



SPECIAL MEETING AGENDA

Date: 3/1/2022
Time: 5:30 p.m.
Location: [Zoom.us/join](https://zoom.us/join) – ID# 831 3316 9409

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

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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 831 3316 9409
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(669) 900-6833
Meeting ID 831 3316 9409
Press *9 to raise hand to speak

*Written public comments are accepted up to 1-hour before the meeting start time.

- Watch meeting:
 - Cable television subscriber in Menlo Park, East Palo Alto, Atherton, and Palo Alto:
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Regular Session ([Zoom.us/join](https://zoom.us/join) – ID# 831 3316 9409)

- A. Call To Order**
- B. Roll Call**
- C. Agenda Review**
- D. Closed Session**

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

- D1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
Paragraph (1) of subdivision (d) of Section 54956.9
Name of case: David Fogel et al. v. City of Menlo Park, Case No. 21-CIV-06674

E. Report from Closed Session

F. Consent Calendar

- F1. Accept the City Council meeting minutes for January 11, 25, and 28, 2022 ([Attachment](#))
- F2. Adopt a resolution (1) amending City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities to disband the City’s Housing Element Community Engagement and Outreach Committee (CEOC) and (2) amending Resolution No. 6622 to remove the CEOC from the City’s real property reporting requirements ([Staff Report #22-037-CC](#))
- F3. Authorize the city manager to extend the Joint-Use Library Initiative Memorandum of Understanding with Ravenswood City School District for Belle Haven branch library operations at Belle Haven School ([Staff Report #22-035-CC](#))
- F4. Adopt a resolution accepting and appropriating a California State Library grant in the amount of \$20,000 to develop and circulate Read Together Diversity Kits through the Belle Haven branch library ([Staff Report #22-036-CC](#))
- F5. Adopt a resolution to update the following of the Below Market Rate Housing Program Guidelines: 1) purchase and rental interest list eligibility criteria and 2) general programming-related descriptions ([Staff Report #22-043-CC](#))
- F6. 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# 22-038-CC](#))

G. Public Hearing

- G1. Declare a water shortage emergency pursuant to Water Code section 350, adopt Stage 1 Drought Measures pursuant to City’s 2020 Water Shortage Contingency Plan, and adopt a Water Conservation Plan implementing State Water Resources Control Board emergency regulations ([Staff Report #22-042-CC](#)) ([Presentation](#))

- G2. Introduce an ordinance to amend Municipal Code Chapter 7.35 on Water Conservation which provides for enforcement of conservation measures in the Water Shortage Contingency Plan ([Staff Report #22-033-CC](#)) ([Presentation](#))

H. Regular Business

- H1. Adopt a resolution determining the Utility Users Tax is necessary to the financial health of the City pursuant to Section 3.14.310 of the Municipal Code ([Staff Report #22-044-CC](#))
- H2. Adopt a resolution to install no parking restrictions on a portion of El Camino Real and timed parking restrictions on a portion of College Avenue ([Staff Report #22-039-CC](#)) ([Presentation](#))
- H3. Consider an appeal of the Complete Streets Commission's approval of two on-street parking removal requests on University Drive ([Staff Report #22-040-CC](#)) ([Presentation](#))

I. Informational Items

- I1. City Council agenda topics: March 8 – March 22, 2022 ([Staff Report #22-041-CC](#))

J. City Manager's Report

K. City Councilmember Reports

L. 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. Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 2/24/2022)



REGULAR MEETING MINUTES – DRAFT

Date: 1/11/2022
Time: 6:00 p.m.
Location: Zoom

Regular Session

A. Call To Order

Mayor Nash called the meeting to order at 6:11 p.m.

B. Roll Call

Present: Combs, Nash, Taylor, Wolosin
Absent: Mueller
Staff: City Manager Starla Jerome-Robinson, City Attorney Nira Doherty, City Clerk Judi A. Herren

C. Agenda Review

The City Council pulled items F3. and F4. for discussion.

D. Report from Closed Session

No reportable actions.

E. Public Comment

- James Pistorino spoke on concerns about the posting of this meeting's agenda in accordance with the Brown Act.
- Angela Evans spoke on an Environmental Quality Commission (EQC) project for three potential retrofit and electrification pilots in partnership with BlocPower.

The City Council received clarification on the public noticing of this meeting's agenda.

F. Consent Calendar

- F1. Accept the City Council meeting minutes for October 13, November 9, 16, December 7, 8, and 14, 2021 (Attachment)
- F2. 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 #22-006-CC)
- F3. Transmittal of the annual report on the status of the transportation impact, storm drainage, recreation in-lieu, below market rate housing in-lieu, and construction impact fees collected as of June 30, 2021 (Staff Report #22-001-CC)

The City Council requested that this item return to the City Council for a follow-up discussion on guidelines, regulations and restrictions on impact fees.

- F4. Authorize the city manager to execute a cost sharing agreement with the County of San Mateo for the Coleman and Ringwood Avenues transportation study and appropriate funding to the capital improvement plan for the study (Staff Report #22-007-CC)

The City Council directed staff to explore incorporating additional services (e.g., outreach and pilots) into the agreement.

ACTION: Motion and second (Wolosin/ Taylor), to approve the consent calendar, passed 4-0 (Mueller absent).

G. Public Hearing

- G1. ~~Public hearing regarding the adoption of a resolution adopting required findings and authorizing city to execute an energy services contract pursuant to Government Code Section 4217 and authorizing the city manager to execute an agreement with ENGIE Services US Inc. to design, construct, operate, and maintain clean energy infrastructure for the Menlo Park Community Campus project in an amount not to exceed \$5.72 million to design and construct the clean energy infrastructure; and appropriate \$5.72 million from the unassigned funds in the general fund for the project; and finding the project exempt from the California Environmental Quality Act Guidelines~~

Public hearing regarding the adoption of Resolution No. 6693 adopting required findings and authorizing city to execute an energy services contract pursuant to Government Code section 4217 and authorizing the city manager to execute an agreement with ENGIE Services US Inc. to design, construct, operate, and maintain clean energy infrastructure for the Menlo Park Community Campus project in an amount not to exceed \$5.72 million to design and construct the clean energy infrastructure; and appropriate \$5.72 million from the assigned and unassigned funds in the general fund for the project; and finding the project exempt from the California Environmental Quality Act Guidelines (Staff Report #22-008-CC)

Sustainability Manager Rebecca Lucky made the presentation (Attachment).

- James Pistorino spoke on concerns about the posting of this meeting's agenda and the adoption of a resolution in accordance with the Brown Act and the requesting of documents related to the calculations of the cost savings.
- Frengiz Surty spoke in support of the adoption of the resolution.
- Rebecca Eliscu spoke in support of the adoption of the resolution.
- Angela Evans spoke in support of the adoption of the resolution.

The City Council received clarification on the public noticing of this item, electric vehicle (EV) charging stations, guaranteed cost savings, community outreach, and the request for proposals process.

ACTION: Motion and second (Wolosin/ Combs), to adopt Resolution No. 6693 1) adopting required findings and authorizing the city manager to execute an agreement with ENGIE Services US Inc. to design, construct, operate, and maintain clean energy infrastructure consisting of a solar plus battery storage microgrid, a solar photovoltaic thermal pool heating system, and 27 EV charging capable spaces for the Menlo Park Community Campus project in an amount not to exceed \$5.72 million (inclusive of nine percent contingency of \$470,178) for the design and construction aspects of the clean energy infrastructure; and 2) appropriate \$3.22 million from the unassigned fund balance and \$2.5 million from the economic stabilization assigned fund balance in the general fund for the design and construction aspects of this project; and 3) find

the project exempt from the California Environmental Quality Act (CEQA) Guidelines, passed 4-0 (Mueller absent).

H. Regular Business

H1. Appointment of interim city manager and approval of compensation for interim city manager services (Staff Report #22-009-CC)

Legal Counsel Genevieve Ng introduced the item.

- Katie Behroozi spoke in support of the appointment of Justin Murphy as Interim City Manager.

ACTION: Motion and second (Combs/ Wolosin), to appoint Justin Murphy as interim city manager and approve a salary increase of 7.72% to \$245,000 for interim city manager services, passed 4-0 (Mueller absent).

H2. Adopt a resolution approving and authorizing the Mayor to execute the second amendment to and restatement of the joint powers agreement establishing the Peninsula Traffic Congestion Relief Alliance and appoint representatives to the Peninsula Traffic Congestion Relief Alliance board of directors (Staff Report #22-004-CC)

Assistant Public Works Director Hugh Louch and Transportation Demand Management Coordinator Nicholas Yee made the presentation (Attachment).

- Adina Levin spoke in support of the resolution, agreement, and membership on the Commute.org board.

ACTION: Motion and second (Combs/ Nash), to adopt a resolution approving and authorizing the Mayor to execute the second amendment to and restatement of the joint powers agreement establishing the Peninsula Traffic Congestion Relief Alliance (Alliance), which will formalize the City of Menlo Park's membership in the Alliance, and to appoint Vice Mayor Wolosin as the representative and City Councilmember Combs as the alternate to the Alliance board of directors, passed 4-0 (Mueller absent).

H3. Adopt a resolution to approve changes to the transportation impact analysis guidelines related to vehicle miles traveled thresholds and other minor corrections (Staff Report #22-005-CC)

Assistant Public Works Director Hugh Louch and Senior Transportation Engineer Kristiann Choy made the presentation (Attachment).

- Adina Levin reported on the activities of the Complete Streets Commission.

The City Council discussed expediting measurements to capture safety and other road users consistent with City vision zero, complete streets, and safe routes to school goals and programs.

The City Council directed staff to return to the City Council with multimodal metrics.

ACTION: Motion and second (Combs/ Nash), to adopt a resolution to approve a set of technical updates to the City's transportation impact analysis (TIA) guidelines and repeal all prior versions of the TIA guidelines to address calculation of the vehicle miles traveled thresholds and other minor changes, passed 4-0

(Mueller absent).

- H4. Adopt Resolution No. 6690 authorizing the city manager to execute a purchase and sale agreement for a portion of 700-800 El Camino Real to support implementation of the Middle Avenue pedestrian and bicycle rail undercrossing project and making specified findings in association therewith consistent with the certified El Camino Real and Downtown specific plan environmental impact report and the certified addendum to the specific plan environmental impact report (Staff Report #22-003-CC)

Assistant Public Works Director Hugh Louch made the presentation (Attachment).

- Adina Levin spoke in support of the project.

The City Council discussed the costs and timeline associated with the project.

ACTION: Motion and second (Nash/ Wolosin), to adopt Resolution No. 6690 authorizing the city manager to execute a purchase agreement in substantially the same form as Exhibit A of Attachment A of Staff Report #22-003-CC with Menlo Station Development, LLC, for a portion of 700-800 El Camino Real (APN 071-333-200) to support implementation of the Middle Avenue pedestrian and bicycle rail crossing project and make specified findings in association therewith consistent with the certified El Camino Real and Downtown specific plan environmental impact report and the certified addendum to the specific plan environmental impact report, passed 4-0 (Mueller absent).

- H5. Consideration and direction on 1) the composition and charge of the Housing Element Community Engagement and Outreach Committee and 2) amendments to the consultant's scope of work (Staff Report #22-010-CC)

Assistant Community Development Director Deanna Chow made the presentation (Attachment).

- Brittani Baxter spoke in support of additional investments aimed at community engagement.
- Pam Jones provided options on the housing element in collaboration with the Housing Element Community Engagement and Outreach Committee (CEOC).
- Michal Bortnik spoke in support of including extra funding for community outreach.
- Lesley Fleischman expressed the experience of serving on the CEOC and in support of restarting the CEOC.

The City Council received clarification on the environmental justice component in relationship to the housing element, reviewing a summary of the previous housing element, and the annual review.

The City Council discussed the efforts made by the CEOC and staff, the setback from the discarded surveys, legal requirements of the housing element, polling existing CEOC members to continue the CEOC, the City Council and staff's role in working with current and former CEOC members, reduction in the number of CEOC members, and amendments to the consultant's scope of work to support changes directed by City Council.

The City Council directed Mayor Nash and City Councilmember Taylor to connect with current and former CEOC members on their interest in serving on the CEOC and to return to staff with an update and directed staff to identify a community based organization to provide additional outreach in

District 1 in preparation of the environmental justice element.

I. Informational Items

- I1. City Council agenda topics: January 25 – February 8, 2022 (Staff Report #22-011-CC)
- I2. Update – Re-Imagining Public Safety Subcommittee (Staff Report #22-002-CC)

J. City Manager's Report

None.

K. City Councilmember Reports

Vice Mayor Wolosin reported out on the city manager recruitment and a climate event on January 14, 2022.

Mayor Nash reported out on a meeting with BlocPower founder Donnel Baird, EQC Vice Chair Angela Evans, Menlo Spark Director Diane Bailey, and local investors and sponsors.

L. Adjournment

Mayor Nash adjourned the meeting at 9:36 p.m.

Judi A. Herren, City Clerk

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REGULAR MEETING MINUTES – DRAFT

Date: 1/25/2022
Time: 6:00 p.m.
Location: Zoom

Regular Session

A. Call To Order

Mayor Nash called the meeting to order at 6:02 p.m.

B. Roll Call

Present: Combs, Mueller, Nash, Taylor, Wolosin
Absent: None
Staff: City Manager Starla Jerome-Robinson, City Attorney Nira Doherty, City Clerk Judi A. Herren

The City Council recognized John Arrillaga and his contributions to Menlo Park.

C. Agenda Review

Staff reordered public comment for closed session item K1.

The City Council pulled item F3. for discussion.

D. Presentations and Proclamations

D1. Proclamation: Condemning Anti-Semitism (Attachment)

Mayor Nash read the proclamation (Attachment).

Tyler Gregory, CEO of the Jewish Community Relations Council accepted the proclamation.

D2. Proclamation: Taking a Stand Against Human Trafficking in the Bay Area (Attachment)

Mayor Nash read the proclamation (Attachment).

Pamela Estes San Mateo County Human Trafficking Program Coordinator accepted the proclamation.

D3. Proclamation: Recognizing Starla Jerome-Robinson

Mayor Nash read the proclamation (Attachment).

Starla Jerome-Robinson accepted the proclamation.

E. Public Comment

- Meta representative Ashley Quintana spoke on the opening of the pedestrian bridge over Bayfront Expressway and Meta Park.

K1. Closed Session – Public Comment

- K1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: David Fogel et al. v. City of Menlo Park, Case No. 21-CIV-06674

None.

F. Consent Calendar

- F1. Accept the City Council meeting minutes for December 28, 2021 and January 7, 2022 (Attachment)
- F2. Adopt a resolution approving the City Council Community Funding Subcommittee’s recommendations for 2021-22 community funding allocations; and authorizing a fiscal year 2021-22 budget amendment and appropriation in the amount of \$17,000 from general fund unassigned fund balance (Staff Report #22-012-CC)
- F3. Waive the competitive bidding process; and authorize the city manager to execute a master agreement with Optony Inc. in an amount not to exceed \$130,000 per year to support 2030 climate action plan implementation and clean energy infrastructure for the Menlo Park Community Campus project (Staff Report #22-013-CC)

The City Council received clarification on waiving of the competitive bid process and City staff resources.

- F4. Adopt a resolution to accept Federal Emergency Management Agency Building Resilient Infrastructure and Communities grant funds, if awarded, and authorize the city manager to execute a memorandum of understanding with partners for a portion of the Strategy to Advance Flood Protection, Ecosystems and Recreation along the San Francisco Bay project (Staff Report #22-014-CC)
- F5. Award a construction contract to Radius Earthwork Inc. for the Middle Avenue and Nealon Park pedestrian improvement project (Staff Report #22-018-CC)
- F6. Award a construction contract to Columbia Electric, Inc. and appropriate \$211,300 in assigned funds from the general fund for the series circuit and street light replacement in the Suburban Park and Flood Triangle neighborhood project (Staff Report #22-019-CC)

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

G. Regular Business

- G1. Adopt an urgency ordinance temporarily closing the north bound travel lane on the 600 block of Santa Cruz Avenue and a portion of Ryan’s Lane, and authorizing the establishment and issuance of temporary outdoor activity permits allowing businesses to safely conduct their businesses outdoors during the COVID-19 state of emergency (Staff Report #22-021-CC)

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

- Café Zoe owner Kathleen Daly spoke in support of the street closure to vehicle traffic and

temporary outdoor activity permits.

- Oros spoke in opposition of the street closure to vehicle traffic and spoke in support of parklet closures only.
- Alex Beltramo spoke in opposition of the street closure to vehicle traffic and in support of parklet closures only.
- Chamber of Commerce CEO Fran Dehn spoke in support of the street closure to vehicle traffic and temporary outdoor activity permits.

The City Council discussed staff returning with design standards for the parklets, alignment of expiration dates for permits and street closures, the vision of the Downtown's future, and City Council Downtown Subcommittee charge.

The City Council received clarification on temporary outdoor use permit program on a month to month basis and street closure without an expiration and HdL's Downtown market study.

The City Council 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 current parklets/street cafes in off-street parking spaces to align with the Downtown street closure expiration.

ACTION: Motion and second (Nash/ Combs), to adopt an urgency ordinance to continue the Downtown street closure program to reflect continued temporary closure of the north bound 600 block of Santa Cruz Avenue and a portion of Ryan's Lane, passed unanimously.

G2. Provide feedback on the Caltrain quiet zone implementation plan request for proposals (Staff Report #22-020-CC)

Assistant Public Works Director Hugh Louch and Associate Transportation Engineer Phong Vo made the presentation (Attachment).

- Marcy Abramowitz spoke in support of the quiet zone and resident participation and requested that the request for proposals (RFP) include California specific experience with quiet zones and inclusion of the pedestrian crossing at the Menlo Park Caltrain station.
- Adina Levin spoke in support of the quiet zone and the Palo Alto Avenue crossing horn noise impacts to Menlo Park residents.
- Adrian Brandt spoke in support of the quiet zone.
- Susannah Ragab spoke in support of the quiet zone.
- George Ugras spoke in support of the quiet zone and including the Palo Alto Avenue crossing.

The City Council discussed including the Palo Alto Avenue crossing in the RFP, including the pedestrian crossing at the Menlo Park Caltrain station, and California experience with quiet zones in the RFP.

The City Council received clarification on the selection of vendor as qualification-based opposed to cost-based.

ACTION: Motion and second (Wolosin/ Taylor), to authorize the quiet zone implementation plan request for proposals per the feedback of the City Council, passed unanimously.

H. Informational Items

- H1. City Council agenda topics: January – February 22, 2022 (Staff Report #22-015-CC)
- H2. Police department quarterly update – Q2 July – September 2021 (Staff Report #22-016-CC)
- H3. Personnel activity report as of January 2022 (Staff Report #22-017-CC)

I. City Manager's Report

Interim City Manager Justin Murphy reported out on the opening of the pedestrian bridge at Meta Park, provided an update on the housing element project, and a housing element virtual meeting on February 12, 2022.

J. City Councilmember Reports

None.

Adjournment to Closed Session

Mayor Nash adjourned to the closed session at 8:22 p.m.

K. Closed Session

- K1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: David Fogel et al. v. City of Menlo Park, Case No. 21-CIV-06674

No reportable actions.

L. Adjournment

Mayor Nash adjourned the meeting at 9:55 p.m.

Judi A. Herren, City Clerk

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SPECIAL MEETING MINUTES – DRAFT

Date: 1/28/2022
Time: 3:00 p.m.
Location: Zoom

Closed Session

A. Call To Order

Mayor Nash called the meeting to order at 3:04 p.m.

B. Roll Call

Present: Combs, Mueller, Nash, Taylor, Wolosin
Absent: None
Staff: City Attorney Nira Doherty, City Clerk Judi A. Herren

C. Closed Session

C1. Closed Session pursuant to Government Code Section 54957
PUBLIC EMPLOYMENT
Title: City Manager

No reportable actions.

D. Adjournment

Mayor Nash adjourned the meeting at 4:41 p.m.

Judi A. Herren, City Clerk

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STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-037-CC

Consent Calendar:

Adopt a resolution (1) amending City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities to disband the City's Housing Element Community Engagement and Outreach Committee (CEOC) and (2) amending Resolution No. 6622 to remove the CEOC from the City's real property reporting requirements

Recommendation

Staff recommends that the City Council adopt a resolution (Attachment A) (1) amending City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities (Exhibit A to resolution) to disband the City's Housing Element Community Engagement and Outreach Committee (CEOC) and (2) amending Resolution No. 6622 to remove the CEOC from the City's real property reporting requirements (Exhibit B to resolution.)

Policy Issues

According to City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities, upon recommendation by the Chair or appropriate staff, any standing or special advisory body, established by the City Council and whose members were appointed by the City Council, may be declared disbanded due to lack of business, by majority vote of the City Council.

Background

At the April 27, 2021, City Council meeting, the City Council authorized the formation of the CEOC for the housing element update project. As originally contemplated, the CEOC would be comprised of 10 members, with five members appointed by the City Council (one from each district) and the remaining five anticipated to be selected at random by the City Council. The CEOC's overall purpose was to assist the City in ensuring a broad and inclusive community outreach and engagement process. The primary responsibilities of the group were to:

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

On May 25, 2021, the City Council considered CEOC applicants and made 12 appointments and added two placeholders for District 5 members, ultimately filling one of the two seats for District 5.

At the January 11, 2022 City Council meeting, the City Council considered the composition and charge of

the CEOC and directed Mayor Nash and City Councilmember Taylor to connect with current and former CEOC members on their interest in serving on the CEOC and to return with an update.

On February 8, 2022, the City Council discussed modifications to the composition and charge of the CEOC and directed staff to return an item to the City Council disbanding the CEOC.

Analysis

City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities is proposed to be revised to remove the CEOC from the purview of these procedures. Additionally, staff recommends revising Resolution No. 6622 which sets forth the various City bodies subject to the City's real property reporting requirements. Resolution No. 6622 would be revised to remove the CEOC from the purview of the real property reporting requirements.

Impact on City Resources

There is no impact on City resources.

Environmental Review

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

Public Notice

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

Attachments

A. Resolution and Exhibits A and B

Report prepared by:
Judi A. Herren, City Clerk

RESOLUTION NO. XXXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING CITY COUNCIL POLICY CC-21-004
COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND
RESPONSIBILITIES TO DISBAND THE CITY'S HOUSING ELEMENT
COMMUNITY ENGAGEMENT AND OUTREACH COMMITTEE (CEOC) AND
AMENDING RESOLUTION NO. 6622 TO REMOVE THE CEOC FROM THE
CITY'S REAL PROPERTY REPORTING REQUIREMENTS**

WHEREAS, the City Council established the Housing Element Community Engagement and Outreach Committee (CEOC) on April 27, 2021, to assist the City in ensuring a broad and inclusive community outreach and engagement process; and

WHEREAS, in on May 25, 2021, the City Council considered CEOC applicants and made 12 appointments and added two placeholders for District 5 members; and

WHEREAS, in on April 27, 2021, the City Council required the reporting of real property in Menlo Park for advisory body members impacting land use, real property, and the housing element with the reporting requirement applying to current and future members of the Complete Streets Commission, Housing Commission, and Housing Element Community Engagement and Outreach Committee; and

WHEREAS, on January 11, 2022, the City Council considered the composition and charge of the CEOC and directed Mayor Nash and City Councilmember Taylor to connect with current and former CEOC members on their interest in serving on the CEOC and to return with an update; and

WHEREAS, on February 8, 2022, the City Council discussed modifications to the composition and charge of the CEOC and directed staff to return an item to the City Council disbanding the CEOC; and

WHEREAS, this Resolution implements the City Council's direction by amending City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities to eliminate the CEOC, and by amending Resolution No. 6622 approving the Menlo Park advisory bodies real property reporting form and requiring certain advisory bodies of the City of Menlo Park to submit said form on an annual basis to remove the CEOC from the City's real property reporting requirements.

NOW, THEREFORE, IT IS RESOLVED, that City Council Policy CC-21-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities is hereby amended as set forth in Exhibit A.

BE IT FURTHER RESOLVED, that Resolution No. 6622 is hereby amended as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

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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 first of March, 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 March, 2022.

Judi A. Herren, City Clerk

Exhibits:

- A. City Council Policy CC-22-004 Commissions/Committees Policies and Procedures, Roles and Responsibilities
- B. Amended Resolution No. 6622

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES



City Council Procedure #CC-2122-004

Effective ~~6/08/2021~~03/01/2022

Resolution No. ~~6634~~XXXX

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

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-~~2122~~-004

Effective ~~6/08/2021~~03/01/2022

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

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

Role of City Council commission/committee liaison

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

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

Typically, assignments to commission/committee liaison positions are made at the beginning of a City Council term in December. The Mayor will ask City Councilmembers which liaison assignments they desire and will submit recommendations to the full City Council regarding the various committees, boards, and commissions which City Councilmembers will represent as a liaison. In the rare instance where more than one City Councilmember wishes to be the appointed liaison to a particular commission, a vote of the City Council will be taken to confirm appointments.

City Staff Liaison

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

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

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

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

Recommendations, requests and reports

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

City Council referrals

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

Public appearance of commission/committee members

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

Disbanding of advisory body

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

Meetings and officers

1. Agendas/notices/minutes

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

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

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

2. *Conduct and parliamentary procedures*

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

3. *Lack of a quorum*

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

4. *Meeting locations and dates*

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

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

The schedule of Commission/Committee meetings is as follows:

• ~~Community Engagement and Outreach Committee~~ — as needed

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

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

5. *Off-premises meeting participation*

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

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

6. *Selection of chair and vice chair*

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

G. Memberships

Appointments/Oaths

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

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

Attendance

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

Compensation

- Members shall serve without compensation (unless specifically provided) for their services, provided

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however, members shall receive reimbursement for necessary travel expenses and other expenses incurred on official duty when such expenditures have been authorized by the City Council (See Policy CC-91-002).

Conflict of interest and disclosure requirements

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

Qualifications, compositions, number

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

Reappointments, resignations, removals

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

Term of office

- Unless specified otherwise, the term of office for all commission/committee shall be four (4) years unless a resignation or a removal has taken place. The Finance and Audit Committee term of office shall be two (2) years. ~~The Community Engagement and Outreach Committee term is for eighteen~~

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~~(18) months.~~

- If a person is appointed to fill an unexpired term and serves less than two years, that time will not be considered a full term. However, if a person is appointed to fill an unexpired term and serves two years or more, that time will be considered a full term.
- Terms are staggered to be overlapping four-year terms, so that all terms do not expire in any one year.
- If a member resigns before the end of his/her term, a replacement serves out the remainder of that term.

Vacancies

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

Roles and Responsibilities

~~Community Engagement and Outreach Committee~~

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

~~Roles and responsibilities:~~

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

Complete Streets Commission

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

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

Environmental Quality Commission

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

- Preserving heritage trees
- Using best practices to maintain city trees

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

Finance and Audit Committee

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

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

Housing Commission

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

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

Library Commission

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

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

Parks and Recreation Commission

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

COMMISSIONS/COMMITTEES POLICIES AND PROCEDURES, ROLES AND RESPONSIBILITIES

City Council Policy #CC-~~2122~~-004

Effective ~~6/08/2021~~03/01/2022

Resolution No. ~~6631~~XXXX

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

Planning Commission

The Planning Commission is organized according to State Statute.

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

Special Advisory Bodies

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

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

Procedure history

| Action | Date | Notes |
|---------------------------|-----------------|----------------------------|
| Procedure adoption | 1991 | Resolution No. 3261 |
| Procedure adoption | 2001 | |
| Procedure adoption | 2011 | |
| Procedure adoption | 2013 | Resolution No. 6169 |
| Procedure adoption | 2017 | Resolution No. 6377 |
| Procedure adoption | 6/8/2021 | Resolution No. 6631 |
| <u>Procedure adoption</u> | <u>3/1/2022</u> | <u>Resolution No. XXXX</u> |

RESOLUTION NO. 6622

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
APPROVING THE MENLO PARK ADVISORY BODIES REAL PROPERTY
REPORTING FORM AND REQUIRING CERTAIN ADVISORY BODIES OF THE CITY
OF MENLO PARK TO SUBMIT SAID FORM ON AN ANNUAL BASIS**

WHEREAS, City Council adopts, by ordinance, reporting requirements of various financial interests that may present a conflict of interest for decision makers include public officials, governmental employees and consultants; and

WHEREAS, the City would require additional appointed officials who are not required to submit Form 700s as governed by the City's conflict of interest code, to submit, on an annual basis, a report detailing real property interests within the City of Menlo Park; and

WHEREAS, the reporting of real property in Menlo Park for advisory body members impacting land use, real property, and the housing element; and

WHEREAS, those required to report such interests include those officials and positions that impact, influence or advise on land use, real property, and the City's general plan housing element; and

WHEREAS, the new reporting requirements would apply to current and future members of the Complete Streets Commission, and Housing Commission, ~~and Housing Element Community Engagement and Outreach Committee.~~

NOW, THEREFORE, BE IT RESOLVED, the City shall require the reporting of real property in Menlo Park for advisory body members impacting land use, real property, and the housing element; and

BE IT FURTHER RESOLVED, these additional appointed officials who are not required to submit Form 700s as governed by the City's conflict of interest code are to submit form on an annual basis.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Judi A. Herren, City Clerk

RESOLUTION NO. 6622

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
 APPROVING THE MENLO PARK ADVISORY BODIES REAL PROPERTY
 REPORTING FORM AND REQUIRING CERTAIN ADVISORY BODIES OF THE CITY
 OF MENLO PARK TO SUBMIT SAID FORM ON AN ANNUAL BASIS**

WHEREAS, City Council adopts, by ordinance, reporting requirements of various financial interests that may present a conflict of interest for decision makers include public officials, governmental employees and consultants; and

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BE IT FURTHER RESOLVED, these additional appointed officials who are not required to submit Form 700s as governed by the City's conflict of interest code are to submit form on an annual basis.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Judi A. Herren, City Clerk



STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-035-CC

Consent Calendar:

Authorize the city manager to extend the Joint-Use Library Initiative Memorandum of Understanding with Ravenswood City School District for Belle Haven branch library operations at Belle Haven School

Recommendation

Staff recommends that the City Council authorize the city manager to extend the Joint-Use Library Initiative Memorandum of Understanding (Attachment A) between the City of Menlo Park (City) and Ravenswood City School District (RCSD) to operate a community branch library in Belle Haven School for 24 additional months through June 30, 2024, or until ninety (90) days have elapsed after certificate of occupancy is issued for the Menlo Park Community Campus (MPCC) project, whichever comes first.

Policy Issues

City Council has sole authority to authorize the city manager to negotiate, execute, and/or renew agreements on behalf of the City.

Background

Belle Haven Branch Library (branch library) is operated by the City of Menlo Park and is located in the Belle Haven School facility owned by RCSD. The City and RCSD in 2020 renewed the Joint-Use Library Initiative Memorandum of Understanding (MOU) to articulate roles and responsibilities regarding the branch library operations and facility. The current MOU is due to expire June 30, 2022 (Attachment B.)

The MPCC project is under construction and is anticipated to open in summer 2023. When the MPCC is completed, the City will relocate branch library operations from Belle Haven School to the MPCC. Until the MPCC project is completed and the relocation of branch library operations to the new facility is complete, it is desirable and in the best interests of the community to continue to operate the branch library at Belle Haven School.

Analysis

Staff recommends extending the current MOU term for 24 additional months through June 30, 2024, or until ninety (90) days have elapsed after certificate of occupancy is issued for the MPCC project, whichever comes first (Attachment A.)

This approach will:

- Allow branch library operations to continue in the Belle Haven School facility without interruption until the new facility opens

- Allow the option to continue branch library operations uninterrupted at Belle Haven School in the event unforeseen delays in MPPC construction or occupancy arise that delay the opening date past summer 2023
- Provide a 90-day window after the MPCC opens to conduct a seamless decommissioning of City-operated library services at Belle Haven School after branch library operations have relocated to the new facility.

Staff recommends no other changes to the existing MOU at this time. On February 10, 2022, the RCSD board of trustees authorized the superintendent of schools to extend the MOU (Attachment C.)

Impact on City Resources

There is no impact on City resources.

Environmental Review

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

Public Notice

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

Attachments

- A. Renewal agreement
- B. Current agreement
- C. Hyperlink – Ravenswood City School District Board of Trustees authorization for the superintendent of schools to extend the MOU; February 10, 2022: agendaonline.net/public/ravenswood/

Report prepared by:
Sean S. Reinhart, Library and Community Services Director



**EXTENSION OF THE JOINT-USE LIBRARY INITIATIVE
MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN RAVENSWOOD CITY SCHOOL DISTRICT
AND CITY OF MENLO PARK**

WHEREAS, Ravenswood City School District (“RCSD”) and City of Menlo Park (“City”) desire to renew the existing Joint-Use Library Initiative Memorandum of Understanding (“MOU”) for operations of the Belle Haven Community Library located at 413 Ivy Drive in Menlo Park, California; and,

WHEREAS, the existing MOU is set to expire on June 30, 2022; and,

WHEREAS, the COVID-19 pandemic created previously unforeseen design, supply chain and logistical delays, resulting in a revised opening date for the new community library at the Menlo Park Community Campus (MPCC) now under construction; and,

WHEREAS, RCSD and City mutually desire to extend the term of the MOU to allow community library operations to continue at Belle Haven School without interruption until MPCC facility construction is complete and the facility opens to the public; and,

WHEREAS, RCSD and City mutually desire to provide up to ninety (90) days after the MPCC opens to allow for a seamless decommissioning, transition and relocation of City-operated library services from Belle Haven School to the MPCC; and,

WHEREAS, RCSD and City mutually desire to make no other changes to the existing MOU at this time, except for term extension noted above;

NOW, THEREFORE, RCSD and City hereby agree to renew the Joint-Use Library Initiative Memorandum of Understanding (“MOU”) for operations of the Belle Haven Community Library through June 30, 2024, or until ninety (90) days have elapsed after the Certificate of Occupancy is issued for the Menlo Park Community Campus facility, whichever comes first.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands:

CITY OF MENLO PARK

Justin I. C. Murphy
Interim City Manager, City of Menlo Park

Date

RAVENSWOOD CITY SCHOOL DISTRICT

Gina Sudaria
Superintendent of Schools

Date



RENEWAL OF THE JOINT-USE LIBRARY INITIATIVE
MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN RAVENSWOOD CITY SCHOOL DISTRICT
AND CITY OF MENLO PARK

WHEREAS, Ravenswood City School District (“RCSD”) and City of Menlo Park (“City”) desire to renew the existing Joint-Use Library Initiative Memorandum of Understanding (“MOU”) for operations of the Belle Haven Community Library located at 413 Ivy Drive in Menlo Park, California; and,

WHEREAS, the existing MOU is set to expire on June 30, 2020; and,

WHEREAS, RCSD and City mutually desire to extend the term of the MOU for twenty-four (24) additional months through June 30, 2022; and,

WHEREAS, RCSD and City mutually desire to make no other changes to the existing MOU at this time, except for term extension noted above;

NOW, THEREFORE, RCSD and City hereby agree to renew the Joint-Use Library Initiative Memorandum of Understanding (“MOU”) for operations of the Belle Haven Community Library for twenty-four (24) additional months through June 30, 2022.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands:

CITY OF MENLO PARK

DocuSigned by:
Starla Jerome-Robinson
8BD907BD261744C

Starla Jerome-Robinson
City Manager, City of Menlo Park

5/19/2020

Date

RAVENSWOOD CITY SCHOOL DISTRICT

DocuSigned by:
Gina Sudaria
164BAB620080406

Gina Sudaria
Superintendent of Schools

5/20/2020

Date

Attachment: Joint-Use Library Initiative Memorandum of Understanding



Ravenswood City School District

ADMINISTRATIVE OFFICE

2120 Euclid Avenue, East Palo Alto, California 94303
(650) 329-2800 Fax (650) 323-1072

Board Members:
Tamara Sobomelin, President
Stephanie Fitch, Vice President
Marielena Gaona-Mendoza, Clerk
Ana Maria Pulido, Member
Sharifa Wilson, Member

Mr. Gina Sudaria
Interim Superintendent

Inter-Departmental Correspondence
Curriculum and Instruction

Date: May 14, 2019
Board Meeting Date: May 23, 2019
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Trustees
From: Gina Sudaria, Acting Superintendent
Subject: Consideration to approve the MOU renewal between The Belle Haven Community Library and Ravenswood City School District

Quick Summary/Abstract:

The Belle Haven Community Library will continue partnership with the Ravenswood City School District to provide the youth of our community with the expanded learning time opportunities they need to achieve school success.

Discussion:

The renewal for Belle Haven Community Library to extend through the June 30, 2020 school year.

Fiscal Impact:

There's no financial impact to Ravenswood City School District

RECOMMENDATION:

We recommend that the Board of trustee approve the contract extension between Ravenswood City School District (RCSD) and The Belle Haven Community Library

Board Approved: Jun 4, 2019



RENEWAL OF THE JOINT-USE LIBRARY INITIATIVE
MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN RAVENSWOOD CITY SCHOOL DISTRICT
AND CITY OF MENLO PARK

WHEREAS, Ravenswood City School District ("RCSD") and City of Menlo Park ("City") desire to renew the existing Joint-Use Library Initiative Memorandum of Understanding ("MOU") for operations of the Belle Haven Community Library located at 413 Ivy Drive in Menlo Park, California; and,

WHEREAS, the existing MOU is set to expire on June 30, 2019; and,

WHEREAS, RCSD and City mutually desire to extend the term of the MOU for twelve (12) additional months through June 30, 2020; and,

WHEREAS, RCSD and City mutually desire to make no other changes to the existing MOU at this time, except for term extension noted above;

NOW, THEREFORE, RCSD and City hereby agree to renew the Joint-Use Library Initiative Memorandum of Understanding ("MOU") for operations of the Belle Haven Community Library for twelve (12) additional months through June 30, 2020.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands:

CITY OF MENLO PARK

Starla Jerome-Robinson

Starla Jerome-Robinson (Jun 6, 2019)

Starla Jerome-Robinson
City Manager, City of Menlo Park

Jun 6, 2019

Date

RAVENSWOOD CITY SCHOOL DISTRICT

Gina Sudaria

Gina Sudaria (Jun 4, 2019)

Gina Sudaria
Interim Superintendent of Schools

Jun 4, 2019

Date

Attachment: Joint-Use Library Initiative Memorandum of Understanding






Belle Haven Community Library MOU

Final Audit Report

2019-06-06

| | |
|-----------------|---|
| Created: | 2019-06-06 |
| By: | Manny Del Valle (mdelvalle@ravenswoodschools.org) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAABtTbnX2R0BUUjy4DzunZupaBWR9y3eE |

"Belle Haven Community Library MOU" History

-  Document created by Manny Del Valle (mdelvalle@ravenswoodschools.org)
2019-06-06 - 4:44:09 PM GMT- IP address: 149.20.81.200
-  Document emailed to Starla Jerome-Robinson (srobinson@menlopark.org) for signature
2019-06-06 - 4:45:13 PM GMT
-  Email viewed by Starla Jerome-Robinson (srobinson@menlopark.org)
2019-06-06 - 4:54:18 PM GMT- IP address: 149.20.89.9
-  Document e-signed by Starla Jerome-Robinson (srobinson@menlopark.org)
Signature Date: 2019-06-06 - 4:55:03 PM GMT - Time Source: server- IP address: 149.20.89.9
-  Signed document emailed to Starla Jerome-Robinson (srobinson@menlopark.org) and Manny Del Valle (mdelvalle@ravenswoodschools.org)
2019-06-06 - 4:55:03 PM GMT



"OUR CHILDREN – OUR FUTURE"

**Ravenswood City School District
Business Services Office**

2120 Euclid Avenue, East Palo Alto, California 94303
(650) 329-2800 Fax (650) 323-9454

Board Members:

Sharifa Wilson, President
Ana Maria Pulido Vice President
Marcelino López, Clerk
Charlie M. Knight, Member
Marielena Gaona-Mendoza, Member

Gloria M. Hernandez-Goff, Ed. D.
Superintendent

**Ravenswood City School District Joint-Use Library Initiative
Memorandum of Understanding (MOU)
July 1, 2017-June 30, 2019**

Purpose

The purpose of this MOU is to articulate roles and responsibilities for the successful collaboration of the Ravenswood School District's (District) Belle Haven School in Menlo Park and the City of Menlo Park (City) Branch Library. The overarching goal of this MOU is to help support the effective operation of the City Branch Library for the benefit of the Menlo Park community and the District students and parents. District and City will work toward operating, maintaining and fostering a learning environment as outlined in the shared responsibilities as defined in this MOU.

This MOU is entered into with reference to the following facts:

District owns and operates the Belle Haven School, which has a library facility and equipment located therein.

City operates and staffs a branch public library at the Belle Haven School, utilizing the District's library facility, which shall hereinafter be referred to as the "joint use library facility."

City and District collaborating to provide services at the joint use library facility at Belle Haven School is in the best interests of the citizens of Menlo Park.

District anticipates utilizing Library Instructional Media Specialist (LIMS) position(s) to assist the school site staff in the joint use library facility by:

1. implementing technology;
2. assisting students in the use of technology and media technology in the learning process;
3. assisting teachers, individuals and/or groups of students in finding and selecting appropriate resource materials, books and other library materials; and
4. promoting the use of technology and media to support learning.

District will be responsible for:

- Hiring, supervising and compensating the Library Instructional Media Specialist (LIMS);
- Hiring, supervising and compensating facilities (custodian and maintenance) employee(s) which the District wishes to provide in the Library;
- Resolving all personnel issues with respect to District employees;

- Providing maintenance of the buildings and grounds housing the joint-use facility, including security, janitorial service, mail, telephone service, all supplies and equipment necessary to operate a school library;
- Assigning LIMS to the City Branch Library from 8:00 to 3:00 each school day;
- Ensuring the safety, beautification and improvements of school premises and other issues, as needed;
- Locking and securing the Library if City library staff are not present in the Branch Library itself when Library is operating as a school library;
- Storing and distributing text books from a location other than the Branch Library facility;
- Requiring all District staff working in the library to sign a non-disclosure agreement with Peninsula Library System in order to have access to the circulation/catalogue system; and
- Requiring all District staff to comply with all Peninsula Library System circulation/cataloging regulations, consistent with City practice.

The City will be responsible for:

- Hiring, supervising and compensating City Library staff including salary and benefits;
- Resolving all personnel related and employment issues with respect to City employees.
- Providing personnel to staff the joint-use library facility during the public access hours of operation as determined by the City;
- Providing training of appropriate District employees of the Library's automated circulation procedures and other applicable policies for management and operation of the joint-use facility;
- Cataloging all library materials and additional materials subsequently purchased;
- Providing computer hardware and software necessary to handle circulation and patron functions, including sufficient on-line public access circulation/catalog terminals to access the library holdings database;
- Providing for the costs related to circulation/catalog computer hardware, software and connecting the computers to specific City or Peninsula Library systems;
- Acquiring children's, young adult and adult materials consistent with interests and needs of residents; and
- Collaborating with District staff, community stakeholders, and partners.

City, District and the Belle Haven Community Library will jointly be responsible for:

- Collaborating to offer library programs and hours of operation that benefits the District students, parents, and community, consistent with the level of funding from the City and the District;
- Participating in program evaluation efforts, including evaluation design, data collection, interpretation and dissemination, as needed;
- Participating in learning community meetings and other partners to discuss progress and lessons learned, as appropriate;
- Developing a common system of operating procedures based largely on the procedures and practices common to the Menlo Park Library but with such minimum deviation as is necessary and mutually agreeable to ensure that the needs of both the school and the public-at-large are satisfactorily met;

- Providing services within the Library-except that City employees will not be responsible to back fill the LIMS duties and LIMS will not be responsible for general librarian duties; and
- Maintaining a clean and inviting City Branch Library.

Payment Dates

- District and the City, will not exchange money or make payments regarding the Branch Library.

