



CITY COUNCIL MEETING

TUESDAY, MAY 11, 2021 – 7:00 P.M.

Please Note: Per California Executive Order N-29-20, the City Council will meet via Telephone/Video Conference only.

Members of the Public may join and participate in the Council meeting at <https://webinar.ringcentral.com/j/1494259908>

TO COMMENT DURING THE MEETING members of the public will need to join the meeting using the above link and have a working microphone on their device. To request to speak please use the “Raise hand” feature located at the bottom of the screen. Public testimony will be taken at the direction of the Mayor and members of the public may only comment during times allotted for public comments.

TO LISTEN to the City Council Meeting, members of the public may call 1-650-242-4929 (Meeting ID: *149 425 9908*). Please note that members of the public who call in using the telephone number will **NOT** be able to provide public comments.

TO SUBMIT WRITTEN COMMENTS, prior to the meeting, on matters listed on the agenda email PublicComment@losaltosca.gov with the subject line in the following format: PUBLIC COMMENT AGENDA ITEM ## - MEETING DATE. Correspondence must be received by 2:00 p.m. on the day of the meeting to ensure it can be distributed prior to the meeting. Emails received prior to the meeting will be included in the public record. *[Please follow this link for more information on submitting written comments.](#)*

CALL MEETING TO ORDER

ESTABLISH QUORUM

PLEDGE OF ALLEGIANCE TO THE FLAG

REPORT ON CLOSED SESSION

SPECIAL ITEMS

- Presentation from Ruth Darlene, Founder and Executive Director of WomenSV
- Presentation of Mother’s Day Proclamation

CHANGES TO THE ORDER OF THE AGENDA

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA - Members of the audience may bring to the Council's attention any item that is not on the agenda. Speakers are generally given two or three minutes, at the discretion of the Mayor. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as “the Brown Act”) items must first be noticed on the agenda before any discussion or action.

CONSENT CALENDAR - These items will be considered by one motion unless any member of the Council or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Mayor.

1. Council Minutes: Approve the Minutes of the April 13, 2021 Regular Meeting (A. Chelemengos)
2. Agreement for Countywide Household Hazardous Waste Collection: Authorize the Interim City Manager to execute the Agreements for Countywide Household Hazardous Waste Collection Program and Countywide AB 939 Implementation Fee with the County of Santa Clara on behalf of the City (E. Ancheta)
3. Solid Waste Rate Adjustment: Adopt a resolution of the City of Los Altos authorizing the increase of Solid Waste Collection Rates by 8.48% effective July 1, 2021 (E. Ancheta)
4. Resolution Endorsing Energy Innovation And Carbon Dividend Act Of 2021: Adopt a resolution of the City Council of the City of Los Altos urging the United States Congress to enact the Energy Innovation And Carbon Dividend Act of 2021 (Council Initiated Fligor)
5. City/Cupertino Union School District Subcommittee Membership: Approve expansion of membership of the City/Cupertino Union School District Subcommittee to include Fremont Union High School District (Council Subcommittee/School District)
6. Contract Amendment - Objective Standards: Adopt resolution authorizing the City Manager to execute contract amendment (Amendment #1) with Lisa Wise Consulting for \$42,000 for a new contract amount not to exceed \$342,000. (G. Persicone)
7. Professional Services Agreement - Fremont Avenue Pavement Rehabilitation Project: Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and 4LEAF, Inc. in an amount not to exceed \$185,193 for inspection services for the Fremont Avenue Pavement Rehabilitation Project. TS-01056 Federal Project No. STPL-5309(019) (K. Kim, J. Sandoval)
8. Program Supplement and Master Agreement - Fremont Avenue Pavement Rehabilitation Project: Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute the Program Supplement No. F011 and the Master Agreement No.04-5309F15 for Fremont Avenue Pavement Rehabilitation, Project TS-01056 (K. Kim, J. Sandoval)
9. Construction Contract Award - Annual Street Resurfacing and City Alley Resurfacing Project: Award the Base Bid, Additive Alternate No. 1, and Additive Alternate No. 2 for the Annual Street Resurfacing and City Alley Resurfacing Project (TS-01001, TS-01003, TS-01004, and TS-01009) to G. Bortolotto & Co., Inc. and authorize the Interim City Manager to execute a contract in the amount of \$2,068,666.92 and authorize the Interim City Manager or his designee to execute change orders up to 15% contingency on behalf of the City. (K. Kim, J. Sandoval)
10. Professional Service Agreement - Annual Street Resurfacing and City Alley Resurfacing Project: Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and Bellecci & Associates in an amount not to exceed \$64,688 for inspection services for the Annual Street Resurfacing and City Alley Resurfacing Project. TS-01001, TS-01003, TS-01004, and TS-01009 (K. Kim, J. Sandoval)

PUBLIC HEARINGS - None

DISCUSSION ITEMS

11. Emergency Measures for Addressing COVID-19: Receive an update from the Deputy City Manager and provide direction on additional potential measures to address COVID-19 (J. Maginot)
12. Council Legislative Subcommittee Update And Potential Council Action: Receive update from the City Council Legislative Subcommittee; discuss pending legislation including, but not limited to: AB 14, AB17, AB 34, AB 68, AB 115, AB 215, AB 339*, AB 415*, AB 617, AB 678, AB 1091, AB 1258, AB 1322, AB 1401, SB 4, SB 5, SB 6, SB 7, SB 8, SB 9, SB 10, SB 15, SB 16, SB 55, SB 210, SB 278*, SB 477, SB 478, SB 556*, SB 640, SB 695, SB 765, SB 785, SB 988 * indicates previous Council action taken- (Vice Mayor Enander, Council Member Weinberg)

INFORMATIONAL ITEMS ONLY

- Tentative Council Calendar:

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

ADJOURNMENT

(Council Norms: It will be the custom to have a recess at approximately 9:00 p.m. Prior to the recess, the Mayor shall announce whether any items will be carried over to the next meeting. The established hour after which no new items will be started is 11:00 p.m. Remaining items, however, may be considered by consensus of the Council.)

SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

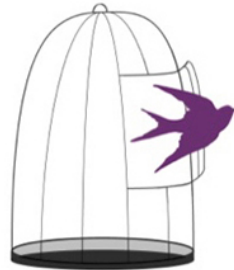
Agendas Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.losaltosca.gov/citycouncil/online/index.html>.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body. If you wish to provide written materials, please provide the City Clerk with **10 copies** of any document that you would like to submit to the City Council for the public record.

The Work of WomenSV (Women of Silicon Valley)

*By Ruth Darlene, M.A.
Executive Director, WomenSV*

info@womensv.org | 833-966-3678 | www.womensv.org



WomenSV

*Empowering women who are suffering from involvement
with a powerful, sophisticated abuser*



We empower survivors, train providers and educate the community to break the cycle of covert abuse in intimate partner relationships so that every woman and child can exercise their fundamental human right to be free and safe in their own home.

- Hidden victims in middle to upper income areas trapped in a relationship with a powerful, sophisticated abuser
- Uses more covert forms of abuse that can be hard to identify
- Emotional, financial, legal, technological and other forms of coercive control

For example...



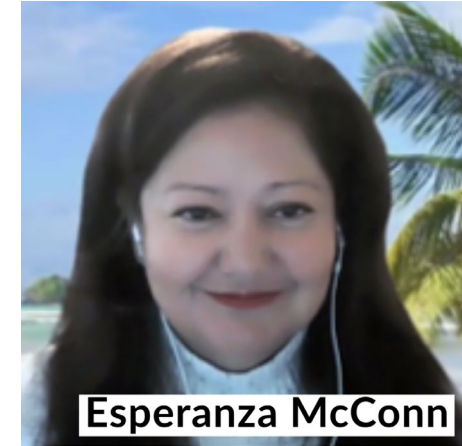
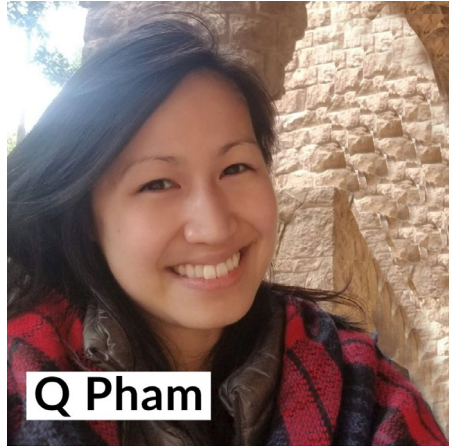
WomenSV

- The therapist
- The CEO
- The cybersecurity expert
- The physician
- The journalist

Our Staff



WomenSV



7 additional volunteer advocates

...and 25 other dedicated volunteers!

Our Board of Directors

- Ruth Darlene, MA
Chair
- Rebecca Sherwood, DNSc,
RN
Secretary
- Dennis Young, CPA
Treasurer
- Gerald Jensen
- Roy Lave, PhD
- Karen Scussel
- Paul Marcille, PhD

Advisory Board

- Mike Abrams
- Cyndy
Ainsworth
- Jessica
Dayton, JD
- Todd Emanuel,
JD
- Jennifer
Gonzalez
- James Hoover,
JD
- Gigi Kubursi
- Adin Miller
- Tom Myers
- Liz Nyberg
- Paul Schutz
- Jim Steinmetz
- Pamela Taft
- Emy Thurber



WomenSV

Our Collaborative Partnerships/Affiliations

- Guardian angels and supporters, Pamela and Ed Taft
- The Phoenix Project (legislative committee behind SB 1141)
- Santa Clara County (SCC) Domestic Violence Death Review Team (DVDRT)
- SCC Courts Systems Committee
- Santa Clara County Domestic Violence Council
- Association of Threat Assessment Professionals/ATAP <https://www.atapworldwide.org>
- Los Altos City Council
- Los Altos Police Department
- Los Altos Community Foundation
- Los Altos Town Crier
- Los Altos Chamber of Commerce
- Mountain View Chamber of Commerce
- CHAC
- CSA
- San Mateo Domestic Violence Council
- Palo Alto Community Foundation
- Sequoia Hospital
- Peninsula Health Care District
- El Camino Hospital Foundation
- PAMF
- SVCF
- Kaiser
- CORA
- AACI

Our Services



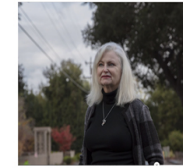
WomenSV

- **Direct Client Support**
- **Trainings for Providers**
- **Public Presentations/Media Interviews/Column**

Our outreach



THE WALL STREET JOURNAL.
English Edition • December 15, 2019 • Print Edition • Video



Financial Abuse in the Age of Smartphones

Keystroke-monitoring software, hidden cameras, GPS tracking devices: Survivors chronicle their abuse—and escape



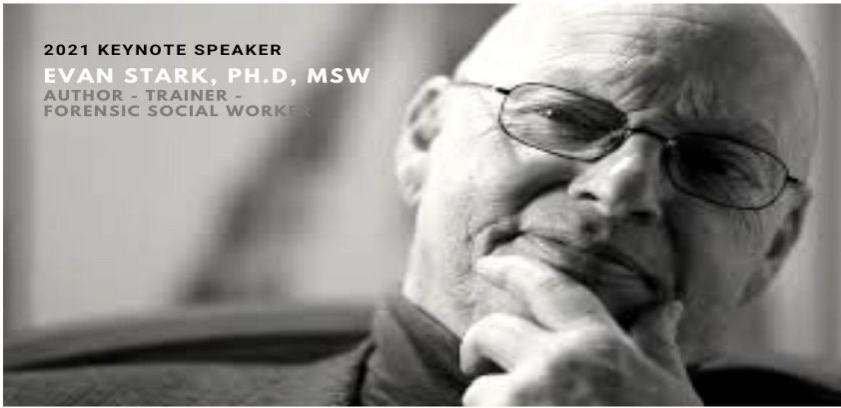
ORACLE®



Google



Our outreach



2021 KEYNOTE SPEAKER
EVAN STARK, PH.D., MSW
AUTHOR - TRAINER -
FORENSIC SOCIAL WORKER

JAN 31 - FEB 1, 2021

First conference in the Americas focused on ending coercive control..

theacecc.com



[https://www.dropbox.com/s/xag8owp9xrzsfpm/ACECC Presentation.mp4?dl=0](https://www.dropbox.com/s/xag8owp9xrzsfpm/ACECC%20Presentation.mp4?dl=0)



THE NEWSPAPER SPECIAL SECTIONS PEOPLE ADVERTISE SUBSCRIBE ABOUT

COMMUNITY

Confronting Domestic Violence: The issue of invisible abuse

Published: 11 November 2020 Written by Ruthven Darlene - Special to the Town Crier



This is the first in a seven-part series on the effects of domestic violence.

