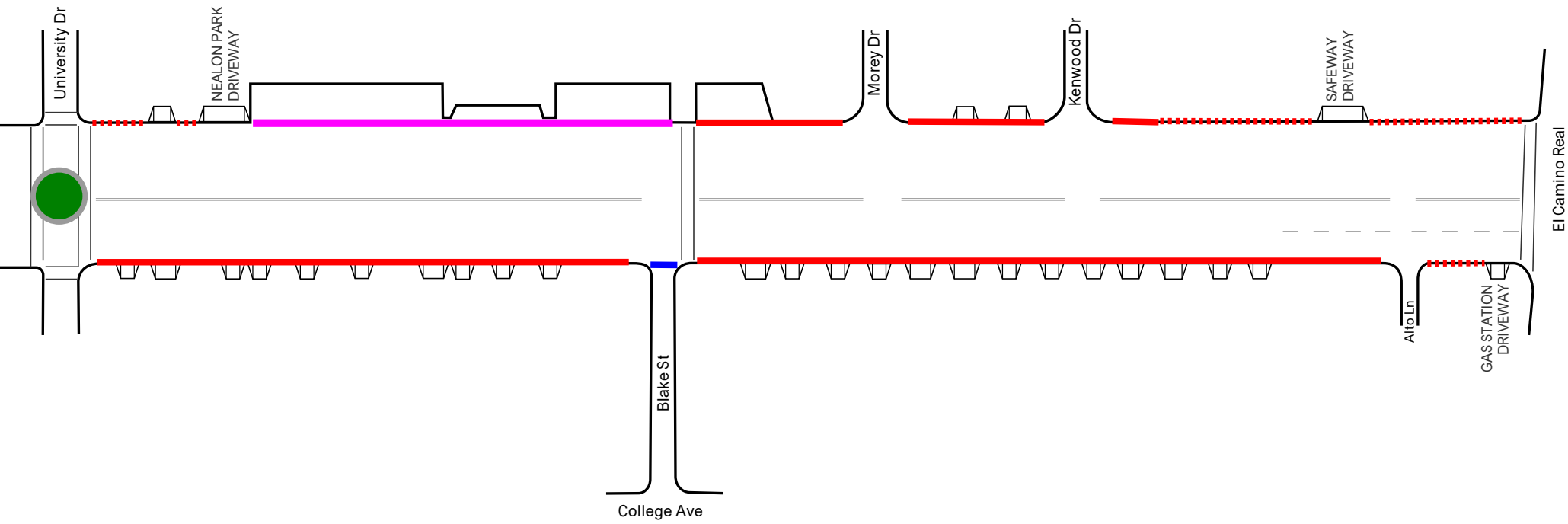
Exhibits







- A. Proposed no parking zones on Middle Avenue and temporary closure of Blake Street at Middle Avenue



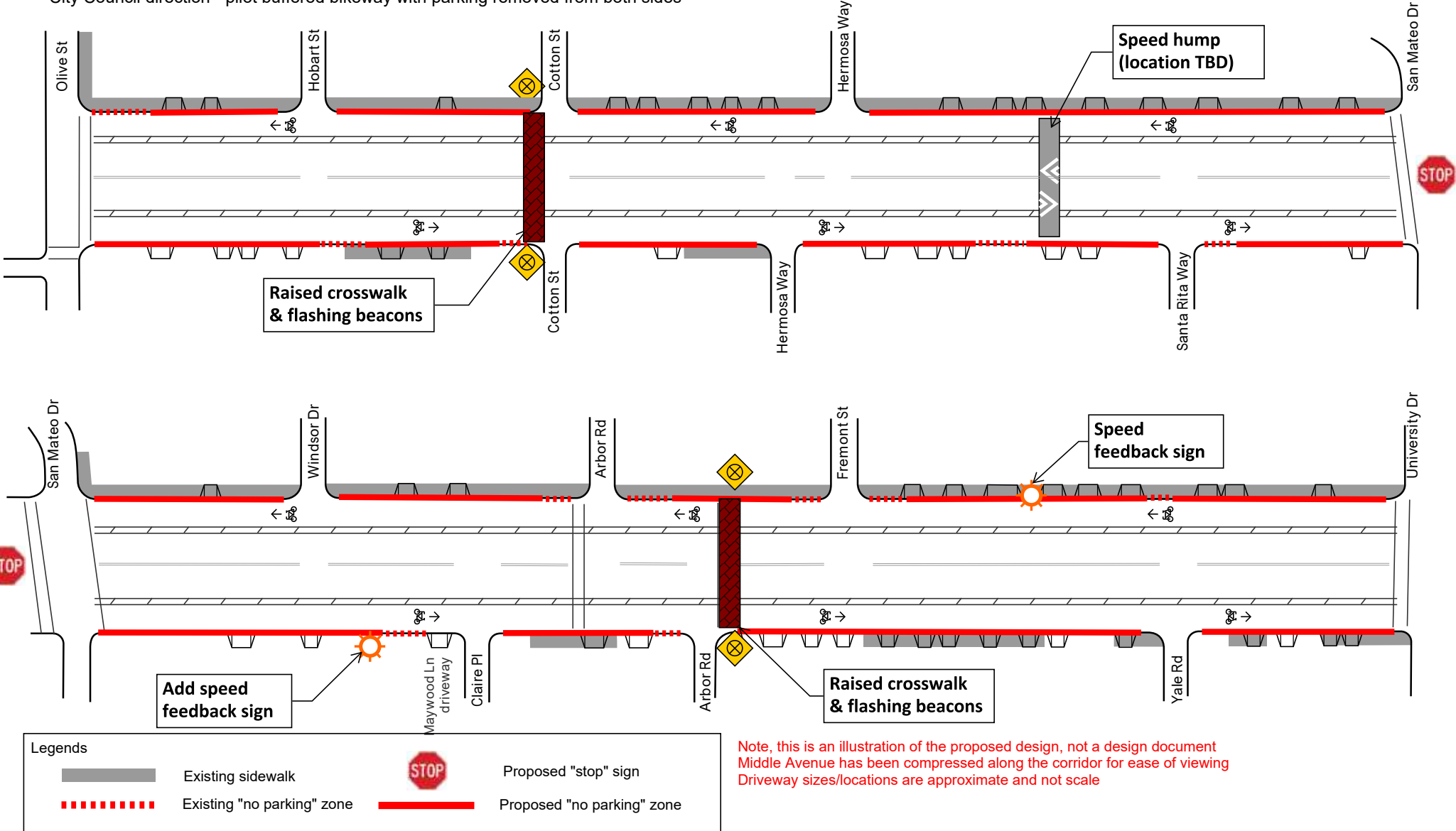


Legend	
	Existing sidewalk
	Existing "no parking" zone
	Install all-way stop
	Install "no parking" zone

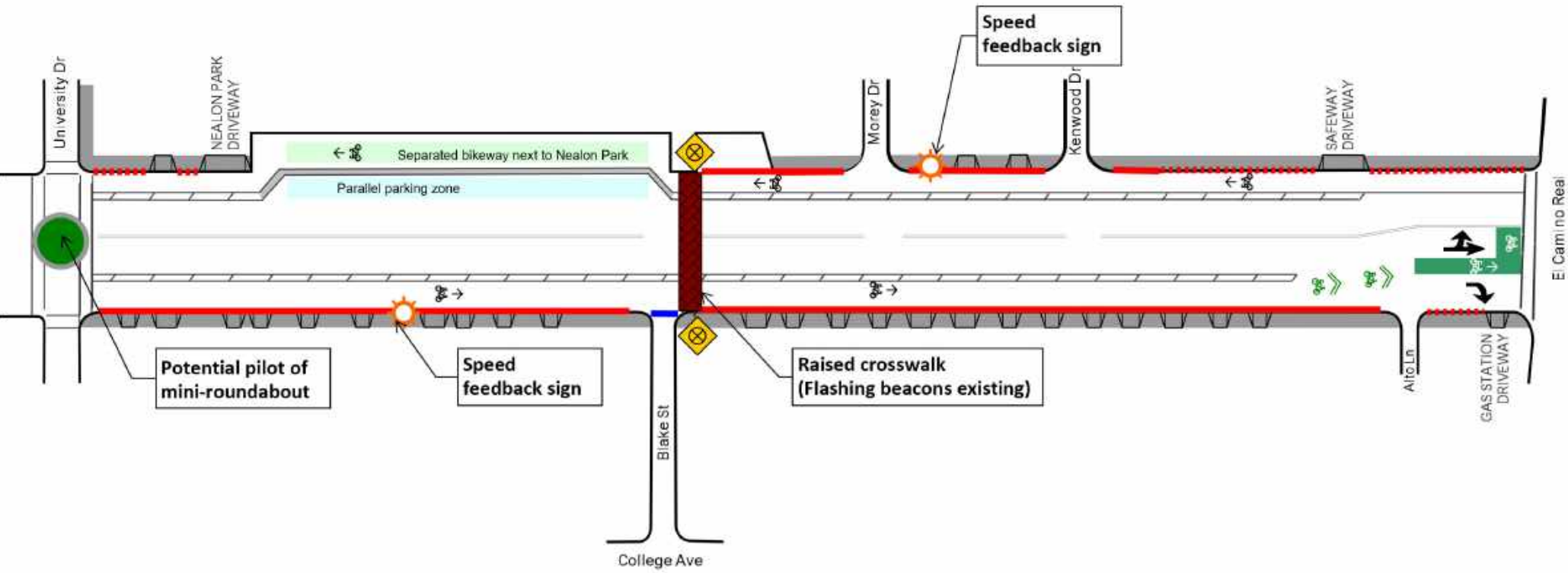






Legend			
	Existing sidewalk		Temporary Blake St closure (maintain emergency access)
	Existing "no parking" zone		Install "no parking" zone
	Remove all-way stop, install pilot mini-roundabout with yield control		Convert to parallel parking

City Council direction - pilot buffered bikeway with parking removed from both sides



City Council direction - pilot buffered bikeway with parking removed from both sides



Legends	
	Existing sidewalk
	Existing "no parking" zone
	Proposed "no parking" zone
	Proposed Blake St closure (maintain emergency access)

Note, this is an illustration of the proposed design, not a design document  
 Middle Avenue has been compressed along the corridor for ease of viewing  
 Driveway sizes/locations are approximate and not scale

# Middle Ave Proposed Data Collection Locations



**Biennial Count Locations (Fall 2022)**

- Segment
- Intersection

**New Count Location**

- Segment
- Intersection

**Sunday Parking Utilization Study Area**

- Segment

**City Limits**

A wide landscape photograph serves as the background for the title. It shows a river or stream winding through a green, hilly area. The sky is filled with large, white and grey clouds, suggesting a bright but slightly overcast day. The water reflects the sky and the surrounding greenery.

# MIDDLE AVENUE COMPLETE STREETS PROJECT

City Council | October 18, 2022



## AGENDA

- Project goals
- Summary of Council direction
- Pilot installation
- Next steps





## PROJECT GOALS

- Enhance bicyclist and pedestrian visibility and improve safety of all users
- Provide safe and comfortable cycling and pedestrian infrastructure and encourage sustainable mode of transportation
- Increase accessibility of the corridor by supporting improvements related to Middle Plaza and ongoing study of the grade-separated pedestrian and bicycle crossing





## DIRECTION FROM SEPTEMBER 13 CITY COUNCIL MEETING



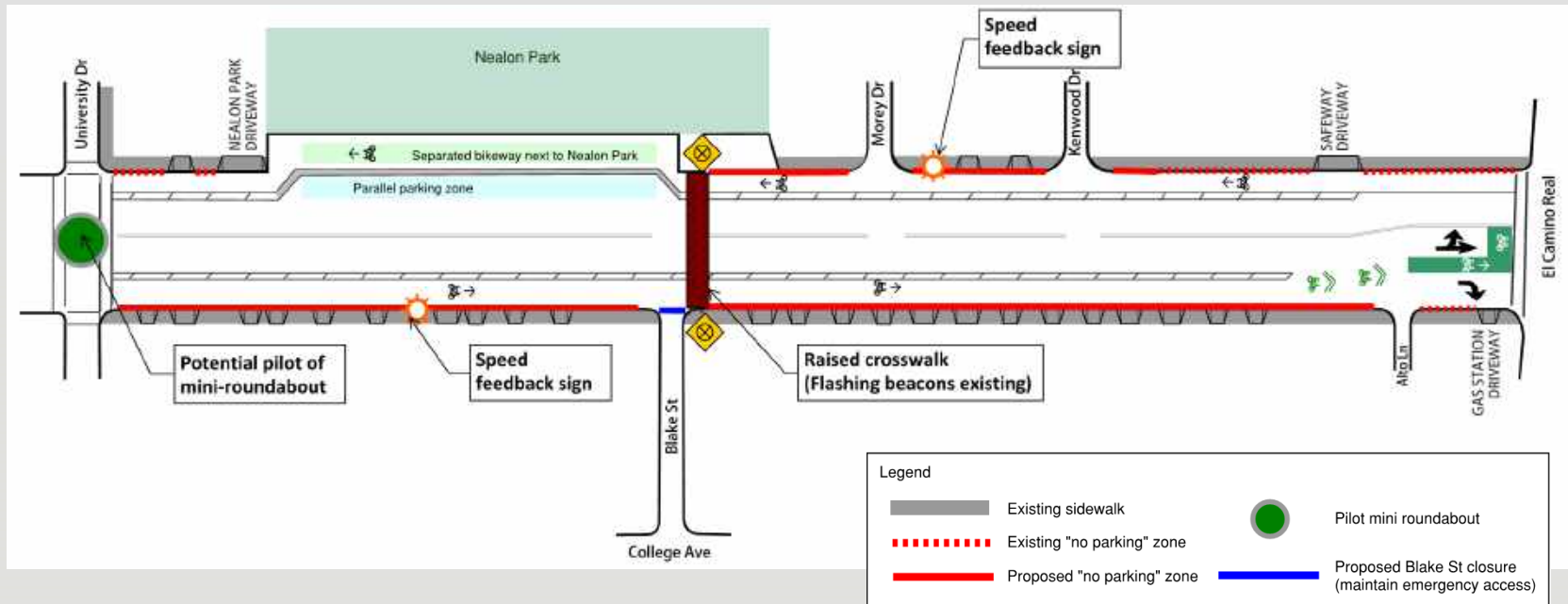
- Reduce the speed limit to 25 MPH
- Install traffic calming at regular intervals
- Pilot “no parking” zones and buffered bikeways on both sides of the street
  - At Nealon Park, place the bikeway within the existing parking area, install parallel parking outside of the bikeway, and explore loading zones
- All-way stop sign on at San Mateo Drive
- Pilot a mini-roundabout at University Drive and install permanently if the pilot is successful
- Explore closure of Shell gas station driveway
- Develop a temporary closure of Blake Street
- Add a CIP project to complete sidewalk on the south side