Term of MOU

The term of this MOU shall run for two (2) fiscal years starting July 1, 2017 through June 30, 2019, subject to revision and renewal with BOARD approval in subsequent years unless any party to this MOU notifies the other parties, in writing, of its election to terminate the MOU: (a) due to lack of available funds, not less than thirty (30) days prior to the commencement of any fiscal year (i.e., prior to July 1); or (b) for any other reason, not less than sixty (60) days prior to commencement of any fiscal year.

Pursuant to Education Code §17596, in no event shall this CONTRACT exceed a term of five (5) years. Notwithstanding the foregoing, each party hereto shall be obligated to fund its required financial contribution through the effective date of termination of this MOU.

HOLD HARMLESS

- A. District shall indemnify, hold harmless and defend the City and the City's trustees, officers, employees, and agents from and against every claim, demand and/or liability which may be made by reason of the negligent act(s) or omission(s) of District and/or its employees or agents in their performance of this Memorandum of Understanding. Any right to indemnification shall not apply to acts of willful negligence or illegal actions.
- B. The City of Menlo Park shall indemnify, hold harmless and defend the District and its trustees, officers, employees and agents from and against every claim, demand and/or liability which may be made by reason of the negligent act(s) or omission(s) of the City of Menlo Park and its employees or agents in their performance of this Memorandum of Understanding.
- C. In the event of the concurrent negligence of the District and/or its officers and/or employees and the City of Menlo Park, its officers and/or employees, the liability for any and all claims for injuries which arise out of the performance of this contract shall be apportioned under California's Theory of Comparative Negligence" as presently established or as may hereafter be modified.

Amendment of MOU

This MOU contains all of the terms and conditions agreed upon by all of the parties. No amendment or modification shall be valid unless made in writing and signed by all of the parties. No oral understanding or agreement shall be binding.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

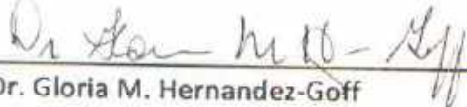
City of Menlo Park



City Manager

2/15/2018
Date

Ravenswood City School District



Dr. Gloria M. Hernandez-Goff
Superintendent

Date

APPROVED OCT 12 2017



"OUR CHILDREN – OUR FUTURE"

Ravenswood City School District
ADMINISTRATIVE OFFICE

2120 Euclid Avenue, East Palo Alto, California 94303
(650) 329-2800 Fax (650) 323-1072

Board Members:
Ana Maria Pulido, President
Sharifa Wilson, Vice President
Marco Chavez, Clerk
Marcelino López, Member
Charlie M. Knight, Member

Dr. Gloria Hernandez-Goff
Superintendent

Date: June 19, 2015
To: Board of Trustees
From: Dr. Gloria M. Hernandez- Goff, Superintendent
Subject: Consideration to approve MOU for Joint-Use Library Initiative with the City of Menlo Park

Summary:

The purpose of this MOU is to articulate roles and responsibilities for the successful collaboration of the Ravenswood School District's (District) Belle Haven School in Menlo Park and the City of Menlo Park (City) Branch Library. The overarching goal of this MOU is to help support the effective operation of the City Branch Library for the benefit of the Menlo Park community and the District students and parents. District and City will work toward operating, maintaining and fostering a learning environment as outlined in the shared responsibilities as defined in this MOU.

Fiscal Impact:

There is no financial impact to the district.

Recommendation:

For the Board to approve MOU



Ravenswood City School District
ADMINISTRATIVE OFFICE
 2120 Euclid Avenue, East Palo Alto, California 94303
 (650) 329-2800 Fax (650) 323-1072

Board Members:
 Ana Maria Pulido, President
 Sharifa Wilson, Vice President
 Marco Chavez, Clerk
 Marcelino López, Member
 Charlie M. Knight, Member

Dr. Gloria Hernandez-Goff
Superintendent

Ravenswood City School District Joint-Use Library Initiative
Memorandum of Understanding (MOU)
July 1, 2015—June 30, 2017

Purpose

The purpose of this MOU is to articulate roles and responsibilities for the successful collaboration of the Ravenswood School District's (District) Belle Haven School in Menlo Park and the City of Menlo Park (City) Branch Library. The overarching goal of this MOU is to help support the effective operation of the City Branch Library for the benefit of the Menlo Park community and the District students and parents. District and City will work toward operating, maintaining and fostering a learning environment as outlined in the shared responsibilities as defined in this MOU.

This MOU is entered into with reference to the following facts:

District owns and operates the Belle Haven School, which has a library facility and equipment located therein.

City operates and staffs a branch public library at the Belle Haven School, utilizing the District's library facility, which shall hereinafter be referred to as the "joint use library facility."

City and District collaborating to provide services at the joint use library facility at Belle Haven School is in the best interests of the citizen of Menlo Park.

District anticipates utilizing Library Instructional Media Specialist (LIMS) position(s) to assist the school site staff in the joint use library facility by:

1. implementing technology;
2. assisting students in the use of technology and media technology in the learning process;
3. assisting teachers, individuals and/or groups of students in finding and selecting appropriate resource materials, books and other library materials; and
4. promoting the use of technology and media to support learning.

District will be responsible for:

- Hiring, supervising and compensating the Library Instructional Media Specialist (LIMS);
- Hiring, supervising and compensating facilities (custodian and maintenance) employee(s) which the District wishes to provide in the Library;
- Resolving all personnel issues with respect to District employees;
- Providing maintenance of the buildings and grounds housing the joint-use facility, including security, janitorial service, mail, telephone service, all supplies and equipment necessary to operate a school library;
- Assigning LIMS to the City Branch Library from 8:00 to 2:00 each school day;
- Ensuring the safety, beautification and improvements of school premises and other issues, as needed;

- Locking and securing the Branch Library if not present in the Branch Library itself when Branch Library is operating as a school library;
- Storing and distributing text books from a location other than the Branch Library facility;
- Requiring all District staff working in the library to sign a non-disclosure agreement with Peninsula Library System in order to have access to the circulation/catalogue system; and
- Requiring all District staff to comply with all Peninsula Library System circulation/cataloging regulations, consistent with City practice.

The City will be responsible for:

- Hiring, supervising and compensating City Library staff including salary and benefits;
- Resolving all personnel related and employment issues with respect to City employees.
- Providing personnel to staff the joint-use library facility during the public access hours of operation as determined by the City;
- Providing training of appropriate District employees of the Library's automated circulation procedures, and other applicable policies for management and operation of the joint-use facility;
- Cataloging all library materials, and additional materials subsequently purchased by either or both entities;
- Providing computer hardware and software necessary to handle circulation and patron functions, including sufficient on-line public access circulation/catalog terminals to access the library holdings database;
- Providing for the costs related to circulation/catalog computer hardware, software and connecting the computers to specific City or Peninsula Library systems;
- Acquiring children's, young adult and adult materials consistent with interests and needs of residents; and
- Collaborating with District staff, community stakeholders and partners.

City, District and the Belle Haven Community Library will jointly be responsible for:

- Collaborating to offer library programs and hours of operation that benefits the District students, parents and community, consistent with the level of funding from the City and the District;
- Participating in program evaluation efforts, including evaluation design, data collection, interpretation and dissemination, as needed;
- Participating in learning community meetings and other partners to discuss progress and lessons learned, as appropriate;
- Developing a common system of operating procedures based largely on the procedures and practices common to the Menlo Park Library but with such minimum deviation as is necessary and mutually agreeable to ensure that the needs of both the school and the public-at-large are satisfactorily met;
- Providing services within the Library, except that City employees will not be responsible to back fill the LIMS duties and LIMS will not be responsible for general librarian duties; and
- Maintaining a clean and inviting City Branch Library.

Payment Dates

- District and the City, will not exchange money or make payments regarding the Branch Library.

Term of MOU

- The term of this MOU shall run for three (2) fiscal years starting July 1, 2015 through June 30, 2017, unless any party to this MOU notifies the other parties, in writing, of its election to terminate the MOU: (a) due to lack of available funds, not less than thirty (30) days prior to the commencement of any fiscal year (i.e., prior to July 1); or (b) for any

other reason, not less than sixty (60) days prior to commencement of any fiscal year. Notwithstanding the foregoing, each party hereto shall be obligated to fund its required financial contribution through the effective date of termination of this MOU.

HOLD HARMLESS

- A. District shall indemnify, hold harmless and defend the City and the City's trustees, officers, employees and agents from and against every claim, demand and/or liability which may be made by reason of the negligent act(s) or omission(s) of District and/or its employees or agents in their performance of this Memorandum of Understanding. Any right to indemnification shall not apply to acts of willful negligence or illegal actions.
- B. The City of Menlo Park shall indemnify, hold harmless and defend the District and its trustees, officers, employees and agents from and against every claim, demand and/or liability which may be made by reason of the negligent act(s) or omission(s) of the City of Menlo Park and its employees or agents in their performance of this Memorandum of Understanding.
- C. In the event of the concurrent negligence of the District and/or its officers and/or employees and the City of Menlo Park, its officers and/or employees, the liability for any and all claims for injuries which arise out of the performance of this contract shall be apportioned under "California's Theory of Comparative Negligence" as presently established or as may hereafter be modified.

Amendment of MOU

This MOU contains all of the terms and conditions agreed upon by all of the parties. No amendment or modification shall be valid unless made in writing and signed by all of the parties. No oral understanding or agreement shall be binding.

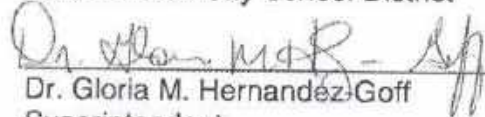
IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

City of Menlo Park

Alex D. McIntyre
City Manager

Date

Ravenswood City School District



Dr. Gloria M. Hernandez-Goff
Superintendent

Date



STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-036-CC

Consent Calendar:

Adopt a resolution accepting and appropriating a California State Library grant in the amount of \$20,000 to develop and circulate Read Together Diversity Kits through the Belle Haven branch library

Recommendation

Staff recommends that City Council adopt a resolution (Attachment A) accepting and appropriating a California State Library grant in the amount of \$20,000 to develop and circulate Read Together Diversity Kits through the Belle Haven branch library.

Policy Issues

City Council authorizes the acceptance of grant awards to support City of Menlo Park operations, services and projects.

Background

The Library Services and Technology Act (LSTA) since 1996 has provided federal grant funding to state and local libraries for a variety of library and literacy programs, services and projects. LSTA grants are administered at the local level by the California State Library and are intended to help California's libraries respond effectively to local needs and align services with local community aspirations; support experimentation and research and development in California's libraries; and provide training and support in grant writing and grant management for the California library community. LSTA grants are regularly made available to libraries and the City of Menlo Park has been awarded and accepted LSTA grants in the past.

Analysis

On December 30, 2021, the City of Menlo Park was awarded a \$20,000 LSTA grant from the California State Library to develop and circulate Read Together Diversity Kits through the Belle Haven branch library during calendar year 2022 (Attachment B.)

Standardized assessments of student academic outcomes at Belle Haven Elementary School indicate that additional early education and literacy supports could help some Belle Haven students to achieve academic outcomes that are consistent with those measured in other Menlo Park elementary schools.

The City of Menlo Park, through the Library and Community Services Department, in 2021 received notification of available LSTA grant funding to support childhood literacy and educational outcomes at the local level. The Library and Community Services Department applied for LSTA grant funding to develop and circulate Read Together Diversity Kits through the Belle Haven branch library to help improve English language literacy of incoming kindergarten children.

The Read Together Diversity Kit concept was successfully developed, implemented, and evaluated by another library jurisdiction that received LSTA “CopyCat” grant funding for the project in a prior funding cycle. The City of Menlo Park’s grant proposal duplicates this proven concept and adapts the selection of books and support materials in accordance with local student needs.

Grant funds will be used to purchase books and tote bags for the kits, and for the costs associated with the promotion and distribution of the kits through the Belle Haven branch library. The grant award will provide sufficient funds to purchase and assemble 160 kits with four to six age-appropriate books for each kit. The program will incorporate themes selected by Belle Haven community parents and caregivers of children from birth to first grade. In addition to books, the kits will include related educational materials and manipulatives such as stuffed animals and educational games and toys. Each kit will also include instructions to parents and caregivers on techniques for reading to children with intention and by incorporating early literacy strategies; story time songs; suggestions for similar books available in the library; and related interpretive materials. All instructional and interpretive materials will be bilingual English-Spanish. Half or more of the kits will include English-Spanish bilingual books.

Impact on City Resources

There is no new impact to the City’s general fund operating budget associated with this grant.

Environmental Review

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

Public Notice

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

Attachments

- A. Resolution
- B. Grant award notification letter and budget

Report prepared by:

Cholé Tiscornia, Librarian II

Nick Szegda, Assistant Library Services Director

Report reviewed by:

Sean S. Reinhart, Library and Community Services Director

RESOLUTION NO. XXXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ACCEPTING AND APPROPRIATING A CALIFORNIA STATE LIBRARY
GRANT IN THE AMOUNT OF \$20,000 TO DEVELOP AND CIRCULATE READ
TOGETHER DIVERSITY KITS THROUGH THE BELLE HAVEN BRANCH
LIBRARY**

WHEREAS, the City of Menlo Park operates the Belle Haven Branch Library; and

WHEREAS, the purpose of the Belle Haven Branch Library, in part, is to give all children access to books and help improve their literacy skills; and

WHEREAS, the City of Menlo Park has been awarded Library Services and Technology Act grant funding from the California State Library in the amount of \$20,000 to circulate “Read Together” diversity kits through the Belle Haven Branch Library in calendar year 2022;

NOW THEREFORE BE IT RESOLVED, that the City of Menlo Park, accepts and appropriates the California State Library grant award in the amount of \$20,000 to purchase materials and services to circulate “Read Together” diversity kits through the Belle Haven Branch Library in calendar year 2022.

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 first day of March, 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 March, 2022.

Judi A. Herren, City Clerk



December 30, 2021

Nicholas Szegda, Assistant Library Services Director
The City of Menlo Park
800 Alma Street
Menlo Park, CA 94025-3446

Dear Mr. Szegda:

We are pleased to approve the grant application for the Read Together Kits: Bringing Diverse Literature Home project for a total of \$20,000 in federal Library Services and Technology Act (LSTA) funds.

Hard copies of this correspondence will not follow. Keep the entirety of this correspondence for your files and consider these award materials your original documents. Please refer to the Grant Guide located on the California State Library's [Manage Your Current Grant](https://www.library.ca.gov/grants/manage/) webpage (https://www.library.ca.gov/grants/manage/) for more information and review the following:

LSTA Funds

Processing of grant payments may take from eight to ten weeks before delivery. If you have not received payment ten weeks after submitting your claim form to the State Library's Fiscal Department, please contact your Grant Monitor.


Project Support

There are two people assigned to your project. The first is your Grant Monitor. Contact them regarding compliance and reporting. The Grant Monitor assigned to your project is Michelle Killian and can be reached via email at michelle.killian@library.ca.gov. You are also assigned a Project Advisor for ongoing programmatic support. The Project Advisor assigned to your project is Jane Dyer Cook and can be reached via email at cook@plpinfo.org.

Please stay in touch with your Grant Monitor and Project Advisor throughout the award period. Read the enclosed award packet thoroughly and contact your Grant Monitor if you have any questions.

Best wishes for a successful project.

Respectfully yours,

DocuSigned by:

BDA50981C41C416...
Greg Lucas
California State Librarian

- cc: Chole' Tiscornia cltiscornia@menlopark.org
- Jane Dyer Cook [REDACTED]
- Michelle Killian [REDACTED]
- Nicole Bravin [REDACTED]
- Angie Shannon [REDACTED]
- Reed Strege [REDACTED]
- Natalie Cole [REDACTED]

THE BASICS – YOUR LSTA GRANT AWARD

The following provides all of the basic information about your grant and managing your grant.

| | |
|----------------|--|
| Award #: | 40-9286 |
| File #: | CC-25 |
| IMLS #: | LS-249951-OLS-21 |
| ORGANIZATION: | The City of Menlo Park |
| Project Title: | Read Together Kits: Bringing Diverse Literature Home |
| Award Amount: | \$20,000 |

2021/2022 LSTA APPROVED BUDGET

| | |
|--------------------------------------|----------|
| Salaries/Wages/Benefits | \$825 |
| Consultant Fees | \$ |
| Travel | \$ |
| Supplies/Materials | \$16,500 |
| Equipment (\$5,000 or more per unit) | \$ |
| Services | \$2,675 |
| Project Total | \$20,000 |
| Indirect Cost | \$ |
| Grant Total | \$20,000 |
| Payment Schedule | IN FULL |

| | |
|---|------------|
| Start Date: | 12/30/2021 |
| End Date: | 8/31/2022 |
| <p>This project will be officially closed as of the end date listed above and no new expenditures may be generated, nor may any additional funded project activities occur. Unexpended or unencumbered funds must be returned within 30 days of the end date. However, if funds were encumbered prior to the end date, this project is allowed 45 days to liquidate those encumbrances. Any funds not liquidated are to be returned with the liquidation report within 60 days of the end date.</p> | |

REPORTING

Financial and program narrative reports are required. All required reporting materials, as well as the Grant Guide, will be located on the California State Library's [Manage Your Current Grant](https://www.library.ca.gov/grants/manage/) webpage (<https://www.library.ca.gov/grants/manage/>). The Grant Guide for this project will list specific reporting due dates. Failure to provide timely reports is a serious breach of a grant recipient's administrative duty under the grant program, which may result in federal audit exceptions against the state and the loss of LSTA funds.

PAYMENTS

Please note this clarification regarding payments. If your full grant amount is more than \$20,000, ten percent (10%) of the grant award is withheld until the end of the project period. It is payable only if the grant recipient fulfills all project reporting requirements and expends all funds, or returns all unspent grant funds, by the time specified in the grant program.



STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-043-CC

Consent Calendar:

**Adopt a resolution to update the following of the Below Market Rate Housing Program Guidelines:
1) purchase and rental interest list eligibility criteria
and 2) general programming-related descriptions**

Recommendation

Staff recommends the City Council adopt a resolution (Attachment A) to update the following of the Below Market Rate Housing Program Guidelines (BMR guidelines): 1) the purchase and rental interest list eligibility criteria, often referred to as program preferences, and 2) general programming-related descriptions.

Policy Issues

The City of Menlo Park's 2015-2023 Housing Element program H4.C calls for the City to modify the BMR guidelines. The City Council may approve changes to the BMR guidelines by way of resolution. The City's BMR housing program is intended to increase the housing supply for households that have extremely low, very low, low and moderate incomes compared to the median income for San Mateo County. The BMR guidelines govern the administrative practices of the BMR housing program in multiple areas including, but not limited to, development requirements, in-lieu fees, unit standards, interest list procedures, etc.

Background

On April 1, 2014, the City Council adopted the 2015-2023 City of Menlo Park Housing Element. The Housing Element, included in the General Plan, establishes housing objectives, policies and programs in response to community housing conditions and needs. The BMR guidelines assist with the implementation of certain policies and are updated from time to time by the City Council.

The most recent updates to the BMR guidelines were approved by City Council resolution in 2018. A BMR ad hoc subcommittee comprised of Housing Commissioners met with staff and community groups starting in 2017 to identify potential changes before a review by the Housing Commission and Planning Commission was accomplished in 2018. The City Council approved Resolution No. 6432 April 17, 2018, to better align the BMR guidelines with State law, and Resolution No. 6446 June 19, 2018, to capture recommendations from staff and the Housing and Planning Commissions. At that time, staff identified the expectation to return to the City Council with additional modifications to the BMR guidelines.

In early 2021, the Housing Commission reinstated a BMR guidelines ad hoc subcommittee (subcommittee) to assist with identifying additional updates. On October 6, 2021, the subcommittee provided a presentation to the Housing Commission, which highlighted potential modifications to the BMR guidelines. The presentation included potential amendments to the interest list preference criteria and inclusionary requirements for BMR ownership and rental units.

The item before the City Council in this staff report focuses on the amendments to the interest list preference criteria and general program description edits to better align with operations of the BMR program. Provided in staff report item D3 from the February 2, 2022 Housing Commission meeting, staff recommended potential modifications to the BMR guidelines (Attachment B.) The proposed amendments to the BMR guidelines focused on updates to the preference criteria for accessible units, displaced households, unhoused persons, and persons who live and/or work in the City. Staff also proposed modifications to programming-related descriptions in the BMR guidelines that were outdated and did not follow best practices for affordable housing administration. The Housing Commission voted 5-0-1 (Commissioner Leitch absent) to approve the recommended changes to the BMR guidelines, including the following changes to section 8.1:

- Displacement preference – delete criteria for persons living in Menlo Park in 2008
- Unhoused preference – the Housing Commission requested the inclusion of specific terminology for “current” unhoused residents, which upon further review from staff is already included in the unhoused preference.
- Accessible unit preference – multiple changes suggested to preferences for accessible units, which will be discussed in the analysis of this report.

A second stage of edits to the BMR guidelines will require additional staff analysis and a contracted study to evaluate changes to the commercial linkage fees, inclusionary requirement standards and in-lieu fees specific to inclusionary residential requirements. To ensure any additional updates to the BMR guidelines are studied in conjunction with the sixth Cycle Housing Element Update process, staff expects a minimum of six to eight months before proposals would return to the Housing Commission for initial review. This timeline is subject to change as staff continues to evaluate the scope of work and costs of a potential study.

Analysis

When BMR ownership and/or rental unit(s) become available, staff works closely with the City’s BMR administrator HouseKeys and property owners to advertise the units. Marketing efforts are made directly to persons and households on the City’s BMR ownership and rental interest list, often referred to as the interest list, as well as through other general advertising practices to publicize the affordable housing opportunities to households not on the interest list. Similar to many cities throughout the Bay Area, the City of Menlo Park has seen dramatic increases in property values over the last 15 to 20 years. Menlo Park is among the most desired cities in our region, which has resulted in home prices and rents exceeding the averages of many other Bay Area cities. The proposed amendments to the BMR guidelines, found in Exhibit A of Attachment A, allows the City to expand the current preference criteria to better serve a wider range of persons and households seeking affordable housing opportunities. Sections of the BMR guidelines with considerable changes and/or updates related to preference criteria are highlighted below. Changes made to the guidelines that are not listed in specific detail in the analysis section of this report are considered general programming-related description edits and “clean up” to terminology to align the BMR guidelines with standard program administration practices.

BMR preference criteria

The BMR guidelines’ preference criteria, listed in section 8.1, allows all interested persons and households who income qualify to apply for BMR units in Menlo Park and enter into a lottery drawing for the available unit(s.) Staff believes it is important to highlight that a person or household who does not meet any of the provisions of the preference criteria, also referred to as zero or no preference, are encouraged to apply for available BMR units. Persons or households that meet one or multiple preferences will receive a final lottery ranking higher than persons or households with no preference. All income eligible persons and/or households applying for an available BMR unit will be placed in the same lottery drawing; however, the final

lottery ranking order will be weighted to adjust for persons and/or household who qualify for a Menlo Park preference.

Accessible unit preference

The City's existing BMR guidelines provide minimal preference for persons and households with accessibility needs. Preference is currently limited to wheelchair users only. To expand beyond wheelchair users and minimize unintentional discrimination to persons with other types of mobility challenges, the proposed preference include all persons with accessibility needs. This item was discussed by the Housing Commission at the February 2, 2022 meeting, whom collectively agreed all accessible needs should be included. When an accessible unit becomes available, the Housing Commission and staff believe persons with accessibility challenges should receive the highest preference due to the lower percentage of accessible units that are produced.

In section 8.1 of the proposed BMR guidelines, staff included additional language to clearly outline how an accessible BMR units will be filled in accordance with Menlo Park preference criteria. If a tenant meeting the accessibility criteria cannot be found, the BMR unit would be offered to other income qualified persons or households who have applied. The ranking of persons and households for accessible units should follow the below list from highest to lowest in the order of lottery ranking:

- Person or household with an accessibility need meeting an existing Menlo Park preference, such as live and/or work, unhoused or displacement preference.
- Person or household with an accessibility need not meeting an existing Menlo Park preference
- Person or household meeting an existing Menlo Park preference
- Person or household not meeting an existing Menlo Park preference

Live and/or work preference

Due to the high cost burdens associated with finding housing not only in Menlo Park but in the entire region, extremely low, very low, low, and moderate income households face housing insecurity that could displace them from the region. To promote stable communities and prevent harm to the public welfare that could occur if households were dislocated from Menlo Park, the BMR guidelines include a preference for local residents to access BMR housing. The BMR guidelines also extend this preference to those who work in Menlo Park, which can help integrate workers into the community and reduce the high vehicle miles traveled (and associated greenhouse gas emissions) that result when workers are forced to commute great distances from their homes to their jobs. This preference also allows critical service providers who may not earn enough to afford market rate housing to have housing opportunities in the City.

When implementing the live/work preference to accomplish the goals outlined above, it is important to design the preference to avoid unintentionally excluding protected classifications of people or infringing upon Constitutionally-protected fundamental rights. In particular, the right to travel is a fundamental right, and courts have held that durational residency requirements for admission to housing affect this fundamental right. To avoid this issue, staff is recommending that the City eliminate the durational requirement that an individual have lived or worked in the City for a defined period of time before being eligible for the live/work preference.

Likewise, to broaden the pool of potential applicants who will qualify and help mitigate the likelihood that the preference would result in unintentional discrimination, the proposed modifications expand employment to include both paid work and unpaid work. The City's basis for offering a preference to those who work in the City does not depend on whether those workers are paid or unpaid, so the preference should apply to any eligible household that is working in the City, regardless of whether that work is paid or not. This provision will expand support for paid and unpaid workers providing services to the Menlo Park community.

Displacement preference

In the 2018 version of the BMR guidelines, persons and households who are subsequently displaced from their home for reasons such as job loss, rent increases, etc. are provided a preference only if they resided within incorporated Menlo Park in the year 2008. With input from the Housing Commission, the proposed modifications include that the displacement preference apply to all displaced persons and households that have lived within incorporated Menlo Park for at least three or more years, regardless of the exact date they resided in the City. The reason for expanding this preference is to more universally allow long-term community members, defined as three or more years, in need of affordable housing an opportunity to return to Menlo Park. For reasons similar to the City's need to offer a live and/or work preference, staff believes this change will be more inclusive of longtime residents who have had to move out of Menlo Park for a variety of reasons and economic hardships, some of who may still live and/or work in nearby communities and would not have qualified for a preference previously.

General programming description edits

The BMR guidelines contain a wide range of procedures related to program operations, including rules for development and affordable housing production. At this time, the majority of the proposed edits pertain to preference criteria and general program revisions. These proposed changes are expected to provide clarity and expand eligibility of the preference criteria in a manner that aligns with State and/or Federal fair housing laws. General programming description edits include the following items:

- Section/page number edits
- Updates in terminology (definitions, program titles, etc.)
- Section 15, tables A-D updated to current 2021 requirements (income limits, maximum affordable rent, occupancy standards, commercial in-lieu fees)

Staff believes the recommended changes identified as general programming descriptions are necessary to ensure the City remains current with standard affordable housing practices. A copy of the proposed BMR guidelines with redline edits is available by way of Attachment C.

Impact on City Resources

There are no impacts to City resources besides the preparation of the report and continued coordination of the BMR housing program with the City's designated BMR administrator.

Environmental Review

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

Public Notice

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

Attachments

- A. Draft City Council resolution adopting revisions to the BMR Guidelines
- B. Hyperlink – February 2, 2022 Housing Commission staff report (see agenda item D3):
beta.menlopark.org/files/sharedassets/public/our-community/agendas-and-minutes/housing-

[commission/2022-meetings/20220202-housing-commission-agenda-packet.pdf](#)

C. Revisions to the BMR Housing Program Guidelines with redline edits

Report prepared by:

Mike Noce, Acting Housing Manager

Reviewed by:

Deanna Chow, Assistant Community Development Director

Eric Phillips, Assistant City Attorney

RESOLUTION NO. XXXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING REVISIONS TO THE BELOW MARKET RATE HOUSING
PROGRAM GUIDELINES**

WHEREAS, the City of Menlo Park (“City”) established the Below Market Rate Housing Program Guidelines (“Guidelines”) on the twelfth day of January, 1988; and

WHEREAS, the need to facilitate affordable housing opportunities for extremely low, very low, low and moderate-income households remain in Menlo Park; and

WHEREAS, the City strives to continue improving the implementation of the Below Market Rate Housing Program with continued updates to the program guidelines; and

WHEREAS, the City affirms its commitment to providing affordable housing opportunities to income-qualifying households; and

WHEREAS, the proposed modifications to the Guidelines ensure the City is proactively improving current practices for its affordable housing programs; and

WHEREAS, the Housing Commission reviewed and recommended the City Council adopt the proposed changes to the Guidelines at its meeting on the second day of February, 2022; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Menlo Park hereby adopts revisions to the Below Market Rate Housing Program Guidelines recommended by staff and Housing Commission, and presented to the City Council on the first day of March, 2022, incorporated herein as Exhibit A, govern the operation of the program from this date forward.

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 first day of March, 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 March, 2022.

Judi A. Herren, City Clerk

CITY OF MENLO PARK BELOW MARKET RATE HOUSING PROGRAM GUIDELINES

Income Limits/Section 15, Tables A and B Updated for 2021-22

Originally Adopted by City Council on January 12, 1988

Revised by City Council on the following dates:

- December 17, 2002 (No Resolution)
- March 25, 2003 (Resolution No. 5433)
- January 13, 2004 (No Resolution)
- March 22, 2005 (Resolution No. 5586)
- March 2, 2010 (Resolution No. 5915)
- May 10, 2011 (No Resolution)
- May 6, 2014 (Resolution No. 6196)
- April 17, 2018 (Resolution No. 6432)
- June 19, 2018 (Resolution No. 6446)
- March 1, 2022 (Resolution No. 0000)

BELOW MARKET RATE HOUSING PROGRAM GUIDELINES

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1. OVERVIEW

The high cost and scarcity of housing in Menlo Park have been caused in large part because the number of jobs in Menlo Park has grown, but the supply of housing has not increased significantly. A majority of new employees earn low- and moderate-incomes and are most severely impacted by the lack of affordable housing in Menlo Park. Because of the high cost of housing, families who seek to live in Menlo Park cannot afford to purchase homes here and are forced to rent. Many renters pay a disproportionately high amount of their incomes in rent.

1.1 Purpose. The City of Menlo Park's Below Market Rate ("BMR") Housing Program is intended to increase the housing supply for households that have very low, low- and moderate-incomes compared to the median income for San Mateo County. The primary objective is to obtain actual housing units, either "rental" or "for sale," rather than equivalent cash.

1.2 Enabling Legislation. The BMR Housing Program is governed by Chapter 16.96 of the Municipal Code. The BMR Housing Program is administered under these BMR Housing Program Guidelines ("Guidelines").

2. BMR HOUSING AGREEMENT AND REVIEW PROCESS

2.1 BMR Housing Agreement. Before acceptance of plans for review by the City of Menlo Park staff, a developer should provide a proposal for meeting the requirements of the BMR Housing Program. The proposal should include one or a combination of the following alternatives: a) Provision of BMR units on site; and/or b) Provision of BMR units off-site; and/or c) Payment of an in-lieu fee. These alternatives are listed in order of preference.

2.2 Review Steps. The following review steps apply to most development projects:

- City staff will review a BMR For-Sale Agreement or an Affordability Housing Agreement (either, a "BMR Housing Agreement"), that has been prepared by the developer's attorney on a form substantially similar to that provided by the City and shall make a recommendation with respect to it to the Housing Commission, and, if applicable, to the Planning Commission and/or the City Council. The City Attorney must approve as to form the BMR Housing Agreement prior to its review by the Planning Commission.
- The City Council grants approval of the BMR Housing Agreement for projects which it reviews. For all other projects, the BMR Housing Agreement shall be approved by the entity having final approval authority over the project.

3. REQUIREMENTS FOR DEVELOPMENTS BY TYPE

3.1 Commercial Developments. The BMR Housing Program requires commercial developments which bring employees to Menlo Park to provide BMR units or to contribute to the BMR Housing Fund that is set up to increase the stock of housing for very low, low and moderate income households, with preference for workers whose employment is located in the City of Menlo Park, and for City residents.

3.1.1 Commercial Development Requirements. Commercial buildings of 10,000 square feet or more gross floor area are required to mitigate the demand for affordable housing created by the commercial development project. In order to do so, it is preferred that a commercial development project provide BMR housing on-site (if allowed by zoning) or off-site (if on-site BMR units are infeasible). A density bonus of up to 15% above the density otherwise allowed by zoning may be permitted when BMR housing is provided on-site. The BMR Housing Agreement will detail the BMR Housing Program participation of a particular development.

Although the provision of actual BMR units is strongly preferred, it is not always possible to provide BMR housing units. In such cases, the developer shall pay a commercial in-lieu fee rather than provide actual BMR housing units. Commercial in-lieu fees must be paid prior to the issuance of a building permit.

Commercial in-lieu fees are charged at different rates to two groups based on the employee housing demand the uses produce. Group A uses are office and research and development ("R&D"). Group B uses are all other uses not in Group A.

Commercial in-lieu fee rates are adjusted annually on July 1st. The amount of the adjustment is based on a five-year moving average of the percentage increase in the Consumer Price Index (Shelter Only) for All Urban Consumers in the San Francisco-Oakland-San Jose area. Refer to Section 15, Table D, for the Commercial In-lieu Fee Rates, which may be updated by City staff from time to time.

3.1.2 Applicability. The BMR Housing Program applies to conditional use permits, conditional development permits, planned development permits, subdivision approvals, architectural control approvals, variance approvals and building permits for any commercial development. The BMR Housing Program also applies to the construction of any new square footage or any square footage that is converted from an exempt use to a non-exempt use. Finally, the BMR Housing Program applies to the conversion of floor area from a less intensive use (Commercial/Industrial uses) to a more intensive use (Office/R&D).

3.1.3 Exemptions. The following are exempted from the BMR Housing Program:

- (a) Private schools and churches;

- (b) Public facilities;
- (c) Commercial development projects of less than 10,000 square feet; and
- (d) Projects that generate few or no employees.

3.2 Residential Developments. The BMR Housing Program requires residential developments which use scarce residentially zoned land in Menlo Park to provide BMR units or to contribute to the BMR Housing Fund. The BMR Housing Fund is set up to increase the stock of housing for very low-, low- and moderate-income families, with preference for workers whose employment is located in the City of Menlo Park, and for City residents.

3.2.1 Residential Development Requirements. Residential developments of five or more units are subject to the requirements of the BMR Housing Program. These requirements also apply to condominium conversions of five units or more. As part of the application for a residential development of five or more units, the developer must submit a BMR Housing Agreement, in a form substantially similar to that provided by the City, which details the developer's plan for participation in the BMR Housing Program. No building permit or other land use authorization may be issued or approved by the City unless the requirements of the BMR Program have been satisfied.

3.2.2 Condominium Conversions. If an apartment complex already participating in the BMR Housing Program elects to convert the complex to condominiums, then the existing BMR rental apartments shall be converted to BMR condominium units under the BMR Housing Program.

When market rate rental units are removed from the rental housing stock for conversion to condominiums, and they are not already participating in the BMR Housing Program, then the project shall meet the same requirements as new developments to provide BMR units in effect at the time of conversion. When the property owner notifies the City of the intent to sell, the property owner shall notify any BMR tenants of such units of the pending sale and non-renewal of lease. Such tenant(s) shall be given the right of first refusal to purchase the unit. If the tenant seeks to purchase the unit, at the close of escrow the unit shall exist as a for-sale BMR unit. If the tenant does not seek to purchase, the tenant shall vacate the unit at the expiration of the current lease term and the unit will be sold to an eligible third party according to the BMR Guidelines and held as a for-sale BMR unit. The tenant who vacates will have priority to move to other vacant BMR rental units in the City for two years from the date the lease expired, regardless of the place of residence of the displaced BMR tenant.

3.3 Mixed Use Developments. Mixed use developments must comply with the requirements for commercial developments in the commercial portion of the development and must comply with the requirements for residential developments for the residential portion of the development.

3.4 Required Contribution for Residential Development Projects. All

residential developments of five units or more are required to participate in the BMR Housing Program. The preferred BMR Housing Program contribution for all residential developments is on-site BMR units. For rental residential development projects, the applicant may comply with the City's BMR requirements by providing in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. Any alternative means of compliance shall be approved by the City Council upon findings that the alternative is commensurate with the applicable on-site requirement and complies with applicable BMR Guidelines.

For ownership residential development projects, if providing on-site BMR units is not feasible as confirmed by the City, developers are required to pay an in-lieu fee as described in Section 4.3. The requirements for participation increase by development size as shown below:

One (1) to Four (4) Units. Developers are exempt from the requirements of the BMR Housing Program.

Five (5) to Nine (9) Units. It is preferred that the developer provide one unit at below market rate to a very low, low, or moderate income household.

Ten (10) to Nineteen (19) Units. The developer shall provide not less than 10% of the units at below market rates to very low-, low- and moderate-income households.

Twenty (20) or More Units. The developer shall provide not less than 15% of the units at below market rates to very low-, low- and moderate-income households. On a case-by-case basis, the City will consider creative proposals for providing lower cost units available to lower income households such as smaller unit size, duet-style, and/or attached units that are visually and architecturally consistent with the market-rate units on the exterior, and that meet the City's requirements for design, materials, and interior features of BMR units.

3.4.1 Fraction of a BMR Housing Unit. If the number of BMR units required for a residential development project includes a fraction of a unit, the developer shall provide either a whole unit, the preferred form of participation, or make a pro rata residential in lieu payment on account of such fraction per Section 4.3 or 4.4, as applicable.

Example: A residential project is developed with 25 condominium units. The BMR requirement of 15% equates to 3.75 units. The preferred BMR Housing Program participation is four BMR units. If four BMR units are provided, the developer would pay no in-lieu fee. Alternatively, if three BMR units are provided, the developer would have to pay an in-lieu fee for the remaining fractional BMR unit.

4. BMR PROGRAM REQUIREMENTS FOR ON-SITE BMR UNITS, OFF-SITE BMR UNITS AND IN-LIEU FEES

4.1 On-Site BMR Units.

4.1.1 Initial Price for For-Sale Unit. The initial selling price of BMR for-sale units for extremely low (30% AMI), very low (50% AMI), subsidized low (60% AMI), low (80% AMI) or moderate (120% AMI) income households is based on what is affordable to households with incomes at the identified percentage of area median income (“AMI”) related to household size, as established from time to time by the State of California Housing and Community Development Department (“HCD”) for San Mateo County. See Section 15, Table A, which may be updated by City staff from time to time.

4.1.2 Initial Price for Rental Unit. The initial monthly rental amounts for BMR rental units will be equal to or less than thirty percent (30%) of the applicable income limits for extremely low, very low, subsidized low, low and moderate income households adjusted for occupancy, as established from time to time by the HCD for San Mateo County. In no case shall the monthly rental amounts for BMR units exceed seventy-five percent (75%) of comparable market rate rents. The maximum rent for specific BMR units will be based on Section 15, Table B of the BMR Guidelines, which may be updated by City staff from time to time. See also Sections 11.1.1 and 11.1.2.

The purchase or rental price for BMR units shall be established and agreed upon in writing in the BMR Housing Agreement per Section 2.2, prior to final building inspection for such BMR units. The provision of affordable units at extremely low, very low, low and/or moderate income levels shall be roughly equivalent to the provision of all of the affordable units at the low income level.

4.1.3 Bonus Unit. For each BMR unit provided, a developer shall be permitted to build one additional market rate (bonus) unit. However, in no event shall the total number of units in a development be more than fifteen percent (15%) over the number otherwise allowed by zoning.

4.2 Off-Site BMR Units. If authorized by the City as described in Section 2.2, developers may propose to provide BMR units at a site other than the proposed development. These off-site BMR units must be provided on or before completion of the proposed development and must provide the same number of units at below market rates to very low, low and moderate income households as required for on-site developments. Such units may be new or existing. Provision by the developer and acceptance by the City of off-site units shall be described in the BMR Housing Agreement. Size, location, amenities and condition of the BMR units shall be among the factors considered by the City in evaluating the acceptability of the off-site BMR units. For existing units, the developer shall be responsible for correcting, at developer’s expense, all deficiencies revealed by detailed inspection of the premises by qualified inspectors, including a certified pest inspector.

The initial price or rent for the BMR units shall be established as stated in Sections 4.1.1 and 4.1.2 and in accordance with the BMR Income Guidelines in Section 15 in effect at the time the BMR unit is ready for sale or rent. Fractions of required BMR units shall be

handled by provision of an in-lieu fee for the market rate units for which no BMR unit is provided.

4.3 Ownership Residential In Lieu Payments Based on Sales Price.

4.3.1 Developments of Ten (10) or More Units. In developments of 10 or more units, the City will consider an in-lieu payment alternative to required BMR units only if the developer substantiates to the City's satisfaction that the BMR units cannot be provided on or off-site. In developments of 10 or more units which provide BMR units, upon the close of escrow on the sale of each unit in the subdivision for which a BMR unit has not been provided, the developer shall pay to the City an in-lieu payment calculated at three percent (3%) of the actual sales price of each unit sold. In lieu payments for fractions of BMR units shall be determined by disregarding any bonus units and as three percent (3%) of selling price of each market rate unit sold if the developer substantiates to the City's satisfaction that the BMR units cannot be provided on or off-site.

If a portion of a BMR requirement is met by a provision of BMR units, and the developer substantiates to the City's satisfaction that a sufficient number of BMR units cannot be provided on or off-site, then BMR in-lieu payments will be required from the sales of the number of market rate units (excluding bonus units) that is in proportion to the BMR requirement that is not met.

4.3.2 Developments of Five (5) to Nine (9) Units.

Residential In-Lieu Payments Based on Sales Price. In developments of five to nine units, the City will consider an in-lieu payment alternative to required BMR units only if the developer cannot provide an additional BMR unit. If providing an additional BMR unit is not feasible, developers are required to pay a residential in lieu fee as described below.

| <u>Unit No.</u> | <u>In lieu fee for each unit</u> |
|-----------------|----------------------------------|
| 1, 2 and 3 | 1% of the sales price |
| 4, 5 and 6 | 2% of the sales price |
| 7, 8 and 9 | 3% of the sales price |

Example: In a development of seven units, the BMR contribution would be, in order of preference: a) One BMR unit out of the seven units, with the possibility of a density bonus of one unit, or, if that is not feasible, b) Three units designated to pay an in-lieu fee of one percent (1%) of the sales price, three units to pay in-lieu fees of two percent (2%) of their sales prices and one unit to pay three percent (3%) of its sales price.

Units paying in-lieu fees are designated so that they are distributed by unit size and location throughout the project.

In developments of 10 or more units which provide BMR units, upon the close of escrow on the sale of each unit in the subdivision for which a BMR unit has not been provided, the developer shall pay to the City an in-lieu payment calculated at three percent (3%) of the actual sales price of each unit sold.

Example: Two possible plans to meet the BMR requirement for a project of 15 housing units are, in order of preference: a) Two BMR units are provided, and no in-lieu fees are paid, or b) One BMR unit is provided out of the first 10 units, one bonus unit is granted for the provision of the BMR unit, and four units pay in-lieu fees.

Units held as rental, in-lieu fee. If the developer retains any completed unit as a rental, either for its own account or through subsidiary or affiliated organizations, the BMR contribution including BMR housing unit or in-lieu payment for such unit shall be negotiated between the developer and the City. If an in-lieu fee is paid, the market value shall be based on an appropriate appraisal by an appraiser agreed upon by the City and the developer and paid for by the developer. The basis for such appraisal shall be as a condominium rather than as a rental.

4.4 Rental Residential In Lieu Payments Based on Cost. The City Council shall establish a rental residential in-lieu fee by resolution, which fee may be updated from time to time. The fee shall be based on the cost to develop, design, construct, and maintain a standard one-bedroom unit in Menlo Park. The fee shall also include the proportionate costs of associated common area as well as land acquisition costs. The fee shall be adjusted on a project-by-project basis depending on size, location and other factors relevant to cost. The fee can be adjusted by a pre-set formula or by a consultant selected by the City and funded by the applicant.