We tend to think of domestic violence as something that happens on the other side of town, the poor side of town. The truth is, no town, no neighborhood is immune to abuse. It's just much easier to hide when you have money, power and influence. Domestic violence doesn't always mean blood or broken bones. Sometimes it's not the body, it's the mind, the heart and the spirit that sustain the most damage.

WomenSV is a local domestic abuse nonprofit that serves women from all races, religions, countries and walks of life. The one thing they all have in common is being trapped in a relationship with a powerful, sophisticated abuser. Abuse survivors can be doctors, lawyers, engineers, bankers, therapists, stay-at-home parents – and so can their abusive partners. Survivors in middle- to upper-income areas are typically strong, brave, beautiful, brilliant, accomplished women, healers with big hearts. It's these very qualities that attract partners with similar qualities. Unfortunately, they also attract predators.

The problem with this kind of predator is they can be hard to identify because they blend in so easily with regular people. They tend to be charming, successful, ambitious and upwardly mobile. They may volunteer or donate to worthy causes. It's generally not until further along in the relationship that another, darker side begins to emerge, indicating a preoccupation with power and control. Even then, if you don't know what to look for, early warning signs can be easy to miss, easy to dismiss. Especially if they are charming. Especially if you're in love.



WomenSV

26TH ANNUAL COUNTY OF SANTA CLARA DOMESTIC VIOLENCE CONFERENCE

BUILDING BRIDGES
TRANSFORMING CRISIS TO EMPOWERMENT



CORA

COMMUNITY OVERCOMING RELATIONSHIP ABUSE



Our 10 year anniversary!



WomenSV





CALIFORNIA

SENATOR SUSAN RUBIO

Senate District 22



Senator Susan Rubio

@SenSusanRubio · Government Official

Contact Us

sd22.senate.ca.gov

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Like



Senator Susan Rubio

February 1

As a survivor myself, I was horrified to hear of these domestic violence allegations. We need to stand with the victims. We know they are almost always isolated from loved ones, making it that much more difficult to escape or seek justice. Victims are usually not believed or are threatened to keep quiet, so when they do come forward, we need to support them.

These allegations of physical, emotional, and financial abuse against Marilyn Manson, also known as Brian Hugh Warner, must be taken seriously and thoroughly investigated. If law enforcement does not do that, we will not only fail these victims, but future possible victims of this alleged perpetrator. We must not let that happen

#DomesticViolence

#Survivors

Evan Rachel Wood

Our Impact



Over the past 10 years, WomenSV has served approximately

1,000

women suffering at the hands of powerful, sophisticated abusers

Last fiscal year, we served **196** survivors, providing the following services:



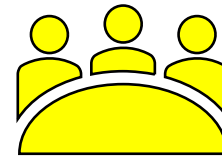
22

Court Accompaniments



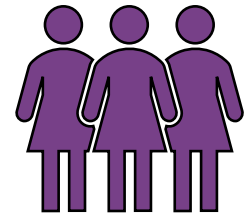
1,043

Individual Client
Interactions



62

Support Groups
Hosted



122

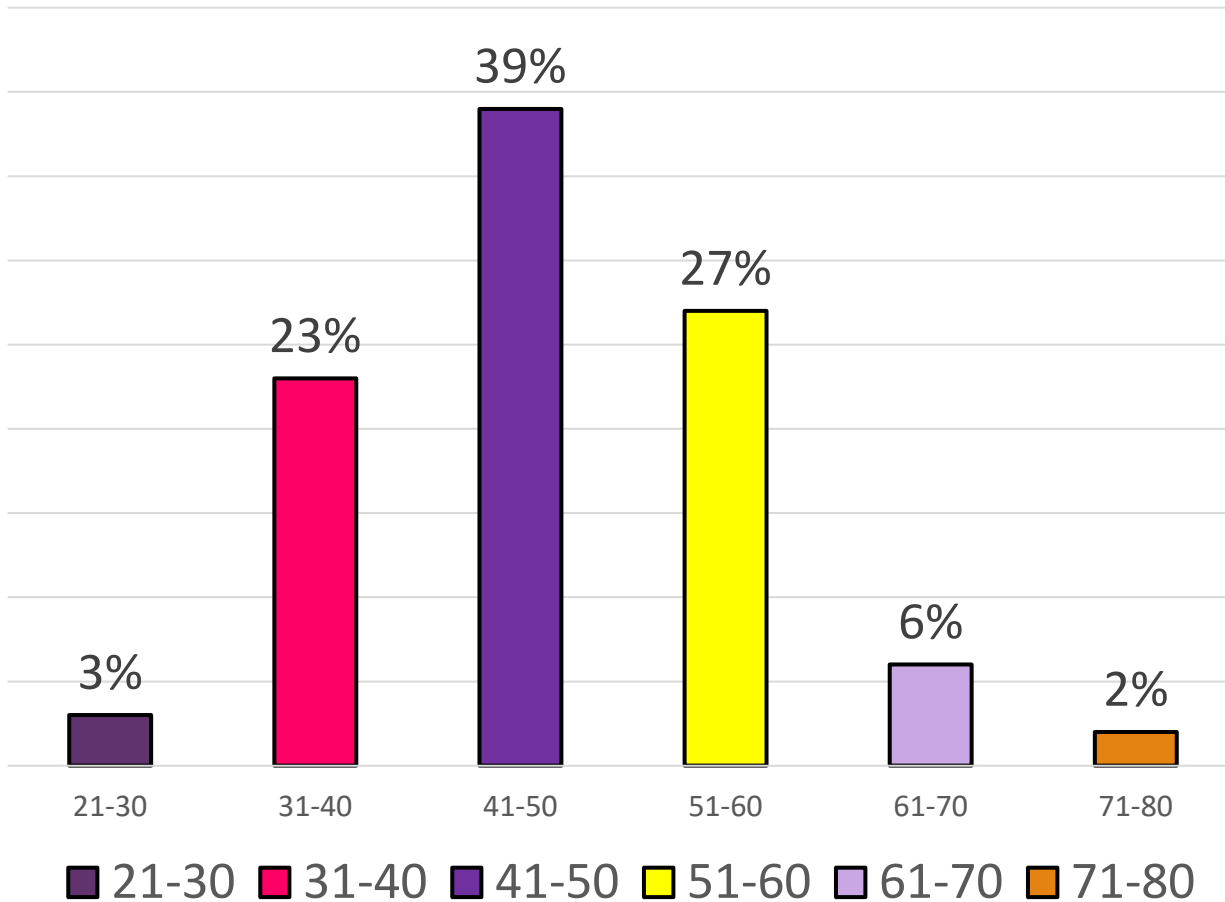
Support Group
Participants

Our Impact: Age Range and Regions

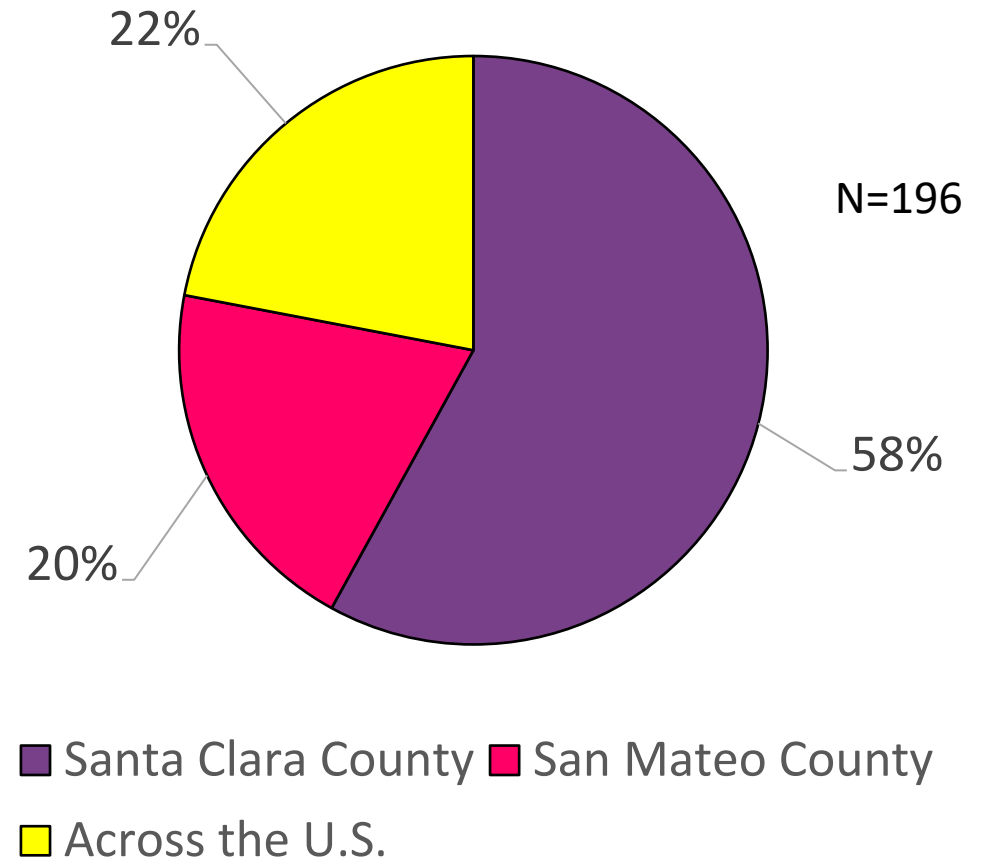


WomenSV

Age Ranges of Survivors
FY20



Regions
FY20



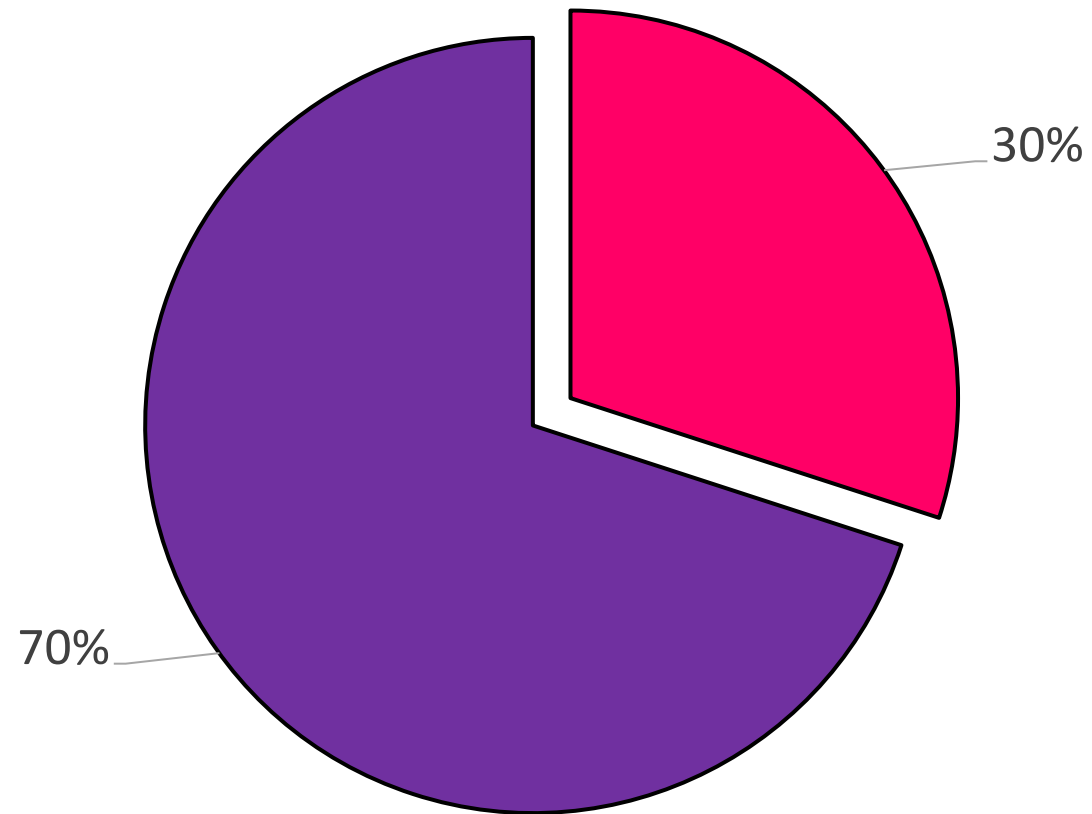
Our Impact from 2011-2021: Los Altos/LA Hills/Mtn View