# DIRECTION FROM SEPTEMBER 13 CITY COUNCIL MEETING



## University Dr. to El Camino Real

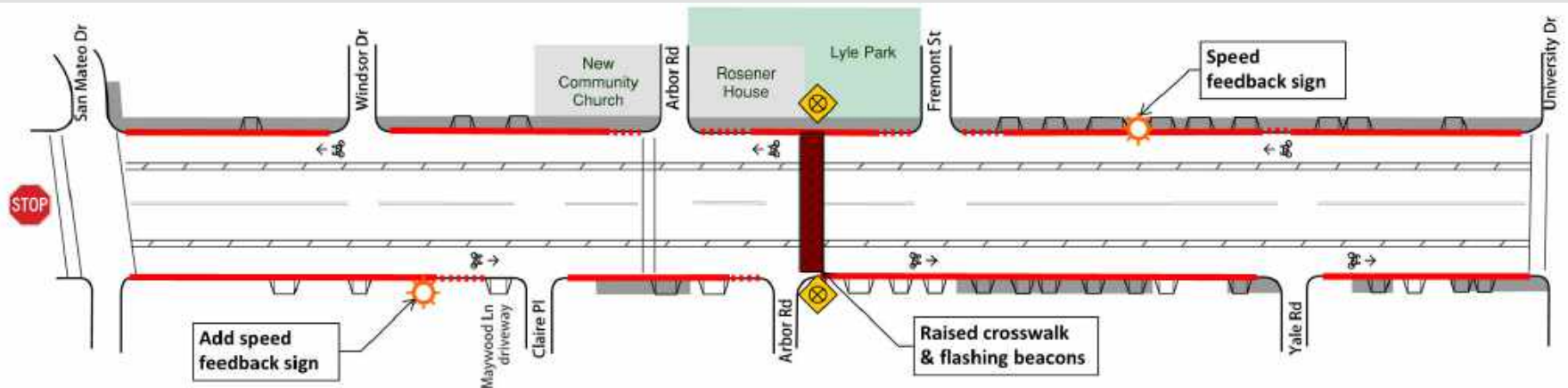




# DIRECTION FROM SEPTEMBER 13 CITY COUNCIL MEETING



## San Mateo Dr. to University Dr.



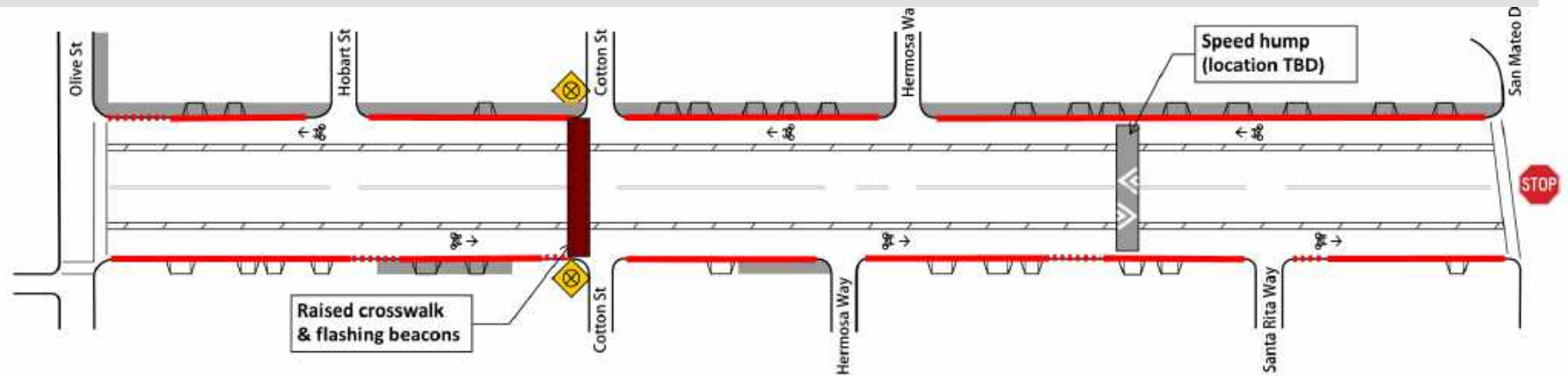
Legend	
	Existing sidewalk
	Existing "no parking" zone
	Proposed "no parking" zone
	Proposed "stop" sign



# DIRECTION FROM SEPTEMBER 13 CITY COUNCIL MEETING



Olive St. to San Mateo Dr.



Legend	
	Existing sidewalk
	Existing "no parking" zone
	Proposed "stop" sign
	Proposed "no parking" zone



## PARKING CONSIDERATIONS



- Sunday parking near New Community Church
  - 51 vehicles parked on Middle on Sunday 9/11/22
  - Except Arbor Rd, other side streets lightly parked
- Overnight parking on Middle Avenue for apartment units
  - 5 overnight permits in use
- Nealon Park
  - No parking capacity issues observed while frontage was closed
  - Little House concerns about impact on seniors in the Nealon Park parking lot
  - Opportunity to redesign of Nealon Park parking lot to increase number of spaces
  - Current approach provides parallel parking in front of Nealon Park
- General parking in the corridor
  - 9-12% of parking spaces used on a typical weekday (across 4 observations)



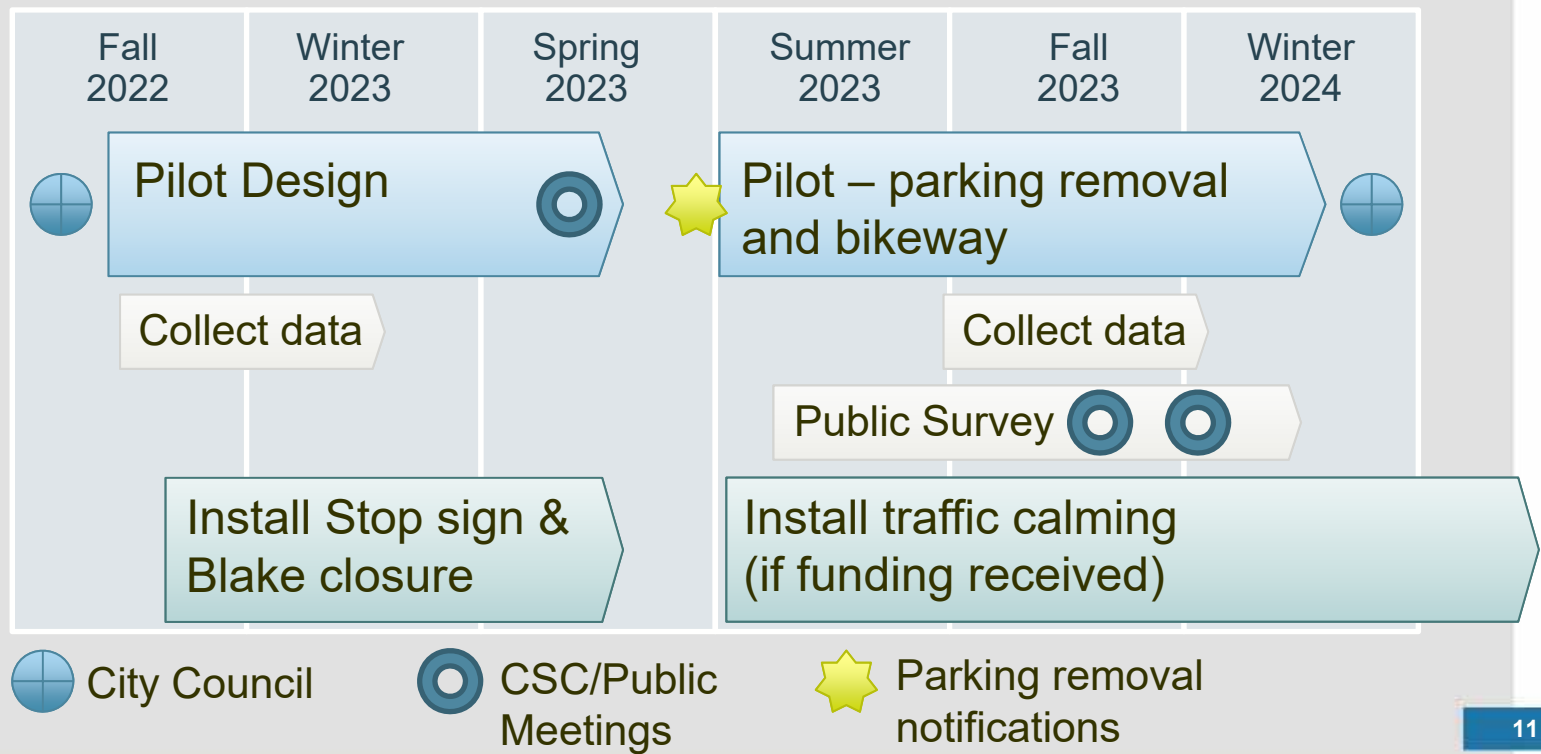
## PROPOSED PILOT

- What does it mean to pilot these improvements?
  - Use of temporary materials where possible
  - Collect data before and during pilot – volumes, speeds, parking, collisions
  - Incorporate outreach into the pilot
  - Return to City Council to share findings and confirm or update final implementation
  
- Notification and feedback methods
  - Door hangers to announce upcoming parking restrictions
  - Public outreach meetings during the pilot
  - Public survey available throughout the pilot





## PILOT SCHEDULE







## PAVEMENT CONDITIONS

- Areas of repair needed – staff is aware of these locations
  
- Pilot to be installed before full repaving
  - Where possible, the pilot will use existing striping
  
- Post-pilot implementation to be timed with repaving
  - Drainage issues can be addressed at that time
  - If City is successful with SMTCA grant, some traffic calming improvements to be installed at that time



## ACTION TONIGHT

- Adopt a resolution to
  - Install no parking zones on Middle Avenue on both sides of the street to pilot installation of buffered bike lanes
  - Install an all-way stop at Middle Avenue and San Mateo Drive
  - Replace an all-way stop at Middle Avenue and University Drive with a roundabout with yield control
  - Authorize temporary closure of Blake Street at Middle Avenue using temporary materials



**THANK YOU**



## STAFF REPORT

**City Council**

**Meeting Date:**

**10/18/2022**

**Staff Report Number:**

**22-203-CC**

**Regular Business:**

**Provide direction on the process for recommending stop sign installation and consider adopting a resolution to install stop signs at several intersections**

### Recommendation

Staff recommends the City Council take the following actions:

- Consider adopting a resolution (Attachment A) to install all-way stops at the following six intersections:
  - Van Buren Road and Ringwood Avenue
  - Elm Street and Pope Street
  - Elm Street and Central Avenue
  - Walnut Street and Pope Street-Beacon Streets
  - Pope Street and Gilbert Avenue
  - Terminal Avenue and Del Norte Avenue

and convert the two-way stop at Elm Street and Laurel Avenue to face Laurel Avenue instead of Elm Street

- Provide direction on the recommended edits to the current all-way stop evaluation process prior to its official federal and state adoption

### Policy Issues

This project is consistent with policies stated in the 2016 General Plan circulation element (e.g., CIRC-1.7, CIRC-1.8, CIRC-1.9, CIRC-2.1, etc.) These policies seek to maintain a safe, efficient, attractive, user-friendly circulation system that promotes a healthy, safe and active community and quality of life throughout Menlo Park.

The current (2009 Edition) Federal Highway Administration (FHWA) Manual on Uniform Traffic Control Devices (MUTCD) is intended to provide uniform standards and specifications for all official traffic control devices. The State of California, like some other states, revised and adopted the federal MUTCD for specific application in California. The current (2014 Edition Revision 6) California (CA) MUTCD version is in accordance with Section 21400 of the California Vehicle Code. The policies/guidelines pertaining to stop sign installation (i.e., Section 2B.07) are consistent across both the FHWA MUTCD and the CA MUTCD.

### Background

A traffic control device is defined as: a sign, signal, marking, or other device used to regulate, warn or guide traffic, placed on, over or adjacent to a street, highway, or private road open to public travel, pedestrian facility or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction. Stop

signs are one type of traffic control devices.

#### All-way stop evaluation

Section 2B.07 (i.e., stop application/warrant) of the CA MUTCD identifies several criteria to guide the consideration of an all-way stop installation. The warrant criteria include collision rates, vehicular/pedestrian/bicycle volumes, and peak hour delays. In addition to quantitative criteria, the following qualitative criteria may be considered as well:

- The need to control left-turn conflicts;
- The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
- Locations where a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop; and
- An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where all-way stop control would improve traffic operational characteristics of the intersection

In general, an all-way stop control is used where the volume of traffic on the intersecting roads is approximately equal and/or used to control vehicle and pedestrian/bicycle conflicts. The City has received several stop sign requests citywide that are not warranted based on the criteria outlined above.