5. CHARACTERISTICS OF BMR UNITS

5.1 Size and Location of BMR Units. BMR housing units shall generally be of the same proportionate size (number of bedrooms and square footage) as the market-rate units. The BMR units should be distributed throughout the development, and should be indistinguishable from the exterior. BMR units shall contain standard appliances common to new units, but need not have luxury accessories, such as Jacuzzi tubs. The Planning Commission and/or City Council shall have the authority to waive these size, location and appearance requirements of BMR units in order to carry out the purposes of the BMR Housing Program and the Housing Element.

5.2 Design and Materials in BMR Units. The design and materials used in construction of BMR units shall be of a quality comparable to other new units constructed in the development but need not be of luxury quality.

5.3 The BMR Price Must Be Set Before Final Building Inspection. There shall be no final inspection of BMR housing units until their purchase or rental prices have been agreed upon in writing by the developer and the City Manager, or his or her designee. Also, the sale or rental process will not begin until the sales price is set.

5.3.1 Final Inspection Schedule for Smaller and Larger Developments.

Less Than Ten (10) Units. In developments of less than 10 units with one or more BMR units, all BMR units must pass final inspection before the last market rate unit passes final inspection.

Ten (10) to Nineteen (19) Units. In developments of 10 or more units, including developments that are constructed in phases, for the first 10 housing units, a BMR unit must pass final inspection before nine market rate units may pass final inspection. For each additional group of 10 housing units, one additional BMR unit must pass final inspection before nine additional market rate units may pass final inspection.

Twenty (20) or More Units. In developments of 20 or more units, including developments that are constructed in phases, for the first 10 housing units, a BMR unit must pass final inspection before nine market rate units may pass final inspection. In addition, two additional BMR units must pass final inspection before eight additional market rate units may pass final inspection. For each additional group of 20 housing units, three additional BMR units must pass final inspection before 17 additional market rate units may pass final inspection. No project or phase may pass final inspection unless all the BMR units, which equal 15% or more of the housing units in that phase or project, have passed final inspection for that phase or project.

Last Unit. In no case may the last market rate unit pass final inspection before the last BMR unit has passed final inspection.

5.4 Sales Price Determination for BMR For-Sale Units. The maximum sales price for BMR units shall be calculated as affordable to BMR households, which are eligible by income at the time that the maximum prices are set and which are of the smallest size eligible for the BMR units (excluding two-bedroom units, which shall be based on incomes for two person households even when units are made available to one person households). See Section 15, Table A, for income eligibility limits, and Table C, for occupancy standards, which tables may be updated by City staff from time to time. The affordability of maximum prices will take into consideration mortgage interest rates, minimum down payments, mortgage debt-to-income ratios and other qualifying criteria used by lenders at the time the sales prices are set, as well as cost of insurance, taxes, homeowners' dues and any other necessary costs of homeownership.

5.4.1 Price Determination for Projects with Condominium Maps That Will Rent for an Indefinite Period of Time. Projects with condominium subdivision maps that will rent BMR units for an indefinite period shall have basic sales prices established at the outset for such BMR units in accordance with the Guidelines. Such initial sales prices shall be adjusted for the period between the month of completion of the BMR units and the month of notification of intent to sell the units, with further adjustments for improvements and deterioration per the Guidelines. The adjustments shall be based on one-third of the increase in the Consumer Price Index ("CPI"), All Urban Consumers, San Francisco-Oakland-San Jose, published by the U.S. Department of Labor, Bureau of Labor Statistics, plus certain other equitable

adjustments.

5.5 Legal Characteristics of BMR Units: Right of First Refusal and Deed Restrictions. All BMR units shall be subject to deed restrictions and conditions which include a right of first refusal in favor of the City for a period of 55 years under which the City or its designee will be entitled to purchase the property at the lower of (1) market value, or (2) the purchase price paid by seller, plus one-third of the increase (during the period of seller's ownership) in the CPI, All Urban Consumers, San Francisco-Oakland-San Jose, published by the U.S. Department of Labor, Bureau of Labor Statistics, plus certain other equitable adjustments. The deed restrictions will also prohibit sales or transfers of the property except with the written consent of the City and at a price computed as above. Exceptions from all prohibitions against sale or transfer will include:

- (1) Demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period;
- (2) Transfer by termination of joint tenancy or by gift or inheritance to parents, spouse, children, grandchildren or their issue.

The prohibition against sales or transfers will not terminate at the end of 55 years in the event of an exempt transfer by termination of joint tenancy or by gift or inheritance to family members. The prohibition against sales or transfers will terminate in the event of an exempt sale or transfer when there is a demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period of time.

In the event of an exempt sale when there is a demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period of time, the seller will be entitled to receive the lesser of (A) market value or (B) the purchase price paid by the seller plus one-third of the increase (during the seller's ownership) in the CPI, plus certain other equitable adjustments, as specified in the deed restrictions. The balance of the proceeds shall be paid to the City of Menlo Park to be deposited in the BMR Housing Fund. Any transferee pursuant to an exempt transfer by termination of joint tenancy or by gift or inheritance to family members must reside in the BMR unit and must qualify under the income criteria of the BMR Program at the time of the transfer of the BMR unit.

6. HOUSEHOLD DEFINITION AND CRITERIA

For purposes of sections 7 and 8 of these Guidelines, the following definition of household and provisions establishing household composition shall apply.

6.1 Definition of Household. For the purposes of this program, "household" is defined as all persons who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household. To be considered a household, all applicants/household members must live together in a home that is their primary residence. To be considered

part of the household and included in household size, children under the age of 18 (including foster children) must reside in the home at least part-time or parents must have at least partial (50%) custody of the child/children.

6.2 Household Requirement. To constitute a household, all members of the applicant household must currently live together (in a location that is their primary residence) at the time of application. Also, at the time of application and regardless of where they currently live, all members who make up the applicant household must have continuously lived together for a minimum of one year prior to the date of application.

6.2.1 Exceptions. Exceptions to this minimum one year joint-residency requirement include:

- Children under the age of 18 who have recently joined the household in conjunction with marriage, separation, or divorce, or similar family re-organization, and for whom there is evidence of a custody agreement or arrangement. This also applies to foster children.
- Children born or adopted into a household.
- Households newly formed as a result of marriage or domestic partnership.
- Other circumstances regarding the addition of a family member over the age of 18 may be reviewed by the City or its designee.

7. ELIGIBILITY REQUIREMENTS FOR HOUSEHOLDS APPLYING TO PURCHASE BMR UNITS

Note: Preference criteria for households entering a BMR unit lottery drawing are identified in Section 8. The City no longer maintains a ranked purchase waitlist. Previously ranked households have been transferred to a legacy purchase list, as more fully set forth in Section 8.2. The provisions identified below apply at the time of submission of an application to purchase a BMR unit. In order for a household to be eligible at the time of submission of application, all of the following provisions shall apply and/or be met:

7.1 First Time Homebuyer. All members of the applicant household must be first time homebuyers, defined as not having owned a home as a primary residence within the last three years prior to the date of application. A primary residence is a property occupied by the applicant household for the majority of a calendar year. A household may have only one primary residence. First time homebuyers include owners of mobile homes, as well as applicants whose names are on title for properties they have not lived in as their primary residences for the last three years (for instance rental properties, which must be considered as part of the applicant's eligible assets).

7.1.1 Exceptions. Exceptions to this requirement are:

- Applicants who are current BMR homeowners and are otherwise eligible for the BMR Housing Program, are eligible to apply for BMR ownership opportunities and to purchase a smaller or larger home needed due to changes in household size or family needs, such as for accessibility needs (per Section 7.2.6, below).
- Applicants whose names were placed on the BMR Purchase Waiting List prior to March 2, 2010.
- Applicant households that currently and/or within the last three years prior to the date of application own homes as their primary residences more than 50 miles outside Menlo Park city limits, that are otherwise eligible for the BMR Housing Program.

7.2 Complete First Time Pre-Purchase Homebuyer Education. All adult applicants/household members must complete a one-time homebuyer education workshop, class, or counseling session. Program staff provides households with a list of approved local organizations that provide pre-purchase homebuyer education. Applicants choose an education provider or program from the approved list and may choose to attend in either a group or individualized setting. It is the applicants' responsibility to provide the City or the City's BMR Housing Program provider with evidence that a pre-purchase homebuyer education workshop or session was completed. In most cases, the education providers will provide applicants with certificates of completion, typically good for two year, that applicants can submit to the City's BMR Housing Program provider as proof that the pre-purchase education requirement was completed. Only households that have completed the education requirement will be invited to apply when units become available. Adult parents of applicants living in the household need not complete the education requirement.

7.2.1 Prior Completion of Pre-Purchase Homebuyer Education. Applicants who provide written evidence of having completed an approved homebuyer education workshop, class, or counseling session within the previous twelve months prior to the date of submission of the BMR unit purchase application are not required to complete an additional workshop, class, or counseling session.

7.2.2 Homebuyer Education Provider. At the City's discretion, the City may elect to work exclusively with one or more homebuyer education providers/organizations. The City may also choose to contract with a particular person or organization to provide this educational component.

7.2.3 Long-Term Education or Counseling Required for Certain Applicants. Applicants who are invited to apply to purchase BMR units and are twice denied (on separate occasions) due to long-term or significant credit problems, will be required to meet individually with a credit counseling professional. The applicant must provide evidence of completion of credit counseling before they can be approved to purchase a BMR ownership unit. The credit counseling requirement does not exclude the applicant from applying to future BMR purchase opportunities.

7.3 Ownership Interest. A minimum of 50% of the ownership interest in the property must be vested in the qualifying applicant(s), regardless of income.

7.4 Income and Asset Limits for Purchasers of BMR Units. Income eligibility limits are established by HCD for San Mateo County. Income limits are updated on an annual basis. BMR units shall only be sold to very low, low, and moderate income households. Only households having gross incomes at or below 120% of the AMI for San Mateo County, adjusted for household size, are eligible to purchase and occupy BMR for-sale units, either upon initial sale or upon any subsequent resale, as specified in the deed restrictions. Refer to Section 15, Table A, for the income eligibility limits, which may be updated by City staff from time to time.

An asset is a cash or non-cash item that can be converted into cash. Only households having non-retirement assets that do not exceed the purchase price of the BMR units are considered eligible.

- Assets Include: cash held in checking accounts, savings accounts, and safe deposit boxes; equity in real property; cash value of stocks (including options), bonds, Treasury bills, certificates of deposit, money market accounts, and revocable trusts; personal property held as an investment such as gems, jewelry, coin and art collections, antiques, and vintage and/or luxury cars; lump sum or one-time receipts such as inheritances, capital gains, lottery winnings, victim's restitution, and insurance settlements; payment of funds from mortgages or deeds of trust held by the applicant(s); boats and planes; and motor homes intended for primary residential use.
- Assets DO NOT Include: cars and furniture (except cars and furniture held as investments such as vintage and/or luxury cars, and antiques); company pension and retirement plans; Keogh accounts; dedicated education funds/savings accounts; and funds dedicated to federally recognized retirement programs such as 401K's and IRA's.

Note that equity in real property or capital investments is defined as follows: the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g. broker/realtor fees) that would be incurred in selling the asset.

7.4.1 Senior or Disabled Households That Use Assets for Living Expenses. An exception to the income and asset limit requirement is a household whose head is over 62 years of age, or permanently disabled and unable to work, with assets valued up to two times the price of the BMR unit. The applicant must be able to demonstrate that the sole use of his/her assets has been for household support for at least the three previous years, and that the total annual household income meets the BMR Guidelines.

8. BMR PURCHASE AND RENTAL INTEREST LIST PREFERENCE CRITERIA

8.1 BMR Purchase and Rental Interest List Preference Criteria. A BMR purchase and rental interest list, (herein referred to as the “interest list”), is maintained by the City or the City's designee.

An applicant must meet the current income eligibility limit requirements (per household size) to purchase and/or rent a BMR unit. See Section 15, Table A, for income eligibility limits, which may be updated by City staff from time to time.

Income qualified households shall apply for available BMR units via a lottery drawing held by the City or the City's designee. The lottery drawing will rank applicants at random followed by a final ranking to account for households meeting the City's preference criteria. All income eligible persons and households that do not qualify under one of the preferences will receive a final lottery rank lower than persons or households meeting preference criteria.

Preference criteria will be utilized at the time of a BMR unit drawing submission and verified during the application process. If an applicant does not meet a preference or cannot provide sufficient evidence establishing they meet a preference, that applicant will lose their preference ranking. In no circumstances shall the preference criteria and/or eligibility requirements of these Guidelines be applied in a manner that is contrary to State and/or Federal fair housing laws.

In addition to the below criteria, a tenant of a Menlo Park BMR rental unit who is required to vacate the BMR rental unit due to its conversion to a BMR for-sale unit, shall have first priority for vacant BMR rental units for which the tenant is eligible and qualifies for two years from the expiration of the lease, regardless of the place of residence of the displaced tenant.

Preference criteria are set forth below. All preferences, aside from the accessible unit preference, shall be given the same weight and/or ranking significance in formation of the final lottery ranking list.

Live and/or Work Preference: The applicant household's primary residence is within incorporated Menlo Park or a member of the applicant household currently works or volunteers within incorporated Menlo Park.

- Criteria for residing within incorporated Menlo Park. To qualify as living in Menlo Park, the applicant household's primary residence must be within incorporated Menlo Park.
- Criteria for working within incorporated Menlo Park. To qualify as a household that works in Menlo Park, a member of the applicant's household must currently work in Menlo Park at least 20 hours per week, or (if currently less than 20 hours per week) hours worked over the course of the one year prior to application averages a minimum of 20 hours per week.

- Types of work. Work is defined as (1) owning and operating a business at a Menlo Park location; (2) employment for wages or salary by an employer located at a Menlo Park location; (3) contract employment where the actual work is conducted at a Menlo Park location for one year; (4) commission work, up to and including a 100% commission arrangement, conducted in Menlo Park, or (5) volunteering for a community or civic serving entity located within Menlo Park, without receipt of compensation, wages or salary in exchange for such time and work.
- Employer-based work. If employed for wages or salary by an employer, working in Menlo Park is defined as the employer is located in Menlo Park and the employment/actual work is performed within incorporated Menlo Park.
- Owning (either wholly or in part) a residential or commercial property for investment purposes only shall not qualify as working within incorporated Menlo Park.

Unhoused Preference: For purposes of these Guidelines, unhoused persons may show local residency by providing evidence that their last permanent residence was located in Menlo Park and/or documentation from a case manager or homeless services provider demonstrating current residency in Menlo Park, including places or structures other than a bona fide dwelling unit (i.e. vehicle or tent).

Displacement Preference: A person or household residing within incorporated Menlo Park for three or more years that was subsequently displaced from such housing and does not reside in Menlo Park at the date of submission of application, shall not be disqualified based on current lack of residency, provided they can show their displacement was due to economic conditions beyond their control (including but not limited to job loss, rent increase, eviction, foreclosure or other form of economic hardship resulting in loss of housing). Evidence of such economic displacement shall be in the form of direct evidence (i.e. job termination letter) or declarations submitted under penalty of perjury.

Accessible Unit Preference: If the BMR unit is an accessible unit, then persons and/or persons within a household with accessibility needs who are otherwise eligible for the BMR unit, including by household size and income, will receive preference for units with features serving those accessibility needs ahead of applicants without an accessibility need. Ranking of persons and households for accessible units shall follow the below list from highest to lowest in the order of lottery ranking:

- Person or household with an accessibility need meeting an existing Menlo Park preference, such as live and/or work, unhoused or displacement preference.

- Person or household with an accessibility need not meeting an existing Menlo Park preference
- Person or household meeting an existing Menlo Park preference
- Person or household not meeting an existing Menlo Park preference

8.2 BMR Purchase Legacy List. The City no longer maintains a ranked BMR purchase waitlist and no longer adds persons or households to this list. To honor households that maintained their ranking and were required to annually recertify, the City created a BMR Purchase Legacy List. Households on the previous ranked BMR purchase list as of January 1, 2021 were effectively notified and transferred to the BMR Purchase Legacy List, which allows these identified households to have priority over all other applicants. Once there are no longer any households remaining on the BMR Purchase Legacy List (either because households on the list have been placed in units pursuant to these Guidelines, or because households have withdrawn from the list), the list will be considered terminated.

9. THE BMR UNIT PURCHASE PROCESS: BUYER SELECTION AND SALE PROCEDURES

9.1 New Units and Condominium Conversions.

9.1.1 The participating developer informs the City or its designee in writing that the BMR unit has received its final building inspection and that the BMR unit is ready for sale and occupancy. "The City" shall mean the City Manager, or his or her designee.

9.1.2 City of Menlo Park staff or the City's BMR Housing Program provider inspects the BMR unit. After approval of the unit, the City or the City's BMR Housing Program provider writes a certifying letter that states the BMR unit meets the BMR Housing Program's requirements and satisfies the BMR Agreement's provisions. The certifying letter will also state the price for the BMR unit. The price for the BMR unit will be determined based on the information described in the next three sections.

9.1.3 The City or its designee obtains necessary information for determining the price of the BMR unit. These include, but may not be limited to, the estimated tax figures from the developer and the County Assessor, as well as Homeowner's Association dues, Covenants, Conditions and Restrictions, and insurance figures from the developer. Also included will be all associated Homeowner Association documentation.

9.1.4 Household size and income qualifications are established. In households in which an adult holds 50% or more custody of a minor child or children through a legally binding joint custody settlement, each such child shall count as a person in determining the household size.

9.1.5 The City or its designee determines the maximum price of the BMR unit based on an income up to 120% of AMI (“AMI”) related to household size, as established from time to time by HCD for San Mateo County, monthly housing costs including current mortgage rates, insurance costs, homeowners' dues, taxes, closing costs and any other consideration of costs of qualifying for a first mortgage and purchase of the BMR unit. See Section 15, Table A, for income eligibility limits, which may be updated by City staff from time to time. When these documents and the information described in this and preceding sections have been received, the City will provide the developer with a certifying letter in which the City states the price for the BMR unit, accepts the BMR unit as available for purchase and the purchase period will commence.

9.1.6 If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender will close, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

9.1.7 The City may retain a realtor to facilitate the sale of the property.

9.1.8 Contact is established between the City or its designee and the developer's representative to work out a schedule and convenient strategy for advertisements, if needed, when the units will be open for viewing, and for when the interested applicants may obtain detailed information about the units.

9.1.9 All marketing and sales procedures for BMR units must be approved by the City and will be subject to review on a periodic basis for compliance.

9.1.10 An information packet and application forms are designed and duplicated by the City or its designee. The developer provides information about the unit, including a floor plan of the unit and of the building showing the location of the unit, dimensions, appliances, amenities, and finishes.

9.1.11 The City or the City's BMR Housing Program provider holds an application orientation meeting(s). All person and households are invited to attend the orientation meeting(s). Only households that are eligible by household size and have completed the one-time pre-purchase education requirement are contacted and invited to attend the orientation. Applications to purchase BMR units can only be obtained by attending an application orientation meeting. At the meeting, potential applicants are provided with the following information:

- A detailed description of the BMR Housing Program, including the rights, restrictions, and responsibilities of owning a BMR unit.
- A complete description of the property or properties being offered for sale including buyer eligibility requirements, the purchase price, home owner association costs (if any), estimated property taxes, and home features.

- An overview of the home loan application process and description of necessary costs including down payment (if required), closing costs, real estate taxes, and mortgage insurance.
- A description of the BMR and home loan approval process. Potential applicants are informed they must work with one of the program's approved mortgage providers. Per the City's discretion the potential applicants are also informed of the kinds of acceptable mortgage financing, and also of mortgage financing not allowed at that time (for instance negative amortizing loans).
- Based on the purchase price, estimates are provided on the minimum annual income required to purchase, as well as possible monthly housing costs including principal and interest, property taxes, and insurance payments.
- A step-by-step explanation of the BMR purchase application. If there are several sizes of units for which applicants may be eligible, applicants are instructed where to indicate their unit size preferences.

Potential applicants are invited to ask questions. Meeting attendees are invited to sign up to tour the property or properties for sale. Attendees are given applications and a reasonable deadline to submit their completed applications.

9.1.12 Completed applications are submitted to the City or its designee along with income and asset verifications.

9.1.13 When the application period closes, the City or its designee reviews the completed applications. The complete, eligible, qualifying applications are ranked according to legacy list order and/or lottery ranking.

9.1.14 If the leading applicant for a unit fails to contact the developer, provide a deposit, or obtain appropriate financing within the period of time specified in the notification letter, the City or its designee will contact the next household on the list.

9.1.15 The City of Menlo Park or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice to be recorded with the deed to the property.

9.1.16 The developer shall be free to sell a BMR unit without restriction as to price or qualification of buyer if all of the following criteria are met, unless the BMR applicant's lender has a loan condition that a specific number of units in the development must be sold before the loan can be approved: (1) the City and the developer are unable to obtain a qualified buyer within six months after the City has provided written notice both certifying that the unit is available for purchase and setting the price for the BMR unit, (2) the City or its designee does not offer to purchase the BMR unit within said six months period, and complete said purchase within not more than 60 days following the

end of the six month period, (3) the developer has exercised reasonable good faith efforts to obtain a qualified buyer. A qualified buyer is a buyer who meets the eligibility requirements of the BMR Housing Program and who demonstrates the ability to complete the purchase of the BMR unit. Written notice of availability shall be delivered to the City Manager, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025. Separate written notice of availability shall also be delivered to the City Manager, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025.

10. OCCUPANCY REQUIREMENTS FOR OWNER-OCCUPIED BMR UNITS

10.1 Primary Residence. The owners listed on title to the BMR property must occupy it as their primary residence and remain in residence for the duration of the Deed Restrictions (55 years). Occupancy is defined as a minimum stay of 10 months in every 12 month period. BMR owners may not terminate occupancy of the BMR property and allow the property to be occupied by a relative, friend, or tenant. Failure of the purchaser to maintain a homeowner's property tax exemption shall be construed as evidence that the BMR property is not the primary place of residence of the purchaser. As necessary, the City may request that BMR owners provide evidence that their units are currently occupied by them as their primary residences. Examples of such evidence may include current copies of any of the following: homeowner's insurance, car/vehicle registration, and utility bills.

10.2 Refinancing and BMR Valuations. BMR owners may refinance the debt on their property at any time following purchase, however, they must contact the City's designated BMR Housing Program provider first, prior to a refinance or equity line. The City's BMR Housing Program provider will provide the owner with clear instructions to ensure program compliance. At that time and at any other time the owner requests it, the BMR Housing Program provider will provide the owner and/or the lender with the current BMR value of the home, in accordance with the formula specified in the Deed Restrictions. Only the City's BMR Housing Program provider can determine the appraised value of a BMR unit and it is the owner's responsibility to inform their lender that the property is a BMR unit. BMR owners are not allowed to take out loans against their property that exceed the BMR value of the home. There is a fee for refinancing a BMR unit that is set by the City's BMR Housing Program provider.

10.3 Transfers of Title. Prior to adding an additional person to title or transferring title to the BMR unit, BMR owners must contact the City for clear instructions to ensure program compliance.

The following transfers of title are exempt from the City's right of first refusal and do NOT re-start the 55 year deed restriction clock:

- Transfer by devise or inheritance to the owner's spouse.
- Transfer of title by an owner's death to a surviving joint tenant, tenant in common, or a surviving spouse of community property (that is, another owner already on title).

- Transfer of title to a spouse as part of divorce or dissolution proceedings.
- Transfer of title or an interest in the property to the spouse in conjunction with marriage.

Transfers by devise or inheritance (such as to a child or other family member), are permitted under certain terms and conditions identified in the Deed Restrictions. These kinds of transfers must first be reviewed and approved by the City or the BMR Housing Program provider. If the person inheriting the property meets the following terms and conditions, then that person may take title, assume full ownership, and reside in the BMR unit. This would then restart the 55 year deed restriction clock. If the person inheriting the property does NOT meet the following terms and conditions they may still inherit the property but are not allowed to live there. In such case, the inheriting party must sell the property and shall be entitled to receive any proceeds from the sale after payment of sales expenses and all liens against the property. The property would then be sold by the City through the BMR Housing Program to an eligible, qualified household. For transfers of title by devise or inheritance, the inheriting party (“Transferee”) must meet the following terms and conditions in order to live in the BMR unit:

- Transferee shall occupy, establish and maintain the property as the Transferee’s primary residence.
- The Transferee must meet all current eligibility requirements for the BMR Housing Program, as identified at the time of transfer in the BMR Guidelines.
- The Transferee must sign a new BMR Agreement and Deed Restrictions for the property. This restarts the 55 year clock.

11. PROCESS FOR RESALE OF BMR UNITS

11.1 The seller notifies the City by certified mail that he/she wishes to sell the unit. The City notifies its designee, if applicable. The unit must be provided in good repair and salable condition, or the cost of rehabilitating the unit will be reimbursed to the City out of the proceeds of the sale. The definition of “salable condition” for any given unit shall be provided on a case-by-case basis following the City’s inspection of the unit, and shall be at the discretion of the City Manager or his/her designee. “Salable condition” shall refer to the general appearance, condition, and functionality of all: flooring; painted surfaces; plumbing, heating, and electrical systems; fixtures; appliances; doors; windows; walkways; patios; roofing; grading; and landscaping. In addition for each unit, the City reserves the right to withhold the cost of having it professionally cleaned from the seller’s proceeds. Once cleaning is complete, the seller will be refunded any difference between the amount withheld and the actual cost to clean the unit.

11.2 When the seller notifies the City or the City’s BMR Housing Program provider, and it has been determined that the unit is in good repair and salable condition, and the City has set the price for the BMR unit, then the City or the City’s BMR Housing

Program provider will state in writing that the 180 day period for completing the sale of the BMR unit shall commence. The price will be set using information in Sections 11.3 through 11.6 below.

11.3 The City or its designee obtains an appraisal made to ascertain the market value of the unit, giving consideration to substantial improvements made by the seller, if needed.

11.4 The City or its designee obtains figures for homeowners' dues, insurance, and taxes from the seller.

11.5 The City or its designee checks major lending institutions active in this market to ascertain current mortgage information (prevailing interest rates, length of loans available, points, and minimum down payments). Monthly housing costs are estimated.

11.6 The City or its designee establishes a sales price, based on the original selling price of the unit, depreciated value of substantial improvements made by the seller, and 1/3 of the increase in the cost of living index for the Bay Area. The selling price is established for the unit at the appraised market value or the computed price whichever is the lower.

11.7 The City retains a realtor to facilitate the sale of the property.

11.8 Agreement is reached between seller and the City or its designee for a schedule of open houses for the unit, at the seller's convenience.

11.9 The procedure continues the same as in Sections 9.1.7 – 9.1.16 above, with the seller substituted for the developer.

11.10 The City or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice and the seller's release from the previous Deed Restrictions, to be recorded with the new deed to the property.

12. REQUIREMENTS FOR BMR RENTAL DEVELOPMENTS

12.1 Income and Rent Standards.

12.1.1 Income Limits upon Occupancy of BMR Rental Units. Unless otherwise approved by the Planning Commission or City Council in the BMR Housing Agreement for the proposed project, only households having gross incomes at or below Low Income for San Mateo County, adjusted for household size, are eligible to occupy BMR rental units, either when initially rented or upon filling any subsequent vacancy. See Section 15, Table A (Below Market Rate Household Income Limits), which may be updated by City staff from time to time. Any variation in the affordability mix to assist the City in meeting its Regional Housing Needs Assessment (including very low, low or

moderate income households) shall require a finding by the approving body that the mix is roughly equivalent to the provision of all of the affordable units at the low income level.

12.1.2 BMR Rent. BMR units may be rented for monthly amounts not exceeding thirty percent (30%) of the income limit for extremely low, very low, subsidized low, low or moderate income households adjusted for occupancy, as established from time to time by the HCD for San Mateo County. In no case shall the monthly rental amounts for BMR units exceed 75% of comparable market rate rents. The maximum rental amounts are listed in Section 15, Table B, (Maximum Monthly Housing Cost Limits for BMR Rental Units), which may be updated by City staff from time to time. BMR rents may be adjusted from time to time to reflect any changes to the then current Income limits.

12.1.3 Tenant Selection and Certification Procedures. Priority for occupancy of all BMR rental units shall be given to those income eligible households who meet the preference criteria defined in section 8.1 of these Guidelines.

12.1.4 BMR Interest List. The qualifications of BMR rental tenants as described in Section 8.1, above, will be independently verified by the owner. The City of Menlo Park or the City's designee shall maintain a BMR Interest List and shall make it available to any owner/developer upon request.

12.1.5 One-Year Lease Offer. Each BMR tenant shall be offered the opportunity to enter into a lease, which has a minimum term of one year. Such offer must be made in writing. If the tenant rejects the offer, such rejection must also be in writing. A lease may be renewed upon the mutual agreement of both parties.

12.1.6 Vacation of Units and Re-Renting. When a BMR tenant vacates, the owner must provide notice to the City, and re-rent the unit to a qualified BMR tenant in accordance with these BMR Guidelines and the BMR Housing Agreement for the unit.

12.1.7 Annual Recertification of BMR Units. The City of Menlo Park or the City's BMR Housing Program provider will recertify annually, by procedures to be established in the BMR Housing Agreement, the provision of BMR rental units as agreed at the time of application for the permit. A qualified BMR tenant shall continue to qualify unless at the time of recertification, for two consecutive years, the household's income exceeds the eligibility requirements, then the tenant shall no longer be qualified. Upon the owner's determination that any such household is no longer qualified, the unit shall no longer be deemed a BMR Unit, and the owner shall make the next available unit, which is comparable in terms of size, features and number of bedrooms, a BMR (the "Next Available Unit Requirement"), or take other actions as may be necessary to ensure that the total required number of units are rented to qualifying BMR households. The owner shall notify the City annually if it substitutes a different unit for one of the designated BMR Units pursuant to this paragraph.

12.1.8 Annual Report. On an annual basis on or before July 1 of each year, the developer or subsequent owner shall submit a report (the "Annual Report") to

the City which contains, with respect to each BMR unit, the name of the eligible tenant, the rental rate and the income and household size of the occupants. The Annual Report shall be based on information supplied by the tenant or occupant of each BMR unit in a certified statement executed yearly by the tenant on a form provided or previously approved by the City or designee. Execution and delivery thereof by the tenant may be required by the terms of the lease as a condition to continued occupancy at the BMR rate. In order to verify the information provided, City shall have the right to inspect the books and records of developer and its rental agent or bookkeeper upon reasonable notice during normal business hours. The Annual Report shall also provide a statement of the owner's management policies, communications with the tenants and maintenance of the BMR unit, including a statement of planned repairs to be made and the dates for the repairs.

13. EQUIVALENT ALTERNATIVES

Nothing set forth herein shall preclude the City from approving reasonably equivalent alternatives to these BMR Guidelines, including, but not limited to, in lieu fees, land dedication, off-site construction or acquisition and rehabilitation of units. Additionally, the City reserves the right to approve reasonably equivalent alternatives to the characteristics of the proposed BMR units and the affordability mix. Any modifications to these Guidelines shall be approved by the City Council and shall contain findings that the alternative is commensurate with the applicable requirement(s) in the BMR Guidelines and is consistent with the goals of the BMR Guidelines.

14. BELOW MARKET RATE HOUSING FUND AND SEVERABILITY CLAUSE

14.1 Purpose. The City of Menlo Park Below Market Rate Housing Fund ("BMR Housing Fund") is a separate City fund set aside for the specific purpose of assisting the development of housing that is affordable to very low, low and moderate income households. The BMR Housing Fund is generated by such income as in-lieu fees. All monies contributed to the BMR Housing Fund, as well as repayments and interest earnings accrued, shall be used solely for this purpose, subject to provisions set forth below.

14.2 Eligible Uses. The BMR Housing Fund will be used to reduce the cost of housing to levels that are affordable to very low, low and moderate income households, as defined in the Housing Element of the City's General Plan. A preference will be given to assisting development of housing for households with minor children; however, this preference does not preclude the use of funds for other types of housing affordable to households with very low, low and moderate incomes.

14.3 Eligible Uses in Support of Very Low, Low and Moderate Income Housing Development. The BMR Housing Fund may be used for, but is not limited, to the following:

- Provision of below market rate financing for homebuyers.

- Purchase of land or air rights for resale to developers at a reduced cost to facilitate housing development for very low, low or moderate income households.
- Reduction of interest rates for construction loans or permanent financing, or assistance with other costs associated with development or purchase of very low, low or moderate income housing.
- Rehabilitation of uninhabitable structures for very low, low or moderate income housing.
- On-site and off-site improvement costs for production of affordable housing.
- Reduction of purchase price to provide units that are very low, low or moderate cost.
- Rent subsidies to reduce the cost of rent for households with limited incomes.
- Emergency repair and/or renovation loan program for BMR owners of older units.
- Loan program to assist BMR condominium owners who have no other way to pay for major special assessments.
- City staff time and administrative costs associated with implementation of the BMR Housing Program.

14.4 Procedures. Requests for use of BMR Housing Fund money shall be submitted to staff for review and recommendation to the City Council. A request for funding shall provide the following minimum information:

- A description of the proposal to be funded and the organizations involved in the project. Public benefit and relevant Housing Element policies and programs should be identified.
- Amount of funding requested.
- Identification of the number of very low, low and moderate income households to be assisted and the specific income range of those assisted.
- Reasons why special funding is appropriate.
- Identification of loan rate, financial status of applicants, and source of repayment funds or other terms.

- Identification of leverage achieved through City funding.

14.5 Annual Report. At the close of each fiscal year, City staff shall report on activity during the previous year (deposits and disbursements) and available funds. The City's auditor shall periodically examine this report and all other BMR Housing Fund financial records, and shall report the results of this examination. In addition, City staff shall report annually on activities assisted by monies from the BMR Housing Fund. The report will review how the program is serving its designated purpose. It will include a discussion of the timely use of funds for actions taken to provide BMR housing units, a review of management activities, and staff recommendations for policy changes to improve the program's performance. In addition, it will provide, for each activity, information corresponding to that required of funding requests listed above in Section 13.4.

14.6 Severability Clause. If any one or more of the provisions contained in the BMR Guidelines shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provisions shall be deemed severable from the remaining provisions contained in the BMR Guidelines, and the BMR Guidelines shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

14.7 Administrative Updates. Future updates to tables in Section 15 may be made annually without City Council approval when data becomes available from the appropriate state and federal agencies.

15. TABLES

Table A

Below Market Rate Household Income Limits

2021 Income Limits

Area Median Income: \$149,600 (for a household of 4 persons) effective April 26, 2021

| Income Category | Household Size | | | | | | |
|----------------------|----------------|--------|--------|--------|--------|--------|--------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Extremely Low Income | 38400 | 43850 | 49350 | 54800 | 59200 | 63600 | 68000 |
| Very Low Income | 63950 | 73100 | 82250 | 91350 | 98700 | 106000 | 113300 |
| Low Income | 102450 | 117100 | 131750 | 146350 | 158100 | 169800 | 181500 |
| Median Income | 104700 | 119700 | 134650 | 149600 | 161500 | 173550 | 185550 |
| Moderate Income | 125650 | 143600 | 161550 | 179500 | 193850 | 208200 | 222600 |

<https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2021.pdf>

Table B

Maximum Affordable Rent Payment

2021 Rent Limits

Area Median Income: \$149,600 (for a household of 4 persons) effective April 26, 2021

| Maximum Rents | Studio | 1 Bedroom | 2 Bedroom | 3 Bedroom | 4 Bedroom |
|-----------------|--------|-----------|-----------|-----------|-----------|
| Very Low Income | 1598 | 1713 | 2056 | 2375 | 2650 |
| Low Income | 2561 | 2738 | 3293 | 3805 | 4245 |
| Moderate Income | 3141 | 3365 | 4038 | 4666 | 5205 |

NOTE 1: The maximum rent is based on the following household size for each unit: Studio: 1 person; 1-bedroom: 1.5 persons; 2-bedroom: 3 persons; 3-bedroom: 4.5 persons; 4-bedroom: 6 persons.

NOTE 2: Per the City of Menlo Park BMR Guidelines (Section 4.1.2), the monthly rental amounts for BMR unit shall not exceed seventy-five percent (75%) of comparable market rate rents. Additional calculations may be necessary for each project to ensure BMR rents comply with this requirement.

<https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2021.pdf>

Table C

Occupancy Standards

Occupancy of BMR units shall be limited to the following:

| <u>Unit Size</u> | <u>Number of Persons</u> | |
|----------------------|--------------------------|----------------|
| | <u>Minimum</u> | <u>Maximum</u> |
| Studio | 1 | 2 |
| 1 | 1 | 3 |
| 2 | 2 | 5 |
| 3 | 3 | 7 |
| 4 | 4 | 9 |

Note: The City Manager or his/her designee has the discretion to vary the persons per unit for unusually large units, not to exceed one person per bedroom, plus one.

Table D

Commercial In-Lieu Fees for July 1, 2021 – June 30, 2022

| | |
|--|---|
| Group A uses are Research & Development and Office. | Fee: \$20.46 per square foot of gross floor area. |
|--|---|

| | |
|---|---|
| Group B uses are all other Commercial Uses not in Group A. | Fee: \$11.10 per square foot of gross floor area. |
|---|---|

Commercial In-Lieu Fees are adjusted annually on July 1. Annual fee adjustments are posted on the City's website.

CITY OF MENLO PARK
BELOW MARKET RATE HOUSING PROGRAM
GUIDELINES

Income Limits/Section 1544, Tables A and B Updated for 2017-182021-22

Originally Adopted by City Council on January 12, 1988

Revised by City Council on the following dates:

- December 17, 2002 (No Resolution)
- March 25, 2003 (Resolution No. 5433)
- January 13, 2004 (No Resolution)
- March 22, 2005 (Resolution No. 5586)
- March 2, 2010 (Resolution No. 5915)
- May 10, 2011 (No Resolution)
- May 6, 2014 (Resolution No. 6196)
- April 17, 2018 (Resolution No. 6432)
- June 19, 2018 (Resolution No. 6446)
- March 1, 2022 (Resolution No. 0000)

BELOW MARKET RATE HOUSING PROGRAM GUIDELINES

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1. OVERVIEW

The high cost and scarcity of housing in Menlo Park have been caused in large part because the number of jobs in Menlo Park has grown, but the supply of housing has not increased significantly. A majority of new employees earn low- and moderate-incomes and are most severely impacted by the lack of affordable housing in Menlo Park. Because of the high cost of housing, families who seek to live in Menlo Park cannot afford to purchase homes here and are forced to rent. Many renters pay a disproportionately high amount of their incomes in rent.

1.1 Purpose. The City of Menlo Park's Below Market Rate ("BMR") Housing Program is intended to increase the housing supply for households that have very low, low- and moderate-incomes compared to the median income for San Mateo County. The primary objective is to obtain actual housing units, either "rental" or "for sale," rather than equivalent cash.

1.2 Enabling Legislation. The BMR Housing Program is governed by Chapter 16.96 of the Municipal Code. The BMR Housing Program is administered under these BMR Housing Program Guidelines ("Guidelines").

2. BMR HOUSING AGREEMENT AND REVIEW PROCESS

2.1 BMR Housing Agreement. Before acceptance of plans for review by the City of Menlo Park staff, a developer should provide a proposal for meeting the requirements of the BMR Housing Program. The proposal should include one or a combination of the following alternatives: a) Provision of BMR units on site; and/or b) Provision of BMR units off-site; and/or c) Payment of an in-lieu fee. These alternatives are listed in order of preference.

2.2 Review Steps. The following review steps apply to most development projects:

- City staff will review a BMR For-Sale Agreement or an Affordability Housing Agreement (either, a "BMR Housing Agreement"), that has been prepared by the developer's attorney on a form substantially similar to that provided by the City and shall make a recommendation with respect to it to the Housing Commission, and, if applicable, to the Planning Commission and/or the City Council. The City Attorney must approve as to form the BMR Housing Agreement prior to its review by the Planning Commission.
- The City Council grants approval of the BMR Housing Agreement for projects which it reviews. For all other projects, the BMR Housing Agreement shall be approved by the entity having final approval authority over the project.

3. REQUIREMENTS FOR DEVELOPMENTS BY TYPE

3.1 Commercial Developments. The BMR Housing Program requires commercial developments which bring employees to Menlo Park to provide BMR units or to contribute to the BMR Housing Fund that is set up to increase the stock of housing for very low, low and moderate income households, with preference for workers whose employment is located in the City of Menlo Park, and for City residents.

3.1.1 Commercial Development Requirements. Commercial buildings of 10,000 square feet or more gross floor area are required to mitigate the demand for affordable housing created by the commercial development project. In order to do so, it is preferred that a commercial development project provide BMR housing on-site (if allowed by zoning) or off-site (if on-site BMR units are infeasible). A density bonus of up to 15% above the density otherwise allowed by zoning may be permitted when BMR housing is provided on-site. The BMR Housing Agreement will detail the BMR Housing Program participation of a particular development.

Although the provision of actual BMR units is strongly preferred, it is not always possible to provide BMR housing units. In such cases, the developer shall pay a commercial in-lieu fee rather than provide actual BMR housing units. Commercial in-lieu fees must be paid prior to the issuance of a building permit.

Commercial in-lieu fees are charged at different rates to two groups based on the employee housing demand the uses produce. Group A uses are office and research and development ("R&D"). Group B uses are all other uses not in Group A.

Commercial in-lieu fee rates are adjusted annually on July 1st. The amount of the adjustment is based on a five-year moving average of the percentage increase in the Consumer Price Index (Shelter Only) for All Urban Consumers in the San Francisco-Oakland-San Jose area. Refer to Section 4415, Table D, for the Commercial In-lieu Fee Rates, which may be updated by City staff from time to time.

3.1.2 Applicability. The BMR Housing Program applies to conditional use permits, conditional development permits, planned development permits, subdivision approvals, architectural control approvals, variance approvals and building permits for any commercial development. The BMR Housing Program also applies to the construction of any new square footage or any square footage that is converted from an exempt use to a non-exempt use. Finally, the BMR Housing Program applies to the conversion of floor area from a less intensive use (Commercial/Industrial uses) to a more intensive use (Office/R&D).

3.1.3 Exemptions. The following are exempted from the BMR Housing Program:

- (a) Private schools and churches;

- (b) Public facilities;
- (c) Commercial development projects of less than 10,000 square feet; and
- (d) Projects that generate few or no employees.

3.2 Residential Developments. The BMR Housing Program requires residential developments which use scarce residentially zoned land in Menlo Park to provide BMR units or to contribute to the BMR Housing Fund. The BMR Housing Fund is set up to increase the stock of housing for very low-, low- and moderate-income families, with preference for workers whose employment is located in the City of Menlo Park, and for City residents.

3.2.1 Residential Development Requirements. Residential developments of five or more units are subject to the requirements of the BMR Housing Program. These requirements also apply to condominium conversions of five units or more. As part of the application for a residential development of five or more units, the developer must submit a BMR Housing Agreement, in a form substantially similar to that provided by the City, which details the developer's plan for participation in the BMR Housing Program. No building permit or other land use authorization may be issued or approved by the City unless the requirements of the BMR Program have been satisfied.

3.2.2 Condominium Conversions. If an apartment complex already participating in the BMR Housing Program elects to convert the complex to condominiums, then the existing BMR rental apartments shall be converted to BMR condominium units under the BMR Housing Program.

When market rate rental units are removed from the rental housing stock for conversion to condominiums, and they are not already participating in the BMR Housing Program, then the project shall meet the same requirements as new developments to provide BMR units in effect at the time of conversion. When the property owner notifies the City of the intent to sell, the property owner shall notify any BMR tenants of such units of the pending sale and non-renewal of lease. Such tenant(s) shall be given the right of first refusal to purchase the unit. If the tenant seeks to purchase the unit, at the close of escrow the unit shall exist as a for-sale BMR unit. If the tenant does not seek to purchase, the tenant shall vacate the unit at the expiration of the current lease term and the unit will be sold to an eligible third party according to the BMR Guidelines and held as a for-sale BMR unit. The tenant who vacates will have priority to move to other vacant BMR rental units in the City for two years from the date the lease expired, regardless of the place of residence of the displaced BMR tenant.