Local Survivors Served
Nov. 2011 – Mar. 2021



WomenSV

N = 1,000



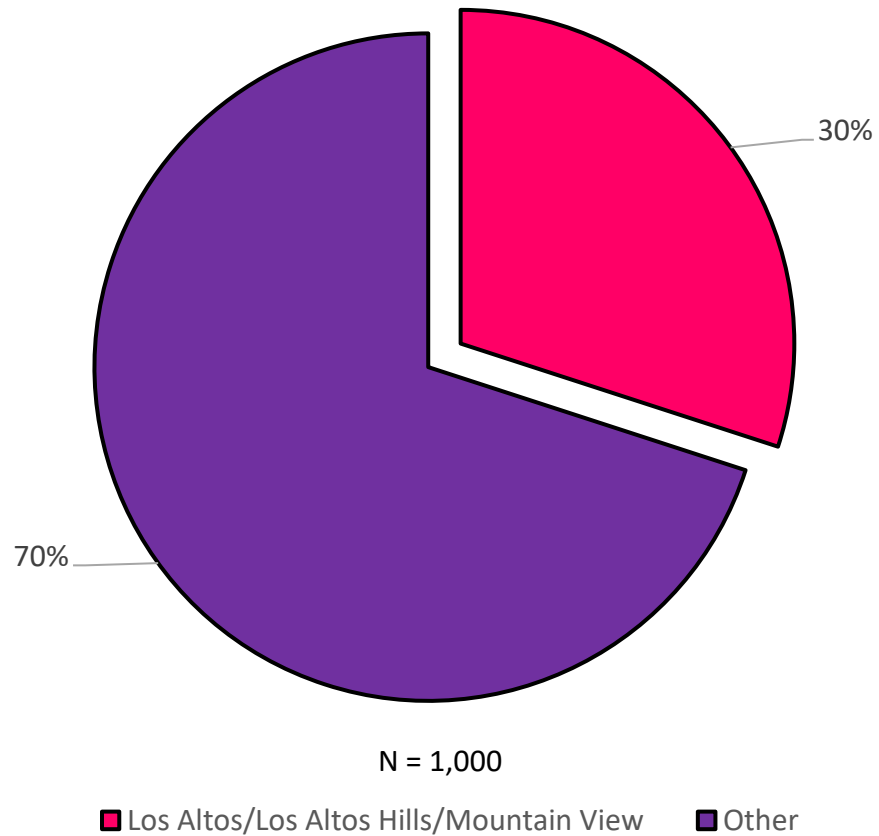
■ Los Altos/Los Altos Hills/Mountain View