#### Anticipated changes to multi-way stop application/warrant

In late 2020, the FHWA released a notice of proposed amendments to issue a new edition of the FHWA MUTCD, including revisions to the stop warrant. The publication went through its public comment period in early 2021 and is expected to be adopted by March 2023. In addition, the recently adopted Federal Infrastructure Investment and Jobs Act (IIJA) includes a requirement for regular updates of the MUTCD and an increased focus on improving protections for vulnerable road users. Recently, the U.S. Department of Transportation has committed to focus on safe travel for all users as a cornerstone of transportation design guidance.

The proposed revisions would expand the quantitative and qualitative criteria intended for all-way stop evaluations (Table 1). The redlined draft language is included in Attachment C.

Table 1: MUTCD multi-way stop warrant criteria		
Criteria	Current edition – minimum required traffic conditions	FHWA recommendations
As an interim measure	<ul style="list-style-type: none"> <li>Transition phase to approved signal controls</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>
Collision history (reported crashes) <sup>1, 2</sup>	<ul style="list-style-type: none"> <li>in mont s</li> </ul>	<ul style="list-style-type: none"> <li>4-le in mont s in 36 months</li> <li>3-le in mont s in 36 months</li> </ul>
Volumes (For any eight hours of an average day) <sup>2</sup>	<ul style="list-style-type: none"> <li>300 veh/hr entering from major street and 200 veh/ped/bike from minor street, or</li> <li>210 veh/hr entering from major street and 140 veh/ped/bike from minor street (70% of first bullet), if major street exceeds 40 mph</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>
Delay (highest hour of an average day)	<ul style="list-style-type: none"> <li>30 sec/minor street</li> </ul>	<ul style="list-style-type: none"> <li>35 sec/minor street</li> </ul>
Qualitative criteria	<ul style="list-style-type: none"> <li>Control left-turn conflicts</li> <li>Control vehicle/pedestrian conflicts near high pedestrian generators</li> <li>Resolve inadequate sight distance</li> <li>Improve traffic operation</li> </ul>	<ul style="list-style-type: none"> <li>Current, plus</li> <li>Improve ped/bike movement</li> </ul>

Notes:

- Collisions that are susceptible to correction by installation of all-way stop control.
- Where no single criterion is satisfied, 80% of “Collision history” and first bullet of “Volumes” could be considered.

FHWA received thousands of comments on the proposed updates to the FHWA and is in the process of reviewing these comments. While changes to stop warrants may change from what was released in the proposal, these changes are consistent with recent policy statements released by the U.S. Department of Transportation. As such, staff anticipates that the final FHWA MUTCD would likely resemble the recommended language in Table 1.

**Analysis**

On April 13, 2022, the Complete Streets Commission (CSC) reviewed the list of citywide stop sign requests and provided feedback on the proposed updates to the evaluation process. Attachment B provides a hyperlink to the staff report. In addition to the FHWA recommendations, two additional considerations regarding pedestrian and bicycle travel characteristics were recommended by staff to the CSC for feedback:

- One user group (i.e., students, seniors, commuters, etc.) use the uncontrolled direction (i.e., where there are no stop signs) as a primary route; and
- More than one user group uses the uncontrolled direction (i.e., use of the uncontrolled crossing takes place at multiple periods throughout the day.)

A summary of the Commission feedback and staff final recommendations are outlined in Table 2.

Table 2: Multi-way stop warrant criteria		
Criteria	Commission feedback	Staff recommendations
Quantitative criteria <sup>1</sup>	<ul style="list-style-type: none"> <li>Set a collision threshold more appropriate for Menlo Park</li> </ul>	<ul style="list-style-type: none"> <li>3- / 4- le in mont s 5 in 36 months<sup>2</sup></li> </ul>
Qualitative criterion (i.e., improve ped/bike movement)	<ul style="list-style-type: none"> <li>Replace “user group” with “daily ped/bike volume distribution”</li> </ul>	<ul style="list-style-type: none"> <li>High crossing volumes over a short period of time (occurring within one to two hours daily)</li> <li>Low and medium crossing volumes over a long period of time (occurring throughout the day)</li> </ul>

Notes:

- See rows 1 to 4 of Table 1.
- Consideration excludes: Freeway/Expressway, Boulevard, Thoroughfare streets, as classified by the City’s Circulation Plan.

Since the CSC reviewed the staff report, staff received an additional request to install a stop sign at Elm Street and Pope Street, which has stop signs on three approaches, creating potential confusion for users of the intersection. In addition, as part of the City’s Safe Routes to School program, the City’s on-call consultant along with staff and parents completed a walk audit of Upper Laurel school and identified a number of improvements near the school. This includes prioritizing bicycle travel on Elm Street to connect to the pathway improvements through Willow Oaks Park that are currently in development.

Staff is seeking guidance from City Council on the advanced use of the proposed changes to the stop sign warrant procedure identified in the MUTCD. Staff’s professional guidance is that stop signs should either meet quantitative warrants or have a clear explanation related to the qualitative criteria identified in the MUTCD.

Staff has also reviewed all the locations requested for consideration for installation of a new all-way stops. None of the locations meet the quantitative warrants identified in the existing or proposed MUTCD (Table 3.) Table 3 provides the currently available relevant quantitative and qualitative information to inform staff’s recommendation for each location.

Table 3: Requested stop sign locations			
Location	AM peak volumes	Total collisions <sup>1</sup> (ped/bike collisions)	Qualitative factors
Van Buren Road and Ringwood Avenue	2019 Veh = 62 Ped = 71 Bike = 68	4 (3)	<ul style="list-style-type: none"> <li>Overcrossing is a primary route for bicyclists traveling to school, work and recreational opportunities</li> <li>Historic pattern of bicycle collisions due to visibility from the overcrossings</li> </ul>
Elm Street and Pope Street	N/A	2 (1)	<ul style="list-style-type: none"> <li>Elm Street is a bicycle route to Lower and Upper Laurel Elementary schools and Menlo-Atherton High school                             <ul style="list-style-type: none"> <li>Intersection currently has stops on 3 legs</li> <li>Off-set intersection creates sight line issues</li> </ul> </li> </ul>
Elm Street and Laurel Avenue	N/A	2 (2)	<ul style="list-style-type: none"> <li>Elm Street is a bicycle route to Lower and Upper Laurel Elementary schools and Menlo-Atherton High School</li> <li>Laurel Avenue and Elm Street are similar priority streets so switching the two-way stop to Laurel Avenue would be appropriate</li> </ul>
Elm Street and Central Avenue	N/A	4 (3)	<ul style="list-style-type: none"> <li>Elm Street is bicycle route to Lower and Upper Laurel Elementary schools and Menlo Atherton High school                             <ul style="list-style-type: none"> <li>Central Avenue is a more primary street</li> </ul> </li> </ul>
Walnut Street and Pope Street/Beacon Street	N/A	0 (0)	<ul style="list-style-type: none"> <li>Poor sightlines for vehicles exiting from Beacon Street from KIPP Valiant Community Prep school</li> </ul>
Gilbert Avenue and Pope Street	2021 Veh = 499 Bike = 63 Ped = 45	1 (0)	<ul style="list-style-type: none"> <li>Primary bicycle use is along Gilbert Street</li> <li>Majority of pedestrians cross Gilbert Street</li> </ul>
Terminal Avenue and Del Norte Avenue	2017 Veh = 221	4 (0)	<ul style="list-style-type: none"> <li>Crossing is at an access route to Beechwood School and Belle Haven Youth Center</li> <li>Residents report that drivers do not yield at crosswalk                             <ul style="list-style-type: none"> <li>Bus parking may create sight line issues</li> </ul> </li> </ul>

Notes:

1. Collisions for the most recent available 5-year period

Based on these findings, staff has developed the following recommendations. First, there are three locations that staff believes clearly meet qualitative criteria related to sight line or safety issues that can be established using the proposed updates to the stop sign warrant process. These locations are at:

- Van Buren Road and Ringwood Avenue
- Elm Street and Pope Street
- Walnut Street and Pope Street/Beacon Street

Staff recommends that these three locations should be the top priority to address. If these locations are authorized by resolution, staff will install these signs in the coming months using the City’s signage and striping contractor.

The other four locations do not as clearly fit the quantitative or qualitative criteria from the proposed updates to the MUTCD stop warrant process. However, all locations are near schools, have substantial pedestrian and bicycle use to get to school and other locations, and are locations where residents have identified



safety concerns. Staff has included all locations in the proposed resolution (Attachment A) to allow the City Council to consider and approve these locations.

To date, staff has received the following input from residents on these locations:

- For Gilbert Street and Pope Street, staff collected data in Fall 2021 and conducted outreach as part of the April CSC meeting. During that meeting, several community members supported installation of the all-way stop, but staff did hear some opposition from immediate neighbors at the intersection.
- For the locations on Elm Street at Laurel Street and Central Avenue, staff has received feedback from parents of Upper Laurel Elementary supporting these changes. If City Council approves these changes, staff recommends notifying local residents and stakeholders of the proposed change and reporting back to City Council if there is substantial opposition to making these changes.
- For Terminal Avenue and Del Norte Avenue, staff will conduct additional outreach as part of the Menlo Park Community Campus (MPCC) Parking Management Plan, which will be reviewed by both the CSC and City Council next year. This will provide an opportunity for staff to report back any findings from the public on the addition of a stop sign at this location.

### **Impact on City Resources**

Resources expended for evaluation of stop sign requests are considered part of the City's baseline service levels. Providing clear direction on desired qualitative criteria for consideration is anticipated to reduce staff time evaluating each case, allowing improved responsiveness to resident requests

The proposed stop sign installations would be implemented through the City's signage and striping program. The recommendation includes fewer than 10 new stop signs and poles, at a unit cost of approximate \$500 per sign/pole. Bundling these installations together provides an advantage to the City by reducing the cost of mobilization to complete this work.

### **Environmental Review**

Installation of traffic control devices is categorically exempt under the California Environmental Quality Act Article 19, § 15301 Existing Facilities – Class I since it involves minor construction on a public street. No additional vehicle miles traveled or roadway capacity will be added as a result of implementation of these measures.

### **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
- B. Hyperlink – April 13, 2022, Complete Streets Commission staff report:  
[beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/complete-streets-commission/2022-meetings/agendas/20220413-complete-streets-commission-agenda-packet.pdf#page=19](https://beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/complete-streets-commission/2022-meetings/agendas/20220413-complete-streets-commission-agenda-packet.pdf#page=19)
- C. Redlined draft FHWA MUTCD language

Staff Report #: 22-203-CC

Report prepared by:  
Kevin Chen, Senior Transportation Engineer

Report reviewed by:  
Hugh Louch, Assistant Public Works Director

**RESOLUTION NO. XXXX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
AUTHORIZING THE INSTALLATION OF ALL-WAY STOPS AT VAN BUREN  
ROAD AND RINGWOOD AVENUE, ELM STREET AND POPE STREET,  
WALNUT STREET AND POPE STREET-BEACON STREET, ELM STREET AND  
CENTRAL AVENUE, GILBERT AVENUE AND POPE STREET, AND TERMINAL  
AVENUE AND DEL NORTE AVENUE AND TO CONVERT THE TWO-WAY  
STOP CONTROL AT ELM STREET AND LAUREL AVENUE TO BE ON  
LAUREL AVENUE INSTEAD OF ELM STREET**

WHEREAS, the City routinely receive requests to convert two-way stop control intersections to all-way stop control; and,

WHEREAS, California Vehicle Code Section 21351 authorizes local jurisdictions to install traffic control devices, including stop signs; and,

WHEREAS, City of Menlo Park Municipal Code Section 11.12.010 allows the City to authorize the installation of any traffic control devices not otherwise prohibited by the California Vehicle Code; and

WHEREAS, City staff uses the most current California Manual on Uniform Traffic Control (MUTCD) Devices, Section 2B.07 to determine if all-way stop conversions are warranted; and,

WHEREAS, in late 2020, the Federal Highway Administration (FHWA) released a notice of proposed amendments to issue a new edition of the FHWA MUTCD, including revisions to the stop warrant; and,

WHEREAS, in April 2022, the Complete Streets Commission provided feedback on staff's recommended edits to the stop application/warrant based on the FHWA proposed amendments; and

WHEREAS, through this process, City staff evaluated a list of requested intersections for installation of all-way stops; and,

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Menlo Park does hereby authorize the installation of all-way stop operation at the following intersections as shown on Exhibit A:

- Van Buren Road and Ringwood Avenue
- Elm Street and Pope Street
- Elm Street and Central Avenue
- Walnut Street and Pope Street-Beacon Street
- Pope Street and Gilbert Avenue
- Terminal Avenue and Del Norte Avenue

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Menlo Park does hereby authorize changing the existing two-way stop control at Elm Street and Laurel Avenue

from Elm Street to Laurel Avenue as shown on Exhibit A:

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the eighteenth day of October, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this \_\_\_ day of October, 2022.

---

Judi A. Herren, City Clerk

Exhibits

A. Proposed all-way stop control intersections



Legend



Proposed "stop"



Existing "stop"



Remove "stop"



Legend



Proposed "stop"



Existing "stop"

### **Section 2B.X8 All-Way Stop Control**

**[Note: The term “all-way” is recommended rather than “multi-way” because “all-way” is the term used in the supplemental plaque.]**

#### **Guidance:**

<sup>1</sup> The decision to install all-way stop control at an unsignalized intersection should be based on an engineering study accounting for the advantages and disadvantages of the control treatment.

[Note: From 2009 MUTCD Section 2B.07, Paragraph 03.]