3.3 Mixed Use Developments. Mixed use developments must comply with the requirements for commercial developments in the commercial portion of the development and must comply with the requirements for residential developments for the residential portion of the development.

3.4 Required Contribution for Residential Development Projects. All

residential developments of five units or more are required to participate in the BMR Housing Program. The preferred BMR Housing Program contribution for all residential developments is on-site BMR units. For rental residential development projects, the applicant may comply with the City's BMR requirements by providing in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. Any alternative means of compliance shall be approved by the City Council upon findings that the alternative is commensurate with the applicable on-site requirement and complies with applicable BMR Guidelines.

For ownership residential development projects, if providing on-site BMR units is not feasible as confirmed by the City, developers are required to pay an in-lieu fee as described in Section 4.3. The requirements for participation increase by development size as shown below:

One (1) to Four (4) Units. Developers are exempt from the requirements of the BMR Housing Program.

Five (5) to Nine (9) Units. It is preferred that the developer provide one unit at below market rate to a very low, low, or moderate income household.

Ten (10) to Nineteen (19) Units. The developer shall provide not less than 10% of the units at below market rates to very low-, low- and moderate-income households.

Twenty (20) or More Units. The developer shall provide not less than 15% of the units at below market rates to very low-, low- and moderate-income households. On a case-by-case basis, the City will consider creative proposals for providing lower cost units available to lower income households such as smaller unit size, duet-style, and/or attached units that are visually and architecturally consistent with the market-rate units on the exterior, and that meet the City's requirements for design, materials, and interior features of BMR units.

3.4.1 Fraction of a BMR Housing Unit. If the number of BMR units required for a residential development project includes a fraction of a unit, the developer shall provide either a whole unit, the preferred form of participation, or make a pro rata residential in lieu payment on account of such fraction per Section 4.3 or 4.4, as applicable.

Example: A residential project is developed with 25 condominium units. The BMR requirement of 15% equates to 3.75 units. The preferred BMR Housing Program participation is four BMR units. If four BMR units are provided, the developer would pay no in-lieu fee. Alternatively, if three BMR units are provided, the developer would have to pay an in-lieu fee for the remaining fractional BMR unit.

4. BMR PROGRAM REQUIREMENTS FOR ON-SITE BMR UNITS, OFF-SITE BMR UNITS AND IN-LIEU FEES

4.1 On-Site BMR Units.

4.1.1 Initial Price for For-Sale Unit. The initial selling price of BMR for-sale units for extremely low (30% AMI), very low (50% AMI), subsidized low (60% AMI), low (80% AMI) or moderate (120% AMI) income households is based on what is affordable to households with incomes at the identified percentage of area median income (“AMI”) related to household size, as established from time to time by the State of California Housing and Community Development Department (“HCD”) for San Mateo County. See Section [4415](#), Table A, which may be updated by City staff from time to time.

4.1.2 Initial Price for Rental Unit. The initial monthly rental amounts for BMR rental units will be equal to or less than thirty percent (30%) of the applicable income limits for extremely low, very low, subsidized low, low and moderate income households adjusted for occupancy, as established from time to time by the HCD for San Mateo County. In no case shall the monthly rental amounts for BMR units exceed seventy-five percent (75%) of comparable market rate rents. The maximum rent for specific BMR units will be based on Section [4415](#), Table B of the BMR Guidelines, which may be updated by City staff from time to time. See also Sections 11.1.1 and 11.1.2.

The purchase or rental price for BMR units shall be established and agreed upon in writing in the BMR Housing Agreement per Section 2.2, prior to final building inspection for such BMR units. The provision of affordable units at extremely low, very low, low and/or moderate income levels shall be roughly equivalent to the provision of all of the affordable units at the low income level.

4.1.3 Bonus Unit. For each BMR unit provided, a developer shall be permitted to build one additional market rate (bonus) unit. However, in no event shall the total number of units in a development be more than fifteen percent (15%) over the number otherwise allowed by zoning.

4.2 Off-Site BMR Units. If authorized by the City as described in Section 2.2, developers may propose to provide BMR units at a site other than the proposed development. These off-site BMR units must be provided on or before completion of the proposed development and must provide the same number of units at below market rates to very low, low and moderate income households as required for on-site developments. Such units may be new or existing. Provision by the developer and acceptance by the City of off-site units shall be described in the BMR Housing Agreement. Size, location, amenities and condition of the BMR units shall be among the factors considered by the City in evaluating the acceptability of the off-site BMR units. For existing units, the developer shall be responsible for correcting, at developer’s expense, all deficiencies revealed by detailed inspection of the premises by qualified inspectors, including a certified pest inspector.

The initial price or rent for the BMR units shall be established as stated in Sections 4.1.1 and 4.1.2 and in accordance with the BMR Income Guidelines in Section [4415](#) in effect at the time the BMR unit is ready for sale or rent. Fractions of required BMR units shall

be handled by provision of an in-lieu fee for the market rate units for which no BMR unit is provided.

4.3 Ownership Residential In Lieu Payments Based on Sales Price.

4.3.1 Developments of Ten (10) or More Units. In developments of 10 or more units, the City will consider an in-lieu payment alternative to required BMR units only if the developer substantiates to the City's satisfaction that the BMR units cannot be provided on or off-site. In developments of 10 or more units which provide BMR units, upon the close of escrow on the sale of each unit in the subdivision for which a BMR unit has not been provided, the developer shall pay to the City an in-lieu payment calculated at three percent (3%) of the actual sales price of each unit sold. In lieu payments for fractions of BMR units shall be determined by disregarding any bonus units and as three percent (3%) of selling price of each market rate unit sold if the developer substantiates to the City's satisfaction that the BMR units cannot be provided on or off-site.

If a portion of a BMR requirement is met by a provision of BMR units, and the developer substantiates to the City's satisfaction that a sufficient number of BMR units cannot be provided on or off-site, then BMR in-lieu payments will be required from the sales of the number of market rate units (excluding bonus units) that is in proportion to the BMR requirement that is not met.

4.3.2 Developments of Five (5) to Nine (9) Units.

Residential In-Lieu Payments Based on Sales Price. In developments of five to nine units, the City will consider an in-lieu payment alternative to required BMR units only if the developer cannot provide an additional BMR unit. If providing an additional BMR unit is not feasible, developers are required to pay a residential in lieu fee as described below.

| <u>Unit No.</u> | <u>In lieu fee for each unit</u> |
|-----------------|----------------------------------|
| 1, 2 and 3 | 1% of the sales price |
| 4, 5 and 6 | 2% of the sales price |
| 7, 8 and 9 | 3% of the sales price |

Example: In a development of seven units, the BMR contribution would be, in order of preference: a) One BMR unit out of the seven units, with the possibility of a density bonus of one unit, or, if that is not feasible, b) Three units designated to pay an in-lieu fee of one percent (1%) of the sales price, three units to pay in-lieu fees of two percent (2%) of their sales prices and one unit to pay three percent (3%) of its sales price.

Units paying in-lieu fees are designated so that they are distributed by unit size and location throughout the project.

In developments of 10 or more units which provide BMR units, upon the close of escrow on the sale of each unit in the subdivision for which a BMR unit has not been provided, the developer shall pay to the City an in-lieu payment calculated at three percent (3%) of the actual sales price of each unit sold.

Example: Two possible plans to meet the BMR requirement for a project of 15 housing units are, in order of preference: a) Two BMR units are provided, and no in-lieu fees are paid, or b) One BMR unit is provided out of the first 10 units, one bonus unit is granted for the provision of the BMR unit, and four units pay in-lieu fees.

Units held as rental, in-lieu fee. If the developer retains any completed unit as a rental, either for its own account or through subsidiary or affiliated organizations, the BMR contribution including BMR housing unit or in-lieu payment for such unit shall be negotiated between the developer and the City. If an in-lieu fee is paid, the market value shall be based on an appropriate appraisal by an appraiser agreed upon by the City and the developer and paid for by the developer. The basis for such appraisal shall be as a condominium rather than as a rental.

4.4 Rental Residential In Lieu Payments Based on Cost. The City Council shall establish a rental residential in-lieu fee by resolution, which fee may be updated from time to time. The fee shall be based on the cost to develop, design, construct, and maintain a standard one-bedroom unit in Menlo Park. The fee shall also include the proportionate costs of associated common area as well as land acquisition costs. The fee shall be adjusted on a project-by-project basis depending on size, location and other factors relevant to cost. The fee can be adjusted by a pre-set formula or by a consultant selected by the City and funded by the applicant.

5. CHARACTERISTICS OF BMR UNITS

5.1 Size and Location of BMR Units. BMR housing units shall generally be of the same proportionate size (number of bedrooms and square footage) as the market-rate units. The BMR units should be distributed throughout the development, and should be indistinguishable from the exterior. BMR units shall contain standard appliances common to new units, but need not have luxury accessories, such as Jacuzzi tubs. The Planning Commission and/or City Council shall have the authority to waive these size, location and appearance requirements of BMR units in order to carry out the purposes of the BMR Housing Program and the Housing Element.

5.2 Design and Materials in BMR Units. The design and materials used in construction of BMR units shall be of a quality comparable to other new units constructed in the development but need not be of luxury quality.

5.3 The BMR Price Must Be Set Before Final Building Inspection. There shall be no final inspection of BMR housing units until their purchase or rental prices have been agreed upon in writing by the developer and the City Manager, or his or her designee. Also, the sale or rental process will not begin until the sales price is set.

5.3.1 Final Inspection Schedule for Smaller and Larger Developments.

Less Than Ten (10) Units. In developments of less than 10 units with one or more BMR units, all BMR units must pass final inspection before the last market rate unit passes final inspection.

Ten (10) to Nineteen (19) Units. In developments of 10 or more units, including developments that are constructed in phases, for the first 10 housing units, a BMR unit must pass final inspection before nine market rate units may pass final inspection. For each additional group of 10 housing units, one additional BMR unit must pass final inspection before nine additional market rate units may pass final inspection.

Twenty (20) or More Units. In developments of 20 or more units, including developments that are constructed in phases, for the first 10 housing units, a BMR unit must pass final inspection before nine market rate units may pass final inspection. In addition, two additional BMR units must pass final inspection before eight additional market rate units may pass final inspection. For each additional group of 20 housing units, three additional BMR units must pass final inspection before 17 additional market rate units may pass final inspection. No project or phase may pass final inspection unless all the BMR units, which equal 15% or more of the housing units in that phase or project, have passed final inspection for that phase or project.

Last Unit. In no case may the last market rate unit pass final inspection before the last BMR unit has passed final inspection.

5.4 Sales Price Determination for BMR For-Sale Units. The maximum sales price for BMR units shall be calculated as affordable to BMR households ~~on the BMR Purchase Waiting List~~, which are eligible by income at the time that the maximum prices are set and which are of the smallest size eligible for the BMR units (excluding two-bedroom units, which shall be based on incomes for two person households even when units are made available to one person households). See Section ~~4415~~, Table A, for income eligibility limits, and Table C, for occupancy standards, which tables may be updated by City staff from time to time. The affordability of maximum prices will take into consideration mortgage interest rates, minimum down payments, mortgage debt-to-income ratios and other qualifying criteria used by lenders at the time the sales prices are set, as well as cost of insurance, taxes, homeowners' dues and any other necessary costs of homeownership.

5.4.1 Price Determination for Projects with Condominium Maps That Will Rent for an Indefinite Period of Time. Projects with condominium subdivision maps that will rent BMR units for an indefinite period shall have basic sales prices established at the outset for such BMR units in accordance with the Guidelines. Such initial sales prices shall be adjusted for the period between the month of completion of the BMR units and the month of notification of intent to sell the units, with further adjustments for improvements and deterioration per the Guidelines. The adjustments shall be based on one-third of the increase in the Consumer Price Index ("CPI"), All Urban Consumers, San Francisco-Oakland-San Jose, published by the U.S.

Department of Labor, Bureau of Labor Statistics, plus certain other equitable adjustments.

5.5 Legal Characteristics of BMR Units: Right of First Refusal and Deed Restrictions. All BMR units shall be subject to deed restrictions and conditions which include a right of first refusal in favor of the City for a period of 55 years under which the City or its designee will be entitled to purchase the property at the lower of (1) market value, or (2) the purchase price paid by seller, plus one-third of the increase (during the period of seller's ownership) in the CPI, All Urban Consumers, San Francisco-Oakland-San Jose, published by the U.S. Department of Labor, Bureau of Labor Statistics, plus certain other equitable adjustments. The deed restrictions will also prohibit sales or transfers of the property except with the written consent of the City and at a price computed as above. Exceptions from all prohibitions against sale or transfer will include:

- (1) Demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period;
- (2) Transfer by termination of joint tenancy or by gift or inheritance to parents, spouse, children, grandchildren or their issue.

The prohibition against sales or transfers will not terminate at the end of 55 years in the event of an exempt transfer by termination of joint tenancy or by gift or inheritance to family members. The prohibition against sales or transfers will terminate in the event of an exempt sale or transfer when there is a demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period of time.

In the event of an exempt sale when there is a demonstrated unlikelihood of obtaining a qualified buyer within a reasonable period of time, the seller will be entitled to receive the lesser of (A) market value or (B) the purchase price paid by the seller plus one-third of the increase (during the seller's ownership) in the CPI, plus certain other equitable adjustments, as specified in the deed restrictions. The balance of the proceeds shall be paid to the City of Menlo Park to be deposited in the BMR Housing Fund. Any transferee pursuant to an exempt transfer by termination of joint tenancy or by gift or inheritance to family members must reside in the BMR unit and must qualify under the income criteria of the BMR Program at the time of the transfer of the BMR unit.

6. HOUSEHOLD DEFINITION AND CRITERIA

For purposes of sections 7 and 8 of these Guidelines, the following definition of household and provisions establishing household composition shall apply.

6.1 Definition of Household. For the purposes of this program, "household" is defined as all persons who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is

also counted as a household. To be considered a household, all applicants/household members must live together in a home that is their primary residence. To be considered part of the household and included in household size, children under the age of 18 (including foster children) must reside in the home at least part-time or parents must have at least partial (50%) custody of the child/children.

6.2 Household Requirement. To constitute a household, all members of the applicant household must currently live together (in a location that is their primary residence) at the time of application. Also, at the time of application and regardless of where they currently live, all members who make up the applicant household must have continuously lived together for a minimum of one year prior to the date of application.

6.2.1 Exceptions. Exceptions to this minimum one year joint-residency requirement include:

- Children under the age of 18 who have recently joined the household in conjunction with marriage, separation, or divorce, or similar family re-organization, and for whom there is evidence of a custody agreement or arrangement. This also applies to foster children.
- Children born or adopted into a household.
- Households newly formed as a result of marriage or domestic partnership.
- Other circumstances regarding the addition of a family member over the age of 18 may be reviewed by the City or its designee.

7. ELIGIBILITY REQUIREMENTS FOR HOUSEHOLDS APPLYING TO PURCHASE BMR UNITS

Note: ~~Eligibility requirements-Preference criteria~~ for households ~~entering a BMR unit lottery drawing that wish to be placed on the BMR Purchase Waiting List~~ are identified in Section 87. ~~The City no longer maintains a ranked purchase waitlist. Previously ranked households have been transferred to a legacy purchase list, as more fully set forth in-see Section 78.2.~~ ~~The requirements provisions~~ identified below apply at the ~~actual~~ time of ~~submission of an application to purchase a BMR unit.~~ In order for a household to be eligible at the time of ~~submission of application to purchase, ALL, all~~ of the following ~~requirements-provisions shall apply and/or bemust be~~ met:

~~**6.1 BMR Purchase Waiting List.** Applicants are eligible to have their names placed on the BMR Purchase Waiting List if they meet the following three requirements at the time they submit an application for the BMR Purchase Waiting List: (1) currently live or work within incorporated Menlo Park; (2) meet the current income limit requirements (per household size) for purchase of a BMR unit; and (3) all applicants currently live together as a household.~~

~~**6.1.1 Definition of Household.** For the purposes of this program, household is defined as all persons who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household. To be considered a household, all applicants/household members must live together in a home that is their primary residence. To be considered part of the household and included in household size, children under the age of 18 (including foster children) must reside in the home at least part time or parents must have at least partial (50%) custody of the child/children.~~

~~**6.2 — Live and/or Work Eligibility.** Households that live and/or work within incorporated Menlo Park shall be eligible for the Below Market Rate Housing Program in accordance with the following provisions:~~

~~**6.2.1 Eligibility by Living in Menlo Park.** To qualify as living in Menlo Park, the applicant household must meet the following two requirements at the time of application: (1) currently live in Menlo Park as the household's primary residence and (2) must have continuously lived in Menlo Park for a minimum of one (1) year prior to the date of actual application to purchase.~~

~~**6.2.2 Eligibility by Working in Menlo Park.** To qualify as a household that works in Menlo Park, a member of the applicant's household must meet the following two requirements at the time of application: (1) currently work in Menlo Park at least 20 hours per week, or (if currently less than 20 hours per week) hours worked over the course of the one year prior to application averages a minimum of 20 hours per week and (2) must have continuously worked in Menlo Park for a minimum of one year prior to the date of actual application to purchase.~~

~~**6.2.2.1 Types of Work.** Work is defined as (1) owning and operating a business at a Menlo Park location; (2) employment for wages or salary by an employer located at a Menlo Park location; (3) contract employment where the actual work is conducted at a Menlo Park location for one year; or (4) commission work, up to and including a 100% commission arrangement, conducted in Menlo Park.~~

~~**6.2.2.2 Employer-Based Work.** If employed for wages or salary by an employer, working in Menlo Park is defined as the employer is located in Menlo Park AND the employment/actual work is performed within incorporated Menlo Park.~~

~~**6.2.2.3 Owning and Operating a Business at a Menlo Park Location.** This does NOT include owning (either wholly or in part) a residential or commercial property for investment purposes only.~~

~~**6.2.2.4 Work does NOT include volunteer or unpaid work.**~~

~~**6.23 Household Requirement.** To constitute a household, all members of the applicant household must currently live together (in a location that is their primary~~

residence) at the time of application. Also, at the time of application and regardless of where they currently live, all members who make up the applicant household must have continuously lived together for a minimum of one year prior to the date of application.

~~6.23.1 Exceptions.~~ Exceptions to this minimum one year joint residency requirement include:

- ~~• Children under the age of 18 who have recently joined the household in conjunction with marriage, separation, or divorce, or similar family reorganization, and for whom there is evidence of a custody agreement or arrangement. This also applies to foster children.~~
- ~~• Children born or adopted into a household.~~
- ~~• Households newly formed as a result of marriage or domestic partnership.~~
- ~~• Other circumstances approved by the City to account for a recently added household member (such as an aging parent).~~

~~7.1~~ ~~6.4~~ — **First Time Homebuyer.** All members of the applicant household must be first time homebuyers, defined as not having owned a home as ~~your a~~ primary residence within the last three years prior to the date of application. A primary residence is a property occupied by the applicant household for the majority of a calendar year. A household may have only one primary residence. First time homebuyers ~~DO~~ include owners of mobile homes, as well as applicants whose names are on title for properties they have not lived in as their primary residences for the last three years (for instance rental properties, which must be considered as part of the applicant's eligibility ~~per~~ assets).

~~7.1.16.4.1.~~ **Exceptions.** Exceptions to this requirement are:

- Applicants who are current BMR homeowners and are otherwise eligible for the BMR Housing Program, are eligible to apply for BMR ownership opportunities ~~place their names on the BMR Purchase Waiting List~~ and to purchase a smaller or larger home needed due to changes in household size or family needs, such as for handicap_ accessibility needs (per Section 7.2.6, below).
- Applicants whose names were placed on the BMR Purchase Waiting List prior to March 2, 2010.
- Applicant households that currently and/or within the last three years prior to the date of application own homes as their primary residences more than 50 miles outside Menlo Park city limits, that are otherwise eligible for the BMR Housing Program.

~~7.26.5 Complete One-Time~~ **First Time Pre-Purchase Homebuyer Education.** ~~After an applicant's name is placed on the BMR Purchase Waiting List and before~~

~~receiving an offer to purchase a BMR property, a~~All adult applicants/household members must complete a one-time homebuyer education workshop, class, or counseling session. ~~When applicants' names are placed on the BMR Purchase Waiting List,~~ Program staff provides ~~them households~~ with a list of approved local organizations that provide pre-purchase homebuyer education. Applicants choose an education provider or program from the approved list and may choose to attend in either a group or individualized setting. It is the applicants' responsibility to provide the City or the City's BMR Housing Program provider with evidence that a pre-purchase homebuyer education workshop or session was completed. In most cases, the education providers will provide applicants with certificates of completion, typically good for two year, which that applicants can submit to the City's BMR Housing Program provider as proof that the pre-purchase education requirement was completed. ~~Households on the BMR Purchase Waiting List that have not completed the homebuyer education requirement will retain their rank on the list but will NOT be invited to apply to purchase BMR units.~~ Only households ~~on the BMR Purchase Waiting List~~ that have completed the education requirement will be invited to apply when units become available. ~~Elderly Adult~~ parents of applicants living in the household need not complete the education requirement.

7.2.16.5.1 Prior Completion of Pre-Purchase Homebuyer Education. ~~At the time of application to the BMR Purchase Waiting List, a~~ Applicants who provide written evidence of having completed an approved homebuyer education workshop, class, or counseling session within the previous twelve months prior to the date of submission of the BMR unit purchase application ~~to the BMR Purchase Waiting List~~ are not required to complete an additional workshop, class, or counseling session.

7.2.26.5.2 Homebuyer Education Provider. At the City's discretion, the City may elect to work exclusively with one or more homebuyer education providers/organizations. The City may also choose to contract with a particular person or organization to provide this educational component.

7.2.36.5.3 Long-Term Education or Counseling Required for Certain Applicants. Applicants who are invited to apply to purchase BMR units and are twice denied (on separate occasions) due to long-term or significant credit problems, will be required to meet individually with a credit counseling professional ~~in order to remain on the BMR Purchase Waiting List.~~ The applicant must provide evidence of completion of credit counseling before they can be approved to purchase a BMR ownership unit. ~~within six months to the City's BMR provider or the applicant will be removed from the BMR Purchase Waiting List. This~~ The credit counseling requirement does not exclude the applicant from applying to future the BMR purchase opportunities. ~~Purchase Waiting List again, to be placed at the bottom of the list.~~

7.36.6 Ownership Interest. A minimum of 50% of the ownership interest in the property must be vested in the qualifying applicant(s), regardless of income.

7.46.7 Income and Asset Limits for Purchasers of BMR Units. Income eligibility limits are established by HCD for San Mateo County. Income limits are updated on an annual basis. BMR units shall only be sold to very low, low, and moderate income households. Only households having gross incomes at or below 120% of the AMI for

San Mateo County, adjusted for household size, are eligible to purchase and occupy BMR for-sale units, either upon initial sale or upon any subsequent resale, as specified in the deed restrictions. Refer to Section ~~44~~15, Table A, for the income eligibility limits, which may be updated by City staff from time to time.

An asset is a cash or non-cash item that can be converted into cash. Only households having non-retirement assets that do not exceed the purchase price of the BMR units are considered eligible.

- Assets Include: cash held in checking accounts, savings accounts, and safe deposit boxes; equity in real property; cash value of stocks (including options), bonds, Treasury bills, certificates of deposit, money market accounts, and revocable trusts; personal property held as an investment such as gems, jewelry, coin and art collections, antiques, and vintage and/or luxury cars; lump sum or one-time receipts such as inheritances, capital gains, lottery winnings, victim's restitution, and insurance settlements; payment of funds from mortgages or deeds of trust held by the applicant(s); boats and planes; and motor homes intended for primary residential use.
- Assets DO NOT Include: cars and furniture (except cars and furniture held as investments such as vintage and/or luxury cars, and antiques); company pension and retirement plans; Keogh accounts; dedicated education funds/savings accounts; and funds dedicated to federally recognized retirement programs such as 401K's and IRA's.

Note that equity in real property or capital investments is defined as follows: the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g. broker/realtor fees) that would be incurred in selling the asset.

~~7.4.1~~ 6.7.1 Senior or Disabled Households That Use Assets for Living Expenses. An exception to the income and asset limit requirement is a household whose head is over 62 years of age, or permanently disabled and unable to work, with assets valued up to two times the price of the BMR unit. The applicant must be able to demonstrate that the sole use of his/her assets has been for household support for at least the three previous years, and that the total annual household income meets the BMR Guidelines.

~~87.~~ 87. BMR PURCHASE ~~WAITING LIST~~ AND ~~BMR~~ RENTAL INTEREST LIST PREFERENCE CRITERIA

~~8.17.1~~ 8.17.1 BMR Purchase ~~Waiting List~~ and ~~BMR~~ Rental Interest List Preference Criteria ~~Eligibility Requirements~~. A BMR purchase and rental interest list, (here-in referred to as the "interest list"), is maintained by the City or the City's designee.

An applicant must meet the current income eligibility limit requirements (per household size) to purchase and/or rent a BMR unit. See Section 15, Table A, for income eligibility limits, which may be updated by City staff from time to time.

Income qualified households shall apply for available BMR units via a lottery drawing held by the City or the City's designee. The lottery drawing will rank applicants at random followed by a final ranking to account for households meeting the City's preference criteria. All income eligible persons and households that do not qualify under one of the preferences will receive a final lottery rank lower than persons or households meeting preference criteria.

Preference criteria will be utilized at the time of a BMR unit drawing submission and verified during the application process. If an applicant does not meet a preference or ~~lack~~cannot provide sufficient evidence ~~that they~~establishing they meet a preference, that applicant will lose their preference ranking. In addition, the City maintains an unranked BMR Rental interest list. Households are eligible to be placed on the BMR Purchase Waiting List or BMR Rental Interest List if they meet the following requirements at the time they submit applications for the either list: In no circumstances shall the preference criteria and/or eligibility requirements of these Guidelines be applied in a manner that is contrary to State and/or Federal fair housing laws.

In addition to the below criteria, a tenant of a Menlo Park BMR rental unit who is required to vacate the BMR rental unit due to its conversion to a BMR for-sale unit, shall have first priority for vacant BMR rental units for which the tenant is eligible and qualifies for two years from the expiration of the lease, regardless of the place of residence of the displaced tenant.

Preference criteria are set forth below. All preferences, aside from the accessible unit preference, ~~carry the same~~shall be given the same weight and/or ranking significance in formation of the ~~interest~~final lottery ranking list.

Live and/or Work Preference: The applicant household's primary residence is currently resides within incorporated Menlo Park as its primary residence or OR a member of the applicant household currently works or volunteers at least 20 hours per week within incorporated Menlo Park. Applicants must have lived AND/OR worked in Menlo Park for a minimum of one (1) year prior to the date of application. See Section 7.2 for live and work eligibility criteria.

- Criteria for Living in residing within incorporated Menlo Park. To qualify as living in Menlo Park, the applicant household's primary residence must be within incorporated Menlo Park. ~~must meet the following two requirements at the time of application: (1) currently live in Menlo Park as the household's primary residence. and (2) must have continuously lived in Menlo Park for a minimum of one (1) year prior to the date of actual application to purchase.~~

- Criteria for working within incorporated Menlo Park. To qualify as a household that works in Menlo Park, a member of the applicant's household must meet the following two requirements at the time of application: (1) currently work in Menlo Park at least 20 hours per week, or (if currently less than 20 hours per week) hours worked over the course of the one year prior to application averages a minimum of 20 hours per week, and (2) must have continuously worked in Menlo Park for a minimum of one year prior to the date of actual application to purchase.
 - Types of work. Work is defined as (1) owning and operating a business at a Menlo Park location; (2) employment for wages or salary by an employer located at a Menlo Park location; (3) contract employment where the actual work is conducted at a Menlo Park location for one year; (4) commission work, up to and including a 100% commission arrangement, conducted in Menlo Park, or (5) volunteering for a community or civic serving entity located within Menlo Park, without receipt of compensation, wages or salary in exchange for such time and work.
 - Employer-based work. If employed for wages or salary by an employer, working in Menlo Park is defined as the employer is located in Menlo Park and AND the employment/actual work is performed within incorporated Menlo Park.
 - Owning (either wholly or in part) a residential or commercial property for investment purposes only shall not qualify as working within incorporated Menlo Park.

Unhoused Preference: For purposes of these Guidelines, unhoused persons may show local residency by providing evidence that their last permanent residence was located in Menlo Park and/or documentation from a case manager or homeless services provider demonstrating current residency in Menlo Park, including places or structures other than a bona fide dwelling unit (i.e. vehicle or tent).

Displacement Preference: A person or household residing within ~~in~~ incorporated Menlo Park ~~in 2008 for three or more years that~~ who was subsequently displaced from such housing and does not reside in Menlo Park at the date of submission of application, shall not be disqualified based on current lack of residency, provided they can show their displacement was due to economic conditions beyond their control (including but not limited to job loss, rent increase, eviction, foreclosure or other form of economic hardship resulting in loss of housing). Evidence of such economic displacement shall be in the form of direct evidence (i.e. job termination letter) or declarations submitted under penalty of perjury.

Accessible Unit Preference: If the BMR unit is an accessible unit, then persons and/or persons within a household with accessibility needs who are otherwise eligible for the

BMR unit, including by household size and income, will receive preference for units with features serving those accessibility needs ahead of applicants without an accessibility need. Ranking of persons and households for accessible units shall follow the below list from highest to lowest in the order of lottery ranking:

- Person or household with an accessibility need meeting an existing Menlo Park preference, such as live and/or work, unhoused or displacement preference.
- Person or household with an accessibility need not meeting an existing Menlo Park preference
- Person or household meeting an existing Menlo Park preference
- Person or household not meeting an existing Menlo Park preference

~~Applicant households may submit applications and, if eligible, will be placed on the numbered BMR Purchase Waiting List in the order in which their applications were received and/or the BMR Rental Interest List, which is neither numbered nor ordered.~~

~~In accordance with Section 6.4, all members of the household must be first time homebuyers for inclusion on the BMR Purchase Waiting List.~~

~~**7.2 BMR Purchase Waiting List Management.** BMR units available for purchase are offered to households on the BMR Purchase Waiting List in the order in which the BMR Purchase Waiting List applications were received.~~

~~**7.2.1 Annual affirmation of continued interest in remaining on the BMR Purchase Waiting List.** On an annual basis, all households on the BMR Purchase Waiting List will be required to confirm their continued interest in remaining on the list. At or around the same time each year, the City's BMR Housing Program provider will mail and/or email annual update forms/applications to all current households on the BMR Purchase Waiting List. Households on the BMR Purchase Waiting List that wish to remain on the list are asked to complete the form and return it to the City's BMR Housing Program provider within a specified period of time (usually about one month) with a \$10 annual fee for processing. Households who do not respond by completing and returning the forms and the fee by the specified deadline, or whose mail is returned undeliverable to the City's BMR Housing Program provider or who otherwise cannot be reached, shall be removed from the BMR Purchase Waiting List. This does not exclude households removed from the BMR Purchase Waiting List from re-applying to the list, to be added to the bottom of the list in accordance with normal procedures.~~

~~**7.2.2 Complete One-Time Pre-Purchase Homebuyer Education for Households That Would Like to Purchase a BMR Unit.** For households that indicate they would like to purchase BMR units, after households are placed on the BMR Purchase Waiting List and before receiving offers to purchase BMR properties, all adult~~

~~applicants/household members must complete a one-time homebuyer education workshop, class, or counseling session, per Section 6.5.~~

~~7.2.3 When a BMR unit is offered for purchase, applicants must enter into a purchase agreement within a defined, reasonable period of time. If an applicant fails to do so, the BMR unit will be offered to the next eligible applicant on the BMR Purchase Waiting List. The City of Menlo Park reserves the right to establish other criteria to give preference to certain categories of eligible participants on the BMR Purchase Waiting List.~~

~~7.2.4 A tenant of a BMR rental unit who is required to vacate the BMR rental unit due to its conversion to a BMR for sale unit, shall have first priority for vacant BMR rental units for which the tenant is eligible and qualifies for two years from the expiration of the lease, regardless of the place of residence of the displaced tenant.~~

~~7.2.5 Preference for Handicap Accessible Units for Bona Fide Wheelchair Users. If the BMR unit is wheelchair accessible, then bona fide wheelchair users on the BMR Purchase Waiting List who are otherwise eligible for the BMR unit, including by household size and income, will receive preference over other applicants, and the BMR unit will be offered to the bona fide wheelchair users in the order that their applications were received.~~

~~7.2.6 Households who are current BMR homeowners are eligible to place their name on the BMR Purchase Waiting List and to purchase a smaller or larger home needed due to changes in their household size or family needs, such as for a handicapped accessible unit.~~**8.2 BMR Purchase Legacy List.** The City no longer maintains a ranked BMR purchase waitlist and no longer adds persons or households to this list. To honor households that maintained their ranking and were required to annually recertify, the City created a BMR Purchase Legacy List. Households on the previous ranked BMR purchase list as of January 1, 2021 were effectively notified and transferred to the BMR Purchase Legacy List, which allows these identified households to have priority over all other applicants. Once there are no longer any households remaining on the BMR Purchase Legacy List (either because households on the list have been placed in units pursuant to these Guidelines, or because households have withdrawn from the list), the list will be considered terminated.

98. THE BMR UNIT PURCHASE PROCESS: BUYER SELECTION AND SALE PROCEDURES

9.18.1 New Units and Condominium Conversions.

89.1.1 The participating developer informs the City or its designee in writing that the BMR unit has received its final building inspection and that the BMR unit is ready for sale and occupancy. "The City" shall mean the City Manager, or his or her designee.

89.1.2 City of Menlo Park staff or the City's BMR Housing Program provider inspects the BMR unit. After approval of the unit, the City or the City's BMR Housing Program provider writes a certifying letter that states the BMR unit meets the BMR Housing Program's requirements and satisfies the BMR Agreement's provisions. The certifying letter will also state the price for the BMR unit. The price for the BMR unit will be determined based on the information described in the next three sections.

89.1.3 The City or its designee obtains necessary information for determining the price of the BMR unit. These include, but may not be limited to, the estimated tax figures from the developer and the County Assessor, as well as Homeowner's Association dues, Covenants, Conditions and Restrictions, and insurance figures from the developer. Also included will be all associated Homeowner Association documentation.

89.1.4 Household size and income qualifications are established. In households in which an adult holds 50% or more custody of a minor child or children through a legally binding joint custody settlement, each such child shall count as a person in determining the household size.

89.1.5 The City or its designee determines the maximum price of the BMR unit based on an income up to 120% of AMI ("AMI") related to household size, as established from time to time by HCD for San Mateo County, monthly housing costs including current mortgage rates, insurance costs, homeowners' dues, taxes, closing costs and any other consideration of costs of qualifying for a first mortgage and purchase of the BMR unit. See Section **4415**, Table A, for income eligibility limits, which may be updated by City staff from time to time. When these documents and the information described in this and preceding sections have been received, the City will provide the developer with a certifying letter in which the City states the price for the BMR unit, accepts the BMR unit as available for purchase and the purchase period will commence.

89.1.6 If there is a standard pre-sale requirement by the BMR applicant's lender for a certain percentage of units in the project to be sold before the BMR applicant's lender will close, then the time for the City's purchase or the buyer's purchase will be extended until that requisite number of units has closed.

89.1.7 The City may retain a realtor to facilitate the sale of the property.

89.1.8 Contact is established between the City or its designee and the developer's representative to work out a schedule and convenient strategy for advertisements, if needed, when the units will be open for viewing, and for when the interested applicants may obtain detailed information about the units.

89.1.9 All marketing and sales procedures for BMR units must be approved by the City and will be subject to review on a periodic basis for compliance.

89.1.10 An information packet and application forms are designed and duplicated by the City or its designee. The developer provides information about the

unit, including a floor plan of the unit and of the building showing the location of the unit, dimensions, appliances, amenities, and finishes.

89.1.11 The City or the City's BMR Housing Program provider holds an application orientation meeting(s). ~~All person and Hhouseholds on the BMR Purchase Waiting List with the lowest numbers are contacted and are~~ invited to attend the orientation meeting(s). Only households that are eligible by household size and have completed the one-time pre-purchase education requirement are contacted and invited to attend the orientation. Applications to purchase BMR units can only be obtained by attending an application orientation meeting. At the meeting, potential applicants are provided with the following information:

- A detailed description of the BMR Housing Program, including the rights, restrictions, and responsibilities of owning a BMR unit.
- A complete description of the property or properties being offered for sale including buyer eligibility requirements, the purchase price, home owner association costs (if any), estimated property taxes, and home features.
- An overview of the home loan application process and description of necessary costs including down payment (if required), closing costs, real estate taxes, and mortgage insurance.
- A description of the BMR and home loan approval process. Potential applicants are informed they must work with one of the program's approved mortgage providers. Per the City's discretion the potential applicants are also informed of the kinds of acceptable mortgage financing, and also of mortgage financing not allowed at that time (for instance negative amortizing loans).
- Based on the purchase price, estimates are provided on the minimum annual income required to purchase, as well as possible monthly housing costs including principal and interest, property taxes, and insurance payments.
- A step-by-step explanation of the BMR purchase application. If there are several sizes of units for which applicants may be eligible, applicants are instructed where to indicate their unit size preferences.

Potential applicants are invited to ask questions. Meeting attendees are invited to sign up to tour the property or properties for sale. Attendees are given applications and a reasonable deadline to submit their completed applications.

89.1.12 Completed applications are submitted to the City or its designee along with income and asset verifications.

~~89.1.13~~ When the application period closes, the City or its designee reviews the completed applications. The complete, eligible, qualifying applications are ranked according to legacy list order and/or lottery ranking. ~~in order by BMR Purchase Waiting List numbers and/or other criteria established by the City. The complete applications with the lowest numbers, and meeting other qualifying criteria for each unit, if any, are selected, and the households that submitted them are notified of the opportunity to purchase the BMR unit, in the order of their numbers on the BMR Purchase Waiting List. They are invited to an orientation meeting.~~

~~89.1.14~~ If the leading applicant for a unit fails to contact the developer, provide a deposit, or obtain appropriate financing within the period of time specified in the notification letter, the City or its designee will contact the next household on the list.

~~89.1.15~~ The City of Menlo Park or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice to be recorded with the deed to the property.

~~89.1.16~~ The developer shall be free to sell a BMR unit without restriction as to price or qualification of buyer if all of the following criteria are met, unless the BMR applicant's lender has a loan condition that a specific number of units in the development must be sold before the loan can be approved: (1) the City and the developer are unable to obtain a qualified buyer within six months after the City has provided written notice both certifying that the unit is available for purchase and setting the price for the BMR unit, (2) the City or its designee does not offer to purchase the BMR unit within said six months period, and complete said purchase within not more than 60 days following the end of the six month period, (3) the developer has exercised reasonable good faith efforts to obtain a qualified buyer. A qualified buyer is a buyer who meets the eligibility requirements of the BMR Housing Program and who demonstrates the ability to complete the purchase of the BMR unit. Written notice of availability shall be delivered to the City Manager, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025. Separate written notice of availability shall also be delivered to the City Manager, City of Menlo Park, 701 Laurel Street, Menlo Park, CA 94025.

910. OCCUPANCY REQUIREMENTS FOR OWNER-OCCUPIED BMR UNITS

910.1 Primary Residence. The owners listed on title to the BMR property must occupy it as their primary residence and remain in residence for the duration of the Deed Restrictions (55 years). Occupancy is defined as a minimum stay of 10 months in every 12 month period. BMR owners may not terminate occupancy of the BMR property and allow the property to be occupied by a relative, friend, or tenant. Failure of the purchaser to maintain a homeowner's property tax exemption shall be construed as evidence that the BMR property is not the primary place of residence of the purchaser. As necessary, the City may request that BMR owners provide evidence that their units are currently occupied by them as their primary residences. Examples of such evidence may include current copies of any of the following: homeowner's insurance, car/vehicle registration, and utility bills.

910.2 Refinancing and BMR Valuations. BMR owners may refinance the debt on their property at any time following purchase, however, they must contact the City's designated BMR Housing Program provider first, prior to a refinance or equity line. The City's BMR Housing Program provider will provide the owner with clear instructions to ensure program compliance. At that time and at any other time the owner requests it, the BMR Housing Program provider will provide the owner and/or the lender with the current BMR value of the home, in accordance with the formula specified in the Deed Restrictions. Only the City's BMR Housing Program provider can determine the appraised value of a BMR unit and it is the owner's responsibility to inform their lender that the property is a BMR unit. BMR owners are not allowed to take out loans against their property that exceed the BMR value of the home. There is a fee for refinancing a BMR unit that is set by the City's BMR Housing Program provider.

910.3 Transfers of Title. Prior to adding an additional person to title or transferring title to the BMR unit, BMR owners must contact the City for clear instructions to ensure program compliance.

The following transfers of title are exempt from the City's right of first refusal and do NOT re-start the 55 year deed restriction clock:

- Transfer by devise or inheritance to the owner's spouse.
- Transfer of title by an owner's death to a surviving joint tenant, tenant in common, or a surviving spouse of community property (that is, another owner already on title).
- Transfer of title to a spouse as part of divorce or dissolution proceedings.
- Transfer of title or an interest in the property to the spouse in conjunction with marriage.

Transfers by devise or inheritance (such as to a child or other family member), are permitted under certain terms and conditions identified in the Deed Restrictions. These kinds of transfers must first be reviewed and approved by the City or the BMR Housing Program provider. If the person inheriting the property meets the following terms and conditions, then that person may take title, assume full ownership, and reside in the BMR unit. This would then restart the 55 year deed restriction clock. If the person inheriting the property does NOT meet the following terms and conditions they may still inherit the property but are not allowed to live there. In such case, the inheriting party must sell the property and shall be entitled to receive any proceeds from the sale after payment of sales expenses and all liens against the property. The property would then be sold by the City through the BMR Housing Program to an eligible, qualified household. ~~on the BMR Purchase Waiting List.~~

For transfers of title by devise or inheritance, the inheriting party ("Transferee") must meet the following terms and conditions in order to live in the BMR unit:

- Transferee shall occupy, establish and maintain the property as the Transferee's primary residence.
- The Transferee must meet all current eligibility requirements for the BMR Housing Program, as identified at the time of transfer in the BMR Guidelines.
- The Transferee must sign a new BMR Agreement and Deed Restrictions for the property. This restarts the 55 year clock.

4011. PROCESS FOR RESALE OF BMR UNITS

4011.1 The seller notifies the City by certified mail that he/she wishes to sell the unit. The City notifies its designee, if applicable. The unit must be provided in good repair and salable condition, or the cost of rehabilitating the unit will be reimbursed to the City out of the proceeds of the sale. The definition of "salable condition" for any given unit shall be provided on a case-by-case basis following the City's inspection of the unit, and shall be at the discretion of the City Manager or his/her designee. "Salable condition" shall refer to the general appearance, condition, and functionality of all: flooring; painted surfaces; plumbing, heating, and electrical systems; fixtures; appliances; doors; windows; walkways; patios; roofing; grading; and landscaping. In addition for each unit, the City reserves the right to withhold the cost of having it professionally cleaned from the seller's proceeds. Once cleaning is complete, the seller will be refunded any difference between the amount withheld and the actual cost to clean the unit.

4011.2 When the seller notifies the City or the City's BMR Housing Program provider, and it has been determined that the unit is in good repair and salable condition, and the City has set the price for the BMR unit, then the City or the City's BMR Housing Program provider will state in writing that the 180 day period for completing the sale of the BMR unit shall commence. The price will be set using information in Sections **4011.3** through **4011.6** below.

4011.3 The City or its designee obtains an appraisal made to ascertain the market value of the unit, giving consideration to substantial improvements made by the seller, if needed.

4011.4 The City or its designee obtains figures for homeowners' dues, insurance, and taxes from the seller.

4011.5 The City or its designee checks major lending institutions active in this market to ascertain current mortgage information (prevailing interest rates, length of loans available, points, and minimum down payments). Monthly housing costs are estimated.

4011.6 The City or its designee establishes a sales price, based on the original selling price of the unit, depreciated value of substantial improvements made by

the seller, and 1/3 of the increase in the cost of living index for the Bay Area. The selling price is established for the unit at the appraised market value or the computed price whichever is the lower.