Our Impact: Los Altos

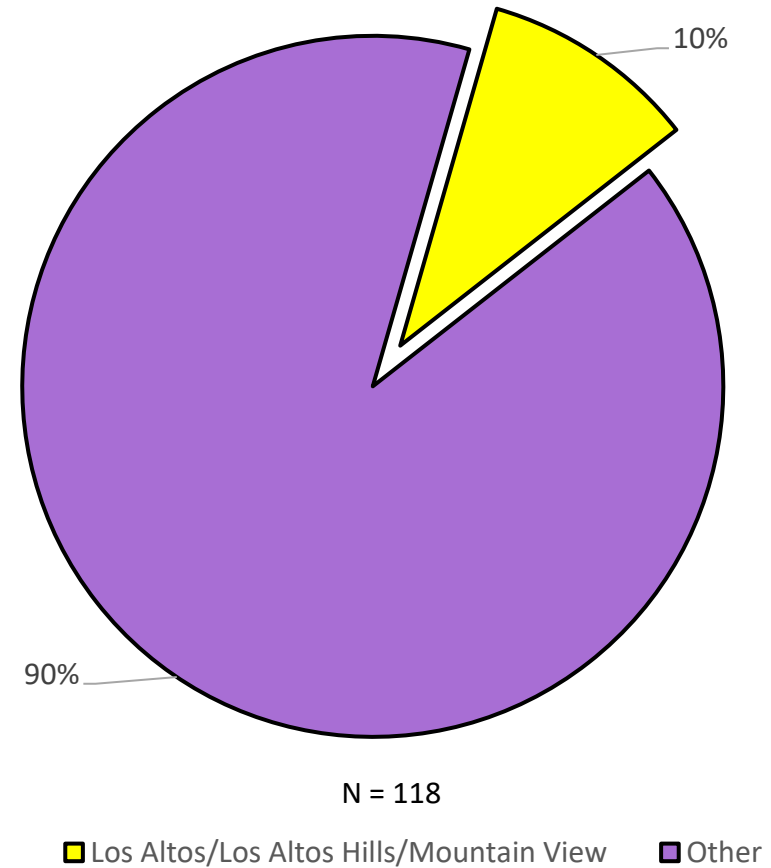


WomenSV

Survivors Served
Nov. 2011 – Mar. 2021



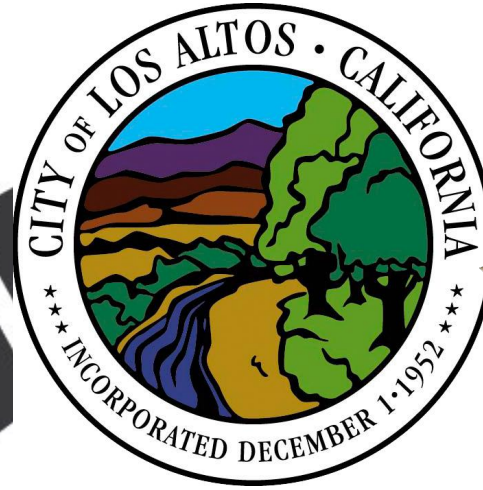
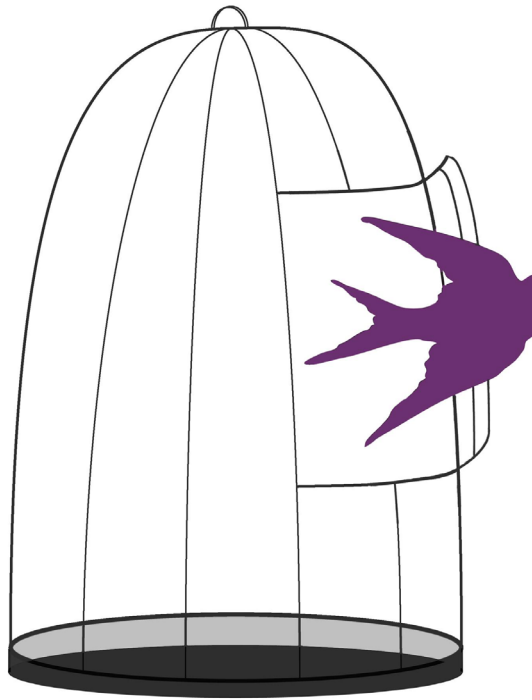
Survivor Geographies
Apr. 2020 – Mar. 2021



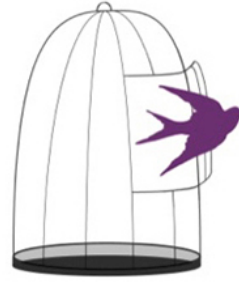
Our challenge

- COVID
- Shifting to virtual support
- Meeting the need—long wait times, referrals to other agencies*
- staffing we need two more advocates
- Education—reaching the schools to educate youth about coercive control
- Growth
- Fundraising

It Takes A Village...



We look forward to continuing to partner with the City Of Los Altos and LAPD to protect the right of every woman and child to be free and safe in their own home!



WomenSV

www.womensv.org

Ruth Patrick, M.A.

Founder and Executive Director, WomenSV

info@womensv.org

833-WOMENSV/833-966-3678



Proclamation
of the Mayor
of the City of Los Altos, California

WHEREAS, the United States celebrates Mother's Day on the second Sunday in May annually; and

WHEREAS, for decades, on Mother's Day, we pay tribute to mothers who have given so much of themselves to support, protect and lift up our their children;

WHEREAS, as has been highlighted this past year, mothers play many roles in our community, including physicians, emergency workers, teachers, and grocery store clerks; and

WHEREAS, with many households without child care and in person school this past year, these responsibilities fell largely on mothers, which presented additional challenges to working moms who had to juggle their jobs, child care, remote school and other household responsibilities; and

WHEREAS, the data shows that more mothers have left the workforce than fathers and it's not clear yet how this will impact their future careers and mental health; and

WHEREAS, therefore, this year in particular, we want to honor and thank our working moms.

NOW THEREFORE, I, Neysa Fligor, Mayor of the City of Los Altos, and on behalf of the entire Los Altos City Council, do hereby recognize and celebrate **May 8, 2021**, as:

Mother's Day

And encourage the people of Los Altos to give working mothers a special recognition this Mother's Day.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Los Altos this 11th day of May 2021.

Neysa Fligor, MAYOR



PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Meeting Date: May 11, 2021

The following is public comment received by the City Clerk's Office. Members of the public may bring to the Council's attention any item that is not on the agenda. Please be advised that, by law, the City Council is unable to discuss or act on issues presented during the Public Comment Period.

From: [REDACTED]
To: [Public Comment](#)
Subject: for the meeting May 11 - not on the agenda items
Date: Thursday, May 6, 2021 10:44:10 AM

Tomas Sowell said, “one of the scariest things about our times now, is how easy it is to scare people and start a political stampede. The pack will get us angry or envious at others and we will surrender our freedom”.

Martin Luther King said “ I believe that unarmed truth and unconditional love will have the final word in reality. All other interpretations are false and alarming. Life is about learning and accepting all and everyone one of us. He also said “TRUTH CRUSHED TO EARTH WILL

”
RISE AGAIN ■

Jordan Peterson teaches “An antidote to your unhappiness is to take on more positive responsibility. If you want deep meaning in your lives that is the key”.

This division is not good for our town or our world.

Respectfully Terri Couture

***Wire Fraud is Real*. Before wiring any money, call the intended recipient at a number you know is valid to confirm the instructions.** Additionally, please note that the sender does not have authority to bind a party to a real estate contract via written or verbal communication.

From: [REDACTED]
To: [Public Comment](#)
Subject: Justice Vanguard abuse
Date: Friday, May 7, 2021 12:12:20 PM

Please take whatever steps necessary to put a stop to the nonsense being promulgated by “Justice Vanguard.”

There is no place in our system for persecution of a duly elected councilperson.

Given that these JV people are enthusiastic supporters of the BLM organization, which was founded by self-admitted Marxists, that fact should be acknowledged by the Council and considered when dealing with them.

I have no idea why there is a lot of recent publicity talking about anti-Asian hate and violence, but perhaps the Council might take a look at that aspect of the JV behavior as well.

Thank You,

Richard Blanding

From: [REDACTED]
To: [Public Comment](#)
Subject: JV / Lynette Lee Eng
Date: Monday, May 10, 2021 10:48:45 AM

It time to put a side and move on with the important issues our City Council has to deal with. The above controversy should be considered over and done with. Thank you.

Respectfully Submitted,
Anthony Iantosca
1610 Ben Roe Drive



LOS ALTOS RESIDENTS

May 7, 2021

Los Altos City Council
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

Re: Dispute involving Council Member Lee Eng and Kenan Moos

Dear Mayor, Vice Mayor and Council Members:

There is something we can all hopefully agree upon concerning the dispute between Council Member Lynette Lee Eng and Kenan Moos: these are two people who feel that injustices have been done to them and both are hurting. They also have at least one thing in common: they are members of minority groups in our community, and they seek justice and equality for all minorities. Both want an end to discrimination, racial incidents and hate crimes.

Each of them agreed to confidential mediation, however a question has now arisen regarding Mr. Moos' sincerity in view of his quote in the April 29th Daily Post. Mr. Moos stated, *"The only thing I was going to ask for was a resignation, which, come on, we all knew that wasn't going to happen."* His quote would lead one to believe that Mr. Moos is not open to any resolution other than Council Member Lee Eng's resignation. That is **not** how mediation works. Confidential mediation is meant to help the parties find a resolution to a dispute through **compromise**.