<sup>2</sup> The evaluation of the need for all-way stop control should include an analysis of factors related to the existing operation and safety at the study intersection and the potential to improve these conditions and the applicable factors contained in the following all-way stop control warrants:

- A. All-Way Stop Control Warrant A: Crash Experience (Section 2B.X9).
- B. All-Way Stop Control Warrant B: Sight Distance (Section 2B.X10).
- C. All-Way Stop Control Warrant C: Transition to Signal Control (Section 2B.X11).
- D. All-Way Stop Control Warrant D: Peak-Hour Delay (Section 2B.X12).
- E. All-Way Stop Control Warrant E: 8-Hour Volume (Vehicle, Pedestrians, and Bicycles) (Section 2B.X13).
- F. All-Way Stop Control Warrant F: Other Factors (Section 2B.X14).

#### **Standard:**

<sup>3</sup> **The satisfaction of an all-way stop control warrant or warrants shall not in itself require the installation of all-way stop control at an unsignalized intersection.**

### **Section 2B.X9 All-Way Stop Control Warrant A: Crash Experience**

Option:

<sup>1</sup> All-way stop control may be established at an intersection where an engineering study indicates that:

- A. For a four-leg intersection, there are five or more reported crashes in a 12-month period or six or more reported crashes in a 36-month period. The crashes should be susceptible to correction by installation of all-way stop control.
- B. For a three-leg intersection, there are four or more reported crashes in a 12-month period or five or more reported crashes in a 36-month period. The crashes should be susceptible to correction by installation of all-way stop control. [Note: Crash numbers are a reflection of the proposed signal crash experience warrant developed in NCHRP Project 07-18 (49).]

### **Section 2B.X10 All-Way Stop Control Warrant B: Sight Distance**

Option:

<sup>1</sup> All-way stop control may be established at an intersection where an engineering study indicates that sight distance on the minor-road approaches controlled by a STOP sign is not adequate for a vehicle to turn onto or cross the major (uncontrolled) road. At such a location, a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop. [Note: From 2009 MUTCD Section 2B.07, Paragraph 05C.]

### **Section 2B.X11 All-Way Stop Control Warrant C: Transition to Signal Control**

Option:

<sup>1</sup> All-way stop control may be established at locations where all-way stop control is an interim measure that can be installed to control traffic while arrangements are being made for the installation of the traffic control signals at the intersection. [Note: Similar to 2009 MUTCD Section 2B.07, Paragraph 04A.]

### **Section 2B.X12 All-Way Stop Control Warrant D: Peak-Hour Delay**

Option:

<sup>1</sup> All-way stop control may be established at an intersection where an engineering study indicates that the peak-hour delay on an average day on the minor road(s) is greater than 35 sec/veh.

### **Section 2B.X13 All-Way Stop Control Warrant E: 8-Hour Volume (Vehicle, Pedestrians, and Bicycles)**

Option:

<sup>2</sup> All-way stop control may be established at an intersection where an engineering study indicates:



- A. The volume entering the intersection from the major-street approaches (total of both approaches) averages at least 300 units per hour for any 8 hours of an average day; and
- B. The volume entering the intersection from the minor-street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours; but
- C. If the 85th percentile approach speed of the major-street traffic exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the values provided in Items A and B. [Note: Similar to 2009 MUTCD Section 2B.07, Paragraph 04C.]

### **Section 2B.X14 All-Way Stop Control Warrant F: Other Factors**

#### Option:

<sup>3</sup> All-way stop control may be installed at an intersection where an engineering study indicates that all-way stop control is needed due to other factors not addressed in the other all-way stop control warrants. Such other factors may include, but are not limited to, the following:

- A. The need to control left-turn conflicts. [Note: From 2009 MUTCD Section 2B.07, Paragraph 05A.]
- B. An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where all-way stop control would improve traffic operational characteristics of the intersection. [Note: From 2009 MUTCD Section 2B.07, Paragraph 05D.]
- C. Where pedestrian and/or bicycle movements justify the installation of all-way stop control. [Note: Similar to 2009 MUTCD Section 2B.07, Paragraph 05B.]

[Note: Sections 2B.05 (STOP sign and ALL WAY plaque), 2B.08 (YIELD sign), and 2B.10 (STOP sign and YIELD sign placement) in the existing 2009 manual do not change as a result of the proposed revisions. Those sections would be inserted before or after the proposed text or in an alternate location between the revised sections as deemed appropriate by FHWA.]

[Note: End of proposed revisions.]



**PROVIDE DIRECTION ON STOP SIGN EVALUATION PROCESS  
AND CONSIDER STOP INSTALLATION AT INTERSECTIONS**  
City Council Meeting: October 18, 2022





## AGENDA

- Background
- Evaluation process
- Recommendations





## BACKGROUND - PROCESS

- Request
- Data collection
- Evaluation
- Approval

Location	AM peak volumes	Total collisions <sup>1</sup> (ped/bike)
Van Buren Road & Ringwood Avenue	2019 Veh = 62 Ped = 71, Bike = 68	4 (3)
Elm Street & Pope Street	N/A	2 (1)
Elm Street & Laurel Avenue	N/A	2 (2)
Elm Street & Central Avenue	N/A	4 (3)
Walnut Street & Pope Street/Beacon Street	N/A	0 (0)
Gilbert Avenue & Pope Street	2021 Veh = 499 Bike = 63, Ped = 45	1 (0)
Terminal Avenue & Del Norte Avenue	2017 Veh = 221	4 (0)
1. Collisions for the most recent available 5-year period.		





## EVALUATION PROCESS - EXISTING

- Current practice
  - Quantitative criteria: collision, volumes, delay
  - Qualitative criteria: transition phase, left-turn conflict, veh/ped conflict, sight distance, traffic operation
  
- Upcoming updates to national guidance
  - Late 2020: released a notice of proposed amendments
  - Early 2021: public comment period
  - Early 2023: anticipated adoption date



## EVALUATION PROCESS - PROPOSED

Criteria	Current edition – minimum required traffic conditions	FHWA recommendations
As an interim measure	<ul style="list-style-type: none"> <li>Transition phase to approved signal controls</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>
Collision history (reported crashes) <sup>1, 2</sup>	<ul style="list-style-type: none"> <li>5 in 12 months</li> </ul>	<ul style="list-style-type: none"> <li>4-leg: 5 in 12 months, 6 in 36 months</li> <li>3-leg: 4 in 12 months, 5 in 36 months</li> </ul>
Volumes (For any eight hours of an average day) <sup>2</sup>	<ul style="list-style-type: none"> <li>300 veh/hr entering from major street and 200 veh/ped/bike from minor street, or</li> <li>210 veh/hr entering from major street and 140 veh/ped/bike from minor street (70% of first bullet), if major street exceeds 40 mph</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>
Delay (highest hour of avg. day)	<ul style="list-style-type: none"> <li>30 sec/minor street</li> </ul>	<ul style="list-style-type: none"> <li>35 sec/minor street</li> </ul>
Qualitative criteria	<ul style="list-style-type: none"> <li>Control left-turn conflicts</li> <li>Control vehicle/pedestrian conflicts near high pedestrian generators</li> <li>Resolve inadequate sight distance</li> <li>Improve traffic operation</li> </ul>	<ul style="list-style-type: none"> <li>Current, plus</li> <li>Improve ped/bike movement</li> </ul>

- Collisions that are susceptible to correction by installation of all-way stop control.
- Where no single criterion is satisfied, 80% of “Collision history” and first bullet of “Volumes” could be considered.



## EVALUATION PROCESS - RECOMMENDED

Criteria	Commission feedback	Staff recommendations
Quantitative criteria <sup>1</sup>	<ul style="list-style-type: none"> <li>Set a collision threshold more appropriate for Menlo Park</li> </ul>	<ul style="list-style-type: none"> <li>3- / 4- leg: 3 in 12 months, 5 in 36 months<sup>2</sup></li> </ul>
Qualitative criterion (i.e., improve ped/bike movement)	<ul style="list-style-type: none"> <li>Replace “user group” with “daily ped/bike volume distribution”</li> </ul>	<ul style="list-style-type: none"> <li>High crossing volumes over a short period of time (occurring within one to two hours daily)</li> <li>Low and medium crossing volumes over a long period of time (occurring throughout the day)</li> </ul>

1. See rows 1 to 4 of previous table.

2. Consideration excludes: Freeway/Expressway, Boulevard, Thoroughfare streets, as classified by the City’s Circulation Plan.



## RECOMMENDATIONS

- Seek guidance on advanced use of evaluation process
  
- Consider adopting resolution for stop sign installations
  - Top priority locations
    - New criteria clearly met
  - Secondary locations
    - New criteria not as clearly met
    - Near schools, substantial pedestrian/bicycle use, identified by residents
    - Notify local residents and stakeholders
    - Report back if substantial opposition received





## RECOMMENDATIONS

Location	Qualitative factors	Staff recommendations
Van Buren Road & Ringwood Avenue	<ul style="list-style-type: none"> <li>• Overcrossing is a primary route for bicyclists traveling to school, work and recreational opportunities</li> <li>• Historic pattern of bicycle collisions due to visibility from the overcrossings</li> </ul>	<p>Top priority:</p> <p>Clearly met qualitative criteria, no additional outreach</p>
Elm Street & Pope Street	<ul style="list-style-type: none"> <li>• Elm Street is a bicycle route to Lower and Upper Laurel Elementary schools and Menlo-Atherton High school</li> <li>• Intersection currently has stops on 3 legs</li> <li>• Off-set intersection creates sight line issues</li> </ul>	
Walnut Street & Pope Street/Beacon Street	<ul style="list-style-type: none"> <li>• Poor sightlines for vehicles exiting from Beacon Street from KIPP Valiant Community Prep school</li> </ul>	



## RECOMMENDATIONS

Location	Qualitative factors	Staff recommendations
Elm Street & Laurel Avenue	<ul style="list-style-type: none"> <li>• Elm Street is a bicycle route to Lower and Upper Laurel Elementary schools and Menlo-Atherton High School</li> <li>• Laurel Avenue and Elm Street are similar priority streets so switching the two-way stop to Laurel Avenue would be appropriate</li> </ul>	Secondary priority:  If approved, notify local residents and stakeholders
Elm Street & Central Avenue	<ul style="list-style-type: none"> <li>• Elm Street is bicycle route to Lower and Upper Laurel Elementary schools and Menlo Atherton High school</li> <li>• Central Avenue is a more primary street</li> </ul>	
Gilbert Avenue & Pope Street	<ul style="list-style-type: none"> <li>• Primary bicycle use is along Gilbert Avenue</li> <li>• Majority of pedestrians cross Gilbert Avenue</li> </ul>	
Terminal Avenue & Del Norte Avenue <sup>1</sup>	<ul style="list-style-type: none"> <li>• Crossing is at an access route to Beechwood School and Belle Haven Youth Center</li> <li>• Residents report that drivers do not yield at crosswalk</li> <li>• Bus parking may create sight line issues</li> </ul>	

1. Will occur with the MPCC parking management plan, tentatively planned for early next year.



THANK YOU



**STAFF REPORT**

**City Council**  
**Meeting Date:** 10/18/2022  
**Staff Report Number:** 22-199-CC

**Regular Business:** Consider and adopt a resolution approving the water supply assessment for the Housing Element Update Project

**Recommendation**

Staff recommends that the City Council adopt a resolution (Attachment A) approving the water supply assessment (WSA) prepared for the proposed Housing Element Update Project.

**Policy Issues**

The City of Menlo Park is updating its required Housing Element and Safety Element, and preparing a new Environmental Justice Element. Collectively, these actions are referred to as the “Housing Element Update.” In determining whether to approve the WSA for the Housing Element Update, the City Council is acting as the governing body for Menlo Park Municipal Water (MPMW) and shall consider if sufficient water supply is available during normal, single dry, and multiple dry years within a 20-year period to meet the projected demand associated with the proposed project. In considering water supply availability, MPMW is charged with determining if the City’s water supplies are sufficient to serve developments that could be realized under the Housing Element Update project, taking into consideration planned growth within the MPMW service area. Approving the WSA is not equivalent to a commitment to serve future developments that may result from the proposed project. Further, this action would not serve as the approval or be construed as approval of the proposed Housing Element Update project. The State Water Code requires that the governing body of the water provider approve the WSA, which is also a requirement of Section 15155(b) of the California Environmental Quality Act (CEQA) Guidelines. The proposed project requires the preparation of an environmental impact report (EIR) pursuant to CEQA, and approving the WSA would allow the City to incorporate the WSA into the draft EIR for the proposed project, which will be released this fall.

The City Council will ultimately be required to review and adopt the elements of the General Plan and all associated zoning modifications for the proposed project, and will consider consistency with other elements of the General Plan, Municipal Code, Zoning Ordinance, and other adopted policies and programs of the City. The Housing and Planning Commissions will make recommendations to the City Council regarding the required components of the Housing Element Update. The City Council will be the final decision-making body on certification of the final EIR; adoption of the Housing, Environmental Justice, and Safety Elements of the City’s General Plan; and associated rezonings and zoning code amendments.

## **Background**

Senate Bill 610 added Section 10910 to the California State Water Code and requires the availability of water supplies be considered for large development projects subject to CEQA, including projects that would demand an amount of water equivalent to, or greater than, a development of 500 dwelling units. The proposed project is subject to CEQA and would allow for residential and mixed-use developments that may include 500 or more units, and thus is subject to the requirements of Section 10910. The State Water Code requires that a WSA analyze current and future water supplies as well as the current and projected water demands within the water provider's service area. If the assessment identifies deficiencies in the local water supplies, the water provider is required to identify measures to reduce water usage or to identify additional water supplies.

### Project location

The Housing Element Update encompasses the entire city of Menlo Park and would plan for the development of new residential units primarily in City Council districts 2, 3, 4 and 5. A location map is included as Attachment B.