4011.7 The City retains a realtor to facilitate the sale of the property.

4011.8 Agreement is reached between seller and the City or its designee for a schedule of open houses for the unit, at the seller's convenience.

4011.9 The procedure continues the same as in Sections 98.1.7 – 98.1.16 above, with the seller substituted for the developer.

4011.10 The City or its designee submits to the title insurance company the Grant Deed, BMR Agreement and Deed Restrictions, and Request for Notice and the seller's release from the previous Deed Restrictions, to be recorded with the new deed to the property.

412. REQUIREMENTS FOR BMR RENTAL DEVELOPMENTS

412.1 Income and Rent Standards.

412.1.1 Income Limits upon Occupancy of BMR Rental Units. Unless otherwise approved by the Planning Commission or City Council in the BMR Housing Agreement for the proposed project, only households having gross incomes at or below Low Income for San Mateo County, adjusted for household size, are eligible to occupy BMR rental units, either when initially rented or upon filling any subsequent vacancy. See Section 4415, Table A (Below Market Rate Household Income Limits), which may be updated by City staff from time to time. Any variation in the affordability mix to assist the City in meeting its Regional Housing Needs Assessment (including very low, low or moderate income households) shall require a finding by the approving body that the mix is roughly equivalent to the provision of all of the affordable units at the low income level.

412.1.2 BMR Rent. BMR units may be rented for monthly amounts not exceeding thirty percent (30%) of the income limit for extremely low, very low, subsidized low, low or moderate income households adjusted for occupancy, as established from time to time by the HCD for San Mateo County. In no case shall the monthly rental amounts for BMR units exceed 75% of comparable market rate rents. The maximum rental amounts are listed in Section 4415, Table B, (Maximum Monthly Housing Cost Limits for BMR Rental Units), which may be updated by City staff from time to time. BMR rents may be adjusted from time to time to reflect any changes to the then current Income limits.

412.1.3 Tenant Selection and Certification Procedures. Priority for occupancy of all BMR rental units shall be given to those income eligible households who meet the preference criteria defined in section 8.1 either live or work in the City of Menlo Park as defined in Sections 6.2 and 7.1 of these Guidelines. ~~If no qualified~~

~~household living or working in Menlo Park is available to occupy the vacated unit as aforesaid, the owner shall be free to rent the BMR unit to any other eligible BMR tenant.~~

4412.1.4 BMR Rental Interest List. The qualifications of BMR rental tenants as described in Section 78.1, above, will be independently verified by the owner. The City of Menlo Park or the City's designee shall maintain a BMR ~~Rental~~ Interest List and shall make it available to any owner/developer upon request.

4412.1.5 One-Year Lease Offer. Each BMR tenant shall be offered the opportunity to enter into a lease, which has a minimum term of one year. Such offer must be made in writing. If the tenant rejects the offer, such rejection must also be in writing. A lease may be renewed upon the mutual agreement of both parties.

4412.1.6 Vacation of Units and Re-Renting. When a BMR tenant vacates, the owner must provide notice to the City, and re-rent the unit to a qualified BMR tenant in accordance with these BMR Guidelines and the BMR Housing Agreement for the unit.

4412.1.7 Annual Recertification of BMR Units. The City of Menlo Park or the City's BMR Housing Program provider will recertify annually, by procedures to be established in the BMR Housing Agreement, the provision of BMR rental units as agreed at the time of application for the permit. A qualified BMR tenant shall continue to qualify unless at the time of recertification, for two consecutive years, the household's income exceeds the eligibility requirements, then the tenant shall no longer be qualified. Upon the owner's determination that any such household is no longer qualified, the unit shall no longer be deemed a BMR Unit, and the owner shall make the next available unit, which is comparable in terms of size, features and number of bedrooms, a BMR (the "Next Available Unit Requirement"), or take other actions as may be necessary to ensure that the total required number of units are rented to qualifying BMR households. The owner shall notify the City annually if it substitutes a different unit for one of the designated BMR Units pursuant to this paragraph.

4412.1.8 Annual Report. On an annual basis on or before July 1 of each year, the developer or subsequent owner shall submit a report (the "Annual Report") to the City which contains, with respect to each BMR unit, the name of the eligible tenant, the rental rate and the income and household size of the occupants. The Annual Report shall be based on information supplied by the tenant or occupant of each BMR unit in a certified statement executed yearly by the tenant on a form provided or previously approved by the City or designee. Execution and delivery thereof by the tenant may be required by the terms of the lease as a condition to continued occupancy at the BMR rate. In order to verify the information provided, City shall have the right to inspect the books and records of developer and its rental agent or bookkeeper upon reasonable notice during normal business hours. The Annual Report shall also provide a statement of the owner's management policies, communications with the tenants and maintenance of the BMR unit, including a statement of planned repairs to be made and the dates for the repairs.

4213. EQUIVALENT ALTERNATIVES

Nothing set forth herein shall preclude the City from approving reasonably equivalent alternatives to these BMR Guidelines, including, but not limited to, in lieu fees, land dedication, off-site construction or acquisition and rehabilitation of units. Additionally, the City reserves the right to approve reasonably equivalent alternatives to the characteristics of the proposed BMR units and the affordability mix. Any modifications to these Guidelines shall be approved by the City Council and shall contain findings that the alternative is commensurate with the applicable requirement(s) in the BMR Guidelines and is consistent with the goals of the BMR Guidelines.

4314. BELOW MARKET RATE HOUSING FUND AND SEVERABILITY CLAUSE

4314.1 Purpose. The City of Menlo Park Below Market Rate Housing Fund (“BMR Housing Fund”) is a separate City fund set aside for the specific purpose of assisting the development of housing that is affordable to very low, low and moderate income households. The BMR Housing Fund is generated by such income as in-lieu fees. All monies contributed to the BMR Housing Fund, as well as repayments and interest earnings accrued, shall be used solely for this purpose, subject to provisions set forth below.

4314.2 Eligible Uses. The BMR Housing Fund will be used to reduce the cost of housing to levels that are affordable to very low, low and moderate income households, as defined in the Housing Element of the City's General Plan. A preference will be given to assisting development of housing for households with minor children; however, this preference does not preclude the use of funds for other types of housing affordable to households with very low, low and moderate incomes.

4314.3 Eligible Uses in Support of Very Low, Low and Moderate Income Housing Development. The BMR Housing Fund may be used for, but is not limited, to the following:

- Provision of below market rate financing for homebuyers.
- Purchase of land or air rights for resale to developers at a reduced cost to facilitate housing development for very low, low or moderate income households.
- Reduction of interest rates for construction loans or permanent financing, or assistance with other costs associated with development or purchase of very low, low or moderate income housing.
- Rehabilitation of uninhabitable structures for very low, low or moderate income housing.
- On-site and off-site improvement costs for production of affordable housing.

- Reduction of purchase price to provide units that are very low, low or moderate cost.
- Rent subsidies to reduce the cost of rent for households with limited incomes.
- Emergency repair and/or renovation loan program for BMR owners of older units.
- Loan program to assist BMR condominium owners who have no other way to pay for major special assessments.
- City staff time and administrative costs associated with implementation of the BMR Housing Program.

1314.4 **Procedures.** Requests for use of BMR Housing Fund money shall be submitted to staff for review and recommendation to the City Council. A request for funding shall provide the following minimum information:

- A description of the proposal to be funded and the organizations involved in the project. Public benefit and relevant Housing Element policies and programs should be identified.
- Amount of funding requested.
- Identification of the number of very low, low and moderate income households to be assisted and the specific income range of those assisted.
- Reasons why special funding is appropriate.
- Identification of loan rate, financial status of applicants, and source of repayment funds or other terms.
- Identification of leverage achieved through City funding.

1314.5 **Annual Report.** At the close of each fiscal year, City staff shall report on activity during the previous year (deposits and disbursements) and available funds. The City's auditor shall periodically examine this report and all other BMR Housing Fund financial records, and shall report the results of this examination. In addition, City staff shall report annually on activities assisted by monies from the BMR Housing Fund. The report will review how the program is serving its designated purpose. It will include a discussion of the timely use of funds for actions taken to provide BMR housing units, a review of management activities, and staff recommendations for policy changes to improve the program's performance. In addition, it will provide, for each activity, information corresponding to that required of funding requests listed above in Section 13.4.

1314.6 Severability Clause. If any one or more of the provisions contained in the BMR Guidelines shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provisions shall be deemed severable from the remaining provisions contained in the BMR Guidelines, and the BMR Guidelines shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

1314.7 Administrative Updates. Future updates to tables in Section 14-15 may be made annually without City Council approval when data becomes available from the appropriate state and federal agencies.

4415. TABLES

Table A

Below Market Rate Household Income Limits

2021 Income Limits

Area Median Income: \$149,600 (for a household of 4 persons) effective April 26, 2021

| <u>Income Category</u> | <u>Household Size</u> | | | | | | |
|-----------------------------|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> | <u>7</u> |
| <u>Extremely Low Income</u> | <u>38400</u> | <u>43850</u> | <u>49350</u> | <u>54800</u> | <u>59200</u> | <u>63600</u> | <u>68000</u> |
| <u>Very Low Income</u> | <u>63950</u> | <u>73100</u> | <u>82250</u> | <u>91350</u> | <u>98700</u> | <u>106000</u> | <u>113300</u> |
| <u>Low Income</u> | <u>102450</u> | <u>117100</u> | <u>131750</u> | <u>146350</u> | <u>158100</u> | <u>169800</u> | <u>181500</u> |
| <u>Median Income</u> | <u>104700</u> | <u>119700</u> | <u>134650</u> | <u>149600</u> | <u>161500</u> | <u>173550</u> | <u>185550</u> |
| <u>Moderate Income</u> | <u>125650</u> | <u>143600</u> | <u>161550</u> | <u>179500</u> | <u>193850</u> | <u>208200</u> | <u>222600</u> |

<https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2021.pdf>

Table B

Maximum Affordable Rent Payment

2021 Rent Limits

Area Median Income: \$149,600 (for a household of 4 persons) effective April 26, 2021

| <u>Maximum Rents</u> | <u>Studio</u> | <u>1 Bedroom</u> | <u>2 Bedroom</u> | <u>3 Bedroom</u> | <u>4 Bedroom</u> |
|------------------------|---------------|------------------|------------------|------------------|------------------|
| <u>Very Low Income</u> | <u>1598</u> | <u>1713</u> | <u>2056</u> | <u>2375</u> | <u>2650</u> |
| <u>Low Income</u> | <u>2561</u> | <u>2738</u> | <u>3293</u> | <u>3805</u> | <u>4245</u> |
| <u>Moderate Income</u> | <u>3141</u> | <u>3365</u> | <u>4038</u> | <u>4666</u> | <u>5205</u> |

NOTE 1: The maximum rent is based on the following household size for each unit: Studio: 1 person; 1-bedroom: 1.5 persons; 2-bedroom: 3 persons; 3-bedroom: 4.5 persons; 4-bedroom: 6 persons.

NOTE 2: Per the City of Menlo Park BMR Guidelines (Section 4.1.2), the monthly rental amounts for BMR unit shall not exceed seventy-five percent (75%) of comparable market rate rents. Additional calculations may be necessary for each project to ensure BMR rents comply with this requirement.

<https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2021.pdf>

Table C

Occupancy Standards

Occupancy of BMR units shall be limited to the following:

| Unit Size | Number of Persons | |
|--------------|-------------------|----------------|
| | Minimum | Maximum |
| Studio | 1 | 2 |
| 1 | 1 | 4 3 |
| 2 | 2 | 5 |
| 3 | 3 | 7 |
| 4 | 4 | 9 |

Note: The City Manager or his/her designee has the discretion to vary the persons per unit for unusually large units, not to exceed one person per bedroom, plus one.

Table D

Commercial In-Lieu Fees for July 1, 2021 – June 30, 2022~~2017-18~~

| | |
|--|--|
| Group A uses are Research & Development and Office. | Fee: \$ 16.90 <u>20.46</u> per square foot of gross floor area. |
|--|--|

| | |
|---|---|
| Group B uses are all other Commercial Uses not in Group A. | Fee: \$ 9.47 <u>11.10</u> per square foot of gross floor area. |
|---|---|

Commercial In-Lieu Fees are adjusted annually on July 1. Annual fee adjustments are posted on the City's website.



STAFF REPORT

City Council
Meeting Date: 3/1/2022
Staff Report Number: 22-038-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 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 orders require that all individuals in public spaces maintain social distancing and wear masks

Analysis

The City is still under a local state of emergency and the emergency findings required under AB 361 are still in effect. It is recommended that the use of facial coverings be exercised when not speaking inside the City Council Chambers. The resolution authorizes the use of hybrid meetings, whereby City Councilmembers and staff may choose to attend either remotely or in person.

Although the City has returned to in-person meetings, due to the increase in infection rates of COVID-19 as a result of the Omicron and Delta variants, 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.

Impact on City Resources

There is no impact on City resources.

Environmental Review

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

Public Notice

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

Attachments

A. Resolution

Report prepared by:
Judi A. Herren, 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, San Mateo County, the State of California and the Country in general, are currently facing a surge in infection rates due to the Omicron variant. According to data from the County's Health Administrator and County website, the County is averaging approximately 225 new cases of COVID-19 per day; and

WHEREAS, although the City has returned to in-person meetings, due to the increase in infection rates of COVID-19 as a result of the Omicron and Delta variants, 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 first day of March, 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 March, 2022.

Judi A. Herren, City Clerk



STAFF REPORT

City Council Meeting Date: 3/1/2022
Staff Report Number: 22-042-CC

Public Hearing: **Declare a water shortage emergency pursuant to Water Code section 350, adopt Stage 1 Drought Measures pursuant to City’s 2020 Water Shortage Contingency Plan, and adopt a Water Conservation Plan implementing State Water Resources Control Board emergency regulations**

Recommendation

Staff recommends that the City Council hold a public hearing, in accordance with Water Code section 350 et seq., to declare the existence of a water shortage emergency condition, adopt and implement the City’s stage 1 Water Shortage Contingency Plan (WSCP), and adopt a Water Conservation Plan by resolution pursuant to Menlo Park Municipal Code Chapter 7.35 (Attachment A) to enforce the State Water Resources Control Board’s (State Water Board) emergency regulations prohibiting wasteful water use practices.

Policy Issues

Menlo Park Municipal Water (MPMW) is a city-owned water service provider for a portion of the City of Menlo Park. The City Council acts as the governing body for MPMW and is responsible for ensuring the financial stability of the water system including setting customer rates, approving capital plans and other operational expenditures, and declaring a drought by specifying the drought stage as outlined in the adopted 2020 WSCP.

Pursuant to the City’s adopted WSCP, the City will follow the process set forth in Water Code section 350 to hold a public hearing determining a water shortage emergency, and adopt regulations to implement and enforce the appropriate stage of the WSCP. The adopted 2020 WSCP outlines prescribed actions for six drought stages of various severity, but provides flexibility to incorporate additional water measures based on the City’s determination that additional measures are necessary, or any future emergency water regulations adopted by the State Water Board, drought-related actions imposed by the San Francisco Public Utilities Commission (SFPUC) as the water wholesaler, or other appropriate actions in order to meet MPMW’s water reduction goal.

Per Menlo Park Municipal Code, Chapter 7.35 (Water Conservation), the City must also enforce any drought regulations adopted by the State Water Board, or drought-related actions imposed by SFPUC. This chapter specifies that the City shall implement these requirements by adopting, by resolution, a Water Conservation Plan that mandates such requirements.

Background

MPMW supplies water to roughly half of the City to approximately 19,000 residents through almost 4,300 service connections. MPMW purchases all of its water from SFPUC and is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA), a special district that represents the interest of 26 cities,

water districts, and private utilities that are long term purchasers of SFPUC wholesale water.

On May 2, 2017, the City Council adopted Resolution No. 6383 (Attachment B) to implement a Water Conservation Plan consistent with the end of the drought emergency. The Plan references the State Water Board's 2017 emergency drought regulations which have since expired by operation of law and the City's previous 2015 Urban Water Management Plan (UWMP) and the 2015 WSCP, which have been superseded by the 2020 plans, as described below. As Resolution No. 6383 is no longer in effect, staff has included appropriate text in the proposed draft resolution to expressly rescind Resolution No. 6383.

After a one-year delay due to the onset of the COVID-19 pandemic and after completing a Proposition 218 notification process, the City Council adopted Resolution No. 6625 May 11, 2021, approving MPMW water rate increases for the next five years. The new rates met several objectives including updating drought surcharges to match the State Water Board's six drought stages as outlined in the 2020 WSCP (up to 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, and greater than 50 percent water reduction goals.) The purpose of the drought surcharge is to recover lost revenue (due to less water sales) in order for the water fund to meet target reserves and cover operating, maintenance and capital expenditures. Drought surcharges are only in effect if the City Council declares a drought and specifies the drought stage.

On May 25, 2021, the City Council adopted two plans: the 2020 UWMP, which requires urban water suppliers to describe and evaluate their water supply sources and reliability over the next 20 years, and the 2020 WSCP, which outlines MPMW's response and plan for changes or shortages in water supplies. The WSCP provides flexibility to incorporate additional water conservation measures based on any future emergency water regulation adopted by the State Water Board, drought-related actions imposed by SFPUC, or other appropriate actions in order to meet MPMW's water reduction goal. Attachment C lists the 2020 WSCP six drought stages along with corresponding conservation measures to consider implementing and ways the City can respond.

On July 8, 2021, Governor Newsom expanded an emergency declaration to nine additional counties, including San Mateo County, bringing the total to 50 counties across the state now under a drought state of emergency and requested that all users voluntarily reduce water use by 15 percent. On October 19, 2021, Governor Newsom's emergency drought proclamation expanded the drought emergency statewide and encouraged the State Water Board to supplement voluntary conservation measures by prohibiting certain wasteful water uses. As a result of the emergency declaration by the Governor, Water Code section 365 through 367 requires that each affected urban retail water provider implement either (i) drought surcharges or (ii) enforce an ordinance that prohibits excessive water use by imposing fines of up to \$500 for each 748 gallons used by customers in excess of the permitted allowance set by the water provider. The second option would require establishing water budgets for each individual customer in order to monitor and enforce excessive use, which would be time intensive. Because the City's adopted rate structure sets forth drought surcharges, staff recommends implementing the drought surcharges.

On November 23, 2021, the SFPUC declared a water shortage emergency and adopted a voluntary 10 percent system-wide water use reduction from fiscal year 2019-20 use (which equates to a 14 percent water use reduction for BAWSCA member agencies.) SFPUC has stated that they will not impose excess use charges during periods of voluntary reductions. In mid-December 2021, SFPUC issued proposed monthly water budgets to each wholesale customer, including MPMW, based on the 2018 Amended and Restated Water Supply Agreement Water Shortage Allocation Plan, and in early January 2022, they finalized the monthly water budgets. SFPUC will provide monthly reports to each agency showing the previous month's use against the final monthly water budgets for a 12-month cycle starting February 2022 (showing January 2022 data.) The SFPUC expects to restart the reporting cycle if they change to mandatory reductions. On February 16, MPMW received the January 2022 monthly report showing that water purchases were below

the monthly budget by 4 percent.

On January 18, 2022, the State Water Board's emergency regulations became law and will remain in place for one year unless the State Water Board acts to end, modify or readopt it. The following seven measures are prohibited actions that affect all water users statewide, and water agencies have the ability to enforce them through infractions of up to \$500 per event. Exceptions are allowed to the extent water use is necessary to address an immediate health and safety need (e.g., controlling nuisance dust, suppressing fires, and removing pathogenic waste from sidewalks.)

- Applying water to outdoor landscapes that cause more than incidental runoff (e.g., excessive application, negligence, intentional overflow.)
- Washing vehicles without an automatic shut-off nozzle.
- Washing impervious areas unless it addresses an immediate health and safety need.
- Irrigating turf and ornamental landscapes within 48 hours of measurable rainfall (1/4" of rainfall) - does not apply to trees.
- Using/filling/topping off decorative fountains, lakes, or ponds with potable water unless pumps recirculate water.
- Irrigating turf on public medians.
- Using potable water for street cleaning or construction site preparation purposes unless no other method is available (e.g., mixing concrete) or as needed to protect the health and safety of the public.

The emergency regulations also prohibit homeowners associations from threatening or fining property owners for eliminating or reducing water of lawns or vegetation during the declared period of drought emergency, and allows direct enforcement against homeowners associations for any violations.

Analysis

Of the 26 BAWSCA agencies that purchase water from SFPUC, eight agencies are currently in drought stage 1 (including California Water Service, Bear Gulch District) and eight agencies are in drought stage 2. Currently, MPMW has not implemented a drought stage or a drought surcharge. Since the State Water Board recently adopted a drought regulation, and SFPUC declared a voluntary 10 percent system-wide water shortage emergency and established monthly water budgets for water suppliers, staff recommends the City Council declare drought stage 1 (up to 10 percent conservation level.)

Declaring drought stage 1 would trigger the corresponding drought surcharge. If drought surcharges are not implemented with the drought stage, the water fund may not meet target reserves and cover operating, maintenance and capital expenditures. The fiscal year 2021-22 budget estimated \$15,788,000 in revenues and between July and December 2021 (six months), MPMW has collected \$7,734,819 in revenue (49 percent.) Table 1 shows the drought surcharges for fiscal years 2021-22 and 2022-23 adopted with the five-year water rates in 2021. While the surcharge could be effective immediately, staff is recommending implementing the stage 1 drought surcharge starting with customers' July water bills in order to allow sufficient time to notify water customers and coordinate with the billing contractor. The surcharge would apply to all customers based on total metered water use and would be itemized separately on customer monthly bills. The drought surcharge would be \$0.63 per CCF July 1 along with the annual water rate increase, and the SFPUC wholesale rate pass-through (described in detail below.)

| Table 1: Drought surcharges | | | |
|-----------------------------|--|---------------------|---------------------|
| Drought stage | Water use reduction | Fiscal year 2021-22 | Fiscal year 2022-23 |
| 1 | Up to 10% | \$0.60 per CCF | \$0.63 per CCF |
| 2 | Up to 20% | \$1.36 per CCF | \$1.40 per CCF |
| 3 | Up to 30% | \$2.32 per CCF | \$2.39 per CCF |
| 4 | Up to 40% | \$3.61 per CCF | \$3.67 per CCF |
| 5 | Up to 50% | \$5.42 per CCF | \$5.43 per CCF |
| 6 | Greater than 50% (surcharge shown is for 60%) | \$8.12 per CCF | \$7.98 per CCF |

The City must adopt, by resolution, a Water Conservation Plan that includes the State’s drought regulations at a minimum. Per the 2020 WSCP, the City may implement actions listed or incorporate other demand reduction measures. Comparing the 2020 WSCP no-drought and drought stage 1 demand reduction actions to the State Water Board’s regulations (Attachment D), the 2020 WSCP includes additional demand reduction measures that could be added to the Water Conservation Plan.

- Hotels and motels shall provide guests an option whether to launder towels and linens daily.
- Restaurants and other food service operations shall serve water to customers only upon request.
- Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period, not exceeding seven days.
- Recreational water features shall be covered when not in use.
- Newly constructed homes and buildings must irrigate with drip or microspray only.

As these measures were implemented at the end of the last drought and water customers may already be familiar with them, staff recommends including them in the Water Conservation Plan.

The draft resolution includes fines and enforcement. For better efficiency, staff recommends a four-step process in lieu of the six-step process that is included in the 2020 WSCP. Staff also recommends matching the disconnection and reconnection fees shown in the current master fee schedule for water bill nonpayment. Staff intends to focus on customer education as much as possible prior to resorting to fines and enforcement. For example, in the last drought between 2014-2017, the City issued only one fine (at the \$50 level) against a business that had repeated irrigation violations. The proposed four-step process would align with continuing this focus on education.

Anticipated SFPUC wholesale rate increases

In December 2021, the SFPUC provided a letter to its wholesale customers, including MPMW, stating that fiscal year 2022-23 wholesale water rates are estimated to range between \$4.63 to \$5.13 per hundred cubic foot (CCF, where one CCF equals 748 gallons.) This estimate is higher than the projected fiscal year 2022-23 wholesale water rate of \$4.19 per CCF provided previously by SFPUC and assumed for purposes of the 2021 five-year water rate study. Pursuant to California Government Code 53756, MPMW is able to pass-through any additional increases in SFPUC wholesale water rates when the actual SFPUC rates exceed estimates, given that all water customers receive at least 30 days’ notice. Therefore, the SFPUC wholesale pass-through rate to MPMW water customers is estimated to range between \$0.44 to \$0.94 per CCF. SFPUC will provide their final fiscal year 2022-23 wholesale rate notice this April/May at which time staff will calculate the pass-through rate and notify water customers 30 days in advance of implementing the pass-through rate on water bills.

Impact on City Resources

Moving into drought stage 1 will require staff to enhance outreach efforts to educate residents and businesses of the new requirements and the drought surcharge, respond to calls and customer inquiries, investigate water waste, enforce, and submit required reports to the State Water Board. Current staff can likely handle these additional items for drought stage 1, however, if a higher drought stage is declared in the future, additional staff will be needed to investigate water waste and enforcement.

Environmental Review

City Council's adoption of the proposed resolution is categorically exempt from California Environmental Quality Act (CEQA) under CEQA Guidelines 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and CEQA Guidelines section 15308 (Actions for Protection of the Environment), in that it is intended to ensure adequate water supplies for the preservation of public health, safety, fire prevention, during a declared period of drought. The action is also exempt from CEQA pursuant to CEQA Guidelines section 15269, as a specific action necessary to prevent or mitigate an emergency.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Notice of the public hearing was also published in the manner required by Water Code section 352.

Attachments

- A. Draft Resolution to adopt a Water Conservation Plan
- B. Resolution No. 6383 to adopt a Water Conservation Plan consistent with the end of the drought emergency
- C. Table – Drought stages and actions, 2020 WSCP
- D. Table – Comparison of drought actions, 2020 WSCP vs. State Water Board Drought Regulation

Report prepared by:
Pam Lowe, Senior Civil Engineer

Reviewed by:
Karen E. Pachmayer, Interim Assistant Public Works Director

RESOLUTION NO. XXXX**RESOLUTION OF THE MENLO PARK CITY COUNCIL DECLARING EXISTENCE OF A WATER SHORTAGE EMERGENCY, ADOPTING WATER SHORTAGE CONSERVATION PLAN STAGE 1 MEASURES PURSUANT TO WATER CODE SECTION 350 ET SEQ., AND ADOPTING A WATER CONSERVATION PLAN TO ENFORCE STATE WATER RESOURCES CONTROL BOARD EMERGENCY DROUGHT REGULATIONS PURSUANT TO MENLO PARK MUNICIPAL CODE CHAPTER 7.35**

WHEREAS, on May 2, 2017, in response to the then existing drought emergency, the City Council adopted Resolution No. 6383 to implement a Water Conservation Plan for Menlo Park Municipal Water (“MPMW”) consistent with the end of the drought emergency. The Plan references the 2015 Urban Water Management Plan, which includes the 2015 Water Shortage Contingency Plan, and the State Water Resources Control Board’s (“State Water Board”) 2017 emergency drought regulations, all of which have been superseded or no longer in effect, making it appropriate to rescind Resolution No. 6383; and

WHEREAS, on May 11, 2021, pursuant to its rate setting authority and in accordance with all applicable requirements under Proposition 218, the City Council adopted Resolution No. 6625 to approve MPMW’s five-year schedule of water rates, which included analysis and approval of drought surcharges in the proposed 2020 Water Shortage Contingency Plan; and

WHEREAS, on May 25, 2021, the City Council adopted its 2020 Urban Water Management Plan and the 2020 Water Shortage Contingency Plan, as required by the California Water Code, and which includes six drought stages; and

WHEREAS, the 2020 Water Shortage Contingency Plan provides that the City of Menlo Park shall follow the process set forth in Water Code section 350 to adopt and implement regulations and restrictions related to the conservation measures set forth in the Water Shortage Contingency Plan, including implementation of its drought stages; and

WHEREAS, California Water Code sections 350 et seq. authorizes the governing body of any public water supply distributor to declare that water shortage emergency conditions prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, pursuant to Water Code sections 351 and 352, a public hearing on regarding declaration was duly noticed and held on March 1, 2022; and

WHEREAS, pursuant to Water Code section 353, the City Council has authority to adopt such regulations and restrictions on the delivery of water and the consumption within the service area of MPMW that in the sound discretion of the City Council shall conserve the water supply for the greatest public benefit with regard to domestic use, sanitation, and fire protection; and

WHEREAS, pursuant to Water Code section 356, adopted regulations and restrictions may include the right to deny applications for new or additional service connections, and may also include provision for their enforcement by discontinuing service to consumers willfully violating the regulations and restrictions; and

WHEREAS, on April 21, May 10, and July 8, 2021, Governor Newsom issued proclamations that a state of emergency exists in a total of 50 counties due to severe drought conditions and directed state agencies to take immediate action to preserve critical water supplies and mitigate the effects of drought and ensure the protection of health, safety, and the environment; and

WHEREAS, on October 19, 2021, Governor Newsom's emergency drought proclamation expanded the drought emergency statewide and encouraged the State Water Board to supplement voluntary conservation measures by prohibiting certain wasteful water uses; and

WHEREAS, on November 23, 2021, the San Francisco Public Utilities Commission ("SFPUC") declared a water shortage emergency and adopted a voluntary system-wide water use reduction of 10 percent from fiscal year 2019-20 use; and

WHEREAS, in response to the declared drought emergency, the State Water Board adopted emergency regulations, set forth in 23 California Code of Regulations section 995, effective January 18, 2022 for a one-year period, that prohibits wasteful water use practices statewide and enables any agency that has authority to enforce infractions to enforce these prohibitions at their discretion; and

WHEREAS, the State Water Board's regulations prohibit among other things the following, except to the extent use is necessary to address an immediate health and safety need:

- A. The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
- B. The use of a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
- C. The use of potable water for washing sidewalks, driveways, buildings, structures, patios, parking lots, or other hard surfaced areas, except in cases where health and safety are at risk;
- D. The use of potable water for street cleaning or construction site preparation purposes, unless no other method can be used or as needed to protect the health and safety of the public;
- E. The use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those decorative fountains, lakes, or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses;
- F. The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of one inch of rain.
- G. The use of potable water for irrigation of ornamental turf on public street medians.

WHEREAS, Menlo Park Municipal Code section 7.35.020 provides that upon adoption of emergency regulations by the State Water Board, the City shall adopt a water conservation plan to implement those water conservation measures; and

WHEREAS, to comply with Water code section 365 through 367, drought stage 1 of the 2020 Water Shortage Contingency Plan must be implemented, including the related state 1 drought surcharge; and

WHEREAS, the MPMW's 2020 Water Shortage Contingency Plan allows other measures to be approved by Resolution of the City Council for drought stage 1 in order to achieve up to 10 percent overall water use reduction.

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

1. The above recitals are true and accurate.
2. Pursuant to Water Code section 350, and for the reasons set forth in this recital, the staff report, and the testimony of staff, the City Council declares that a water shortage emergency now exists throughout the area served by Menlo Park Municipal Water.
3. Pursuant to Water Code section 353, the City Council determines that it is necessary to declare drought stage 1 of the 2020 WSCP and to implement the following drought surcharges, effective for water bills issued in July 2022:

| | |
|---------------------|----------------|
| Fiscal year 2022-23 | \$0.63 per CCF |
|---------------------|----------------|

4. Pursuant to Water Code section 353, the following additional measures are hereby approved and required of all MPMW users:
 - a. Hotels and motels shall provide guests an option whether to launder towels and linens daily.
 - b. Restaurants and other food service operations shall serve water to customers only upon request.
 - c. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period, not exceeding seven days.
 - d. Recreational water features shall be covered when not in use.
 - e. Newly constructed homes and buildings must irrigate with drip or microspray only.
5. Pursuant to Menlo Park Municipal Code chapter 7.35, the City Council hereby adopts this resolution as its water conservation plan the State Water Board's emergency regulations as set forth in Title 23 California Code of Regulations, section 995, incorporated herein by reference.
6. Violations of the regulations set forth or otherwise adopted in this resolution shall be subject to the following penalties:

| Violation | Enforcement Action |
|--------------------|--|
| 1st | Warning and education |
| 2nd | \$50 fine |
| 3rd | \$200 fine, and review by the Public Works Director (or his or her designee) to determine if a flow restricting device should be installed, in the Director's discretion as may be necessary to deter water waste. |
| 4th and subsequent | \$500 fine, and review by the Public Works Director (or his or her designee) to determine if water service should be discontinued, in the Director's discretion as may be necessary to deter water waste. |

Violators shall also be subject to the following charges for installation or removal of flow restricting devices and disconnection or reconnection of service.

| Meter Size | Charges | |
|-------------------|----------------|---|
| 5/8" to 2" | \$155.00 | Installation of flow restricting device |
| | \$155.00 | Removal of flow restricting device |
| 3" or larger | Actual cost | Installation of flow restricting device |
| | Actual cost | Removal of flow restricting device |
| All sizes | \$108.00 | Disconnecting water service |
| | \$108.00 | Reconnecting water service |

7. Resolution No. 6383 is hereby rescinded.
8. This resolution shall remain in effect until the supply of water available for distribution within such area has been replenished or augmented, at which time the City Council will declare an end to the water shortage emergency by resolution.

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 first day of March, 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 March, 2022.

Judi A. Herren, City Clerk

RESOLUTION NO. 6383**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO
PARK ADOPTING A WATER CONSERVATION PLAN**

WHEREAS, on May 18, 2016, based on Governor Brown's May 9, 2016 Executive Order B-37-16, the State Water Board approved replacing the state-developed standards with locally-developed conservation standards based upon each agency's specific circumstances and extending the emergency regulations for urban water conservation through the end of January 2017, and requiring urban water suppliers to continue reporting monthly water use production information to the SWRCB on a permanent basis; and

WHEREAS, on May 24, 2016, the City Council adopted the 2015 Urban Water Management Plan, which included the Water Shortage Contingency Plan (WSCP) stages and actions; and

WHEREAS, on June 9, 2016, the San Francisco Public Utilities Commission ("SFPUC") requested that its wholesale customers maintain a 10% voluntary reduction from 2013 use, including Menlo Park Municipal Water ("MPMW"); and

WHEREAS, on June 21, 2016, the City Council adopted Resolution No. 6328 to implement Stage 2 of the 2015 WSCP (the "up to 10%" conservation goal); and

WHEREAS, on February 8, 2017, the State Water Resources Control Board ("State Water Board") adopted a resolution which "directs the State Water Board's Executive Director to consider promptly modifying or repealing the regulation consistent with Water Code section 1058.5 and State Water Board Resolution No. 2012-0061, if the Governor lifts the declaration of a drought state of emergency..."; and

WHEREAS, on April 7, 2017, Governor Brown's Executive Order B-40-17 lifts the drought for most of the state and directs the State Water Board to rescind the requirements for mandatory conservation standards and associated stress tests, while maintaining other provisions; and

WHEREAS, on April 26, 2017, the State Water Board rescinds mandatory conservation standards while keeping in place the water use reporting requirements and prohibitions against wasteful practices, which is awaiting adoption by the Office of Administrative Law. If adopted, the following water conservation measures shall be in effect:

1. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
2. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
3. The application of potable water to driveways and sidewalks.
4. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
5. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall.

6. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
7. The irrigation with potable water of ornamental turf on public street medians.
8. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
9. Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
10. Water agencies shall have infractions punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

WHEREAS, Stage 1 of the 2015 WSCP provides that when MPMW is no longer in a drought emergency, all MPMW users are required to implement the following water conservation measures:

1. Hoses must be equipped with a shut-off valve for washing vehicles, sidewalks, walkways, or buildings.
2. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period.
3. Recreational water features shall be covered when not in use.
4. Ornamental fountains shall use only re-circulated or recycled water.
5. Single-pass cooling systems on new construction shall not be allowed.
6. Potable water shall not be applied in any manner to any driveway, sidewalk, or other hard surface except when necessary to address immediate health or safety concerns.
7. Potable water shall not be used to water outdoor landscapes in a manner that causes runoff onto non- irrigated areas, walkways, roadways, parking lots, or other hard surfaces.
8. Potable water cannot be applied to outdoor landscapes during and up to 48 hours after measurable rainfall.
9. Potable water shall not be used to irrigate ornamental turf on public street medians.
10. Other measures as may be approved by Resolution of the City Council.

WHEREAS, the City Council of the City of Menlo Park wishes to rescind Resolution No. 6241, Resolution No. 6261, and Resolution No. 6328; and

NOW, THEREFORE, 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,

BE IT HEREBY RESOLVED by the City Council of the City of Menlo Park that:

1. The above recitals are true and accurate.
2. Resolution No. 6241, Resolution No. 6261, and Resolution No. 6328 are hereby rescinded.
3. Stage 1 of the 2015 WSCP shall be in effect.

4. Per the option for other measures to be approved by the City Council, the following measures, in addition to those already included in Stage 1 of the 2015 WSCP, are hereby approved and required by all MPMW users:
 - a. Hotels and motels shall provide guests an option whether to launder towels and linens daily. Hotels and motels shall prominently display notice of this option in each bathroom using clear and easily understood language.
 - b. Restaurants and other food service operations shall serve water to customers only upon request

5. Penalties. Except for egregious violations of the water conservation measures listed above, violations are punishable by fines as described below. Fines must be paid within thirty (30) days. If fines are not paid when due, Customer's water service may be discontinued.

| Violation | Enforcement |
|-----------------|---|
| 1 st | Warning only. Educate customer on proper water conservation practices. |
| 2 nd | \$50 fine |
| 3 rd | \$100 fine |
| 4 th | \$200 fine, and review by the Public Works Director (or his/her designee) to determine if a flow restricting device should be installed |
| 5 th | \$500 fine, and review by the Public Works Director (or his/her designee) to determine if water service should be discontinued |
| 6 th | \$500 fine, water service shall be discontinued |

Notwithstanding the above, if the Director of Public Works determines that a violation is egregious, in his/her reasonable determination based on the severity of the violation, a fine may be levied in an amount equal to the greater of \$500.00 or triple the normal rate for the amount of water wasted.

**Charges for Installation or
Removal of Flow Restricting Devices**

| Meter Size | Installation Cost | Removal Cost |
|--------------|-------------------|--------------|
| 5/8" to 2" | \$ 155.00 | \$ 155.00 |
| 3" or larger | Actual Cost | Actual Cost |

Charges for Disconnecting and Reconnecting Service

| Meter Size | Cost to Disconnect Service | Cost to Reconnect Service |
|------------|-------------------------------|------------------------------|
| All sizes | \$ 155.00 | \$ 155.00 |

6. Appeal Process. Customer may contest a fine by submitting a written appeal to the Public Works Director within thirty (30) days of the date of the fine. Customer may request a meeting with the Public Works Director to present evidence that a violation does not exist. If a meeting is requested, the Public Works Director shall meet with the Customer within fifteen (15) days of the appeal date. The Public Works Director

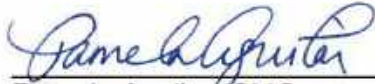
shall make a final, non-appealable decision in writing within fifteen (15) days of the appeal date if no meeting requested or within fifteen (15) days of the meeting date. If the fine is upheld, the Customer shall have ten (10) days from the date of the Public Works Director's decision to pay the fine. If the fine is not paid when due, Customer's water service may be discontinued.

BE IT AND IT IS HEREBY FURTHER RESOLVED by the City Council of the City of Menlo Park that this Water Conservation Plan shall remain in effect until the City Council adopts a revised Water Conservation Plan.

I, Pamela Aguilar, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said City Council on the second day of May, 2017, by the following vote:

AYES: Carlton, Cline, Mueller, Ohtaki
NOES: None
ABSENT: Keith
ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City Council on this second day of May, 2017.