We agree with Vice Mayor Anita Enander who stated at the April 27th Council Meeting, *“This matter is between two parties. Their best chance of resolving the matter is through mediation ... Much of what the mayor said goes to the heart of the problem; and that is people interpreting another party’s behavior based on perhaps a different life experience or a different expectation of behavior.”* We also agree with Vice Mayor Enander’s assessment of the Council’s role in the dispute. She said, *“I do not believe that this Council has a role to play in resolving that [the dispute] other than to support the parties in such an activity,”* [referring specifically to mediation].

We are disappointed that Mayor Fligor continues to allow callers to violate Council Norms by making rude and insulting statements when calling in during Public Comments on Items Not on the Agenda. [**Council Norms, Section 13. Decorum.** Section 13.1 **Councilmembers shall accord the utmost courtesy to each other, City employees, and the public appearing before the City Council.** When speaking, a Councilmember’s tone should remain neutral and non-verbal communication aspects should be considerate and polite. **Section 13.3 Public. Members of the public attending City Council meetings shall observe the same rules of order and decorum applicable to the City Council.**] For example, at the April 27th Council Meeting, Mr. Moos’ response to Council Member Lee Eng’s statement turned into a personal attack on her. He said, *“What is the point of having mediation with someone who comes in and makes a statement now five months later like this? **Disgusting and absolutely appalling**, and the same goes for the people calling in to support you.”* In addition, he has on at least two occasions shouted the word **“Bullshit”** during his Public Comments. Allowing such rude and profane comments by a member of the public and that are directed to a Councilmember during the Public Comments on Items Not on the Agenda portion of a Council Meeting is a clear abdication by current Mayor Fligor of her duty to enforce the Council Norms and require the public to treat Councilmembers with the utmost courtesy [see Rosenberg’s Rules of Order, Courtesy and Decorum, page 7, integrated into Council Norms].

It is time to take this dispute offline in order for any hope for a resolution to prevail. The Mayor and the other Council Members must work to achieve a resolution without taking sides in the dispute and without diminishing the contributions of or the authenticity of the feelings and reactions of either party.

Respectfully,

Freddie Wheeler

Jim Jolly

Steering Committee

Los Altos Residents

www.LosAltosResidents.org

From: [David Roode](#)
To: [Public Comment](#)
Cc: [David Roode](#)
Subject: PUBLIC COMMENT AGENDA NON-AGENDA TOPICS MAY 11, 2021
Date: Friday, May 7, 2021 6:56:19 PM

I would like to make an observation on the spate of public comments objecting to the way Kenan Moos was treated or defending the way Council Member Lee Eng informed the public at one particular meeting back in November.

The misimpression that was created may or may not have been intentional. The council member may or may not have been worried about the info she received by reading texts during the meeting, contrary to council norms. That's all really irrelevant to what people are asking the council to do, as I see it.

I would like to see the council adopt a resolution apologizing officially to Kenan Moos and to us all for the reactions of the council members in accepting the idea that there were threats of violence coming from the public. You had little good information, so it's understandable, but it seems to me past time for an official apology.

I would hope that this would do some good, to apologize. What concerns me most is the people commenting in ways that WORSEN the damage done to Kenan Moos. I see it as irrelevant whether or not the council member creating the misimpression was too worried to focus on message. What was said was said.

Thank you.

From: [Bill Hough](#)
To: [City Council](#)
Cc: [Andrea Chelemengos](#); [Public Comment](#)
Subject: Public comment on items not on the 5/11 agenda
Date: Saturday, May 8, 2021 2:01:11 PM

I must email the Council once again because enemies of Council Member Lee Eng continue to poison discourse by continuing to harp on an issue from half a year ago. I am tired of having to comment, but I am not the one keeping this issue alive. For those who do not know, Lee Eng is being pressured to resign because she was disturbed by the text messages she received, which can be interpreted as threatening. As I said at the time, she should not resign.

For the thousandth time, I must state the obvious: Lee Eng's enemies continue to beat this dead horse even though the council adopted a resolution denouncing ongoing Anti-Asian Sentiment and Violence Against Asian American Community Members. Since passing a resolution did nothing to resolve the issue, I suspect that city-wide anti bias training would be useless. One must ask the question: are there racist motives that are keeping this issue alive? What else could it be? I would appreciate an explanation.

We must recall Lee Eng's enemies have fabricated the facts: she did not allege anyone threatened her or mention anybody by name. However, she had every right to be concerned by the texts that were sent to her. Although the final text in the series reads, "I just want to be clear, this is in no way a threat of any kind. This is me expressing my disappointment," one has to ask why this statement was necessary if the texts in question were unambiguously **NOT** a threat? Considering recent events around the country, it is reasonable to fear doxxing, vandalism or physical harm. Last year, this happened to the mayors of San Jose and Oakland.

People have fanned the flames by demanding Lee Eng apologize but her enemies need to acknowledge that the texts could be interpreted as a threat. The existence of the final text admits that possibility. Lee Eng should not apologize or resign. Lee Eng's enemies owe the city an apology for keeping this issue alive.

Bill Hough
Los Altos

From: [Mary Glennon](#)
To: [Public Comment](#)
Subject: Support for Ms. Lee Eng
Date: Saturday, May 8, 2021 4:13:06 PM

Ms. Lee Eng has my full support. She is being bullied and harassed by a group that has the sole mission of destroying her.

Justice Vanguard and Kenan Moos owe her an apology for fabricating a false narrative. Show some leadership, and demand the racist attacks on Ms. Lee Eng end. We all know Kenan Moos is not interested in civil discourse, but just wants to get his way, and thinks if he yells louder, he can win. Please, prove him wrong! Ms. Lee Eng has done NOTHING wrong, and catering to his phony attempt to smear Ms. Lee

Eng will only flame the fire of Anti-Asian rhetoric. If you don't stand up against this onslaught, you may be next, and there will be no one to stand up for you.