The proposed project is within the service areas of MPMW and the California Water Service (Cal Water) Bear Gulch District. Consequently, MPMW and Cal Water are the water suppliers responsible for preparing WSAs for the Housing Element Update. For convenience and efficiency, MPMW has prepared one joint WSA covering both water suppliers, and Cal Water is conducting an independent peer review of the document. This staff report focuses on water supply and demand from the project in the MPMW service area. Cal Water is separately evaluating the Housing Element Update WSA as it relates to the Bear Gulch District service area, and sections of the WSA specific to Cal Water may continue to change as Cal Water's review continues. The City Council will not be considering or approving those aspects of the WSA that relate to Cal Water.

### Proposed Housing Element update project

The City's current General Plan was last updated in 2016, when ConnectMenlo, an update of the Land Use and Circulation Elements, was adopted. The City's Housing Element was last adopted April 1, 2014, and in accordance with State law, addresses the planning period from January 31, 2015 through January 31, 2023. With the end of the current planning period approaching, State law [Government Code Section 65588] requires the City to update its Housing Element and provides a due date of January 31, 2023. In accordance with State law, the planning period for the updated "Sixth Cycle" Housing Element will extend from January 31, 2023 through January 31, 2031.

The Housing Element Update identifies specific sites appropriate for development of housing (especially affordable units), and the City would rezone those sites as necessary to meet the requirements of State law. A subsequent EIR is being prepared (incorporating and supplementing the analyses and conclusions in the final EIR certified as part of adopting ConnectMenlo in 2016) to evaluate the environmental effects of adding up to 4,000 new residential units in the City within the eight-year planning period through a variety of strategies, in addition to possible pipeline projects and accessory dwelling units.

Concurrent with updating the Housing Element, the City proposes to update the General Plan's Safety Element, prepare and adopt a new Environmental Justice Element, and make conforming amendments to

other elements of the General Plan, as needed, to maintain internal consistency. (State law requires the Safety Element updates and new Environmental Justice Element as part of the current Housing Element update process.) The City also proposes to undertake changes to the City's Zoning Ordinance (Menlo Park Municipal Code Title 16) and the El Camino Real/Downtown Specific Plan (adopted June 12, 2012) that are needed to reflect the updated Housing Element and to maintain consistency with the General Plan.

### MPMW

MPMW provides water services to approximately half of the city in two zones (the Upper Zone and Lower Zone), with 4,296 service connections as of 2020. The remainder of the City is served by Cal Water, O'Connor Tract Co-operative Water Company, and Palo Alto Park Mutual Water Company. Cal Water is the only other water provider that would serve potential development under the Housing Element Update and thus also requires a WSA. MPMW purchases all potable water supplies from the Regional Water System, which is operated by the San Francisco Public Utilities Commission (SFPUC.) The project WSA is included as Exhibit A to Attachment A and provides more detail on MPMW and its water supply.

The SFPUC Regional Water System supplies water to both retail and wholesale customers. Retail customers include residents, businesses, and industries located within the City and County of San Francisco's boundaries. Wholesale customers include 26 cities and water supply agencies in Alameda, San Mateo and Santa Clara counties, including MPMW.

MPMW is a member agency of the Bay Area Water Supply and Conservation Agency (BAWSCA) and purchases treated water from the SFPUC Regional Water System in accordance with the November 2018 Amended and Restated Water Supply Agreement between the City and County of San Francisco and Wholesale Customers in Alameda, San Mateo and Santa Clara counties, which was adopted in 2019. The term of the agreement is 25 years, with a beginning date of July 1, 2009, and an expiration date of June 30, 2034. Per the agreement, MPMW has an individual supply guarantee (ISG) of 1,630 million gallons per year, supplied by the SFPUC Regional Water System. Over the last five years (2016-2020) MPMW has purchased between 52 percent and 66 percent of its ISG.

As summarized in the WSA, the reliability of the MPMW potable water supply is described in the 2020 Urban Water Management Plan, adopted by the City Council in May 2021, and the SFPUC 2020 Urban Water Management Plan, adopted in June 2021. The reliability of potable water supply via the SFPUC Regional Water System is highly dependent on the potential implementation of the 2018 Bay-Delta Plan Amendment. The Amendment would require the release of 40 percent of the "unimpaired flow" of the Stanislaus, Merced, and Tuolumne Rivers in order to increase the salmonid fish populations from February to June in every type of year, whether wet, normal or critically dry, making the reliability to provide sufficient potable water in dry years uncertain. However, for several reasons the Bay-Delta Plan Amendment has not been implemented at this time (pending litigation challenges, the need for action by other agencies, and potential implementation of an alternative plan.) Therefore, the WSA provides two analyses of water availability: with and without implementation of the Bay-Delta Plan Amendment. Consistent with assumptions in the 2020 Urban Water Management Plan, implementation of the Bay-Delta Plan Amendment is assumed to begin in 2023.

**Analysis**

The WSA evaluates the demand for water and available water supplies in five year increments from 2025 through 2040. According to the WSA, the projected total water demand from the housing units that could be developed from implementation of the Housing Element Update would be 267 acre-feet per year (AFY) or 238,070 gallons per day in the MPMW service area. (An acre-foot is the volume of water covering one acre at a depth of one foot.) This projected demand was added to the projected water demands listed in the MPMW 2020 UWMP for a complete evaluation of potential water demands including both ConnectMenlo and the estimated 1,790 new residential units from the Housing Element Update that could be developed in the MPMW service area. The WSA prepared for the proposed project includes the use of recycled water, including future supply from the Bayfront recycled water facility currently being planned by West Bay Sanitary District.

In the WSA, projected normal year supplies, with the inclusion of recycled water, are shown to be adequate to satisfy MPMW’s projected normal year demands. However, in the MPMW 2020 Urban Water Management Plan and as reflected in the WSA for the proposed project, MPMW’s purchased supplies from the SFPUC Regional Water System assume dry year supply reductions as a result of the implementation of the Bay-Delta Plan Amendment, which significantly reduces dry year allocations for the SFPUC wholesale customers. Based on the above mentioned uncertainty, the WSA for the proposed project provides findings for two scenarios, one assuming implementation of the Bay-Delta Plan Amendment and one assuming that the Bay-Delta Plan Amendment is not implemented. The findings of each scenario are summarized in Table 1 below. The specific amounts of water in AFY under each scenario are provided in Tables 6-4, 6-5, 6-6 and 6-7 of Attachment A, Exhibit A.

Table 1: Summary of WSA Findings		
	With the Bay-Delta Plan	Without the Bay-Delta Plan
Normal years	Sufficient supply exists	Sufficient supply exists
Single dry year	32 to 37 percent reductions required	3 percent reduction through 2025; sufficient supply exists afterward
Multiple dry years	32 to 47 percent reductions required	3 percent reduction through 2025; 16.5 percent reduction required in fourth and fifth consecutive dry year for base year 2045
Actions required to respond to shortfalls	Implementation of Water Shortage Contingency Plan, up to shortage level 5	Implementation of Water Shortage Contingency Plan, up to shortage level 2

As shown, under the scenario where implementation of the Bay-Delta Plan Amendment is assumed (the most conservative scenario from a water supply perspective), there are significant water reductions required in single and multiple dry years. In case there is a shortage, MPMW expects to meet these supply shortfalls through water demand reductions or other shortage response actions by implementation of its Water Shortage Contingency Plan, which was adopted by the City Council along with the 2020 Urban Water Management Plan in May 2021. Additional information on MPMW’s Water Shortage Contingency

Plan is provided in Chapter 8 of MPMW's 2020 Urban Water Management Plan. A link to the 2020 Urban Water Management Plan is included in Attachment C.

Assuming implementation of the Bay-Delta Plan Amendment, up to shortage level 5 of the Water Shortage Contingency Plan may be reached. These shortage levels include actions such as the following to reduce water consumption:

- Increase public outreach, with a focus on the top 30 percent of water users in each customer category;
- Set limits on irrigation, including frequency, hours, new installations and methods (such as drip, micro-spray and hand watering), and more significant restrictions on turf irrigation;
- Set limits on use of potable water for pools, washing vehicles, construction and dust control, and commercial vehicles (street sweeping, cleaning, etc.);
- Halt installation of new connections (for projects that are not necessary to protect health, safety and welfare) and halt statements of availability to serve new potable water connections; and/or
- Develop water budgets for all customers.

Under the scenario where the Bay-Delta Plan Amendment is not implemented, the projected supply shortfalls are significantly less. Similar to the above described scenario, should a water supply shortage occur, the MPMW expects implementation of its Water Shortage Contingency Plan, but at a less significant shortage level with less severe restrictions.

Other actions that MPMW will take in event of a shortage include utilizing its recently constructed emergency supply well as supply augmentation, implementing a drought surcharge, and increasing water waste education and patrols. Future emergency water supply and shortage projects are also continuing to be developed, such as the addition of water storage and two more wells.

The developments constructed based on the proposed project would be subject to the same water conservation and water use restrictions as other users within the MPMW system. Based on the data and analysis in the WSA, without implementation of the Bay-Delta Plan Amendment, MPMW would have an adequate supply to provide water for the proposed project during years of normal and above-normal precipitation for at least 20 years. In certain single dry years and multiple dry years during that timeframe, MPMW would not have sufficient supplies to meet demand, but actions have been identified in the 2020 Water Shortage Contingency Plan that would help address any potential shortages. With implementation of the Bay-Delta Plan Amendment, MPMW would have an adequate supply to provide water for the proposed project during years of normal and above-normal precipitation for at least 20 years. In all single dry years and multiple dry years during that timeframe, MPMW would not have sufficient supplies to meet demand, but actions have been identified in the 2020 Water Shortage Contingency Plan that would help address any potential shortages.

The actions would ensure that water deliveries are available for all existing service connections within the MPMW service area and would apply to all users, similar to the actions taken by the City Council May 24, 2022, in response to the ongoing drought. At that meeting, the City Council adopted a resolution to implement the Water Shortage Contingency Plan Stage 2, requiring MPMW customers to reduce water use by up to 20 percent compared to water use in fiscal year 2019-20 and prohibiting wasteful water use practices. (The City Council previously declared a water shortage emergency condition pursuant to Water



Code section 350 and implemented Stage 1 drought emergency measures March 1, 2022.)

The City Council's action at this time is limited to approving the WSA. Approval of the WSA does not commit the City to certifying the EIR or approving the Housing Element Update in its current draft form. The recommended resolution approving the WSA is included in Attachment A and the WSA is appended to the resolution as Exhibit A.

#### Next steps

Following review and approval of the WSA by the City Council, a draft subsequent EIR for the Housing Element Update is anticipated to be released in October 2022 for a 45-day public review period. A Planning Commission public hearing on the draft subsequent EIR is tentatively scheduled for November 7, 2022. Staff also expects to receive comments on the City's draft Housing Element from the California Department of Housing and Community Development (HCD) in late October 2022. (The draft Housing Element was submitted to the State for review July 25, 2022.) In November and December 2022, staff anticipates release of draft Environmental Justice and Safety Elements of the City's General Plan, and will also strive to respond to HCD comments on the draft Housing Element for a subsequent 60-day HCD review, as necessary.

#### **Impact on City Resources**

As part of the fiscal year 2020-21 budget, the City Council appropriated \$1.5 million from the general fund to support the Housing Element Update (including preparation of the WSA and EIR), which is a City Council priority. Because of the multistep review process with multiple water providers and additional rounds of revisions beyond the original scope, the WSA consultant, ESA, may request a budget augment that could be reviewed at a future City Council meeting.

#### **Environmental Review**

Approval of the WSA by MPMW does not require review under CEQA. The proposed project for which the WSA has been prepared will be evaluated for its environmental impacts through an EIR, in compliance with CEQA. The EIR will consider the effects of the proposed project on the environment. The EIR will be reviewed by the Planning Commission and City Council as the proposed project proceeds through the public hearing process.

#### **Public Notice**

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

#### **Attachments**

- A. Draft City Council resolution approving the WSA for the Housing Element Update project; Exhibit A to Attachment A – WSA hyperlink: [menlopark.org/draftwatersupplyassessment](https://menlopark.org/draftwatersupplyassessment)
- B. Project location map
- C. Hyperlink – City's 2020 Urban Water Management Plan:

[beta.menlopark.org/files/sharedassets/public/public-works/documents/water/2020-urban-water-management-plan-june-2021\\_202107152258020921.pdf](https://beta.menlopark.org/files/sharedassets/public/public-works/documents/water/2020-urban-water-management-plan-june-2021_202107152258020921.pdf)

Report prepared by:  
Tom Smith, Principal Planner

Report reviewed by:  
Deanna Chow, Assistant Community Development Director  
Pam Lowe, Senior Civil Engineer  
Ed Shaffer, Assistant City Attorney

**RESOLUTION NO. XXXX****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK  
APPROVING THE WATER SUPPLY ASSESSMENT BY MENLO PARK  
MUNICIPAL WATER FOR THE HOUSING ELEMENT UPDATE**

WHEREAS, the City of Menlo Park (“City”) through Menlo Park Municipal Water is a public water supplier; and

WHEREAS, the City Council of the City is the governing body of Menlo Park Municipal Water; and

WHEREAS, the City approved and adopted the Menlo Park 2020 Urban Water Management Plan on May 25, 2021; and

WHEREAS, in 2001 the State of California enacted Senate Bill 610 adding Section 10910 et seq. to the California Water Code that became effective January 1, 2002; and

WHEREAS, the Guidelines for the Implementation of the California Environmental Quality Act (“CEQA Guidelines”) were subsequently modified to incorporate similar provisions in Section 15155; and

WHEREAS, California Water Code Section 10910 and Section 15155 of the CEQA Guidelines require a water utility to prepare a water supply assessment for development applications for “water-demand projects” which include, but are not limited to, any proposed project that is subject to CEQA and would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project; and

WHEREAS, Section 10910(g) of the California Water Code and Section 15155(b) of the CEQA Guidelines require the governing body of a public water system that will serve a “water-demand project” to approve a water supply assessment for the project at a regular or special meeting; and

WHEREAS, the City is updating its required General Plan Housing Element and Safety Element, and preparing a new Environmental Justice Element, collectively referred to as the “Housing Element Update”) (the “Project”); and

WHEREAS, the proposed Project is subject to CEQA and would allow up to 4,000 new dwelling units through rezoning and proposed land use strategies that would be implemented as part of the Project; and

WHEREAS, Menlo Park Municipal Water would provide water service to an estimated 1,790 new residential units included in the Project at full build-out; and

WHEREAS, the Project qualifies as a water-demand project, and therefore the City prepared a Water Supply Assessment for the Project addressing service of the Project by Menlo Park Municipal Water; and

WHEREAS, the Water Supply Assessment for the Project units within the MPMW service area was finalized in October 2022; and

WHEREAS, the Water Supply Assessment for the Project was provided to the City Council for consideration at a regularly scheduled meeting on October 18, 2022.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park finds the foregoing recitals are true and correct, and they are hereby incorporated by reference into this Resolution.