Pamela Aguilar, CMC
City Clerk

| Shortage Level | Percent Shortage Range | WSCP Shortage Response Actions | WSCP Table 6-1 Demand Reduction Actions (DWR Table 8-2) | WSCP Table 6-2 Supply Augmentation and Other Actions (DWR Table 8-3) |
|----------------|------------------------|---|---|--|
| No-Drought | N/A | <ul style="list-style-type: none"> Includes water waste prohibitions effective at all times. | <ol style="list-style-type: none"> Hoses must be equipped with a shut-off valve for washing vehicles, sidewalks, walkways, or buildings. Ornamental fountains shall use only re-circulated or recycled water. Potable water shall not be applied in any manner to any driveway, sidewalk, or other hard surface except when necessary to address immediate health or safety concerns. Potable water shall not be used to water outdoor landscapes in a manner that causes more than incidental runoff onto non-irrigated areas, walkways, roadways, parking lots, or other hard surfaces. Potable water cannot be applied to outdoor landscapes during and up to 48 hours after measurable rainfall. Potable water shall not be used to irrigate ornamental turf on public street medians. Hotels and motels shall provide guests an option whether to launder towels and linens daily. Hotels and motels shall prominently display notice of this option in each bathroom using clear and easily understood language. Restaurants and other food service operations shall serve water to customers only upon request during a period for which the Governor has issued a proclamation of a state of emergency. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period. Recreational water features shall be | None |

Drought Stages & Actions (Tables from the adopted 2020 Water Shortage Contingency Plan, WSCP)

| Shortage Level | Percent Shortage Range | WSCP Shortage Response Actions | WSCP Table 6-1 Demand Reduction Actions (DWR Table 8-2) | WSCP Table 6-2 Supply Augmentation and Other Actions (DWR Table 8-3) |
|----------------|------------------------|---|---|--|
| | | | covered when not in use. 11. Single-pass cooling systems on new construction shall not be allowed. 12. Other measures as may be approved by the State Water Resources Control Board or City Council Resolution. | |
| 1 | Up to 10% | <ul style="list-style-type: none"> Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction in water use of up to 10% due to water supply shortages or an emergency. Includes implementation of mandatory restrictions on end uses (see WSCP Table 6-1) as well as agency actions (see WSCP Table 6-2). | 1. Continue with “no drought” restrictions and prohibitions except where superseded by more stringent requirements. 2. Newly constructed homes and buildings must irrigate with drip or microspray only. 3. Other measures as may be approved by City Council Resolution. | 1. Initiate public outreach to inform customers that there is a water shortage emergency. 2. Implement Stage 1 drought surcharge. |
| 2 | Up to 20% | <ul style="list-style-type: none"> Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction in water use from 10% to 20% due to water supply shortages or emergency. Includes implementation of mandatory restrictions on end uses (see WSCP Table 6-1) as well as agency actions (see WSCP Table 6-2). | 1. Continue with Stage 1 restrictions and prohibitions except where superseded by more stringent requirements. 2. Irrigating outdoor ornamental landscapes or turf with potable water is limited to no more than two (2) days per week on a schedule established by the Director and posted on the City’s website, except for hand watering. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water | 1. Continue with actions and measures from Stage 1. 2. Increase public outreach for added restrictions and prohibitions, and to provide information regarding fines or penalties for non-compliance. 3. Coordinate with BAWSCA, SFPUC, and other Menlo Park water agencies (California Water Service, O’Connor Cooperative Water Tract, East Palo Alto, Palo Alto Park Mutual Water Company). 4. Evaluate if participation in BAWSCA’s subscription water conservation programs can be increased. 5. Train City staff and billing contractor customer service representatives how to |

Drought Stages & Actions (Tables from the adopted 2020 Water Shortage Contingency Plan, WSCP)

| Shortage Level | Percent Shortage Range | WSCP Shortage Response Actions | WSCP Table 6-1 Demand Reduction Actions (DWR Table 8-2) | WSCP Table 6-2 Supply Augmentation and Other Actions (DWR Table 8-3) |
|----------------|------------------------|---|---|--|
| | | | <p>use.</p> <ol style="list-style-type: none"> 3. Hand watering must be with a continuously monitored hose fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored. 4. Other measures as may be approved by City Council Resolution. | <ol style="list-style-type: none"> respond to customer calls, reports and complaints. 6. Evaluate options to capture water during routine flushing of water mains. 7. Implement Stage 2 drought surcharge. |
| 3 | Up to 30% | <ul style="list-style-type: none"> • Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction in water use from 20% to 30% due to water supply shortages or emergency. • Includes implementation of mandatory restrictions on end uses (see WSCP Table 6-1) as well as agency actions (see WSCP Table 6-2). | <ol style="list-style-type: none"> 1. Continue with Stage 2 restrictions and prohibitions except where superseded by more stringent requirements. 2. Permits for construction of new pools shall include a requirement that MPMW water shall not be used to fill new pools. 3. Vehicles may only be washed at vehicle washing facilities using recycled or recirculating water. 4. Other measures as may be approved by City Council Resolution. | <ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 2. 2. Increase public outreach for added restrictions and prohibitions, and to provide information how to report water waste to the City. 3. Increase public outreach to the top 10% water users in each customer category. 4. Coordinate with Police code enforcement to investigate water waste reports. 5. Request cooperation from Menlo Park Fire District to reduce fire training water use. 6. Implement Stage 3 drought surcharge. |
| 4 | Up to 40% | <ul style="list-style-type: none"> • Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction in water use from 30% to 40% due to water supply shortages or emergency. • Includes implementation of mandatory restrictions on end uses (see WSCP Table 6-1) as well | <ol style="list-style-type: none"> 1. Continue with Stage 3 restrictions and prohibitions except where superseded by more stringent requirements. 2. Irrigating outdoor ornamental landscapes or turf with potable water is limited to no more than one (1) day per week on a schedule established by the Director and posted on the City’s website, except for hand watering. Water customers may be granted an exception upon review and approval of a Drought Response Plan by the Public Works Director pursuant to | <ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 3. 2. Increase public outreach for added restrictions and prohibitions. 3. Increase public outreach to the top 20% water users in each customer category. 4. Evaluate staff resources. May include hiring temporary staff or training additional City staff to assist with customer service and enforcement. |

Drought Stages & Actions (Tables from the adopted 2020 Water Shortage Contingency Plan, WSCP)

| Shortage Level | Percent Shortage Range | WSCP Shortage Response Actions | WSCP Table 6-1 Demand Reduction Actions (DWR Table 8-2) | WSCP Table 6-2 Supply Augmentation and Other Actions (DWR Table 8-3) |
|----------------|------------------------|--|--|---|
| | | <p>as agency actions (see WSCP Table 6-2).</p> | <p>such policies and procedures as may be established by the Public Works Director provided that such plan results in an equivalent or greater reduction in water use.</p> <ol style="list-style-type: none"> 3. Potable water shall not be used for construction or dust control. 4. Potable water shall not be used for commercial vehicles that provide street washing, sweeping, or cleaning. 5. Other measures as may be approved by City Council Resolution. | <ol style="list-style-type: none"> 5. Reevaluate routine flushing of water mains except when necessary to address immediate health or safety concerns. 6. Consider increasing fines for multiple violations. 7. Implement Stage 4 drought surcharge. |
| 5 | Up to 50% | <ul style="list-style-type: none"> • Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction in water use from 40% to 50% due to water supply shortages or emergency. • Includes implementation of mandatory restrictions on end uses and water use budgets for customers (see WSCP Table 6-1), as well as agency actions and groundwater supply augmentation (see WSCP Table 6-2). | <ol style="list-style-type: none"> 1. Continue with Stage 4 restrictions and prohibitions except where superseded by more stringent requirements. 2. Water use shall not exceed water budgets established for each customer. 3. Hand watering outdoor ornamental landscapes is only allowed between designated hours, as determined by the Public Works Director. 4. Turf irrigation is prohibited at all times, including artificial turf. 5. Existing irrigation systems shall not be expanded. 6. Other measures as may be approved by City Council Resolution. | <ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 4. 2. Increase public outreach for added restrictions and prohibitions. 3. Increase public outreach to the top 30% water users in each customer category. 4. Implement water waste patrols and increase enforcement. 5. Halt installations of new potable water meters (temporary or permanent) or meter upgrades except if a valid, unexpired building permit has been issued for the project; or the project is necessary to protect the public's health, safety, and welfare. 6. Halt issuing statements of immediate ability to serve or provide potable water service. 7. Consider increasing fines for multiple violations. 8. Develop water budgets for all accounts. 9. Use emergency groundwater well(s). 10. Implement Stage 5 drought surcharge. |

Drought Stages & Actions (Tables from the adopted 2020 Water Shortage Contingency Plan, WSCP)

| Shortage Level | Percent Shortage Range | WSCP Shortage Response Actions | WSCP Table 6-1 Demand Reduction Actions (DWR Table 8-2) | WSCP Table 6-2 Supply Augmentation and Other Actions (DWR Table 8-3) |
|----------------|------------------------|---|--|---|
| 6 | >50% | <ul style="list-style-type: none"> • Declaration by the City Council upon the determination that the SFPUC or another governing authority (e.g., the SWRCB) has required a voluntary or mandatory reduction in water use greater than 50% due to water supply shortages or emergency. • Includes implementation of mandatory restrictions on end uses and water use budgets for customers (see WSCP Table 6-1), as well as agency actions and groundwater supply augmentation (see WSCP Table 6-2). | <ol style="list-style-type: none"> 1. Continue with Stage 5 restrictions and prohibitions except where superseded by more stringent requirements. 2. Hand watering outdoor ornamental landscapes is prohibited at all times. 3. Other measures as may be approved by City Council Resolution. | <ol style="list-style-type: none"> 1. Continue with actions and measures from Stage 5. 2. Increase public outreach for added restrictions and prohibitions. 3. Increase public outreach to the top 40% water users in each customer category. 4. Halt installations of new potable water meters (temporary or permanent) even if a valid, unexpired building permit has been issued for the project. 5. Consider increasing fines for multiple violations. 6. Increase water budget reduction requirements. 7. Implement other short-term emergency actions from the Emergency Response Plan. 8. Implement Stage 6 drought surcharge. |

**Comparison of Drought Actions
2020 Water Shortage Contingency Plan versus State Water Board Drought Regulations**

| Drought Stage | 2020 Water Shortage Contingency Plan (WSCP) Demand Reduction Actions | State Water Board Drought Regulations Prohibited Actions |
|---|--|---|
| No-drought | 1. Hoses must be equipped with a shut-off valve for washing vehicles, sidewalks, walkways, or buildings. | Washing vehicles without an automatic shutoff nozzle. |
| | 2. Ornamental fountains shall use only re-circulated or recycled water. | Using/filling/topping off decorative fountains, lakes, or ponds unless pumps recirculate water. |
| | 3. Potable water shall not be applied in any manner to any driveway, sidewalk, or other hard surface except when necessary to address immediate health or safety concerns. | Washing impervious areas unless it addresses an immediate health and safety need. |
| | 4. Potable water shall not be used to water outdoor landscapes in a manner that causes more than incidental runoff onto non-irrigated areas, walkways, roadways, parking lots, or other hard surfaces. | Applying water to outdoor landscapes that cause more than incidental runoff (e.g., excessive application, negligence, intentional overflow). |
| | 5. Potable water cannot be applied to outdoor landscapes during and up to 48 hours after measurable rainfall. | Irrigating turf and ornamental landscapes within 48 hours of measurable rainfall (1/4" of rainfall) - does not apply to trees. |
| | 6. Potable water shall not be used to irrigate ornamental turf on public street medians. | Irrigating turf on public medians - does not apply to trees. |
| | 7. Hotels and motels shall provide guests an option whether to launder towels and linens daily. Hotels and motels shall prominently display notice of this option in each bathroom using clear and easily understood language. | |
| | 8. Restaurants and other food service operations shall serve water to customers only upon request during a period for which the Governor has issued a proclamation of a state of emergency. | |
| | 9. Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period. | |
| | 10. Recreational water features shall be covered when not in use. | |
| | 11. Single-pass cooling systems on new construction shall not be allowed. ¹ | |
| | 12. Other measures as may be approved by the State Water Resources Control Board or City Council Resolution. | |
| | | Using potable water for street cleaning or construction site preparation purposes unless no other method is available (e.g., dust control, mixing concrete) or as needed to protect the health and safety of the public |
| Stage 1 (up to 10 percent reduction) | 1. Continue with "no drought" restrictions and prohibitions except where superseded by more stringent requirements. | |
| | 2. Newly constructed homes and buildings must irrigate with drip or microspray only. | |
| | 3. Other measures as may be approved by City Council Resolution. | |

¹ Single-pass cooling systems became a permanent restriction in 2019 in the California Plumbing Code, as Section 12.14.010.



PUBLIC HEARING WATER SHORTAGE EMERGENCY

March 1, 2022 – Pam Lowe





RECOMMENDATION



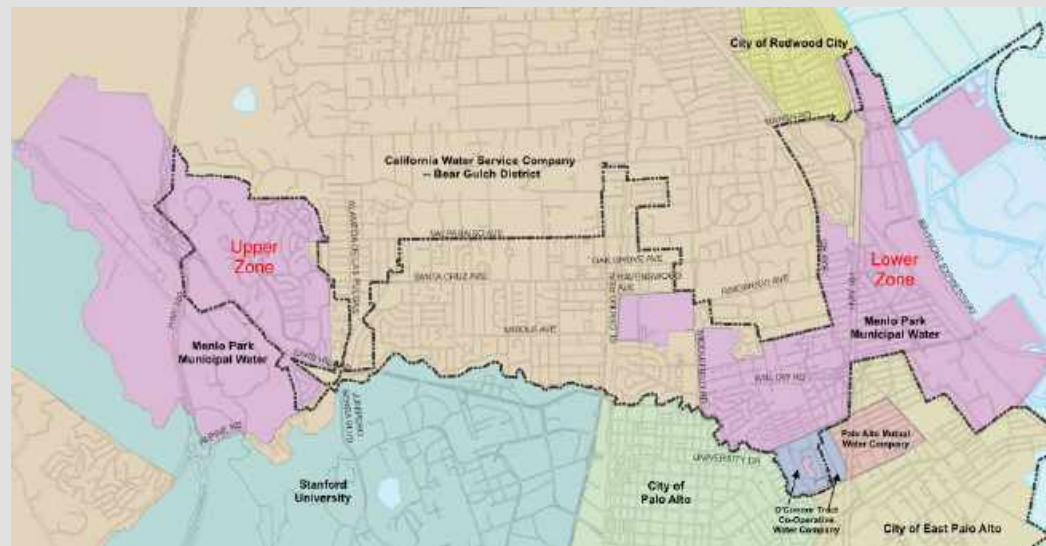
1. Declare a water shortage emergency
2. Implement drought stage 1 measures per the adopted 2020 Water Shortage Contingency Plan
3. Adopt a Water Conservation Plan



MENLO PARK MUNICIPAL WATER



- 100% supply purchased from San Francisco Public Utilities Commission (SFPUC)
- Approx. 4,300 service connections
- Water service for half of the City
- Bay Area Water Supply and Conservation Agency (BAWSCA), represents 26 water entities, that purchase wholesale water from SFPUC





SFPUC DROUGHT ACTIVITIES



| | |
|--------------|--|
| Nov 23, 2021 | SFPUC declares a water shortage emergency and adopts a voluntary 10% reduction system-wide (14% for Wholesale Customers) |
| Jan 13, 2022 | SFPUC finalizes monthly water budgets for Wholesale Customers |

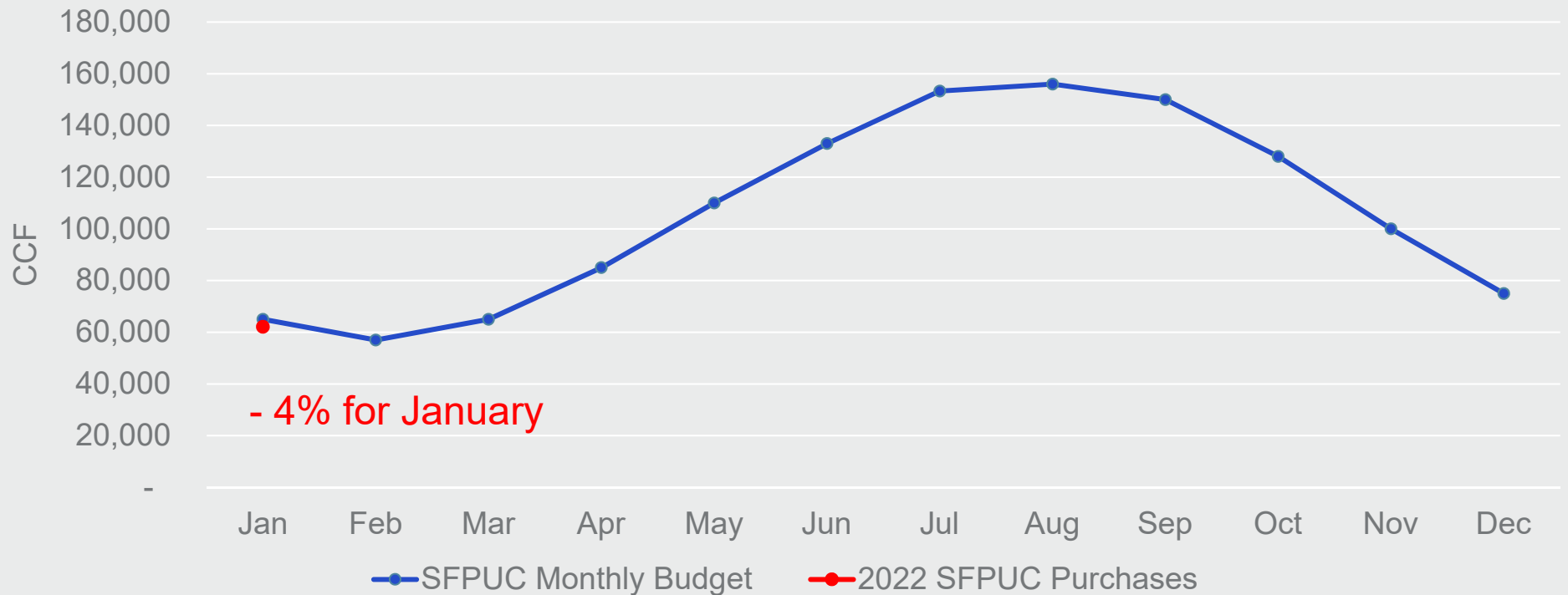
- Based on SFPUC's Water Supply Agreement, Water Shortage Allocation Plan
 - Tier 1 Plan allocates available supplies between SF Retail / Wholesale Customers
 - Tier 2 Plan allocates water among the Wholesale Customers
- SFPUC will compare wholesale purchases to water budgets for 12 months
- For now, no excess use charges for voluntary reductions, however, that will change if there are mandatory reductions in the future



SFPUC MONTHLY WATER BUDGETS FOR MPMW



Actual Water Purchases vs. SFPUC Monthly Budgets





WATER SHORTAGE CONTINGENCY PLAN (WSCP)



- Adopted in May 2021
- A plan to reduce demand and augment available supply for single and multiple dry years
- Outlines proposed actions for six drought stages ranging from “up to 10%” to “greater than 50%” water use reductions
- Considers water regulations adopted by the State Water Board or SFPUC, our water wholesaler
- Allows flexibility for the City Council to incorporate additional conservation measures
- Follow Water Code section 350 to declare a water emergency (hold a public hearing and provide appropriate notice of the meeting to the public)



STATE WATER BOARD DROUGHT ACTIVITIES



| | |
|--------------|--|
| July 8, 2021 | Governor Newsom expands drought emergency to San Mateo County and requests all users voluntarily reduce water use by 15% |
| Oct 19, 2021 | Drought emergency expanded statewide, and Governor Newsom encourages the State Water Board to prohibit wasteful water uses |
| Jan 18, 2022 | State Water Board's emergency regulations become law |



STATE WATER BOARD EMERGENCY REGULATIONS



Seven (7) prohibited actions became law on January 18:

- Applying water to outdoor landscapes that cause more than incidental runoff.
- Washing vehicles without an automatic shutoff nozzle.
- Washing impervious areas unless it addresses an immediate health and safety need.
- Irrigating turf and ornamental landscapes within 48 hours of measurable rainfall (1/4" of rainfall) - *does not apply to trees.*
- Using/filling/topping off decorative fountains, lakes, or ponds with potable water unless pumps recirculate water.
- Irrigating turf on public medians.
- Using potable water for street cleaning or construction site preparation purposes unless no other method is available (e.g., mixing concrete) or as needed to protect the health and safety of the public.



STATE WATER BOARD EMERGENCY REGULATIONS



- Remain in place for 1 year unless they are ended, modified, or readopted
- Water agencies may enforce them through infractions of up to \$500 per event
- Exceptions allowed for water use for health and safety needs
- To meet state law, must either:
 - Implement drought surcharges
 - Enforce an ordinance with fines up to \$500 for water used above a permitted amount (water budgets for individual customers)
- Per Menlo Park Municipal Code, Chapter 7.35 (Water Conservation), the City must adopt a Water Conservation Plan in order to implement regulations imposed by the State and/or SFPUC.



WATER SHORTAGE CONTINGENCY PLAN DROUGHT STAGES



| Drought Stage | Shortage Level | Drought Surcharge FY2022-23 | Shortage Response Actions |
|---------------|----------------------------------|-----------------------------|--|
| No Drought | N/A | N/A | Water waste prohibitions effective at all times |
| 1 | Up to 10% | \$0.63 per CCF | <u>City Council declares the drought stage</u> <ol style="list-style-type: none"> Emergency conservation regulations adopted by the State Water Board Other drought regulations that may be imposed by SFPUC, the water wholesaler Other drought measures adopted by the City Council |
| 2 | Up to 20% | \$1.40 per CCF | |
| 3 | Up to 30% | \$2.39 per CCF | |
| 4 | Up to 40% | \$3.67 per CCF | |
| 5 | Up to 50% | \$5.43 per CCF | |
| 6 | Greater than 50% (shown for 60%) | \$7.98 per CCF | |



WATER SHORTAGE CONTINGENCY PLAN DROUGHT STAGES



| Drought Stage | Shortage Level | Drought Surcharge FY2022-23 | Shortage Response Actions |
|---------------|----------------------------------|-----------------------------|--|
| No Drought | N/A | N/A | Water waste prohibitions effective at all times |
| 1 | Up to 10% | \$0.63 per CCF | <u>City Council declares the drought stage</u> <ol style="list-style-type: none"> Emergency conservation regulations adopted by the State Water Board Other drought regulations that may be imposed by SFPUC, the water wholesaler Other drought measures adopted by the City Council |
| 2 | Up to 20% | \$1.40 per CCF | |
| 3 | Up to 30% | \$2.39 per CCF | |
| 4 | Up to 40% | \$3.67 per CCF | |
| 5 | Up to 50% | \$5.43 per CCF | |
| 6 | Greater than 50% (shown for 60%) | \$7.98 per CCF | |



ADDITIONAL DROUGHT MEASURES



Additional drought measures (included in the WSCP stages 1 and 2)

- Hotels and motels shall provide guests an option whether to launder towels and linens daily.
- Restaurants and other food service operations shall serve water to customers only upon request.
- Broken or defective plumbing and irrigation systems must be repaired or replaced within a reasonable period, not exceeding seven days.
- Recreational water features shall be covered when not in use.
- Newly constructed homes and buildings must irrigate with drip or microspray only.



RECOMMENDATION



1. Declare a water shortage emergency
2. Implement drought stage 1 measures per the adopted 2020 Water Shortage Contingency Plan
3. Adopt a Water Conservation Plan
 - State Water Board regulations
 - Additional conservation measures
 - Education and enforcement
 - Drought surcharge for stage 1 – start July 1 on water bills



THANK YOU



STAFF REPORT

City Council
Meeting Date: 3/1/2022
Staff Report Number: 22-033-CC

Public Hearing: **Introduce an ordinance to amend Municipal Code Chapter 7.35 on Water Conservation which provides for enforcement of conservation measures in the Water Shortage Contingency Plan**

Recommendation

Staff recommends that the City Council introduce and waive the first reading of the ordinance (Attachment A), by title only, to amend Municipal Code Chapter 7.35 on Water Conservation which provides for enforcement of conservation measures in the Water Shortage Contingency Plan.

Policy Issues

At this same meeting, the City Council is considering adopting a declaration of a water shortage emergency pursuant to Water Code section 350, and implementing stage 1 of the City's 2020 Water Shortage Conservation Plan. Staff recommends adopting this ordinance to amend Chapter 7.35 to provide for clearer enforcement mechanisms under the Menlo Park City Code for enforcement of mandatory conservation requirements in the City's adopted 2020 Water Shortage Contingency Plan for Menlo Park Municipal Water (MPMW.)

Background

State law mandates that every urban water supplier adopt an Urban Water Management Plan to support long-term resource planning in order to maintain adequate water supplies. One of the mandatory components of this strategic planning document is a Water Shortage Contingency Plan (WSCP), which helps the supplier facilitate preparedness for water supply shortage conditions. The WSCP must list anticipated response measures to reduce demand and augment available supply in the event of a shortage. State law requires that the WSCP be based on a water supply reliability analysis, and include locally appropriate "shortage response actions" for six standard water shortage levels, varying from an up to 10 percent shortage condition to a greater than 50 percent shortage condition, and state the enforcement measures that would be available to the supplier to enforce any conservation measures as might be necessary to achieve conservation to reduce gaps between demand and available supply.

Analysis

The City adopted its 2020 WSCP in May 2021, setting forth expected voluntary or mandatory conservation measures to be adopted during various stages of water shortage conditions, ranging from an up to 10 percent shortage to a greater than 50 percent shortage. The City has the ability to adopt emergency regulations for the operation of MPMW pursuant to the authority set forth in Water Code section 350 et seq. However, the adoption of such regulations requires a public hearing, after appropriate notice is published in a newspaper enabling the public the opportunity to protest. Staff recommends that the City adopt provisions

related to the enforcement of the mandatory conservation measures of the water shortage conservation plan into its City Code, as the City has the discretion to adopt various enforcement mechanisms under its general police power to achieve water conservation during a drought and prevent water waste, ranging from education, civil penalties and criminal enforcement, which are likely to be stronger than its authority to adopt emergency regulations under Water Code section 350.

Additionally, the existing City municipal code requires that the City adopt a “water conservation plan” by resolution to implement any emergency regulations or requirements that are promulgated by the State Water Resources Control Board (State Water Board) or MPMW’s sole wholesaler, the San Francisco Public Utilities Commission (SFPUC.) New State Water Board regulations often create new state law with its own enforcement mechanisms, such that the regulations are already punishable as violations of state law without the need for any local adoption. Therefore, staff recommends modifying the existing code to allow, but not require, the City to act to expressly adopt such regulations.

Adopting an ordinance is a two-step process that occurs over two City Council meeting dates: introduction of the ordinance and adoption of the ordinance. Staff plans to return March 22 to adopt the proposed ordinance, and the ordinance would become effective thirty (30) days after adoption.

Impact on City Resources

Amending the ordinance text for Chapter 7.35 (Water Conservation) will make it optional, and not a requirement, to adopt a resolution implementing any emergency regulations or requirements promulgated by the State Water Board or SFPUC.

Environmental Review

City Council’s adoption of the proposed ordinance is categorically exempt from CEQA under CEQA Guidelines 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and Section 15308 (Actions by Regulatory Agencies for Protection of the Environment), in that the ordinance is intended to provide additional enforcement mechanisms for the conservation of water resources in the event of a drought or water shortage emergency.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. A public hearing notice was published in the Examiner, at least 10 days prior to the meeting.

Attachments

- A. Proposed ordinance to amend Chapter 7.35 (Water Conservation)
- B. Menlo Park Municipal Code, Chapter 7.35 (Water Conservation)

Report prepared by:

Sergio Rudin, Assistant City Attorney
Pam Lowe, Senior Civil Engineer

Reviewed by:

Karen E. Pachmayer, Interim Assistant Public Works Director

ORDINANCE NO. XXXX**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AMENDING CHAPTER 7.35 (WATER CONSERVATION) TO PROVIDE FOR ENFORCEMENT OF CONSERVATION MEASURES IN WATER SHORTAGE CONTINGENCY PLAN**

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

SECTION 1. FINDINGS AND DETERMINATIONS.

- A. State law, as set forth in Water Code sections 10610 through 10657, requires every urban water retailer to adopt, every five years, an Urban Water Management Plan to support longer-term resource planning to ensure that adequate water supplies are available to meet existing and future water needs.
- B. State law mandates that every urban water supplier, as part of the Urban Water Management Plan, also adopt a Water Shortage Contingency Plan to facilitate preparedness for water supply shortage conditions, including providing anticipated response measures to reduce demand and augment available supply. State law requires that the Water Shortage Contingency Plan be based on a water supply reliability analysis, and includes locally appropriate “shortage response actions” for six standard water shortage levels, varying from an up to 10 percent shortage condition to a greater than 50 percent shortage condition, and state the enforcement measures that would be available to the supplier to enforce any conservation measures as might be necessary to achieve conservation to reduce gaps between demand and available supply.
- C. Article XI, section 7 of the California Constitution provides the City with general police powers to enact laws for the protection, public health, and safety of its citizens, and the City has the power to enact regulations to mandate conservation in the event of a drought or water shortage for the preservation of public health.
- D. Chapter 7.35 of the Menlo Park Municipal Code currently provides the City with the ability to respond to a drought emergency, by requiring enforcement of any emergency regulations adopted by the State Water Board, or drought-related actions imposed by the San Francisco Public Utilities Commission. The City Council desires to amend such chapter to provide for clear enforcement mechanisms of mandatory conservation measures that may be adopted by the City under its Water Shortage Contingency Plan for operation of Menlo Park Municipal Water and other conservation measures as may be needed to ensure sufficient water is available for sanitation, human consumption, and fire protection.

SECTION 2. AMENDMENT OF CODE.

Chapter 7.35 [Water Conservation] of Title 7 [Health and Sanitation] is hereby repealed and replaced to read in its entirety as follows:

Chapter 7.35
WATER CONSERVATION

- 7.35.010 Purpose.
- 7.35.020 Water conservation.
- 7.35.030 Penalties and enforcement.

7.35.010 Purpose.

The purpose of this chapter is to promote water conservation and provide the City with the flexibility to respond to any drought emergency or reductions in available water supply, by providing for enforcement of mandatory conservation measures in its Water Shortage Contingency Plan, emergency conservation regulations adopted by the State Water Board, or other drought requirements as may be imposed by the San Francisco Public Utilities Commission or the City of Menlo Park.

Water uses regulated or prohibited under the City's Water Shortage Contingency Plan are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition is deemed to constitute a waste of water and a public nuisance and shall subject the offender to penalties as prescribed by this chapter.

7.35.020 Water conservation.

Upon the declaration by the City Council of the existence of a condition of water shortage or drought emergency, or upon the adoption of any emergency regulations by the State Water Board related to water use or conservation, or upon the adoption of drought-related conservation measures or reduction in supply by the San Francisco Public Utilities Commission, the City Council of the City of Menlo Park may, by resolution, adopt a water conservation plan imposing mandatory conservation and water use reduction requirements on all persons in Menlo Park, including such measures as may be set forth in the City's Water Shortage Contingency Plan and such additional measures as may be determined necessary to address the water shortage or emergency water supply condition.

The City Council shall set forth by resolution the conservation and water reduction requirements subject to enforcement, which shall remain in effect until the termination of such resolution by the City Council.

7.35.030 Penalties and enforcement.

Penalty amounts for violations of mandatory measures adopted under Section 7.35.020 may be prescribed by resolution of the City Council. Any violations of the water conservation plan adopted by resolution shall be subject to penalty as set forth as set forth in Chapter 1.12, or enforceable by civil penalty, if so prescribed in the terms of the resolution adopted by the City Council. Penalties shall be in addition to any other remedy available to the City under any other law or provision of this code.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council finds and determines that enactment of this ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and Section 15308 (Actions by Regulatory Agencies for Protection of the Environment), in that the ordinance is intended to provide additional enforcement mechanisms for the conservation of water resources in the event of a drought or water shortage emergency.

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

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

SECTION 6. PUBLICATION

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

INTRODUCED on the first day of March, 2022.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the ___ day of ___, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Betsy Nash, Mayor

ATTEST:

Judi A. Herren, City Clerk

Chapter 7.35 WATER CONSERVATION

Sections:

7.35.010 Purpose.

7.35.020 Water conservation.

7.35.030 Penalty.

7.35.010 Purpose.

The purpose of this chapter is to promote water conservation and provide the city with the flexibility to respond to a drought emergency whether it be emergency regulations adopted by the State Water Board, or drought-related actions imposed by the San Francisco public utilities commission. (Ord. 1011 § 4 (part), 2014; Ord. 1010 § 4 (part), 2014).

7.35.020 Water conservation.

Upon the adoption of emergency water conservation regulations by the State Water Board and within the timelines prescribed by the State Water Board, or drought-related actions imposed by the San Francisco public utilities commission, the city council of the city of Menlo Park shall adopt by resolution a water conservation plan that mandates those water conservation measures. (Ord. 1011 § 4 (part), 2014; Ord. 1010 § 4 (part), 2014).

7.35.030 Penalty.

Any violations of the water conservation plans shall be an infraction or enforced as provided in the resolution adopted pursuant to Section 7.35.020. (Ord. 1011 § 4 (part), 2014; Ord. 1010 § 4 (part), 2014).

The Menlo Park Municipal Code is current through Ordinance 1084, passed December 7, 2021.

Disclaimer: The city clerk's office has the official version of the Menlo Park Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.menlopark.org/>

City Telephone: (650) 330-6600

Code Publishing on any



PUBLIC HEARING
AMEND MUNICIPAL CODE ON WATER CONSERVATION
March 1, 2022 – Pam Lowe

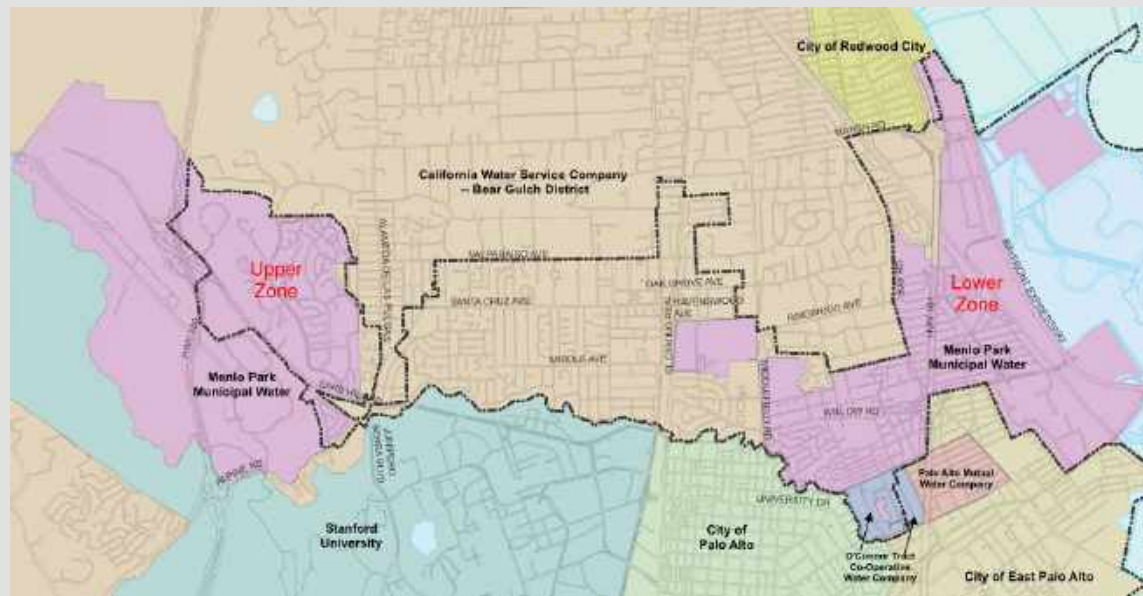




MENLO PARK MUNICIPAL WATER



- 100% supply purchased from San Francisco Public Utilities Commission (SFPUC)
- Approx. 4,300 service connections
- Water service for half of the City





WATER SHORTAGE CONTINGENCY PLAN (WSCP)



- Adopted in May 2021 with the Urban Water Management Plan
- A plan to reduce demand and augment available supply for shortage conditions
- Outlines proposed actions for six drought stages ranging from “up to 10%” to “more than 50%” water use reductions
- Considers water regulations adopted by the State Water Board or SFPUC, our water wholesaler
- Allows flexibility for the City Council to incorporate additional conservation measures
- **Includes enforcement measures available to achieve conservation**



MUNICIPAL CODE. CHAPTER 7.35 WATER CONSERVATION



- Provides the City with flexibility to respond to any drought emergency or reductions in available water supply
- The WSCP is not enforceable in itself
- The current code does not allow for enforcement
- States that the City shall adopt, by resolution, a Water Conservation Plan to enforce State Water Board or SFPUC regulations



MUNICIPAL CODE 7.35 WATER CONSERVATION



Proposed revisions:

1. Provide for enforcement of mandatory conservation measures upon declaration of drought emergency by City Council
2. The City may adopt, by resolution, a Water Conservation Plan to enforce State Water Board or SFPUC regulations

Staff recommendations:

1. Introduce an ordinance to amend Municipal Code section 7.35



THANK YOU



STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-044-CC

Regular Business:

Adopt a resolution determining the Utility Users Tax is necessary to the financial health of the City pursuant to Section 3.14.310 of the Municipal Code

Recommendation

Staff recommends that City Council adopt a resolution (Attachment A) determining that the Utility Users Tax (UUT) is necessary for the financial health of the City for fiscal years 2020-21 and 2021-22.

Policy Issues

The City Council is required to adopt a balanced budget for each fiscal year. Pursuant to the Utility Users Tax Ordinance section 3.14.310, the City Council is also required to make a determination about whether the UUT is necessary for the financial health of the City every two years.

Background

Ordinance No. 950 of the City Council of the City of Menlo Park Adopting a Utility Users Tax became effective after it was approved by a majority of voters at the General Election of November 7, 2006. Ordinance No. 950 established Chapter 3.14 of the City of Menlo Park Municipal Code, this Chapter is known as the Utility Users Tax (UUT) Ordinance. The UUT Ordinance imposed a communication users tax at a rate of 2.5 percent, an electricity users tax at a rate of 3.5 percent, a gas tax at the rate of 3.5 percent, and a water users tax at the rate of 3.5 percent

Section 3.14.130 of the UUT Ordinance allows the City Council to reduce the rate of the UUT if such a reduction will not adversely affect the City's ability to meet its financial obligations. The City Council first reduced the UUT to a rate of 1 percent for all utilities after examining the City's long-term forecast in their considerations of the 2007-08 fiscal year budget. The reduced rates have been reconfirmed with each subsequent fiscal year budget.

Section 3.14.310 of the UUT Ordinance requires the City Council to review the need for the UUT, not later than June 30, 2008, and every two (2) years thereafter, and, by a two-thirds (2/3) vote of the City Council, make findings that the UUT is necessary for the financial health of the City. In the event the City Council fails to make the required findings by any review date, the City's authority to levy the UUT for that two-year period is terminated. However, all other provisions of the UUT Ordinance, including the provisions creating and authorizing the City to impose the UUT, shall remain in full force and effect.

In early 2020, the COVID-19 pandemic emerged, which created numerous financial challenges for local governments and their creation of balanced budgets. The resulting national, statewide, and local regulations and health recommendations led to a corresponding loss of tax revenue. Staff estimated that certain revenue streams, such as the transient occupancy tax, would almost be completely eliminated during the emergency. Overall, there was a projected \$20.7 million revenue shortfall projected for fiscal years 2020-21

and 2021-22.

Staff provided a proposed comprehensive budget and fiscal update to the City Council April 28, 2020, which assessed the financial impacts of the COVID-19 emergency. Staff projected the financial crisis would likely result in an estimated \$12.7 million revenue shortfall for the fiscal year 2020-2021.

The City recognized there was no historical analog to guide the development of a balanced operating budget during a global pandemic of the scale of COVID-19. To balance the budget, staff recommended personnel and non-personnel reductions to achieve \$8.7 million in net savings for the 2020-2021 fiscal year, and the use of one-time monies, including \$2.9 million from the City's economic stabilization reserve. Staff and the City Council also considered whether the City should increase existing tax revenues to cover the budget shortfall, including the UUT.

Staff informed the City Council in their May 19, 2020 staff report that although the UUT had been continually reduced to 1 percent every year since 2007 if the temporary reduction was allowed to lapse and the UUT were to be levied at its fully authorized amount, an additional \$1.92 million in annual revenue could be generated for the City.

Although, the City Council recognized that letting the temporary reduction to the UUT rate lapse would result in additional revenues for the City, they also recognized the economic hardship faced by many residents and businesses due to COVID-19 related impacts. As such, the City Council adopted Resolution No. 6570, June 23, 2020, by a two-thirds vote, reducing the authorized UUT levy to 1 percent and finding that the temporary reduction would not adversely impact the City's ability to meet its financial obligations in the proposed budget. In doing so, the City Council also determined that a UUT of 1 percent was necessary to the City's financial health and for the City to meet its budgeted financial obligations.

On June 23, 2020, the City Council reviewed and considered for adoption the revised budget for fiscal year 2020-2021. The proposed budget included \$1.22 million in estimated revenue from the UUT. The UUT revenue was necessary for the City to adopt a balanced budget that provided sufficient revenues to meet the City's financial obligations, as evidenced by the staff report and other budget documents. The City Council adopted Resolution No. 6568, by a two-thirds vote, June 23, 2020, which approved the budget for fiscal year 2020-2021, including the necessary UUT revenues.

One year later, the City Council reaffirmed its finding that the UUT was necessary for the City's financial health when it adopted Resolution No. 6635, by a two-thirds vote, June 28, 2021, finding that the UUT could be temporarily reduced to 1 percent for fiscal year 2021-2022, and Resolution No. 6633, by a two-thirds vote, on the same day, approving the budget for fiscal year 2021-2022, which included \$1.74 million in necessary UUT revenues.

Thus, for fiscal years 2020-2021 and 2021-2022, the estimated UUT revenues were necessary to the City's adoption of balanced budgets that met the City's financial needs. If the City had not received the UUT revenues, the City would have been forced to use reserve funds to meet its financial obligations, which would have reduced reserves below the minimum thresholds set by City Council policy or caused the General Fund to fall into a negative unassigned fund balance.

Recent updates on the UUT revenues have shown that the City received \$1,442,006 in UUT for fiscal year 2020-2021 and budgeted \$1,735,110 for fiscal year 2021-2022 bringing the total amount of receipts to approximately \$3.2 million.

Analysis

Menlo Park Municipal Code Chapter 3.14 governs the UUT. Section 3.14.310 of the Menlo Park Municipal Code requires the City Council to review the need for the UUT and make findings that the UUT is necessary for City's financial health every two years. There is no single measure that fully captures the financial health of a local government.

Financial health is generally defined as the ability of a local government to balance recurring expenditures with recurring revenues, while providing services on a continuing basis. A community in good financial health generally maintains, at a minimum, adequate service levels during fiscal downturns, identifies and adjusts to long-term economic changes, and develops resources to meet future needs. In defining the City of Menlo Park's financial health, the below items must be considered.

- The ability of the City to fund ongoing General Fund expenses with ongoing revenues, and not rely on one-time resources (e.g., reserves, stimulus funds, proceeds from land sales, etc.) to fund ongoing services;
- The ability of the City to maintain appropriate reserves levels -- consistent with best practices in local government financial management and City Council approved financial policies -- in order to preserve the long-term financial health of the City;
- The ability of the City to minimally provide adequate service levels that meet community needs and that are both stable and sustainable, even when faced with severe economic downturn.

The City must maintain its financial health on an ongoing and consistent basis. This means that if the City maintains its reserves but is not able to fund ongoing services with ongoing revenues, the City is not sustaining financial health. Similarly, if the City is unable to restore programs and services that were eliminated during an economic downturn without using reserves or other one-time cash infusions, it could be a sign of financial distress. Again, since there is no single measure that fully captures the financial health of a local government, it is appropriate to view financial health from multiple perspectives.

As explained above, the City Council and staff reviewed and discussed the UUT several times throughout fiscal years 2020-2021 and 2021-2022. After reviewing and analyzing the UUT and the City's budgeted expenses, the City Council directed staff to include the UUT revenues at a rate of 1 percent in the balanced budget. The UUT revenues were necessary for the City to adopt balanced budgets for fiscal years 2020-2021 and 2021-2022, and the City's financial records show that the City received \$1,442,006 in UUT for fiscal year 2020-2021 and budgeted \$1,735,110 for fiscal year 2021-2022. As of December 31, the City has received \$798,532 in UUT revenues this fiscal year.

The City Council found that the UUT was necessary for the financial health of the City when it adopted Resolutions Nos. 6570 June 23, 2020, and 6635 June 28, 2021, by two-thirds votes, reducing the UUT to 1 percent and finding that the temporary reduction would not adversely affect the City's ability to meet its financial obligations in its budgets for fiscal years 2020-2021 and 2021-2022. Likewise, the City Council found that the UUT was necessary for the City's financial health when it adopted Resolutions Nos. 6568 June 23, 2020, and 6633 June 28, 2021, by two-thirds votes, adopting the budgets for fiscal years 2020-2021 and 2021-2022, which included UUT revenues that were necessary for the City to adopt balanced budgets.

On December 28, 2021, a class-action lawsuit was filed against the City seeking to invalidate the UUT and secure a refund of UUT revenues. According to the lawsuit, the City's levy of the UUT was wrongful because the City Council failed to make the financial necessity findings required by Section 3.14.310 of the

UUT Ordinance. These allegations are false because, as explained above, the City Council did make the required findings by adopting Resolution Nos. 6570, 6568, 6635, and 6633 (Attachment B.) However, in order to reaffirm the City Council's previous findings, staff recommends that the City Council adopt the proposed resolution (Attachment A), which confirms:

- The Utility Users Tax (UUT) for fiscal year 2020-21 and fiscal year 2021-22 was and is necessary for the financial health of the City of Menlo Park (City.)
- The City is only able to maintain its City Council adopted reserve levels with the additional revenue from the UUT. Without the UUT, the City would be required to fund operations with additional transfers from fund balances or a further reduction in City services levels.

Impact on City Resources

As noted in the previous sections, the fiscal year 2020-2021 Fund received UUT tax of \$1.44 million in revenue generated by the temporarily reduced UUT and the fiscal year 2021-22 budget was balanced with the use of \$1.74 million in anticipated revenue generated by the temporarily reduced UUT. Therefore, without using the UUT, the City would have needed to generate, borrow or otherwise use \$3.2 million in funds over fiscal years 2020-2021 and 2021-2022.

Environmental Review

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

Public Notice

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

Attachments

- A. Resolution – Determining that the UUT is necessary for the financial health of the City
- B. Resolution Nos. 6570, 6568, 6635, and 6633

Report prepared by:

Nira Doherty, City Attorney

Marvin Davis, Interim Finance Director

RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
DETERMINING THAT THE UTILITY USERS TAX, IS NECESSARY FOR THE
FINANCIAL HEALTH OF THE CITY, PURSUANT TO SECTION 3.14 OF THE
MENLO PARK MUNICIPAL CODE**

WHEREAS, Ordinance No. 950 of the City Council of the City of Menlo Park, adopting a Utility Users Tax, became effective upon approval by a majority of voters at the General Election of November 7, 2006; and

WHEREAS, Ordinance 950 established Chapter 3.14 of the City of Menlo Park Municipal Code, known as the "Utility Users Tax Ordinance," which imposed a communication users tax at a rate of 2.5 percent, an electricity users tax at a rate of 3.5 percent, a gas tax at the rate of 3.5 percent, and a water users tax at the rate of 3.5 percent; and

WHEREAS, in April 2020 staff projected that the financial crisis sparked by the COVID-19 pandemic, along with the corresponding loss of tax revenue, would likely result in an estimated \$12.7 million revenue shortfall for the fiscal year 2020-2021 and a possible \$20.7 million revenue shortfall over the next two fiscal years; and

WHEREAS, on April 7, 2020, staff sought direction from City Council confirming the City's priorities during the COVID-19 emergency included assessing the fiscal impacts of the COVID-19 emergency and providing a budget amendment, if necessary; and

WHEREAS, on April 7, 2020 the City Council passed a motion confirming its priorities, assessing the fiscal impacts of the COVID-19 emergency, and adopting a budget amendment for the fiscal year 2019-2020, if necessary; and

WHEREAS, on April 28, 2020, City Councilmembers stated, on the record during a City Council meeting, that the COVID-19 pandemic was a surprise emergency and warranted the use of reserve funds and other revenue streams to cover the revenue shortfall; and

WHEREAS, on April 28, 2020, staff recommended the City Council make several budget amendments in response to the revenue shortfall, including reducing the personnel budget by an additional \$2.26 million and reducing operating budget by an additional \$1.93 million; and

WHEREAS, on April 28, 2020, due to the projected fiscal impacts of the pandemic, the City Council passed a motion adopting Resolution No. 6556 which appropriated the use of reserves of up to \$2.9 million to maintain a balanced budget for fiscal year 2019-2020; and

WHEREAS, on April 28, 2020, the City Council passed a motion approving a budget strategy for the fiscal year 2020-2021 budget which included reducing personnel costs by \$4.57 million, reducing non-personnel costs by \$4.1-6.1 million, and directing the City Manager to identify up to \$4.1 million in reserves and additional funding to balance the fiscal year 2020-2021 General Fund budget; and

WHEREAS, staff then researched and analyzed alternative revenue sources, including revenue savings from staff reductions, drawing down the economic stabilization reserve, deferring capital improvement expenditures, borrowing funds, or ending the temporary reduction of the Utility Users Tax (UUT) in order to increase the UUT above the reduced 1 percent rate; and

WHEREAS, on May 19, 2020, a staff report explained that there was no historical analog to help guide the development of a balanced budget during an unanticipated pandemic and that the typical tools the City would use on a year-to-year budget cycle were insufficient to address the magnitude of revenue shortfalls anticipated for the upcoming fiscal year; and

WHEREAS, on May 19, 2020, staff presented to the City Council, in Staff Report No. 29-106-CC, a number of options for balancing the budget in the face of unprecedented revenue shortfalls, including personnel and non-personnel reductions, use of one time monies, and other revenue increasing strategies, including increasing the UUT rate to the maximum allowable amount; and

WHEREAS, as a result of the significant financial impacts of the COVID-19 pandemic, the City Council took action on May 28, 2020 to issue layoff notices to 28 benefited personnel and 40 non-benefited temporary personnel, creating a savings of \$11.7 million in program and service reductions; and

WHEREAS, in the staff report for the June 2, 2020 budget discussions, staff informed the City Council that the Council could end the UUT reduction and levy the fully authorized UUT in order to generate an additional \$1.92 million in revenues; and

WHEREAS, on June 2, 2020, during a meeting of the City Council, Councilmembers discussed the level at which the UUT should be set in order to balance the City's financial and budgetary needs against the potential burden that levying the fully authorized UUT could place on residents and businesses during an unprecedented pandemic; and

WHEREAS, the City Council considered budget balancing measures sufficient to offset the projected revenue shortfall at 5 public meetings, on April 28, May 19, 25, 28, and June 2, 2020 and then directed staff to incorporate specific expenditure reductions totaling \$11.7 million and an additional discretionary reduction of \$2.5 million in the City Manager's proposed budget; and

WHEREAS, on June 9, 2020, staff presented to the City Council, at a City Council meeting, the history of the UUT and how the maximum rate had been temporarily reduced to 1 percent in all previous years because the City Council found that it could reduce the UUT without adversely affecting the City's ability to meet its budgeted financial obligations; and

WHEREAS, on June 9, 2020, the City Council directed staff to keep the UUT at the reduced 1 percent rate, in order to avoid the adverse impacts to residents and businesses of charging the fully authorized UUT, and to balance the budget based on that reduced amount; and

WHEREAS, on June 23, 2020, City staff recommended to the City Council a balanced budget that included a necessary \$1.22 million in revenue from the UUT at the reduced rate of 1 percent and extreme cuts necessary to balance the budget, such as a staff reduction of 17.1 percent; and

WHEREAS, the City Council found that the UUT was necessary for the financial health of the City when it adopted Resolution No. 6570 on June 23, 2020, by a two-thirds vote, reducing the UUT to 1 percent and finding that the temporary reduction would not adversely affect the City's ability to meet its financial obligations in its budget for fiscal year 2020-2021; and

WHEREAS, the City Council found that the UUT was necessary for the City's financial health when it adopted Resolution No. 6568 on June 23, 2020, by a two-thirds vote, approving the budget for fiscal year 2020-2021, which included \$1.22 million in UUT revenues that were necessary for the City to adopt a balanced budget; and

WHEREAS, on June 28, 2021, City staff recommended to the City Council a General Fund budget for fiscal year 2021-2022, which included \$1.74 million in revenue from the temporarily reduced UUT rate of 1 percent; and

WHEREAS, on June 28, 2021, the City Council found that the UUT was necessary for the financial health of the City when it adopted Resolution No. 6635, by a two-thirds vote, temporarily reducing the UUT rate to 1 percent and finding that the reduced rate would not adversely affect the City's ability to meet its financial obligations in its budget for fiscal year 2021-2022; and

WHEREAS, on June 28, 2021, the City Council found that the UUT was necessary for the financial health of the City when it adopted Resolution No. 6633, by a two-thirds vote, approving the budget for fiscal year 2021-2022, which included \$1.74 million in necessary UUT revenues; and

WHEREAS, the City's financial records indicate that the City received \$1,442,006 in UUT for fiscal year 2020-2021 and budgeted \$1,735,110 for fiscal year 2021-2022 bringing the total amount of receipts to approximately \$3.2 million; and

WHEREAS, the UUT revenues the City has and will receive over the 2020-2021 and 2021-2022 fiscal years, were and are necessary for the City's financial health because, had the City not received this additional revenue, reserve policy parameters would have fallen below the minimum amounts set by City Council policy and the General Fund could have fallen to a negative unassigned fund balance; and

WHEREAS, The City of Menlo Park defines financial health as the following:

- The ability of the City to fund ongoing General Fund expenses with ongoing revenues, and not rely on one-time resources (e.g., reserves, stimulus funds, proceeds from land sales, etc.) to fund ongoing services;
- The ability of the City to maintain appropriate reserves levels consistent with best practices in local government financial management and City Council approved financial policies in order to preserve the long-term financial health of the City;
- The ability of the City to minimally provide adequate service levels that meet community needs and that is both stable and sustainable, even when faced with severe economic downturn.

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 hereby resolves as follows:

1. The City Council found and determined, pursuant to section 3.14.310 of the City's Municipal Code, that the Utility Users Tax (UUT) was necessary for the City's financial health when it adopted Resolutions Nos. 6570 and 6568, reducing the UUT to 1 percent and adopting a balanced budget for fiscal year 2020-2021, which included necessary UUT revenues.
2. The City Council reaffirmed its finding that the UUT revenues were necessary for the City's financial health when it adopted Resolutions Nos. 6635 and 6633, reducing the UUT to 1 percent and adopting a balanced budget for fiscal year 2021-2022, which included necessary UUT revenues.

3. The City Council hereby reaffirms its previous findings and determinations that the UUT, imposed by Chapter 3.14 of the City of Menlo Park Municipal Code, is and was necessary for the financial health of the City for fiscal years 2020-2021 and 2021-2022.

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 first of March, 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 March, 2022.

Judi A. Herren, City Clerk

RESOLUTION NO. 6568**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING THE BUDGET FOR FISCAL YEAR 2020–21**

WHEREAS, in April 2019 staff projected that the financial crisis sparked by the novel coronavirus COVID-19 pandemic results in an estimated \$12.7 million revenue shortfall for fiscal year 2020-21; and

WHEREAS, on April 28, 2020, the City Council directed staff to present budget balancing measures sufficient to offset the revenue shortfall without the use of one-time money, including the City's Economic Stabilization Fund; and

WHEREAS, the City Council considered budget balancing measures sufficient to offset the projected revenue shortfall at 5 public meetings, completing their review June 2, and directing staff to incorporate specific expenditure reductions totaling \$11.7 million and further direction to incorporate an additional reduction of \$2.5 million at staff's discretion in the City Manager's proposed budget; and

WHEREAS, the City Council considered the City Manager's proposed budget at their public hearing on June 9, 2020, providing final direction to restore the budget for services at the Onetta Harris Community Center, reactivate childcare services and augment the budget for those services sufficient to ensure compliance with strict social distancing measures directed by public health officials, maintain membership in Peninsula Library System Joint Powers Authority for fiscal year 2020-21 and exercise the option of terminating membership in the Joint Powers Authority effective July 1, 2021, and use a nominal amount of one-time money from the Economic Stabilization Fund to balance the budget; and

WHEREAS, uncertainties resulting from the public health crisis and financial crisis necessitate extraordinary budgetary oversight that will require budget amendments in September 2020, January 2021, and April 2021, to maintain a balanced budget as new information emerges; and

WHEREAS, City Council Procedure #19-001-CC requires City Council action to enter into agreements or settle claims with aggregate annual payments in excess of \$78,000 for fiscal year 2020-21; however expenditures in debt service on currently-issued debt, utilities, employee benefits, inter-governmental agreements, and operating technological end-user hardware and subscription services included in the Information Technology Internal Service Fund exceed the annual aggregate of \$78,000 through contractually obligations or public health and safety necessity; and

WHEREAS, the City of Menlo Park, acting by and through its City Council, having considered the proposed budget document dated June 9, 2020 and related written and oral information at the meeting held June 23, 2020, and the City Council having been fully advised in the matter and good cause appearing therefore;

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

1. Adopt the budget for the fiscal year 2020–21 as summarized in in Exhibit A; and as modified according to majority City Council direction; and

2. Authorize the City Manager to execute or rescind layoff notices to employees resulting from the budget adoption and in compliance with City Council adopted labor agreements and side-letter agreements;
3. Authorize staff to adjust the city manager's proposed budget to incorporate changes in assumptions for the proposed budget, to incorporate changes directed by the City Council at budget adoption, true-up of estimated carry-over appropriations, and other minor clerical errors; and
4. Authorize the City Manager or designee to make payments for services provided to the City in the categories of debt service on currently-issued debt, utilities, employee benefits, inter-governmental agreements, and operating technological end-user hardware and subscription services included in the Information Technology Internal Service Fund, in excess of \$78,000 and up to the budgeted amount in fiscal year 2020

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-third day of June, 2020, by the following vote:

AYES: Carlton, Combs, Mueller, Nash, Taylor

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-third day of June, 2020.

DocuSigned by:



39280A20D0BE491...

Judi A. Herren, City Clerk

| Fund category | Fund type | Fund number and name | Revenues | Expenditures |
|------------------------|-----------------------|---------------------------------------|--------------------|--------------------|
| Governmental | General Fund | (100) General Fund | 56,429,065 | 56,429,064 |
| Governmental | Expendable Trust Fund | (409) E. Kennedy/ Arts Trust | 120 | - |
| Governmental | Expendable Trust Fund | (813) Frances Mack Trust | 720 | - |
| Governmental | Special Revenue Fund | (505) Vintage Oaks Landscape Mtce | 360 | 18,551 |
| Governmental | Special Revenue Fund | (506) Sharon Hills Park | 240 | - |
| Governmental | Special Revenue Fund | (801) Rec-In-Lieu Fund | 1,382,498 | 1,276,198 |
| Governmental | Special Revenue Fund | (809) Bayfront Pk.Mt. Operation | 1,800 | 258,089 |
| Governmental | Special Revenue Fund | (453) Library System Impv'T Fund | 478,660 | 558,822 |
| Governmental | Special Revenue Fund | (705) Narcotic Seizure Fund | - | 2,000 |
| Governmental | Special Revenue Fund | (706) Suppl Law Enforc Svc Fd (Cops) | 100,600 | 204,300 |
| Governmental | Special Revenue Fund | (710) Transportation Impact Fees | 4,514,716 | 3,440,183 |
| Governmental | Special Revenue Fund | (711) Transportation Fund | 143,176 | - |
| Governmental | Special Revenue Fund | (713) Storm Drainage | 28,368 | 103,608 |
| Governmental | Special Revenue Fund | (714) Shuttle Program | 1,014,000 | 1,271,957 |
| Governmental | Special Revenue Fund | (753) Garbage Service Fund | 528,264 | 664,388 |
| Governmental | Special Revenue Fund | (754) Marsh Rd Landfill @ Bayfront | 5,575,336 | 5,180,030 |
| Governmental | Special Revenue Fund | (758) Downtown Parking Permits | 822,530 | 643,130 |
| Governmental | Special Revenue Fund | (831) Housing Fund | 126,000 | 10,000 |
| Governmental | Special Revenue Fund | (832) BMR Housing-Residentl/Commerl | 1,190,700 | 487,913 |
| Governmental | Special Revenue Fund | (834) County Transp Tax Fund | 1,748,596 | 1,375,109 |
| Governmental | Special Revenue Fund | (835) Highway Users Tax Fund | 2,653,530 | 1,753,230 |
| Governmental | Special Revenue Fund | (836) Rev Share-Emergency Loan | 2,980 | 10,500 |
| Governmental | Special Revenue Fund | (837) Commun Devel Block Grant | 11,600 | 10,000 |
| Governmental | Special Revenue Fund | (838) Landscaping/Tree Assesmnt | 996,220 | 1,085,026 |
| Governmental | Special Revenue Fund | (839) Sidewalk Assesment | 299,481 | 26,600 |
| Governmental | Special Revenue Fund | (840) Measure M | 143,000 | 143,000 |
| Governmental | Special Revenue Fund | (841) Storm Water Mgmt Fund (Npdes) | 417,000 | 539,902 |
| Governmental | Special Revenue Fund | (843) Construction Impact Fee Fund | 6,395,982 | 3,330,452 |
| Governmental | Special Revenue Fund | (846) SB1 LSRP Capital Fund (Hut Rrm) | 1,386,081 | 802,338 |
| Governmental | Capital Project Fund | (845) Measure T - 02 Go Bonds | 1,560 | - |
| Governmental | Capital Project Fund | (851) Capital Improvement Fund | 17,699,331 | 16,536,686 |
| Governmental | Capital Project Fund | (853) 1990 Library Addition | 600 | - |
| Governmental | Debt Service Fund | (874) 1990 Library Bond Debt Service | 1,800 | - |
| Governmental | Debt Service Fund | (875) 2002 Recreation Go Bond D.S. | 1,125,013 | 1,130,463 |
| Governmental | Internal Service Fund | (101) Workers' Compensation Fund | 933,671 | 1,236,752 |
| Governmental | Internal Service Fund | (102) General Liability Fund | 858,330 | 993,337 |
| Governmental | Internal Service Fund | (103) Other Post Employment Benefits | 344,075 | 492,000 |
| Governmental | Internal Service Fund | (104) IT Internal Service Fund | 2,897,558 | 2,795,037 |
| Governmental | Internal Service Fund | (507) Vehicle Replacement Fund | 403,260 | 1,072,200 |
| Business-Type | Enterprise Fund | (855) Water Capital Fund | 14,176,289 | 12,246,366 |
| Business-Type | Enterprise Fund | (861) Water Operations Fund | 13,085,900 | 9,994,529 |
| Total all funds | | | 137,919,010 | 126,121,760 |

RESOLUTION NO. 6570

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ESTABLISHING A TEMPORARY TAX PERCENTAGE REDUCTION IN THE
UTILITY USERS' TAX PURSUANT TO SECTION 3.14.130 OF THE CITY OF
MENLO PARK MUNICIPAL CODE**

WHEREAS, Ordinance 950 of the City Council of the City of Menlo Park Adopting a Utility Users' Tax became effective upon approval by a majority of voters at the General Election of November 7, 2006; and WHEREAS,

Ordinance 950 established Chapter 3.14 of the City of Menlo Park Municipal Code, this chapter known as the "Utility Users' Tax Ordinance"; and

WHEREAS, the Utility Users' Tax Ordinance Section 3.14.130 allows the City Council to enact a Temporary Tax Percentage Reduction for a period of no more than twelve (12) months; provided adequate written notice is given to all affected service suppliers; and

WHEREAS, the City Council established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2008–09, effective October 1, 2008; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2009–10, effective October 1, 2009; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2010–11, effective October 1, 2010; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2011–12, effective October 1, 2011; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2012–13, effective October 1, 2012; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2013–14, effective October 1, 2013; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2014–15, effective October 1, 2014; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2015–16, effective October 1, 2015;

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2016–17, effective October 1, 2016;

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2017–18, effective October 1, 2017;

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2018–19, effective October 1, 2018;

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2019–20, effective October 1, 2019;

Resolution No. 6570
Page 2 of 2

WHEREAS, the City Council is not prohibited from adopting consecutive temporary tax percentage reductions as provided by Section 3.14.130 of the Utility Users' Tax Ordinance;

WHEREAS, the City Council now finds that a consecutive temporary tax reduction shall not adversely affect the City's ability to meet its financial obligations as contemplated in the budget for the fiscal year 2020–21, considered and adopted at its regular meeting of June 23, 2020, provided the City's revenues and financial position does not significantly change from the projections in the budget;

WHEREAS, this temporary reduction will have some impact on the City's financial position, the City Council recognizes the economic hardship currently faced by many residents and businesses due to COVID-19 related impacts.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park at its regular meeting of June 23, 2020 hereby establishes a temporary reduction in the Utility Users' Tax rate, maintaining the current reduced rate of one percent (1.0%) for taxes imposed by sections 3.14.040 through 3.14.070 for a period of no more than twelve (12) months, effective October 1, 2020. No other provisions of the Utility Users' Tax Ordinance are affected by this resolution. Nothing herein shall preclude the City Council from modifying the tax rate set herein during said twelve-month period.

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-third day of June, 2020, by the following vote:


AYES: Carlton, Combs, Mueller, Nash, Taylor

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-third day of June, 2020.

DocuSigned by:

39280A20D0BE491...

Judi A. Herren, City Clerk

RESOLUTION NO. 6633

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING THE BUDGET AND CAPITAL IMPROVEMENT PLAN FOR FISCAL
YEAR 2021-22**

WHEREAS, the City of Menlo Park, acting by and through its City Council, having considered the proposed budget document dated June 8, 2021 and related written and oral information at the meeting held June 22, 2021, and the City Council having been fully advised in the matter and good cause appearing therefore; and

WHEREAS, City Council Procedure #19-001-CC requires City Council action to enter into agreements or settle claims with aggregate annual payments in excess of \$79,000 for fiscal year 2021-22; however, expenditures in debt service on currently-issued debt, utilities, employee benefits, inter-governmental agreements, City Attorney fees, and operating technological end-user hardware and subscription services included in the Information Technology Internal Service Fund exceed the annual aggregate of \$79,000 through contractual obligations or public health and safety necessity.

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

1. Adopt the budget for the fiscal year 2021-22 as summarized in Exhibit A and as modified according to majority City Council direction; and
2. Authorize staff to adjust the city manager's proposed budget to incorporate changes in assumptions for the proposed budget, to incorporate changes directed by the City Council at budget adoption, true-up of estimated carry-over appropriations, and other minor clerical errors; and
3. Authorize the City Manager or designee to make payments for services provided to the City in the categories of debt service on currently-issued debt, utilities, employee benefits, inter-governmental agreements, City Attorney fees, and operating technological end-user hardware and subscription services included in the Information Technology Internal Service Fund, in excess of \$79,000 and up to the budgeted amount in fiscal year 2021-22.

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


AYES: Combs, Mueller, Nash, Wolosin

NOES: Taylor

ABSENT: None

ABSTAIN: None

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

DocuSigned by:

39280A20D0BE491...

Judi A. Herren, City Clerk

| Resolution No. 6633 adopting the fiscal year 2021-22 budget and capital improvement plan | | | |
|--|---------------------------|--------------------------------|----------------------------|
| | 2021-22 Adopted Budget | | |
| | Revenues and Transfers In | Expenditures and Transfers Out | Net Revenue/ (Expenditure) |
| General Funds | | | |
| (100) General Fund | 62,703,307 | 62,703,307 | - |
| (111) One-time Revenue Fund | 1,686,000 | | 1,686,000 |
| General Funds Total | 64,389,307 | 62,703,307 | 1,686,000 |
| Special Revenue Funds | | | |
| (201) EIR Fees | - | - | - |
| (202) Miscellaneous Trust Fund | - | - | - |
| (211) Heritage Tree | 10,000 | 135,000 | (125,000) |
| (221) Housing Special Revenue Fund | - | 4,000 | (4,000) |
| (222) Below Market Rate Housing Special Revenue | - | 336,611 | (336,611) |
| (223) Federal Revenue Sharing | - | 4,000 | (4,000) |
| (224) Community Development Block Grant | - | 4,000 | (4,000) |
| (251) Big Lift | 190,000 | 260,149 | (70,149) |
| (252) Childcare Food | 31,500 | 50,000 | (18,500) |
| (253) Belle Haven Child Development Center | 1,255,000 | 1,557,689 | (302,689) |
| (254) Preschool-QRIS | - | - | - |
| (255) Senior Transportation | - | - | - |
| (256) Recreation In-Lieu | 1,074,334 | 1,624,334 | (550,000) |
| (301) Literacy Grant | - | - | - |
| (303) Family Literacy Grant | - | - | - |
| (304) Menlo Park Community Campus Fund | 15,614,847 | 13,617,900 | 1,996,947 |
| (326) Narcotic Seizure Fund | - | - | - |
| (327) Supplemental Law Enforcement Services | - | - | - |
| (328) Downtown Parking Permits | 500,000 | 2,589,600 | (2,089,600) |
| (329) OTS Grant | - | - | - |
| (331) ABC Grant | - | - | - |
| (332) Bayfront Impact Fund | 2,434,625 | - | 2,434,625 |
| (351) Transportation Impact Fees | 9,688,723 | 9,813,723 | (125,000) |
| (352) Transportation Fund | 1,427,466 | 1,427,466 | - |
| (353) Downtown Public Amenity Fund | 100,000 | 300,000 | (200,000) |
| (354) Storm Drainage Fees | 1,800 | 50,000 | (48,200) |
| (355) Shuttle Program | 841,046 | 1,200,398 | (359,352) |
| (356) County Transportation Tax (Measure A) | 1,199,459 | 1,350,484 | (151,025) |
| (357) Highway Users (Gas Tax) Fund | 2,332,964 | 2,610,245 | (277,281) |
| (358) Landscape/Tree Assessment | 1,287,457 | 1,046,071 | 241,386 |
| (359) Sidewalk Assessment | 305,838 | 277,050 | 28,788 |
| (360) Measure M | 146,000 | 146,000 | - |
| (361) Storm Water Management(NPDES) | 425,862 | 514,969 | (89,107) |
| (362) Construction Impact Fee Fund | 4,032,990 | 5,156,584 | (1,123,594) |
| (363) Measure W | 300,000 | 500,000 | (200,000) |
| (364) HUT Repair and Maintenance | - | 550,000 | (550,000) |
| (365) Landfill Post-Closure | 4,883,569 | 4,495,404 | 388,165 |
| (366) Vintage Oaks Landscape | - | - | - |
| (367) Sharon Hills Park | - | - | - |
| (368) Bayfront Park Maintenance | - | 248,484 | (248,484) |
| (391) Ravenswood Ave Grade Separation Study | - | - | - |
| (397) American Rescue Plan Act Fund | 4,150,250 | 847,740 | 3,302,510 |
| Special Revenue Funds Total | 52,233,730 | 50,717,901 | 1,515,829 |
| Debt Service Funds | | | |
| (400) Library GO Bond 1990 | 7,545 | - | 7,545 |
| (401) Recreation GO Bond | - | 1,041,281 | (1,041,281) |
| Debt Service Funds Total | 7,545 | 1,041,281 | (1,033,736) |
| Capital Project Funds | | | |
| (501) General Capital Improvement Fund | 26,793,742 | 34,952,356 | (8,158,614) |
| Internal Service Funds | | | |
| (701) Workers' Compensation Fund | 1,234,411 | 1,050,019 | 184,392 |
| (702) General Liability Fund | 863,081 | 1,431,169 | (568,088) |
| (703) Other Post Employment Benefits | 318,750 | 648,018 | (329,268) |
| (704) IT Internal Service Fund | 2,781,801 | 2,823,083 | (41,282) |
| (705) Vehicle Replacement Fund | 1,396,380 | 1,570,000 | (173,620) |
| Internal Service Funds Total | 6,594,423 | 7,522,289 | (927,866) |
| Enterprise Funds | | | |
| (600) Water Capital Fund | 13,364,782 | 16,430,567 | (3,065,785) |
| (601) Water Operations Fund | 13,774,400 | 10,239,617 | 3,534,783 |
| (610) Solid Waste Service | - | 334,032 | (334,032) |
| Enterprise Funds Total | 27,139,182 | 27,004,216 | 134,966 |
| All Funds Total | 177,157,929 | 183,941,350 | (6,783,421) |

RESOLUTION NO. 6635

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ESTABLISHING A TEMPORARY TAX PERCENTAGE REDUCTION IN THE
UTILITY USERS' TAX PURSUANT TO SECTION 3.14.130 OF THE CITY OF
MENLO PARK MUNICIPAL CODE**

WHEREAS, Ordinance 950 of the City Council of the City of Menlo Park Adopting a Utility Users' Tax became effective upon approval by a majority of voters at the General Election of November 7, 2006; and

WHEREAS, Ordinance 950 established Chapter 3.14 of the City of Menlo Park Municipal Code, this chapter known as the "Utility Users' Tax Ordinance"; and

WHEREAS, the Utility Users' Tax Ordinance Section 3.14.130 allows the City Council to enact a Temporary Tax Percentage Reduction for a period of no more than twelve (12) months; provided adequate written notice is given to all affected service suppliers; and

WHEREAS, the City Council established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2008–09, effective October 1, 2008; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2009–10, effective October 1, 2009; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2010–11, effective October 1, 2010; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2011–12, effective October 1, 2011; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2012–13, effective October 1, 2012; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2013–14, effective October 1, 2013; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2014–15, effective October 1, 2014; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2015–16, effective October 1, 2015; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2016–17, effective October 1, 2016; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2017–18, effective October 1, 2017; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2018–19, effective October 1, 2018; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2019–20, effective October 1, 2019; and

WHEREAS, the City Council re-established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2020–21, effective October 1, 2020; and

WHEREAS, the City Council is not prohibited from adopting consecutive temporary tax percentage reductions as provided by Section 3.14.130 of the Utility Users' Tax Ordinance; and

WHEREAS, the City Council now finds that a consecutive temporary tax reduction shall not adversely affect the City's ability to meet its financial obligations as contemplated in the budget for the fiscal year 2021–22, considered and adopted at its regular meeting of June 22, 2021.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park at its regular meeting of June 22, 2021 hereby establishes a temporary reduction in the Utility Users' Tax rate, maintaining the current reduced rate of one percent (1.0%) for taxes imposed by sections 3.14.040 through 3.14.070 for a period of no more than twelve (12) months, effective October 1, 2021. No other provisions of the Utility Users' Tax Ordinance are affected by this resolution. Nothing herein shall preclude the City Council from modifying the tax rate set herein during said twelve-month period.

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

AYES: Combs, Mueller, Nash, Wolosin

NOES: Taylor

ABSENT: None

ABSTAIN: None

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

DocuSigned by:

39280A20D0BE491...

Judi A. Herren, City Clerk



STAFF REPORT

City Council
Meeting Date: 3/1/2022
Staff Report Number: 22-039-CC

Regular Business: **Adopt a resolution to install no parking restrictions on a portion of El Camino Real and timed parking restrictions on a portion of College Avenue**

Recommendation

Staff recommends that the City Council adopt a resolution (Attachment A) to (1) install no parking restrictions on the west side of El Camino Real from Middle Avenue to College Avenue and on the east side of El Camino Real from the southerly driveway of 700 El Camino Real to the Menlo Park/Palo Alto city limit and (2) to implement one-hour time limited parking on College Avenue from El Camino Real to approximately 160 feet westerly.

Policy Issues

This project is consistent with policies stated in the 2016 general plan circulation element. 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.

Menlo Park Municipal Code Section 11.24 authorizes the City Council to permit or restrict parking and limits the Complete Streets Commission's authority to permit or restrict parking to three total spaces per location in the El Camino Real and Downtown Specific Plan area.

Background

Middle Plaza at 500 El Camino Real project

Stanford University is redeveloping an 8.4-acre site, addressed 200 through 500 El Camino Real, with approximately 10,286 square feet of retail/restaurant uses, 142,840 square feet of nonmedical office, and 215 residential units.

The City Council approved this project in September and October 2017, and it adheres to the El Camino Real/Downtown Specific Plan's (Specific Plan) "base" level standards. This project is currently under construction and is anticipated to be completed this year.

El Camino Real existing conditions and future plans

El Camino Real is State Route 82 and a major transportation corridor in the region, carrying approximately 30,000 to 45,000 daily vehicles, buses, and serving local business and school traffic. It is a historic asset for the region, but also a barrier to east-west travel in Menlo Park. In 2015, the City undertook the El Camino Real Corridor Study to develop consensus around a conceptual design for El Camino Real. Through the community engagement process, the highest priorities for desired improvements heard from the community included:

- Enhancing pedestrian safety and crossings
- Adding bicycle lanes to El Camino Real
- Providing more bicycle parking closer to downtown
- Improving landscaping along El Camino Real
- Timing traffic signals to favor continuous north-south flow on El Camino Real

On May 3, 2016, the City Council voted to accept the El Camino Real Corridor Study, identifying buffered bicycle lanes as the preferred alternative with additional study of potential solutions for the northbound traffic bottleneck at Ravenswood Avenue; to advance east-west connectivity improvements as recommended by staff into design and environmental clearance phase in advance of any further work on future north-south El Camino Real bicycle facilities; and, to reallocate the construction funds for the additional northbound through-lane at Ravenswood Avenue to the balance of the Transportation Impact Fee fund to be used for future projects identified by the City Council.

Subsequent to the Corridor Study, the City Council adopted a citywide Transportation Master Plan (TMP) November 17, 2020 (Attachment B.) This plan included buffered bike lanes on El Camino Real within the city limits as project 84 and part of projects 85-92 and 95. The TMP prioritized these projects as Tier 1 higher priority projects.

Menlo Park has also been a participant in the Peninsula Bikeway Study, a joint effort of the cities of Mountain View, Palo Alto, Menlo Park and Redwood City, as well as Stanford University and Joint Venture Silicon Valley. The final report for this study, released in August 2021, identified El Camino Real as the preferred alternative for a low stress, separated bikeway.

Analysis

No parking restriction on west side of El Camino Real between Middle Avenue and College Avenue

As part of the off-site improvements for the Middle Plaza at 500 El Camino Real project, Stanford University is modifying the intersection of Middle Avenue and El Camino Real to improve access to the project site. As part of this improvement, a new crosswalk is proposed for the south leg of the intersection, so that a pedestrian may cross each of the four legs of this intersection. In addition, a two-foot raised concrete median island would be installed on El Camino Real between Middle Avenue and College Avenue, consistent with other intersections of El Camino Real. This median island would replace the existing striped median island with flexible vertical posts as shown on Attachment C. The raised median island would provide better separation between the two directions of travel as well as provide a small refuge for pedestrians. In addition, the raised median would improve aesthetics and eliminate the need to replace the flexible posts after they have been damaged by vehicles. Per Attachment D, in order to install the two-foot raised concrete median island, on-street parking needs to be removed between Middle Avenue and College Avenue. The total length of on-street parking to be removed is approximately 200 feet or eight parking spaces, potentially impacting up to eight businesses.

No parking restriction on east side of El Camino Real between southerly driveway of 700 El Camino Real and Menlo Park/Palo Alto city limit

Staff is recommending the removal of on-street parking between the southerly driveway of 700 El Camino Real and the Menlo Park/Palo Alto city limit for the future implementation of a buffered bike lane on El Camino Real as identified in TMP project 84. This restriction is being proposed for implementation before occupancy of 500 El Camino Real, to limit any confusion or uncertainty about the future plans for El Camino Real, but after construction is substantially complete to limit parking by construction workers in nearby residential areas.

Between the southerly driveway of 700 El Camino Real and Middle Avenue, there are approximately eight parking spaces. Between Middle Avenue and Cambridge Avenue, there is currently about 500 feet of no parking area and approximately 25 parking spaces. Between Cambridge Avenue and the Menlo Park/Palo Alto city limit, there is about 150 feet of no parking area and approximately 34 parking spaces. Because the Middle Plaza at 500 El Camino Real project will provide on-site parking (underground parking structures and surface parking areas) for its residents, office workers and retail customers, removing these parking spaces would not impact Middle Plaza’s parking needs. The Stanford Park Hotel provides surface parking areas for its workers and hotel patrons and, consequently, removing the parking spaces between Cambridge Avenue and the Menlo Park/Palo Alto city limit would not impact the Hotel’s parking needs.

Complete Streets Commission feedback

Staff presented the proposed parking removal for El Camino Real to the Complete Streets Commission at their January 2022 meeting. At the meeting, several public speakers from Stanford Park Hotel spoke about the concerns of the parking removal in front of the hotel because buses with guests use that area to load and unload due to difficulty in maneuvering in their parking lot. Hotel staff indicated that buses also occasionally park overnight on El Camino Real.

One speaker raised concerns about the lack of permit parking enforcement in the Allied Arts neighborhood, noting that removal of parking would exacerbate the conditions.

The Commission discussed concerns about how the parking removal on the west side of El Camino would impact the small businesses located between Middle Avenue and College Avenue. After discussing the current parking usage and potential parking options for customers for the small businesses, the Commission voted to approve the parking removal (7-0-0-2, with Commissioners Cole and King absent) and directed staff to explore shared parking opportunities such as the Safeway parking lot, consider parking wayfinding signs, timed parking limits on College Avenue and observe the existing parking conditions for El Camino Real near the small businesses.

Following the Complete Streets Commission, staff looked into the parking options for the west side of El Camino Real. Because shared parking opportunities at existing lots would require a longer timeframe to implement and are dependent on the consent of other parties, staff focused on on-street parking options. There are currently four businesses/properties on the affected block that rely primarily on street parking for their customers (a hair salon, a bicycle store, a dessert store and a home technology store.) The other businesses (a gas station, shipping store, a dessert shop and a martial art school) have dedicated parking on-site. Table 1 summarizes the parking availability in the area.

| Table 1: Available parking supply | | |
|---|------------------|------------------|
| Location | Type | Number of spaces |
| El Camino Real | One hour parking | 8 |
| North side of College Avenue ¹ | One hour parking | 1 to 2 |
| South side of College Avenue ² | Unrestricted | 6 to 7 |

1. Parking west of the first block (Alto Lane) is restricted by residential permit

2. Parking west of approximately 160 feet from El Camino Real is restricted by residential permit

In January 2022, staff conducted parking observations on two different days in the morning and afternoon in this area and observed that the parking on El Camino Real was not heavily utilized. It is expected that parking demand is likely lower due to the ongoing COVID-19 pandemic. Staff also reviewed the Google

Street View history of the parking occupancy on El Camino Real. There were 19 instances of the parking recorded between March 2009 and October 2021, although the day of week and time of day are not documented. The highest parking occupancy was seven spaces in October 2016 with most observations ranging from three to five vehicles. Staff observations for the unrestricted parking on College Avenue in January 2022 found that there were four to five vehicles parked and that they were mostly the same vehicles in the morning and afternoon indicating that vehicles were parked there for multiple hours. This on-street parking is adjacent to a townhouse development that has individual garages for each unit. Staff recommends signing all parking on both sides of the first block of College Avenue as one-hour parking between 9 a.m. and 6 p.m. Monday through Friday except holidays (consistent with other time limited parking in the city) to encourage parking turnover and provide parking availability for customers of the local businesses to use during the day.

Subsequent to the Complete Street Commission meeting, staff received correspondence from two property owners and one of the tenants located on El Camino Real between Middle Avenue and College Avenue concerned about the removal of parking in front of their properties and the effects it would have on their business and future tenants. Staff met with business owners and shared the proposal to convert on-street parking available on College Avenue to one-hour parking to match the existing time limits on El Camino Real and to encourage parking turnover. Staff acknowledges that the proposed parking on College Avenue is not as convenient, but does provide an alternative parking that is less than a block away.

The Middle Plaza development also has a planned 26-foot wide connection at the rear of their site with the Stanford Park Hotel (Attachment E.) Staff believes that this new connection would provide the capability for buses to circulate within the hotel parking lot and exit their site without needing to load and unload on El Camino Real. Staff has been in contact with the Stanford Park Hotel and the Middle Plaza representatives to address this issue.

Impact on City Resources

The parking restriction (i.e., no parking signs and/or red curb painting) on the west side of El Camino Real between Middle Avenue and College Avenue would be installed by Stanford University at its expense. The no parking restriction on the east side of El Camino Real between the southerly driveway of 700 El Camino Real and the Menlo Park/Palo Alto city limit and the timed parking restriction on College Avenue would be installed by the City. Funding for this work would be implemented through the annual signage and striping program.

Environmental Review

The proposed installation of the parking restrictions on El Camino Real and timed-parking restrictions on College Avenue is categorically exempt under California Environmental Quality Act Article 19, § 15301 Existing Facilities - Class 1. Class 1 allows for minor alterations of existing facilities, including highways and streets, sidewalks, gutters, bicycle and pedestrian access, and similar facilities, as long as there is negligible or no expansion of use.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Postcards were also mailed to property owners and businesses located within of 500-foot radius of the project location. In addition, posters with the meeting information were placed on A-frames along the west side of El Camino Real between Middle Avenue and College Avenue and on College Avenue.

Attachments

- A. Resolution
- B. Hyperlink – City of Menlo Park Transportation Master Plan:
beta.menlopark.org/Government/Departments/Public-Works/Transportation-Division/Transportation-plans/Transportation-Master-Plan
- C. Existing striped median island with flexible vertical posts on El Camino Real
- D. Excerpt from off-site pavement delineation and sign plan – 500 El Camino Real Project
- E. Excerpt from on-site signage and striping plan – 500 El Camino Real Project

Report prepared by:

Kristiann Choy, 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 THE INSTALLATION OF NO PARKING ZONES ON A
PORTION OF EL CAMINO REAL AND TIME LIMITED PARKING ON A
PORTION OF COLLEGE AVENUE**

WHEREAS, on September 26, 2017, the City Council approved a development agreement with Stanford University for the Middle Plaza at 500 El Camino Real development; and,

WHEREAS, the conditions of approval for the Middle Plaza at 500 El Camino Real include modifying the El Camino Real and Middle Avenue intersection to add a crosswalk on the south leg; and,

WHEREAS, Stanford University has developed a design for the El Camino Real and Middle Avenue intersection that includes a new crosswalk on the south leg and the addition of a two-foot raised median to improve pedestrian safety and accessibility; and,

WHEREAS, the 2016 El Camino Real Corridor study identified enhanced pedestrian safety and crossings and bicycle lanes on El Camino Real as a preferred study alternative; and,

WHEREAS, the Transportation Master Plan identified buffered bicycle lanes on El Camino Real through the city as a Tier 1 project; and,

WHEREAS, the width of El Camino Real does not provide adequate space for the existing travel lanes, new median and parking; and,

WHEREAS, an alternative short term parking location for the businesses on the west side of El Camino Real was identified on College Avenue; and,

WHEREAS, California Vehicle Code Sections 22506 and 22507 and Menlo Park Municipal Code Section 11.24 authorizes the City Council to establish by resolution restrictions on parking on local streets and state highways in Menlo Park as necessary; 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 following as illustrated, attached hereto and incorporated herein by this reference as Exhibit A:

1. No parking zone on the east side of El Camino Real from the southerly driveway of 700 El Camino Real and Menlo Park/Palo Alto city limit.
2. No parking zone on the west side from Middle Avenue to College Avenue.
3. One-hour time limit parking between 9 AM and 6 PM Monday to Friday except Holidays on the south side of College Avenue from El Camino Real to approximately 160 feet westerly.
4. Update existing one-hour time limit parking on the north side of College Avenue to between 9 AM and 6 PM Monday to Friday except Holidays from the end of the existing no parking area to approximately 50 feet westerly.

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 first day of March, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

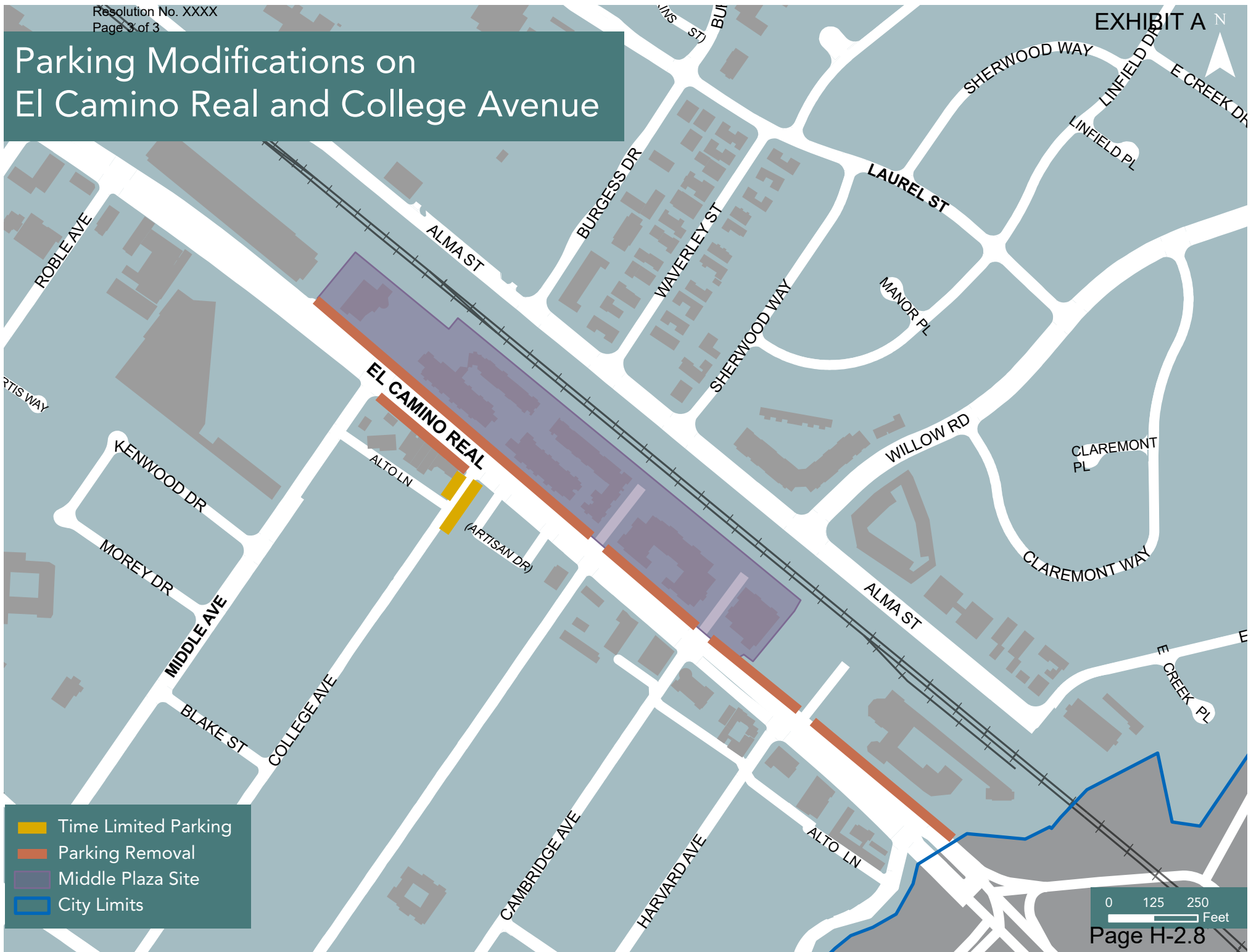
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of March, 2022

Judi A. Herren, City Clerk

Exhibits

- A. Parking modifications on El Camino Real and College Avenue

Parking Modifications on El Camino Real and College Avenue



- Time Limited Parking
- Parking Removal
- Middle Plaza Site
- City Limits

0 125 250
Feet

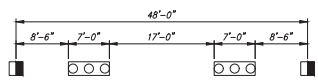


EXISTING STRIPED MEDIAN ISLAND WITH FLEXIBLE VERTICAL POSTS

NOTE:
FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

GENERAL NOTES

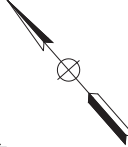
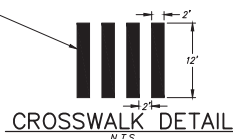
1. CONTRACTOR SHALL REMOVE ALL STRIPING/MARKINGS THAT CONFLICT WITH THE PROPOSED STRIPING/MARKINGS IN THESE PLANS.
2. STRIPING, SIGNS, AND METHODS AND MATERIALS SHALL ADHERE TO SECTION 2,3 AND 9 OF THE 2014 CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CAMUTCD).
3. STRIPING SHALL BE THERMOPLASTIC.