BE IT FURTHER RESOLVED that the City Council of the City of Menlo Park as governing body of Menlo Park Municipal Water hereby resolves as follows:

1. The Water Supply Assessment for the Housing Element Update project (Project WSA) identified in this resolution is incorporated as if fully set forth herein as Exhibit A of this resolution.
2. The City Council hereby approves the Project WSA as Menlo Park Municipal Water's water supply assessment for the Project in compliance with Water Code section 10910 *et seq.* and CEQA Guidelines section 15155, and directs City staff to include the Project WSA in CEQA environmental review of the Project.
3. The City Council's action on the Project WSA is limited to approving the Water Supply Assessment. Nothing in this resolution or the Council's approval of the Project WSA shall be construed as requiring the City or its Council to consider, act on, approve, conditionally approve, deny, or take any other action on the Project.

SEVERABILITY

If any term, provision, or portion of these findings or the application of these findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these findings, or their application to other actions related to the Project or the Project WSA, shall continue in full force and effect unless amended or modified by the City.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the eighteenth day of October, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

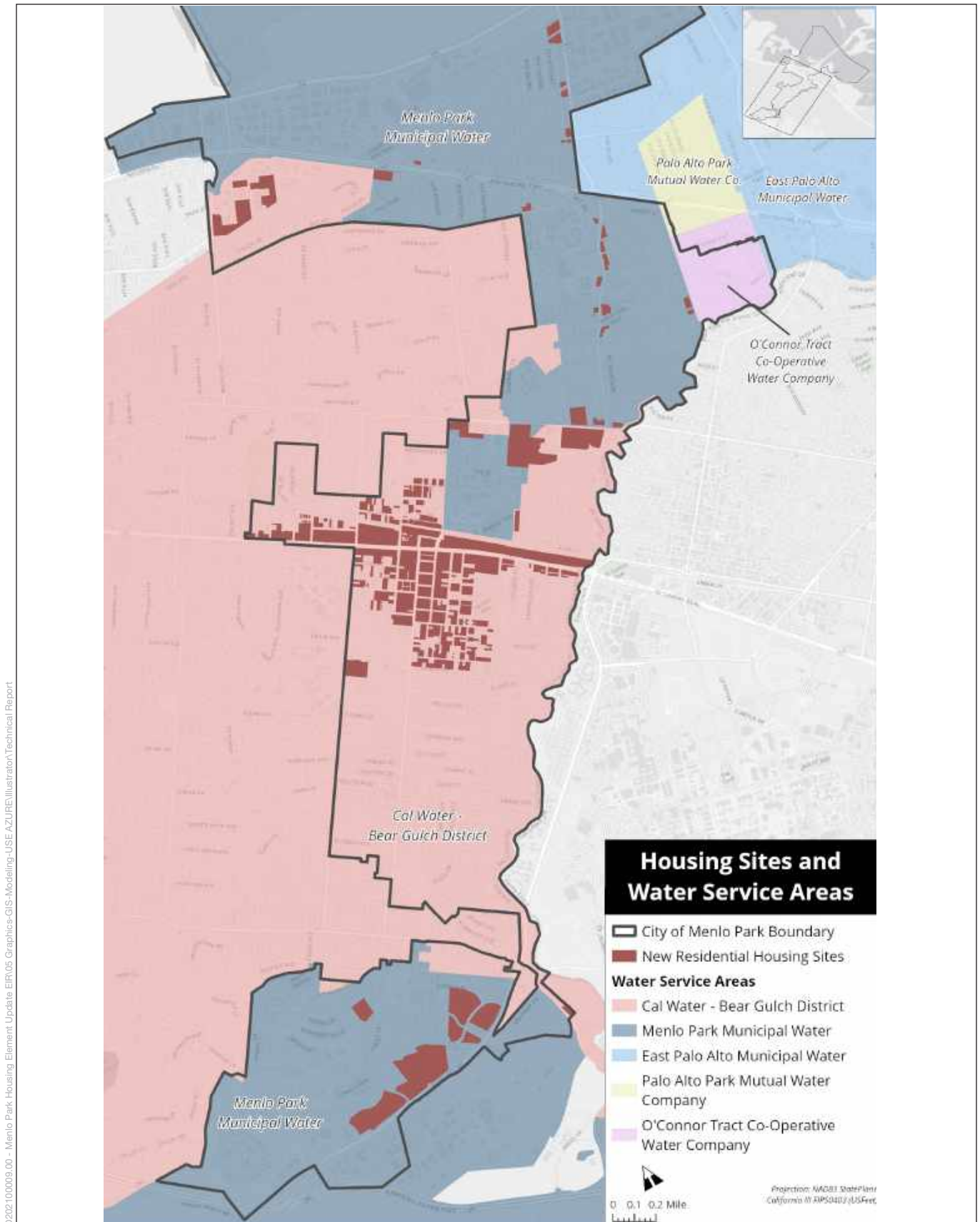
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this \_\_\_ day of October, 2022.

---

Judi A. Herren, City Clerk

Exhibits

- A. Hyperlink – Project water supply assessment:  
[menlopark.org/draftwatersupplyassessment](http://menlopark.org/draftwatersupplyassessment)



D:\2021\10\09\00 - Menlo Park Housing Element Update EIR\05 Graphics-GIS-Modeling-USE AZURE\Illustrator\Technical Report

Menlo Park Housing Element Update

**Attachment B**  
Housing Sites and Water Service Areas



# HOUSING ELEMENT UPDATE WATER SUPPLY ASSESSMENT

October 18, 2022 City Council Meeting



- Meeting Purpose
- Proposed Project
- Projected Water Demand
- Water Supply Availability
- Recommendation







## MEETING PURPOSE

- Consider a water supply assessment (WSA) for the Housing Element Update
  - Council is the governing body for Menlo Park Municipal Water (MPMW)
  - WSA is required because the proposed project would demand water equivalent of 500 dwelling units or more
- The WSA evaluates whether sufficient water supply is available during normal, single dry, and multiple dry years through 2040
  - Also accounts for planned and cumulative growth in service area
- Approving the WSA would **not**:
  - Commit the City to serve water to future projects
  - Consider, endorse the merits, and/or approve the Housing Element Update



## MEETING PURPOSE

- Approving the WSA would allow the City to incorporate the document into the project environmental impact report (EIR)
  - California Environmental Quality Act (CEQA) requires governing body of water systems that would supply water to the project to:
    - Determine whether the projected water demand of the project can be met in normal, dry, or multiple dry years
    - Prepare a water assessment to be adopted at a regular or special meeting of the governing body



## PROPOSED PROJECT



- Required Housing Element Update will cover period from 2023 to 2031
- Up to 4,000 new dwelling units and 85 ADUs, current pipeline projects, and future cumulative demand
- Opportunity sites for new units are located in two water service areas
  - MPMW would serve approximately 1,790 new units
  - Cal Water separately reviewing service to approximately 3,000 units





## MPMW PROJECTED WATER DEMAND

- Housing Element demand (1,790 units) is in addition to the projected totals in MPMW’s 2020 Urban Water Management Plan (UWMP)

TABLE 5-6  
MPMW SERVICE AREA PROJECTED GROWTH IN WATER DEMAND (MG AND AFY)

	2025	2030	2035	2040
Single Family	306	299	293	288
Multi-Family	158	176	203	230
Commercial	346	345	373	401
Industrial	134	122	112	102
Institutional/Governmental	98	105	115	126
Landscape	95	61	71	85
Losses	110	116	122	128
Other Potable	1	1	1	2
<b>Total (MG)</b>	<b>1,248</b>	<b>1,225</b>	<b>1,290</b>	<b>1,363</b>
<b>2020 UWMP Demand Total (AFY)</b>	<b>3,830</b>	<b>3,759</b>	<b>3,959</b>	<b>4,183</b>
<b>HEU Demand plus Cumulative 2040 Demand<sup>a</sup></b>	<b>267</b>	<b>267</b>	<b>267</b>	<b>267</b>
<b>Updated 2040 Cumulative Demand</b>	<b>4,097</b>	<b>4,026</b>	<b>4,226</b>	<b>4,450</b>

SOURCE: 2020 MPMW 2020 UWMP, Table 4-6, Use for Potable and Non-Potable Water – Projected

NOTE: Recycled water is not included in total projected water demand.

a. City of Menlo Park, Housing Element Update, Water Supply Assessment, Table 5-1 – MPMW portion of 715 AFY of new demand generated by implementation of the HEU and Additional 2040 Growth. New water demand of 267 AFY associated with the HEU area is assumed to occur instantaneously. Actual build-out of the HEU is expected to occur incrementally or in phases over the next 25 years as changes in the development market create opportunities for redevelopment.



## WATER SUPPLY AVAILABILITY

- MPMW purchases all potable water from Regional Water System (RWS) operated by San Francisco Public Utilities Commission
  - MPMW has an individual supply guarantee of 5,002 AFY through 2034
- Reliability of water supply in drought years affected by 2018 Bay-Delta Amendment implementation
  - Would require release of 40% of unimpaired flow of three San Joaquin River tributaries to increase certain fish populations each year from February through June
- WSA evaluates findings for a scenario where Bay-Delta Plan is implemented and one where it is not implemented



# WATER SUPPLY AVAILABILITY



Table 1: Summary of WSA Findings

	With the Bay-Delta Plan	Without the Bay-Delta Plan
Normal years	Sufficient supply exists	Sufficient supply exists
Single dry year	32 to 37 percent reductions required	3 percent reduction through 2025; sufficient supply exists afterward
Multiple dry years	32 to 47 percent reductions required	3 percent reduction through 2025; 16.5 percent reduction required in fourth and fifth consecutive dry year for base year 2045
Actions required to respond to shortfalls	Implementation of Water Shortage Contingency Plan, up to shortage level 5	Implementation of Water Shortage Contingency Plan, up to shortage level 2



## RECOMMENDATION

- Adopt resolution approving the WSA
  - Approval of WSA does not approve the proposed project



## NEXT STEPS

- **October 2022:** Release of Draft Subsequent EIR (SEIR) for Housing Element Update (45-day public review)
- **October 2022:** Comments on City's draft Housing Element anticipated from Department of Housing and Community Development
- **November 2022:** Planning Commission public hearing on Draft SEIR
- **November – December 2022:** Release of draft Environmental Justice and Safety Elements





**THANK YOU**



## STAFF REPORT

### City Council

Meeting Date: 10/18/2022

Staff Report Number: 22-205-CC

Informational Item: City Council agenda topics: October 20 – November 15, 2022

### Recommendation

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

### Policy Issues

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

### Analysis

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through November 15, 2022. The topics are arranged by department to help identify the work group most impacted by the agenda item.

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

### Public Notice

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

### Attachments

A. City Council agenda topics: October 20 – November 15, 2022

Report prepared by:

Judi A. Herren, Assistant to the City Manager/City Clerk

## Tentative City Council Agenda

#	Title	Department	Item type	City Council action
1	Quarterly Personnel Activity Report	ASD	Informational	No action
2	Grand Jury response: Public Record Act e est	CAO	Consent	Approve
3	Approve funding for 335 Pierce Road (predevelopment CLT, loan authorization docs)	CDD	Regular	Approve
4	Introduce ordinance for building code adoption	CDD	Regular	First read/intro ordinance
5	Second reading and adoption for building code adoption	CDD	Consent	Second read/adopt ordinance
6	Willow Village - project review and 1st reading	CDD	Public Hearing	First read/intro ordinance
7	Adopt Resolution to continue conducting the City's Council and advisory body meetings hybrid due to health and safety concerns for the public	CMO	Consent	Adopt resolution
8	Advisory body appointments	CMO	Advisory body reports	Decide
9	Approve the 2023 City Council regular meeting schedule	CMO	Consent	Adopt resolution
10	Authorize the city manager to execute an agreement with MPCSD and MPAEF and approve a budget amendment	CMO	Regular	Approve, Contract award or amend
11	BlocPower: prevailing wage	CMO	Informational	Decide, Direction to staff
12	Receive and file 2021 priorities, work plan quarterly report as of September 30, 2022 and advisory body work plan update	CMO	Consent	Receive and file
13	Authorize the City Manager to accept a California State Library Building Forward infrastructure grant to replace the deteriorating main library roof and update the fire alarm system	LCS	Consent	Approve
14	Commemorative park amenities policy	LCS	Regular	Approve, Adopt resolution
15	Provide direction for updating City Council Policy CC-86-001, "Naming and/or changing the name of facilities" (1986)	LCS	Regular	Direction to staff
16	Adopt a resolution accepting fiscal year 2022-23 COPS-SLESF Funding and Approve Spending Plan	PD	Consent	Adopt resolution
17	Adopt resolution approving Alcoholic Beverage Control (ABC) Grant	PD	Consent	Adopt resolution
18	Police department quarterly update – Q3 July 2022 - September 2022	PD	Informational	No action
19	Additional conceptual design options for Willow Oaks Park	PW	Regular	Approve
20	Adopt resolution to reduce the speed limits on Bay Road, Middle Avenue, Olive Street, Ravenswood Avenue, Santa Cruz Avenue and Van Buren Road	PW	Consent	Adopt resolution
21	Authorize an agreement with consultant for local road safety plan	PW	Consent	Contract award or amend
22	Consider an appeal of the Complete Streets Commission decision to remove two parking spaces on Roble Avenue	PW	Regular	Decide, Adopt resolution
23	Determination of Bids for Chrysler Pump Station	PW	Consent	Direction to staff
24	Proclamation: Ruby Bridges Walk to School Day	PW	Proclamation	No action
25	October 20, 2022 @5 p.m. - Special Joint MPFPD Meeting/Planning Commission interviews	Various		



**STAFF REPORT**

**City Council**

**Meeting Date:** 10/18/2022

**Staff Report Number:** 22-204-CC

**Informational Item:** Preliminary considerations for commemorative park amenities

**Recommendation**

Staff recommends that the City Council review this informational item containing preliminary considerations for evaluating, approving, installing, and maintaining commemorative amenities in City parks. This is an informational item and does not require City Council action. Staff will seek policy direction and potential action from City Council related to commemorative park amenities tentatively November 1.

**Policy Issues**

City Council provides policy direction, sets prioritization, and authorizes the use of City resources to serve the community.

**Background**

On September 28, 2022, the Parks and Recreation Commission reviewed this draft proposed policy, procedure and criteria for evaluating, installing, and maintaining commemorative park amenities in City parks-- for example memorial plaques on park benches and similar installations that honor private individuals-- and assented with the proposed policy, procedure and criteria as presented.

**Analysis**

The City of Menlo Park owns and operates 15 public parks of various sizes and featuring a range of outdoor public amenities including benches, tables, shade structures, play structures, walking paths, ponds, public art and heritage trees. Most of the City's parks contain one or more commemorative park amenities, i.e., plaques or other memorials placed in parks, typically to honor deceased individuals. Memorials are found in most parks in various locations, including park benches, stones, occasionally trees.

Recent practice for installing commemorative park amenities has been request-driven and evaluated on a case-by-case basis. Typically, interested parties requested placement of a commemorative amenity, then City staff coordinated directly with the requesting party on the desired location, verbiage, type and cost of the commemorative amenity. The requesting party typically donated the cost to install a memorial – approximately \$5,000 to \$7,000 for a bench with commemorative plaque. This practice has resulted in several dozen memorial installations in City parks.

Recently, as the number of existing commemorative amenities has accumulated, additional new requests received, and older amenities fallen into disrepair, staff has identified a need for process improvements for reviewing, evaluating, approving, and maintaining commemorative park amenities in City parks. For example, the City lacks written objective criteria for evaluating memorial requests. The City also lacks a

written policy for repairing, replacing or removing memorials. Additionally, no written policy is in place to define the quantity and types of memorials a given park can and should have. No established process exists for funding memorial requests from individuals who lack financial resources to donate the cost of installation. And, there currently is no public transparency into the process for reviewing, approving and installing memorials to private individuals in public spaces.

### Proposed criteria

Staff is developing proposed criteria for commemorative park amenities and will seek policy direction and potential action from City Council related to commemorative park amenities tentatively November 1. Staff preliminarily recommends prioritizing memorials that meet the following criteria:

- Honoree has been deceased at least one year at the time of the request
- Honoree had a significant impact to the Menlo Park community, e.g.,:
  - Served on an elected or appointed body in Menlo Park
  - Made significant volunteer contributions to Menlo Park
  - Was a longtime employee of the City of Menlo Park
  - Was a recognized Menlo Park community leader
  - Contributed meaningfully to the civic health and progress of Menlo Park
  - Other notable contributions to the community above and beyond the ordinary.

### Proposed process

Staff is developing a proposed process for commemorative park amenities and will seek policy direction from City Council related to commemorative park amenities tentatively November 1. Staff preliminarily recommends requiring one or more of the following steps prior to installing a memorial to a private individual in a City park:

1. A City Council proclamation in memory of the departed individual that includes direction to install a memorial in their memory
2. A recommendation by the Parks and Recreation Commission to install a memorial to the departed individual (installation remains subject to approval by the City Council and/or City Manager)
3. A formal written request (application) submitted to and approved by the City Manager or their designee.

### Repair and maintenance

Staff is reviewing options for the ongoing maintenance, repair, removal and/or replacement of commemorative park amenities, and preliminarily recommends the following:

- The City will maintain any commemorative amenity until it deteriorates beyond its usable life span or is damaged beyond reasonable repair
- The City reserves the right to remove any memorial that has been evaluated and deemed beyond reasonable repair
- Once removed, the City will not replace any memorial unless the approval process is completed again
- The City shall maintain an inventory of all memorials on City property and shall evaluate their condition at least every four years or as needed in response to reports of damage or loss.
- Honoree's family may take possession of any amenity that is removed by the City.

### Cost of installation

Staff is reviewing options for the offsetting the cost of installing commemorative park amenities, and preliminarily recommends the following:

- Community members are welcome and encouraged to donate toward the cost of installing memorials
- Memorials made by proclamation of the City Council shall be installed at the City's expense
- Selection and placement of commemorative amenities shall not be influenced by the ability or inability of

interested parties to financially contribute or donate toward the cost of the memorial.

### **Impact on City Resources**

There is no new impact to City resources associated with this update. Staff will seek policy direction from City Council related to commemorative park amenities tentatively November 1, including options and recommendations related to the cost and impact to City resources of installing and maintaining commemorative park amenities.

### **Environmental Review**

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

### **Public Notice**

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

### **Attachments**

None

Report prepared by:  
Sean Reinhart, Library and Community Services Director



## STAFF REPORT

### City Council

Meeting Date:

10/18/2022

Staff Report Number:

22-206-CC

Informational Item:

**Consideration of recommended sustainable reach codes for inclusion as part of the upcoming 2022 California Building Standards Code adoption process**

### Recommendation

Staff recommends that the City Council review this informational item containing proposed reach code measures to stay on a path toward carbon neutrality by 2030 and avoid time lapses in implementing Menlo Park's current reach codes. The proposed recommendations will carry forward Menlo Park's current reach code requirements for building electrification and electric vehicle (EV) charging with minor additions and modifications and will be incorporated into an ordinance presented to the City Council November 1 as part of the larger 2022 California Building Standards Code adoption process Menlo Park is required to undertake.

### Policy Issues

Every three years, the state Building Standards Commission adopts triennial revisions to the statewide Building Standards Code, Title 24 of the California Code of Regulations, which under state law must be adopted by all local agencies and enforced by their building departments. Under state law, cities and counties may also choose to adopt local amendments to these statewide building codes, including changes to meet local climatic, topographic or geological conditions that are more advanced than those required by the state to meet local goals, such as public safety, environmental sustainability or Climate Action Plan (CAP) activities. The City Council declared a climate emergency (Resolution No. 6535) committing to accelerating actions to address climate change at a local level and adopted a 2030 CAP with the bold goal to be carbon neutral (zero emissions) by 2030.

### Background

In recent years, the term reach code has been used to describe a local government's ability to exceed state building code regulations to support or implement its environmental goals, such as a CAP through the building permit process. Menlo Park has demonstrated leadership in adopting reach codes over the last few building code cycles. Examples include:

- In 2019, Menlo Park adopted a reach code that requires newly constructed buildings (residential and commercial) to be all-electric with very few exceptions to reduce greenhouse gas emission related to natural gas usage (fossil fuel) in buildings. Electricity consumed in Menlo Park is greenhouse gas or fossil fuel free, and procured through Peninsula Clean Energy. Since its adoption, many other communities with greenhouse gas free electricity have followed in Menlo Park's footsteps. These local codes must be re-adopted every three years when statewide building standards change.
- In 2018, the City Council also adopted progressive EV charging requirements for residential and commercial building permit projects.

Recommendations for this code cycle that would become effective January 1, 2023 (Phase 1 Reach Codes)

The recommendations reflect Menlo Park’s current building electrification and EV charging requirements for newly constructed buildings. Minor modifications and additions are being proposed and are considered feasible, and in some instances decrease construction costs for EV charging requirements. The proposed modifications and additions include the following, and are described in greater detail in the analysis section:

- Readopt the current reach code requirements for all-electric buildings (including exceptions) for the 2022 building code cycle as they still exceed proposed state requirements.
- Include a measure that prohibits electric buildings from being converted to mixed fuel buildings that use natural gas (applies to residential and commercial buildings.)
- Adopt the Bay Area Reach Code (BARC) Initiative<sup>1</sup> EV charging recommendations for new multifamily permits as they closely mirror Menlo Park’s current EV charging requirements, and can reduce construction costs using a combination of approaches that help “right size” EV charging needs for new multifamily developments.
- Adopt Tier 1 California Green Building Standards (CALGreen) EV charging requirements for new nonresidential (commercial) permits as it closely mirrors Menlo Park’s current EV charging requirements and provides consistency with the state’s method of EV charging requirements.
- Readopt Menlo Park’s current EV charging requirements for existing commercial (nonresidential) addition and alteration building permit projects.

These recommendations will be included as part of the first reading of the ordinance adopting 2022 Building Standards Code and local amendments November 1 and a second reading November 15 with an effective date of January 1, 2023.

The recommendations outlined above are considered the first phase (phase 1) of reach codes that would need to be adopted by the City Council before January 1, 2023 to avoid a lapse in implementing Menlo Park’s current reach code requirements. Staff reviewed phase 1 recommendations with the City Council CAP goals 1-5 subcommittee (Mayor Nash and Vice Mayor Wolosin), and they are supportive of the recommendations and approach to continue to meet 2030 CAP goals.

A phase 2 reach code approach is outlined at the end of analysis section of this report, and is anticipated to commence in early 2023 as a City Council study session item. However, the most time sensitive matter for the City Council is to adopt phase 1 reach code amendments in November.

**Analysis**

The 2022 Building Standards Code will take effect January 1, 2023. To avoid any lapses in the ability to enforce Menlo Park’s current reach code requirements that are more stringent, the City Council must adopt its local amendments to the 2022 Building Standards Code November 1 with a second reading November 15.

Phase 1 reach code recommendations are similar to Menlo Park’s current requirements and are considered feasible and provide construction cost reductions for some of Menlo Park’s EV charging requirements. The two reach code areas that will be renewed or modified are building electrification and EV charging requirements.

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<sup>1</sup> Peninsula Clean Energy (PCE), Silicon Valley Clean Energy (SVCE), East Bay Community Energy (EBCE), Alameda County, Santa Clara County and the San Mateo County Office of Sustainability (OOS) joined together to reduce greenhouse gas (GHG) emissions within their service territories by developing forward-thinking building and transportation electrification reach codes recommendations.



### Building electrification

The 2022 state building code focuses on the following key areas for building electrification in newly constructed homes and businesses<sup>2</sup>:

- Encouraging electric heat pump technology for space and water heating, which consumes less energy and produces fewer emissions than gas-powered units.
- Establishing electric-ready requirements for single-family homes to position owners to use cleaner electric heating, cooking and EV charging options whenever they choose to adopt those technologies.
- Expanding solar photovoltaic (PV) system and battery storage standards to make clean energy available onsite and complement the state's progress toward a 100 percent clean electricity grid.

Menlo Park adopted building electrification requirements in 2019, and these still exceed the 2022 state codes by requiring all new buildings to be electric with very few exceptions. Menlo Park's 2019 amendments are recommended for re-adoption and would not apply to existing buildings. Current exceptions allowed would remain unchanged. Menlo Park defines new single-family buildings as more than 75 percent of removal of interior and exterior walls in building within a two-year period. New buildings must also adhere to additional building code standards beyond electrification requirements.

Many cities have followed Menlo Park's example and have adopted all-electric requirements for new construction. The policy has been successful with some cities and counties offering even less exceptions for new buildings. To date, 79 single-family, one commercial, one multifamily and three mixed-use buildings have been subject to the provisions Menlo Park's electrification requirements. Although exceptions can be granted based on meeting certain criteria, no requests have been made to date by building permit applicants. However, there are upcoming larger projects that may be interested in seeking exceptions over the next year: one project may request to use gas stoves in its commercial kitchen and a life science building project may be considering a request to use natural gas for space heating (not water heating.) For both of these projects, certain criteria must be met in order for an exception to be granted.

In addition to readopting Menlo Park's current electrification requirements for newly constructed buildings, staff recommends the following additional requirements:

- Add a provision to ensure that electric buildings do not revert to using natural gas. This would safeguard Menlo Park's ability to be carbon neutral by 2030, and apply to both residential and commercial buildings.
- Provide further clarity that buildings defined as "Residential High Rise Buildings" that are four stories or higher must be all-electric, which includes all indoor equipment and devices to be electric (heating, cooking, clothes drying, fireplaces, etc.) as intended when adopted in 2019. High-rise residential buildings projects have been following this practice of building all-electric units.

### Proposed EV charging requirements

The California Green Code (CALGreen) now includes new electrical vehicle (EV) charging station requirements and definitions. Most notable changes include increases to charging requirements for new commercial and residential buildings and requirements for existing multifamily building permit projects.

It is important to understand EV charging definitions and speed levels to evaluate proposed EV charging requirements. The figure below provides a basic understanding of EV charging definitions.