LEGEND
○ TYPE A WHITE NON-REFLECTIVE MARKER
■ TYPE G ONE-WAY CLEAR RETROREFLECTIVE MARKER

MODIFIED DETAIL 9
N.T.S.

CONTINENTAL CROSSWALK PER CALTRANS STANDARD PLAN A24F.



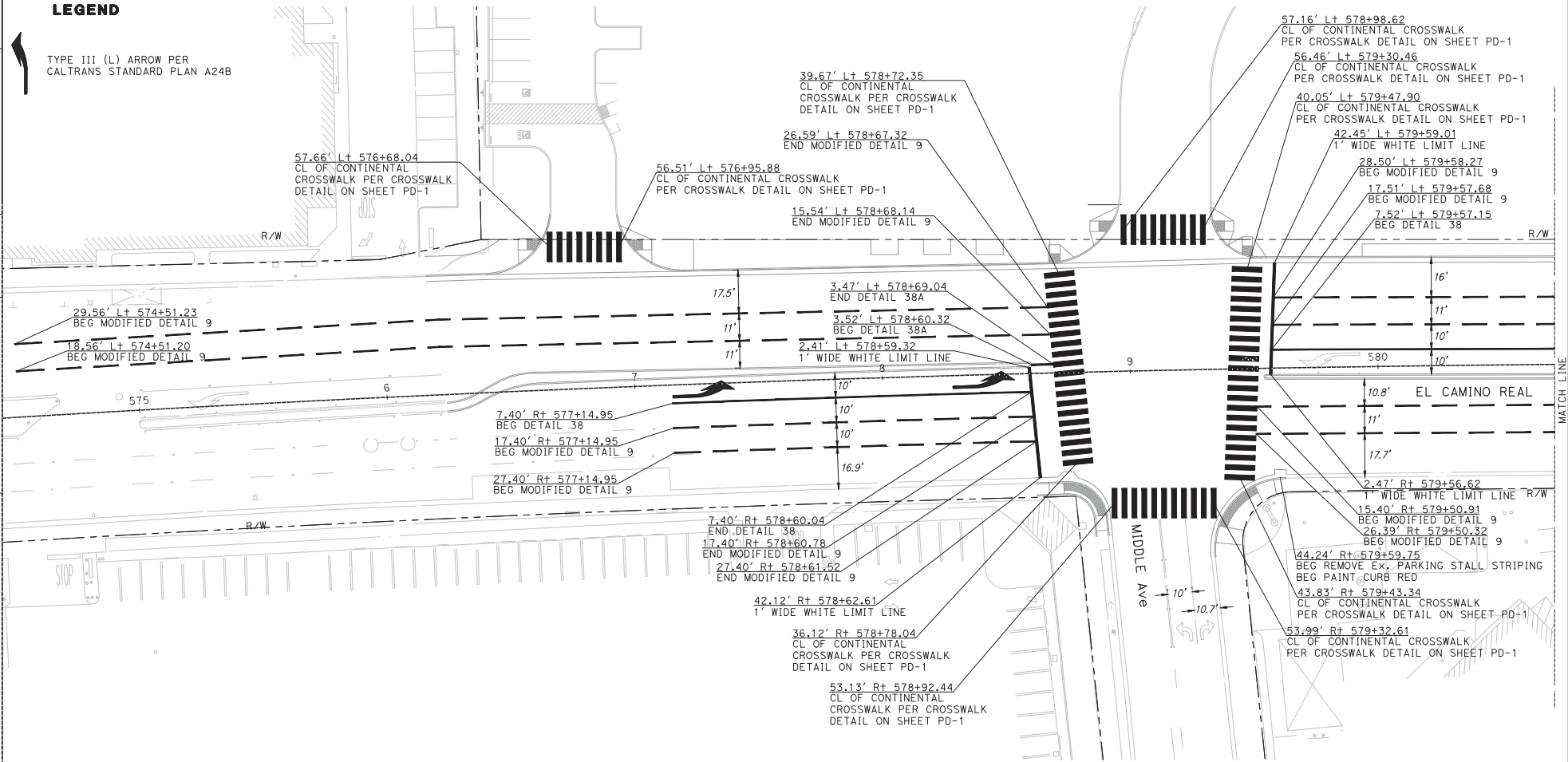
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|------|--------|-------|--------------------------|-----------|--------------|
| 04 | SM | 82 | 0 | 43 | 81 |

04-29-19
REGISTERED CIVIL ENGINEER DATE CHAD J. BROWNING
PLANS APPROVAL DATE No. 68315
No. 09-30-19
CIVIL
STATE OF CALIFORNIA

SANDIS CIVIL ENGINEERS
10000 JEFFERSON AVE., SUITE 100
DUBLIN, CA 94568
TEL: 916.835.1100 FAX: 916.835.1101
WWW.SANDIS-CA.COM

LEGEND

TYPE III (L) ARROW PER CALTRANS STANDARD PLAN A24B



PAVEMENT DELINEATION AND SIGN PLAN

SCALE: 1"=20'

PD-1

BORDER LAST REVISED 7/2/2010

USERNAME =>
DGN FILE => XXXXXXXXXXXX.dgn

RELATIVE BORDER SCALE IS IN INCHES



PROJECT NUMBER & PHASE

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10-19-18 TIME PLOTTED => 14:55

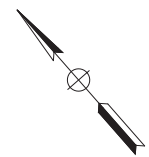
NOTE:
FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

| DIST | COUNTY | ROUTE | POST MILES TOTAL PROJECT | SHEET No. | TOTAL SHEETS |
|------|--------|-------|--------------------------|-----------|--------------|
| 04 | SM | 82 | 0 | 44 | 81 |

04-29-19
REGISTERED CIVIL ENGINEER DATE
CHAD J. BROWNING
No. 68315
PLANS APPROVAL DATE
Exp. 09-30-19
CIVIL
STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

SANDIS CIVIL ENGINEERS
10000 El Camino Real, Suite 200, San Diego, CA 92121
619-594-8800

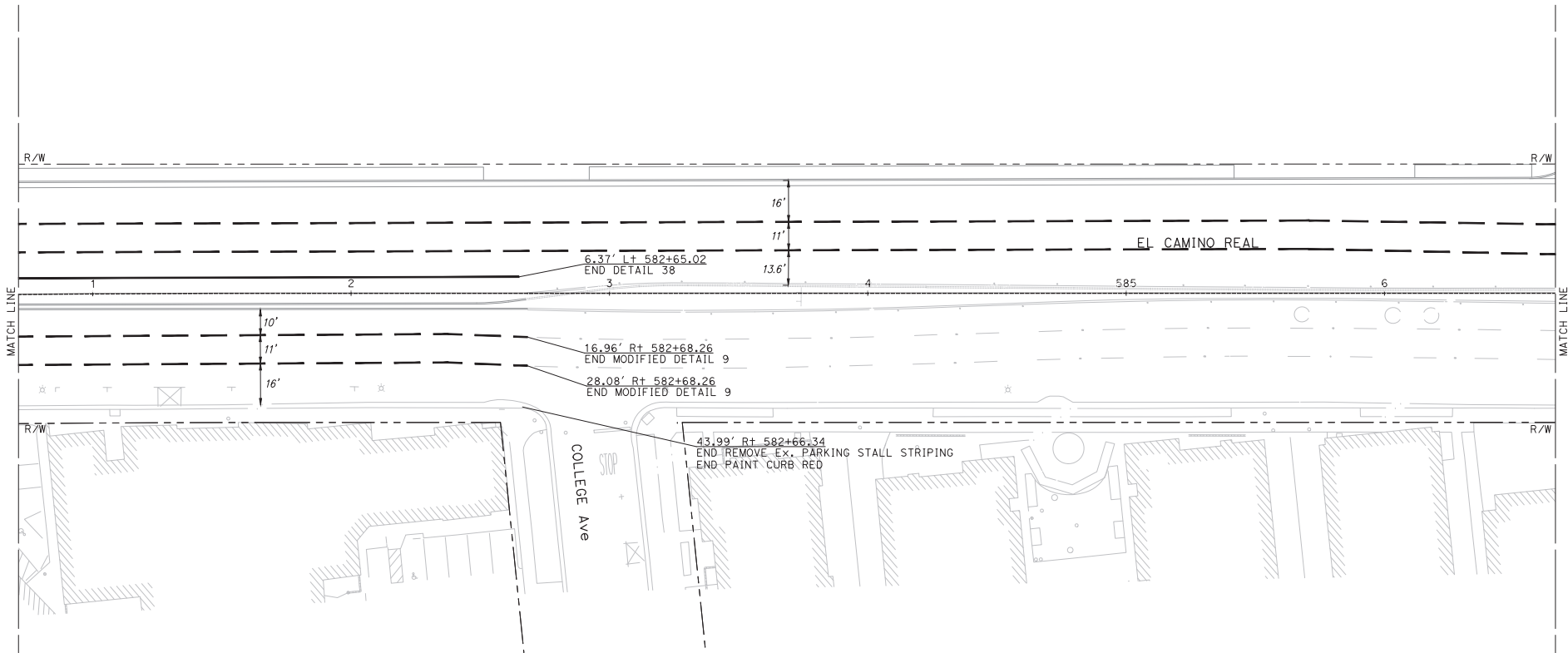


STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
Caltrans

CONSULTANT SUPERVISOR
JACOB EDWARDS
RONALD SANZO

DESIGNED BY
CHECKED BY

REVISIONS

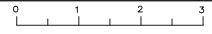


PAVEMENT DELINEATION AND SIGN PLAN
SCALE: 1"=20'
PD-2

BORDER LAST REVISED 7/2/2010

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DGN FILE => xxxxxxxxxxxx.dgn

RELATIVE BORDER SCALE
IS IN INCHES



PROJECT NUMBER & PHASE

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10-19-18 TIME PLOTTED => 14:55

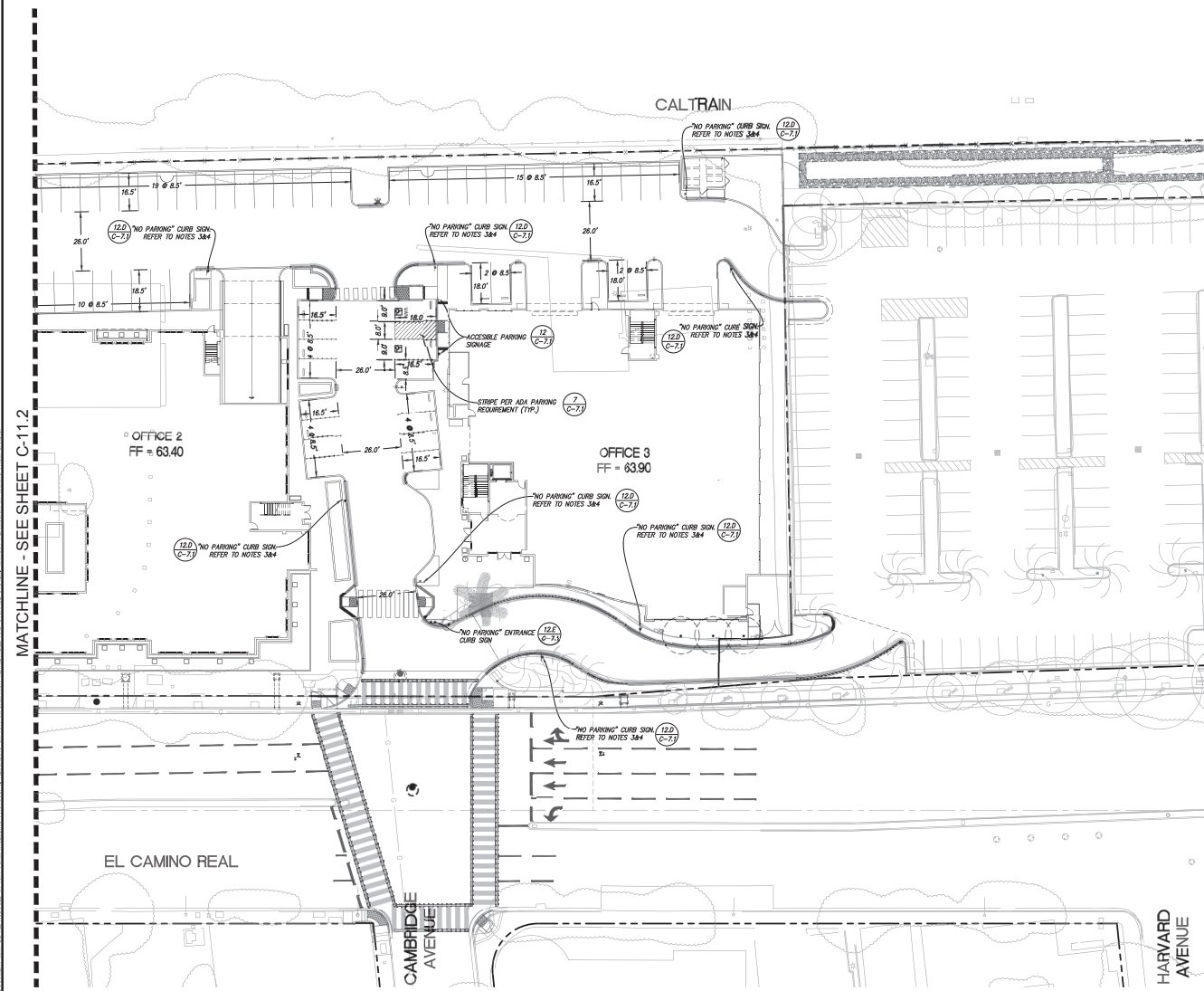


LEGEND

RED PAINTED CURB MARKED
FIRE LANE - NO PARKING REFER TO NOTE 2

NOTE

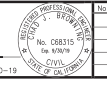
1. ALL SIGNS AND RED CURB PAINTING PERTAINING TO RESTRICTED PARKING ON FIRE LANES SHALL COMPLY WITH THE GUIDELINES INDICATED IN THE MPD FIRE DEPARTMENT ACCESS INFORMATION PACKET.
2. ALL CURBS AND ADJOINING FIRE LANES OR POSTED AREAS MUST BE PAINTED RED AND LABELLED IN WHITE WITH THE WORDS "FIRE LANE - NO PARKING", WHICH ARE CLEARLY VISIBLE FROM A VEHICLE.
3. PRIVATE RESIDENTIAL SIGNS MARKING FIRE LANES ARE TO BE SPACED 50 FEET CAN LESSEN READ FROM ONE SIGN TO ANOTHER, BUT IN NO CASE SHALL THE SIGNS BE MORE THAN 100 FEET APART.
4. PRIVATE COMMERCIAL SIGNS ARE REQUIRED WITHIN THREE (3) FEET OF EACH END OF CURBED AREA AND SPACED A MAXIMUM OF FIFTY (50) FEET APART INDICATED. IN ADDITION, ONE (1) SIGN IS REQUIRED FOR EACH CURBED ALIGNMENT TO A FIRE LANE OR ACCESS ROAD IF THE ROAD WIDTH IS LESS THAN 26 FEET.
5. SIGNS ARE TO FACE ON-COMING VEHICULAR TRAFFIC.
6. ALL CURBS AND SIGNS ARE TO BE MAINTAINED BY THE PROPERTY OWNER.
7. ALL CURBS LOCATED WITHIN THE COMPLEX THAT HAS NOT BEEN ASSIGNED AS ONSITE PARKING SHALL BE DESIGNATED AS "NO PARKING FIRE LANE". ALL LANES TO COMPLY WITH MPD STANDARDS FOR "DESIGNATION AND MARKING OF FIRE LANE".
8. ALL SIGNS MUST CONFORM TO MENLO PARK FIRE PROTECTION DISTRICT GUIDELINES.



MATCHLINE - SEE SHEET C-11.2

SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS
 3700 S. Winchester Blvd., Suite 200, Campbell, CA 95008 | P. 408.636.0900 | F. 408.636.0999 | www.sandis.net
 SILICON VALLEY TRI-VALLEY CENTRAL VALLEY SACRAMENTO EAST BAY/SF
 DRAWING NO: 212167

DATE: 04-29-2019
 SCALE: 1"=20'
 SHEET NO: 02
 APPROVED BY: [Signature]
 CHAD J. BROWNING
 R.C.E. NO. 68315, EXPIRES 9-30-19



| No. | REVISION/ISSUE | DATE | BY |
|-----|------------------------------|----------|----|
| 1 | SITE IMPROVEMENT RESUBMITTAL | 10/01/18 | SP |
| 2 | IBSD RESUBMITTAL | 11/06/18 | DS |
| 3 | SITE IMPROVEMENT RESUBMITTAL | 02/15/19 | SP |
| 4 | SITE IMPROVEMENT RESUBMITTAL | 04/16/19 | EE |
| 5 | SITE IMPROVEMENT RESUBMITTAL | 04/29/19 | DS |

STRIPING AND SIGNAGE PLAN

MIDDLE PLAZA AT 500 EL CAMINO REAL
 ONSITE PLANS
 MENLO PARK CALIFORNIA
 SHEET **C-11.3**



PARKING RESTRICTIONS ON A PORTION OF EL CAMINO REAL AND COLLEGE AVENUE

City Council Meeting: March 1, 2022





AGENDA

- Background
- Evaluation
- Complete Streets Commission feedback
- Council Action



BRC1



BACKGROUND

Middle Plaza at 500 El Camino Real Project

- Stanford University redevelopment consisting of 10,286 square feet of retail/restaurant uses, 142,840 square feet of non-medical office use, and 215 residential units
- Project is under construction with anticipated completion date in 2022
- Required off-site improvements include the intersection of El Camino Real and Middle Avenue



BACKGROUND

Future Bicycle Facilities

- El Camino Real Corridor Study – undertaken by the City in 2015 to develop community consensus around a conceptual plan for El Camino Real. City Council accepted the study and identified buffered bicycle lanes as the preferred alternative.
- Transportation Master Plan – includes projects to develop buffered bike lanes on El Camino Real within the city limits.
- Peninsula Bikeway Study – identified El Camino Real as preferred alternative for low stress, separated bikeway.



EVALUATION

No parking restriction on the west side of El Camino Real between Middle Avenue and College Avenue

- Middle Plaza off-site improvements at El Camino Real at Middle Avenue will add crosswalk on southerly leg of the intersection and install 2-foot raised concrete median between Middle Avenue and College Avenue
- Requires removal of approx. 8 on-street parking spaces between Middle Avenue and College Avenue



EVALUATION (EXISTING INTERSECTION – EL CAMINO REAL AT MIDDLE AVENUE)



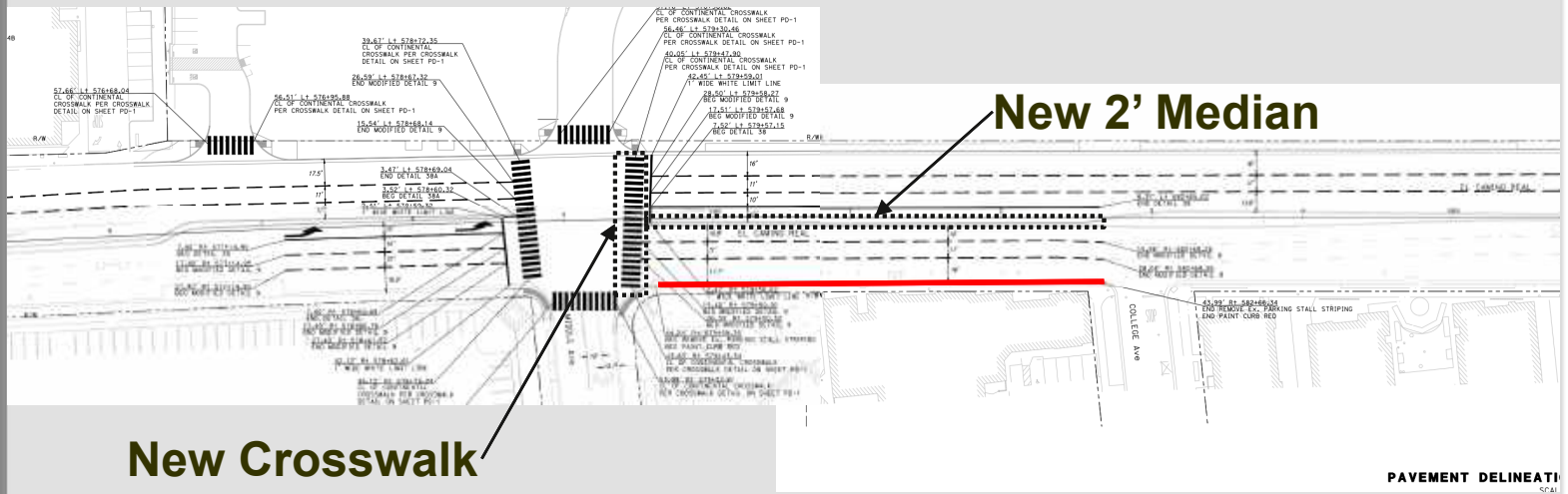


EVALUATION (EXISTING MEDIAN ISLAND WITH FLEXIBLE POSTS)





EVALUATION (OFF-SITE IMPROVEMENTS)



PAVEMENT DELINEATI
STAI



EVALUATION

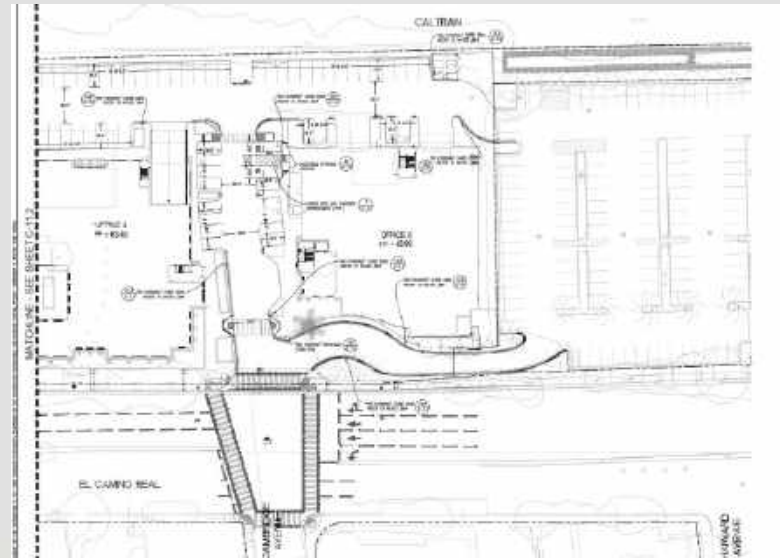
No parking restriction on the east side of El Camino Real between the southerly driveway of 700 El Camino Real and Menlo Park/Palo Alto city limit

- Future buffered bike lanes and on-street parking removal on El Camino Real within city limits identified in the El Camino Real Corridor Study, TMP, and Peninsula Bikeway Study
- Approx. 8 on-street parking spaces between southerly driveway of 700 El Camino Real and Middle Avenue
- Approx. 25 on-street parking spaces between Middle Avenue and Cambridge Avenue
- Approx. 34 on-street parking spaces between Cambridge Avenue and city limit



EVALUATION (CONT'D)

- Stanford University – is providing underground parking structures and surface parking lots to meet project's parking requirements
- Stanford Park Hotel – has surface parking lots for its workers and hotel guests and will have a new connection to signal at Cambridge Avenue





COMPLETE STREETS COMMISSION FEEDBACK



- Public Feedback
 - Impacts to small businesses on west side of El Camino Real
 - Bus parking for Stanford Park Hotel
- Commission Direction
 - Identify parking alternatives for the small businesses and observe existing parking conditions



PARKING OBSERVATIONS

- El Camino Real
 - Currently not heavily utilized
 - Past Google Street View history shows one date of 7 vehicles parked, typically 3 to 5 vehicles
- College Avenue
 - 4 to 5 vehicles parked (mostly the same vehicles for multiple hours)





COUNCIL ACTION

- Adopt resolution to approve the following:
 - Remove approx. 8 parking spaces on the west side of El Camino Real between Middle Avenue and College Avenue
 - Remove approx. 67 parking spaces on the east side of El Camino Real between the southerly driveway of 700 El Camino Real and Menlo Park/Palo Alto city limit
 - Install one-hour parking on the south side of College Avenue from El Camino Real to approximately 160 feet westerly and update on the north side of College Avenue to between 9 AM and 6 PM Monday to Friday except Holidays



**THANK YOU &
QUESTIONS**



STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-040-CC

Regular Business:

Consider an appeal of the Complete Streets Commission's approval of two on-street parking removal requests on University Drive

Recommendation

Staff recommends that the City Council take the following actions regarding an appeal of the Complete Streets Commission's approval to remove parallel on-street parking spaces on the west side of University Drive (north-south), immediately adjacent to two local streets, Millie and Rose Avenues that form T intersections:

- Deny the appeal, as these modifications are important for addressing resident concerns by achieving the required minimal sight distance for drivers turning onto University Drive;
- Adopt a resolution (Attachment A) to remove two spaces to the north and two spaces to the south at Millie Avenue; and,
- Adopt a resolution (Attachment B) to remove one space to the north and one space to the south at Rose Avenue.

Policy Issues

Section 11.24.026 of the City's Municipal Code authorizes the Commission to designate a "No Parking Zone" (i.e., red curb) adjacent to driveways, intersections, and crosswalks under specific criteria for safety concerns.

Section 11.24.028 of the Municipal Code permits any Menlo Park resident, business owner, or property owner to appeal the Commission's decision to the City Council within 15 days.

These projects are consistent with the policies and programs (i.e., CIRC-1.1, CIR-4.4) stated in the 2016 general plan circulation element. These policies and programs seek to maintain and improve a circulation system through the street classification system that provides safe and efficient movement of people and goods throughout Menlo Park for residential and commercial purposes.

Background

Requests

On two separate occasions, staff received resident feedback concerning inadequate lines of sight for drivers turning onto University Drive from Millie Avenue and Rose Avenue. The residents stated that, due to parked vehicles on the west side of University Drive immediately adjacent to these T intersections, drivers are forced to encroach beyond the stop bar onto University Drive before they can clearly see approaching vehicles from both directions.

University Drive intersects with Millie Avenue and Rose Avenue to form T intersections. The local cross streets are stop-controlled while University Drive is uncontrolled (i.e., vehicles on University Drive do not need to stop at these intersections.) University Drive has a posted speed limit of 25 miles per hour (mph.)

Analysis

Evaluation

According to the American Association of State Highway and Transportation Officials' (AASHTO) policy on Geometric Design of Highway and Streets, 155 feet of stopping sight distance is required for 25 mph roadways such as University Drive. Based on field investigation, when vehicles are fully parked on the west side of University Drive immediately adjacent to Millie Avenue and Rose Avenue, current lines of sight fall below the minimum 155 feet. To get a clear view of approaching vehicles, drivers exiting Millie Avenue and Rose Avenue must cross beyond the stop bars and several feet onto University Drive before proceeding, as shown in the exhibits for Attachments A and B.

To achieve at least 155 feet stopping sight distance in each direction, a total of 43 feet of red curb is needed on each corner of University Drive:

- Millie Avenue: there is 7 feet of red curb on each side of University Drive. To reach 43 feet on each corner, approximately four parking spaces need to be removed (two each side.)
- Rose Avenue: there is 14 feet of red curb to the south and 25 feet to the north on University Drive. To provide 43 feet on each corner, approximately two parking spaces need to be removed (one each side.)

Complete Streets Commission

On January 12, the Commission discussed and unanimously voted to approve these projects. One member of the public asked for clarification about the process for establishing no parking zones, but did not comment on this specific parking removal.

Appeal

On January 21, the City received an appeal (Attachment C) to the Commission's approvals from a property/business owner on the 1300 block of University Drive. The appellant identified several reasons for the appeal, which are summarized below:

- On-street parking spaces are sometimes used by staff of nearby businesses to free up on-site spaces for tenants and visitors;
- On-street parking spaces are generally fully occupied from Monday to Friday;
- Millie Avenue and Rose Avenue are short segments (i.e., 525 feet) predominantly used by residents, and are unlikely to have a steady stream of traffic;
- Awareness required at these intersections is no different from any other intersections, especially in the downtown area;
- Red curbs are already in place and visibility can be achieved by pulling out slowly; and
- Excessive speed on University Drive may be more responsible for dangerous driving conditions.

Appeal evaluation

Staff reviewed each of the reasons for appeal and developed the following responses:

- Staff agrees that Millie Avenue and Rose Avenue primarily serve local residents and that the areas in question are generally used for parking.
- Staff already accounts for drivers slowly pulling their vehicles forward as part of the measurement of sight distance.
- Staff agrees that traffic speeds could be a concern on University Drive, but lack specific data to confirm

this. However, if speeding were an issue, it would exacerbate the sight line issue, requiring further parking removal to achieve the appropriate sight distance.

- The City's transportation demand management coordinator is available to provide the appellant and other local businesses with information on transportation options for employees and visitors to help reduce the need for parking. The City also operates public parking lots, including two within a block of the affected business that could be used by visitors.

Recommendations and next step

Staff recommends that the City Council deny the appeal and adopt the two resolutions to restrict parking on University Avenue at Millie and Rose Avenues.

If approved, staff will coordinate with the City's signing and striping on-call contractor to implement these modifications.

Impact on City Resources

The is no fee for filing this appeal. If the appeal is denied, the proposed modifications will be implemented through the City's annual signage and striping program.

Environmental Review

The proposed modifications are categorically exempt under the California Environmental Quality Act Article 19, § 15301 Existing Facilities - Class 1. Class 1 allows for minor alterations of existing facilities, including highways and streets, sidewalks, gutters, bicycle and pedestrian access, and similar facilities, as long as there is negligible or no expansion of use.

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 sending notification postcards to the residents/property owners within 500 feet of the two project areas. In addition, posters with the proposed modifications and meeting information were placed on A-frames at the site.

Attachments

- A. Resolution authorizing the installation of no parking zones on University Drive at Millie Avenue
- B. Resolution authorizing the installation of no parking zones on University Drive at Rose Avenue
- C. Appeal letter

Report prepared by:

Phu Nguyen, Engineering Technician II
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 THE INSTALLATION OF NO PARKING ZONES ON
UNIVERSITY DRIVE AT THE INTERSECTION OF MILLIE AVENUE**

WHEREAS, the City of Menlo Park received a resident request to evaluate the adequacy of sight distance at the intersection of University Drive and Millie Avenue; and,

WHEREAS, a field investigation revealed limited sight distance due to vehicles parked adjacent to the intersection on the west side of University Drive; and,

WHEREAS, to achieve 155 feet stopping sight distance, extending the existing red curb zones on the west side of University Drive at Millie Avenue by removing two parking spaces on each side is required (i.e., for a total of 43 feet of red curb on each side); and,

WHEREAS, on January 12, 2022, the Complete Streets Commission authorized the removal of parking spaces pursuant to the authority conferred to the City by California Vehicle Code section 22507 and section 11.24.026 of the Menlo Park Municipal Code (hereinafter the “CSC Action”); and,

WHEREAS, on January 21, 2022, the City received an official appeal to the Commission’s decision per Section 11.24.028 of the Menlo Park Municipal Code (Appeal No. 20220121) and,

WHEREAS, the City Council finds and declares that the removal of parking spaces as contemplated and approved by the CSC Action is necessary to address safety issues created by a lack of sight distance at University Drive and Millie 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 that the City Council finds the foregoing recitals are true and correct, and they are hereby incorporated by reference into this Resolution.

NOW, BE IT FURTHER RESOLVED that the City Council hereby denies Appeal No. 20220121, affirms the CSC Action, and authorizes the installation of no parking zones on University Drive at the Intersection of Millie Avenue as depicted on Exhibit A.

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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 first day of March, 2022, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

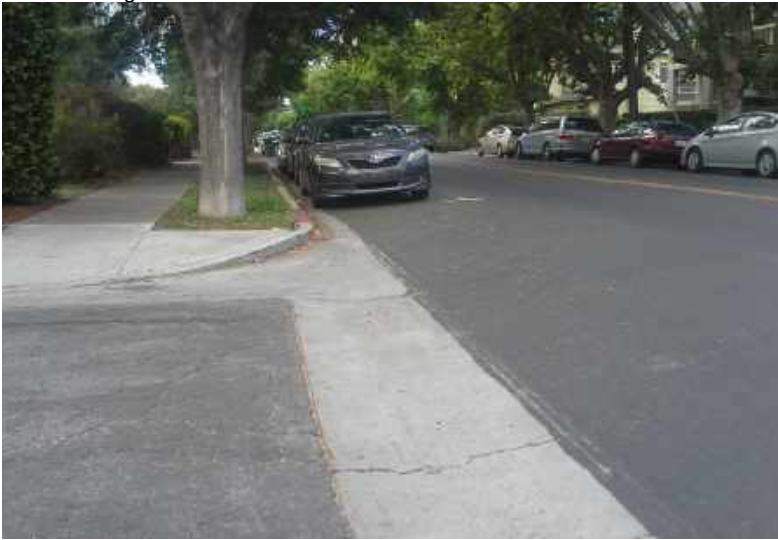
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of March, 2022.

Judi A. Herren, City Clerk

Exhibits

A. University Drive at Millie Avenue Parking Removal

Millie Ave. at University Dr. (view to the left)



Millie Ave. at University Dr. (view to the right)



University Dr. Parking Removal



RESOLUTION NO. XXXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AUTHORIZING THE INSTALLATION OF NO PARKING ZONES ON
UNIVERSITY DRIVE AT THE INTERSECTION OF ROSE AVENUE**

WHEREAS, the City of Menlo Park received a resident request to evaluate the adequacy of sight distance at the intersection of University Drive and Rose Avenue; and,

WHEREAS, a field investigation revealed limited sight distance due to vehicles park adjacent to the intersection on the west side of University Drive; and,

WHEREAS, to achieve 155 feet stopping sight distance, extending the existing red curb zones on the west side of University Drive at Rose Avenue by removing one parking spaces on each side is required (i.e., for a total of 43 feet of red curb on each side); and,

WHEREAS, on January 12, 2022, the Complete Streets Commission authorized the removal of parking spaces pursuant to the authority conferred to the City by California Vehicle Code section 22507 and section 11.24.026 of the Menlo Park Municipal Code (hereinafter the “CSC Action”); and,

WHEREAS, on January 21, 2022, the City received an official appeal to the Commission’s decision per Section 11.24.028 of the Menlo Park Municipal Code (Appeal No. 20220121) and,

WHEREAS, the City Council finds and declares that the removal of parking spaces as contemplated and approved by the CSC Action is necessary to address safety issues created by a lack of sight distance at University Drive and Rose 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 that the City Council finds the foregoing recitals are true and correct, and they are hereby incorporated by reference into this Resolution.

NOW, BE IT FURTHER RESOLVED that the City Council hereby denies Appeal No. 20220121, affirms the CSC Action, and authorizes the installation of no parking zones on University Drive at the Intersection of Millie Avenue as depicted on Exhibit A.

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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 first day of March, 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 March, 2022.

Judi A. Herren, City Clerk

Exhibits

A. University Drive at Rose Avenue Parking Removal

Rose Ave. at University Dr. (view to the left)



Rose Ave. at University Dr. (view to the right)



Dear Council Members,

I believe that the Complete Streets Commission at their meeting on 1/12/22 approved the removal of six parking spaces on University Drive: four at Rose Ave. and two at Millie Ave.

I wish to appeal this decision to the City Council. My name is John Borcich and I am one of the owners of the commercial building at 1300 University Drive (approximately where Millie Ave. intersects University Dr.). The building is fully leased to medical/dental professionals with thriving practices. We have about 35 onsite parking spaces for exclusive use by our tenants and their patients. As these spaces are insufficient to satisfy peak demand the doctors/dentists encourage some of their staff to park offsite where possible thereby freeing up more spaces for their patients.

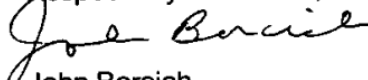
The six spaces subject to removal are typically 100% in use Monday to Friday. Parking spaces in the downtown corridor are a very dear commodity and their removal should be given very serious thought. I don't know how often our tenants might be utilizing these spaces but they are invariably in use - by workers, residents, visitors etc.

Rose Avenue and Millie Avenue are each one block in length running from Johnson St. to University Drive. They are predominately used by residents living on these streets and there is very little traffic on them. It's not like there is a steady stream of traffic coming down Rose and Millie to turn onto University Drive. You have to be alert and careful when turning onto University but no more so than at any other intersection especially in the downtown area where street parking is heavily utilized. No matter how many parking spaces are removed one would still have to be careful in making a turn.

At the intersection of Millie and University visibility is quite good as long as you pull out slowly. Red curbs are already in place on University and there are no trees/vegetation blocking the view of cars traveling on University. At Rose and University visibility is hampered primarily by the trees/vegetation on each side of Rose at University. Removing four parking spaces there is not a solution to making the turn safer. Removing the vegetation would definitely improve line of sight.

I believe excessive speed on University Drive in this area may be more responsible for dangerous driving conditions than any line of sight issues on Rose and Millie. Perhaps this should be addressed before more and more valuable parking spaces in the downtown area are eliminated and further exacerbate the parking shortage we have historically faced downtown.

Respectfully submitted,



John Borcich



**CONSIDER AN APPEAL OF UNIVERSITY DRIVE
ON-STREET PARKING REMOVAL**

City Council Meeting: March 1, 2022



AGENDA

- Background
- Project timeline
- Evaluations
- Recommendations





BACKGROUND (AT MILLIE AVE)



Millie Ave. at University Dr. (view to the left)



Millie Ave. at University Dr. (view to the right)



BACKGROUND (AT ROSE AVE)



Rose Ave. at University Dr. (view to the left)



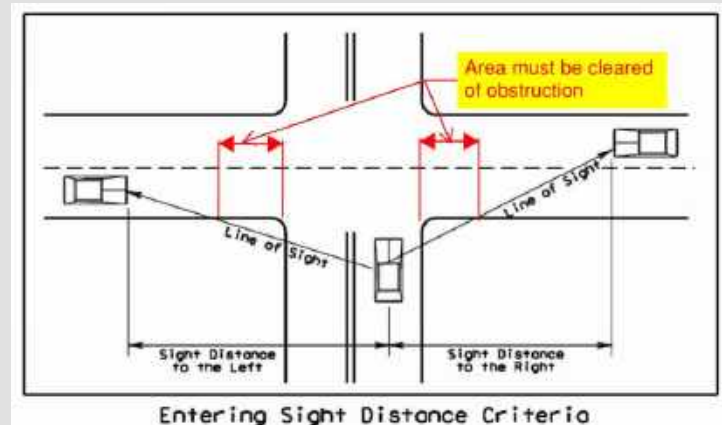
Rose Ave. at University Dr. (view to the right)



BACKGROUND

- Minimum stopping sight distance for 25 mph: 155 feet
- Requires ~43 feet of red curb on each side

| US Customary | | | | |
|--------------------|------------------------------|--------------------------------|-------------------------|-------------|
| Design speed (mph) | Brake reaction distance (ft) | Braking distance on level (ft) | Stopping sight distance | |
| | | | Calculated (ft) | Design (ft) |
| 15 | 55.1 | 21.6 | 76.7 | 80 |
| 20 | 73.5 | 38.4 | 111.9 | 115 |
| 25 | 91.9 | 60.0 | 151.9 | 155 |
| 30 | 110.3 | 86.4 | 196.7 | 200 |
| 35 | 128.6 | 117.6 | 246.2 | 250 |
| 40 | 147.0 | 153.6 | 300.6 | 305 |
| 45 | 165.4 | 194.4 | 359.8 | 360 |
| 50 | 183.8 | 240.0 | 423.8 | 425 |
| 55 | 202.1 | 290.3 | 492.4 | 495 |
| 60 | 220.5 | 345.5 | 566.0 | 570 |
| 65 | 238.9 | 405.5 | 644.4 | 645 |
| 70 | 257.3 | 470.3 | 727.6 | 730 |
| 75 | 275.6 | 539.9 | 815.5 | 820 |
| 80 | 294.0 | 614.3 | 908.3 | 910 |





PROJECT TIMELINE

- Jan. 12: Complete Streets Commission approved projects
- Jan. 21: The City received an appeal, for the following reasons:
 - Use of on street parking by employees to free on-site spaces for tenants / visitors
 - Generally fully occupied from Monday to Friday
 - Millie Avenue and Rose Avenue serves local residents only
 - Require same awareness as other locations
 - Visibility can be achieved by pulling out slowly
 - Excessive speed on University Drive



EVALUATIONS

- Millie Avenue and Rose Avenue serves local residents
- Stopping sight evaluations account for advancing sight lines beyond stop bar
- Speeding on University Drive would exacerbate sight distance need
- Transportation Demand Management Coordinator available to provide TDM program information



RECOMMENDATIONS

- Deny the appeal
- Adopt resolution to remove four parking spaces at Millie Ave.
- Adopt resolution to remove two parking spaces at Rose Ave.





THANK YOU



STAFF REPORT

City Council

Meeting Date:

3/1/2022

Staff Report Number:

22-041-CC

Informational Item:

City Council agenda topics: March 8 – March 22, 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 March 22, 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: March 8 – March 22, 2022

Report prepared by:

Judi A. Herren, City Clerk

Tentative City Council Agenda

| # | Title | Department | Item type | City Council action |
|----|---|------------|----------------|-------------------------|
| 1 | Mid-year budget report and amendments | ASD | Regular | Approve |
| 2 | City manager recruitment | CAO | Closed Session | |
| 3 | Adopt zoning ordinance text amendment for Signage (Springline) | CDD | Consent | Adopt ordinance |
| 4 | Approve funding for 335 Pierce Rd (predevelopment CLT, loan authorization docs) | CDD | Regular | Approve |
| 5 | Clarification on zoning changes from City Council | CDD | Regular | Direction to staff |
| 6 | Housing Element Annual Progress Report (APR) | CDD | Consent | Approve |
| 7 | Housing Element contract and scope amendment | CDD | Regular | Approve |
| 8 | Willow Village Community Amenities Review | CDD | Study Session | Direction to staff |
| 9 | City Council procedures-CC-21-004 Commission Committee-voting procedure update | CMO | Consent | Approve |
| 10 | Consider matching Peninsula Clean Energy’s electric vehicle charging incentive for existing multi-unit properties in Menlo Park to support Climate Action Plan strategy goal no. 3 – increase access to electric vehicle charging | CMO | Regular | Approve |
| 11 | Downtown Market Study | CMO | Presentation | Info from staff |
| 12 | Receive and file City Council and advisory body annual attendance report for March 2021 – February 2022 | CMO | Informational | Receive and file |
| 13 | Authorize CM to amend Belle Haven School joint-use agreement - community access to school field | LCS | Consent | Approve |
| 14 | Authorize CM to execute agreement with Perfect Mind - recreation registration software | LCS | Consent | Contract award or amend |
| 15 | Adopt resolution initiating landscape assessment district proceedings for fiscal year 2022-23 | PW | Consent | Adopt resolution |
| 16 | Consider and adopt a resolution approving the Water Supply Assessment for the 164 Jefferson Dr. project | PW | Regular | Adopt resolution |
| 17 | Waive the second reading and adopt an ordinance to update water conservation requirements | PW | Consent | Adopt ordinance |