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<sup>2</sup> <https://www.energy.ca.gov/news/2021-08/energy-commission-adopts-updated-building-standards-improve-efficiency-reduce-0>

Figure 1: EV Charging Definitions<sup>3</sup>



While CALGreen has increased its EV requirements, the City’s current standards still exceed CALGreen and supports Menlo Park’s 2030 CAP strategy goals No. 2 (increase EV sales) and No. 3 (provide EV charging infrastructure.) While high-powered faster charging infrastructure is on the horizon, at-home charging will remain essential to providing equity, convenience, and affordability for an EV driver. Workplace charging comes in second with public charging reserved for long distance travel and commercial operations.

Proposed single family, multifamily, and commercial EV charging requirements for new buildings

The BARC<sup>4</sup> Initiative has provided EV charging recommendations for Bay Area local governments to consider for consistency across the region, clarity and ease of implementation. Staff and the City Council CAP goals 1-5 subcommittee are in agreement with most of BARC’s recommendations. The proposed new requirements would apply only to newly constructed buildings (not existing) as defined in the state building code or local ordinance.

Given the amount of incentives that are currently available and will likely be available for new construction EV charging, these recommendations are feasible and consistent with current Menlo Park standards and CAP goals.

In considering the hierarchy of EV charging needs and BARC Initiative recommendations, staff recommends the following modifications for inclusion as part of the 2022 local building code amendments:

1. Clarification and addition of definitions to support EV charging implementation (BARC Initiative recommendations.) See Attachment A.
2. EV charging signage requirements to let EV drivers know access points for charging (BARC Initiative recommendation.)
3. Addition of cost thresholds that would allow exemptions to EV charging requirements if market rate development cost for EV charging exceed \$4,500 per parking space or \$400 per parking space for

<sup>3</sup> California Building Inspection Group – ICC Local Chapter #1934 Building & Electric Vehicle Reach Codes Advancing safer, healthier and more affordable buildings January 8, 2020: <https://slideplayer.com/slide/17922480/>

<sup>4</sup> [Peninsula Clean Energy](#) (PCE), [Silicon Valley Clean Energy](#) (SVCE), [East Bay Community Energy](#) (EBCE), Alameda County, [Santa Clara County](#) and the [San Mateo County Office of Sustainability](#) (OOS) joined together to reduce greenhouse gas (GHG) emissions within their service territories by developing forward-thinking building and transportation electrification reach codes recommendations.

affordable housing (BARC Initiative recommendation.) CALGreen's threshold was \$400 for all projects, but was removed in the 2022 state code. However, staff believes a cost threshold is important to implement exemptions objectively, fairly and consistently for all applicants. To date, applicants have generally not requested an exemption.

4. Modification for new single-family and duplexes: For each dwelling unit, one parking space provided shall be a Level 2 EV Ready space. Level 2 EV Ready can be met by installing a 240-volt receptacle/outlet, which are the same types of outlets used for plugging in a dryer or an electric stove. If a second parking space is provided, it shall be provided with a Level 1 EV Ready space, which are the same types of outlets used for plugging in household devices, such as a toaster, laptop or lamp. (BARC Initiative recommendations)
  - A. Currently Menlo Park requires each space to be EV capable, which would not allow the driver to plug in without making further minor upgrades to their home. Most new home construction now includes a Level 2 EV ready space to charge. This action would provide further assurance that at-home charging is provided to all new homes.
5. Modification for new multifamily developments: Fifteen percent (15 percent) of dwelling units with parking spaces shall have Level 2 EVCS (charging stations); Automatic Load Management System<sup>5</sup> shall be permitted to reduce load when multiple vehicles are charging. Eighty-five percent (85 percent) of dwelling units with parking spaces shall be provided with a minimum of Low Power Level 2 EV Ready space, which can be met by installing a 240-volt receptacle/outlet at minimum. (BARC Initiative recommendations)
  - A. Menlo Park's current requirements are similar to this recommendation as 15 percent of the units require charging stations installed, and 85 percent of units need to be *partially* EV Ready. This modification ensures 85 percent of the spaces will be EV Ready by including a receptacle/outlet that allows an EV driver to plug in without making minor building upgrades.
  - B. The modification also allows permit applicants to use low power Level 2 charging for 85 percent of dwelling units if desired and an automatic load management system. This is not available under Menlo Park's current requirements, but is a recommendation of the BARC Initiative for the following reasons:
    - Low power Level 2 can deliver 130 miles per night, compared to 270 miles for status quo Level 2 power. 130 miles per night is sufficient for a large majority of commutes.
    - Low power Level 2 requires half the service capacity of status quo Level 2 power resulting in fewer/smaller transformers.
    - About \$1,000 less in behind the meter costs for low power (\$2.3k) versus status quo Level 2 power (\$3.2k.)
6. Modification for new nonresidential (commercial): Adopt 2022 CALGreen Tier 1 EV charging requirements for consistency with the state's method of allocating EV charging requirements and they closely match Menlo Park's current requirements. The table below provides an overview of 2022 CALGreen mandatory EV charging requirements, CALGreen Tier 1 (offered as an option for local governments to adopt), and Menlo Park's current requirements.

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<sup>5</sup> A control system designed to manage load across one or more electric vehicle supply equipment (EVSE), circuits, panels and to share electrical capacity and/or automatically manage power at each connection point.

Table 1: Nonresidential (Commercial) EV charging requirements		
2022 CALGreen mandatory requirements	CALGreen Tier 1 proposed for adoption in November	Current Menlo Park requirements
<ul style="list-style-type: none"> <li>• 20% of total required spaces shall be EV capable</li> <li>• 25% EVCS (charging stations and/or supply equipment) of the EV capable spaces (or 5% of the total parking spaces)</li> <li>• Table with specific numbers provided</li> </ul> <p>One DCFC (fast charger) may be substituted for up to 5 EV capable spaces</p>	<ul style="list-style-type: none"> <li>• 30% of total required spaces shall be EV capable (no wiring and conduit)</li> <li>• 33% EVSC of EV capable spaces (or 10% of total parking spaces)</li> <li>• Table with specific numbers provided</li> </ul> <p>One DCFC (fast charger) may be substituted for up to 5 EV capable spaces</p>	<p>9,999 sf or less:</p> <ul style="list-style-type: none"> <li>• Followed CALGreen requirements</li> </ul> <p>Greater than 9,999 sf:</p> <ul style="list-style-type: none"> <li>• 15% of total spaces partially EV Ready (wiring and conduit, but no receptacle)</li> <li>• 10% of total required parking spaces EVSC</li> </ul>

Existing buildings EV charging requirements

As mentioned, 2022 CALGreen includes EV charging requirements for existing multifamily building permit projects that involve additions and alterations to the parking lot. Menlo Park does not have EV charging requirements for existing residential building permit projects at this time.

However, Menlo Park does have EV charging requirements for existing commercial (nonresidential) projects that involve additions or alterations, and these requirements still exceed CALGreen. Staff recommends readopting these requirements with no modifications or additions as part of the 2022 state code adoption process. See attachment D noting that it is only the addition and alteration requirements that will be readopted. New construction recommendations are proposed above.

Environmental Quality Commission (EQC) advice and overview of Phase 2 Reach Codes approach

In March 2022, staff presented reach code recommendations that included additional requirements for new buildings beyond those proposed in this report (e.g., removing exceptions, increasing EV charging) and requirements for existing buildings. See attachment B. The Commission was in agreement with the proposed staff recommendations, but provided further advice and recommendations to the City Council. See Attachment C for full advice to the City Council.

The EQC also requested the City Council consider additional existing building electrification requirements after the BARC Initiative<sup>6</sup> released its existing building options. In addition, the EQC requested delaying consideration of existing building requirements until support service packages were made available, such as financial programs and/or a public private partnership with BlocPower.

The City Council adopted a resolution June 14, 2022, for BlocPower to provide building electrification services in the community that also includes financial services. The BARC Initiative also released its existing building recommendations in late June 2022. Given the EQC’s established advice to the City Council on the proposed reach codes, staff began working with the City Council CAP goals 1-5 subcommittee to review the various recommendations of staff, EQC, and the BARC Initiative in July 2022.

<sup>6</sup> Peninsula Clean Energy (PCE), Silicon Valley Clean Energy (SVCE), East Bay Community Energy (EBCE), Alameda County, Santa Clara County and the San Mateo County Office of Sustainability (OOS) joined together to reduce greenhouse gas (GHG) emissions within their service territories by developing forward-thinking building and transportation electrification reach codes recommendations.

Staff and the City Council CAP goals 1-5 subcommittee are still working through these recommendations and consulting with other cities/counties in the area to determine the best approach. It is anticipated that a future City Council study session will be held in early 2023 to request direction on moving forward with specific measures for new and existing building requirements (known as Phase 2 Reach Codes.) Staff will also provide an overview of proposed public outreach to inform the community on measures City Council is considering adopting to identify any exceptions that may be needed as result or hardships that may be experienced.

In addition, foundational work is currently underway to explore modifications to Menlo Park's garage space and setback requirements in the zoning ordinance to evaluate whether there is flexibility to allow electric equipment in these spaces, such as heat pumps or battery storage. This would apply only to existing buildings. Converting water-heating equipment from gas to electric may require equipment be relocated to a setback area or garage, which would help existing buildings owners that want to voluntarily electrify their buildings now.

### **Impact on City Resources**

The adoption of the current State codes and proposed local amendments will not result in any direct costs to the City. Public informational materials, such as City webpages and/or handouts, will need to be updated to reflect minor modifications. Sustainability staff will support education efforts and update public informational materials.

### **Environmental Review**

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

### **Public Notice**

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

### **Attachments**

- A. Proposed EV charging station definitions
- B. March 2022 EQC report on Reach Codes: [menlopark.org/files/sharedassets/public/agendas-and-minutes/environmental-quality-commission/2022-meetings/agendas/20220316-environmental-quality-commission-agenda-packet.pdf#page=32](https://menlopark.org/files/sharedassets/public/agendas-and-minutes/environmental-quality-commission/2022-meetings/agendas/20220316-environmental-quality-commission-agenda-packet.pdf#page=32)
- C. Hyperlink – ECQ advice on Reach Codes:  
<https://beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/environmental-quality-commission/2022-meetings/minutes/20220316-environmental-quality-commission-minutes.pdf>
- D. Hyperlink – Menlo Park's current commercial (nonresidential) EV charging requirements:  
[menlopark.org/files/sharedassets/public/community-development/documents/nonresidential-ev-charging-requirements-final.pdf](https://menlopark.org/files/sharedassets/public/community-development/documents/nonresidential-ev-charging-requirements-final.pdf)

Staff Report #: 22-206-CC

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## Proposed Electric Vehicle Charging Definitions

**AFFORDABLE HOUSING- new definitnion.** Residential buildings that entirely consist of units below market rate and whose rents or sales prices are governed by local agencies to be affordable based on area median income.

**AUTOMATIC LOAD MANAGEMENT SYSTEM (ALMS)- added further clarity to the definition.** A control system designed to manage load across one or more electric vehicle supply equipment (EVSE), circuits, panels and to share electrical capacity and/or automatically manage power at each connection point. ALMS systems shall be designed to deliver no less than 3.3 kVa (208/240 volt, 16-ampere) to each EV Capable, EV Ready or EVCS space served by the ALMS, and meet the requirements of California Electrical Code Article 625. The connected amperage to the building site for the EV charging infrastructure shall not be lower than the required connected amperage per California Green Building Standards Code, Title 24 Part 11.

**DIRECT CURRENT FAST CHARGING (DCFC) added further clarity to the definition.** A parking space provided with electrical infrastructure that meets the following conditions:

- i. A minimum of 48 kVa (480 volt, 100-ampere) capacity wiring.
- ii. Electric vehicle supply equipment (EVSE) located within three (3) feet of the parking space providing a minimum capacity of 80-ampere.

**ELECTRIC VEHICLE CHARGING STATION (EVCS) added further clarity to the definition.** One or more electric vehicle charging spaces served by electric vehicle charger(s) or other charging equipment allowing charging of electric vehicles. Electric vehicle charging stations are not considered parking spaces. A parking space that includes installation of electric vehicle supply equipment (EVSE) at an EV Ready space. An EVCS space may be used to satisfy EV Ready space requirements. EVSE shall be installed in accordance with the California Electrical Code, Article 625.

**LEVEL 2 EV CAPABLE added further clarity to the definition.** A parking space provided with electrical infrastructure that meets the following requirements:

- i. Conduit that links a listed electrical panel with sufficient capacity to a junction box or receptacle located within three (3) feet of the parking space.
- ii. The conduit shall be designed to accommodate at least 8.3 kVa (208/240 volt, 40-ampere) per parking space. Conduit shall have a minimum nominal trade size of 1 inch inside diameter and may be sized for multiple circuits as allowed by the California Electrical Code. Conduit shall be installed at a minimum in spaces that will be inaccessible after construction, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits, and such additional elements deemed necessary by the Building Official. Construction documents shall indicate future completion of conduit from the panel to the

- parking space, via the installed inaccessible conduit.
- iii. The electrical panel shall reserve a space for a 40-ampere overcurrent protective device space(s) for EV charging, labeled in the panel directory as "EV CAPABLE."
  - iv. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.
  - v. The parking space shall contain signage with at least a 12" font adjacent to the parking space indicating the space is EV Capable.

**LEVEL 1 EV READY- new definition.** A parking space that is served by a complete electric circuit with the following requirements:

- i. A minimum of 2.2 kVa (110/120 volt, 20-ampere) capacity wiring.
- ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
- iii. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.

**LEVEL 2 EV READY added further clarity to the definition.** A parking space that is served by a complete electric circuit with the following requirements:

- i. A minimum of 8.3 kVa (208/240 volt, 40-ampere) capacity wiring.
- ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 30-ampere.

**LOW POWER LEVEL 2 EV READY added further clarity to the definition.** A parking space that is served by a complete electric circuit with the following requirements:

- i. A minimum of 4.1 kVA (208/240 Volt, 20-ampere) capacity wiring.
- ii. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
- iii. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.