Sincerely,

Mary Glennon

From: [Celia House](#)
To: [Public Comment](#)
Subject: Support for Ms. Lee Eng
Date: Saturday, May 8, 2021 7:27:30 PM

Dear Los Altos City Council Members:

I am outraged to hear of recent events where Justice Vanguard and Kenan Moos are able to perpetuate lies and harass a council member Ms. Lee Eng. Their methods are unethical, discriminatory, and hateful.

Stand up for Ms. Lee Eng and demand a full-stop to these baseless attacks against her. People who disagree with policies need to come prepared with facts and in a spirit of problem-solving, not use bully tactics laced with threats to displace her.

You have the power to stop anti-Asian attacks. Use your power wisely.

Celia Liu House
California voter in nearby Cupertino
Community organizer with friends in Los Altos

To Los Altos City Council:

We are writing to protest the treatment of your fellow councilwoman Lynette Lee Eng over her apparent failure to vote the way a college student (whom she had reportedly previously been in discussions with) had expected her to vote.

Lee Eng has been misquoted, called “unfit” by the young man at the heart of this and a “liar” by his mother. Members of his organization have stated that “they know” some who voted for her are “racists” inferring that Lee Eng is racist. Where is the proof? She has been heavily criticized for not engaging in this war of words by way of an apology.

Well, we listened carefully to what Lee Eng said at the November 2020 council meeting. We didn't hear her name-call or make any accusations. What we heard was her expression of legitimate concern for the safety of her family, perfectly understandable in a year of unprecedented attacks on people of Asian descent. This was based on texts that she was receiving in real time during the council meeting from the young man and his followers.

Please, Mayor Fligor and council, show your fellow council member the respect she deserves and you would wish to receive by putting an end to this now and get on with the business of running the city.

Respectfully,

Kathleen and Roland Dow



**MINUTES OF THE REGULAR MEETING OF
THE CITY COUNCIL OF THE CITY OF LOS ALTOS
7:00 P.M., TUESDAY, APRIL 27, 2021**

Held Via Video/Teleconference Per California Executive Order N-29-20.

MEETING CALLED TO ORDER

At 7:11 p.m., Mayor Fligor called the meeting to order.

ESTABLISH QUORUM

Present: Mayor Fligor, Vice Mayor Enander, Council Members Lee Eng, Meadows, and Weinberg
Absent: None

REPORT ON CLOSED SESSION

Mayor Fligor reported that there was no action taken and nothing to report from the Closed Session held earlier in the evening.

SPECIAL ITEMS

- Proclamation of April 22, 2021 as Earth Day

Mayor Fligor read the proclamation into the record and presented the proclamation. Sustainability Coordinator Ancheta commented and provided background information on Earth Day.

- Proclamation Recognizing the Los Altos High School Green Team

Mayor Fligor read the proclamation into the record and presented the proclamation.

Audrey Chang thanked the Council and commented on the Green Team.

CHANGES TO THE ORDER OF THE AGENDA

Mayor Fligor moved to reorder the agenda to moved *Council Reports* to be heard prior to *Public Comments on Items Not on the Agenda* to allow for Council comments only and then resume any other matters under that section at the end of the meeting. The motion was seconded by Council Member Lee Eng and the motion passed 5-0 with the following roll call vote:

AYES: Council Members Lee Eng, Meadows, Weinberg, Vice Mayor Enander, and Mayor Fligor.
NOES: None
ABSENT: None
ABSTAIN: None

Council Member Lee Eng commented on remarks she made at the November 24, 2020 in response to a message sent to her during the meeting and the resulting dialog and public comments. She provided an explanation for her reaction and comments.

Mayor Fligor spoke on the unresolved issues that arose from comments made by Council Member Lee Eng at the November 24, 2020 Council meeting. She apologized to Kenan Moos and his family for any comments she (Fligor) made in response to the situation that occurred at the meeting that may have caused grief. She expressed disappointment that the matter remains unresolved, and mitigation terminated. She urged the two parties involved to work toward a resolution.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

The following individuals commented: Deneva, Tara Dhillon, Christine Lenz, Teresa, Frank Martin (with time ceded from Janet Corrigan) Renee Rashid, Freddie, Cindy Sidaris, Salim, Jill Woodford, Karen Solpon, Ella Maluf, Ken Girdley, Joe Beninato (with time ceded from Aisha Rashid), Elaine Wang, Tanya Maluf (with time ceded from Amber Joy and Jeanine Valadez), Roberta, Terri Couture, Maureen Griffin, Kevin Moos (with time ceded from Toni Moos), Kenan Moos, Jon Baer, Katty and(a statement read from) Jim Jolly.

Council Member Meadows, Weinberg, and Vice Mayor Enander commented on the situation arising from comments made at the November 24, 2020 meeting and the need for a resolution of the situation.

CONSENT CALENDAR

1. Council Minutes: Approve the (amended) Minutes of the April 13, 2021 Regular Meeting
2. Resolution Acknowledging Receipt of Annual Fire Inspection Report: Adopt Resolution of the City Council of the City of Los Altos acknowledging receipt of a report made by the Fire Chief of the Santa Clara County Central Fire Protection District regarding the inspection of certain occupancies required to perform annual inspections in such occupancies pursuant to Sections 13146.2 and 13146.3 of the California Health And Safety Code

There were no members of the public wishing to comment on the Consent Calendar.

Council Member Meadows moved to approve the Consent Calendar. The motion was seconded by Council Member Weinberg and the motion passed 5-0 with the following roll call vote:

AYES: Council Members Lee Eng, Meadows, Weinberg, Vice Mayor Enander, and Mayor Fligor.
NOES: None
ABSENT: None
ABSTAIN: None

PUBLIC HEARINGS - None

DISCUSSION ITEMS

3. Emergency Measures for Addressing COVID-19: Receive an update from the Deputy City Manager and provide direction on additional potential measures to address COVID-19.

Deputy City Manager Maginot provided an update and answered questions from the Council.

There were no public comments and no action.

4. 330 Distel Circle Update: Receive Affordable Housing Update and Introduction of the Affordable Housing Developer

Community Development Director Biggs introduced Scott Johnson and Welton Jordan of EAH Housing, 330 Distel Circle developers, who provided a presentation on the community outreach and overall development of 330 Distel Circle and answered questions from the Council.

At 9:04 p.m. Mayor Fligor called for a brief recess. At 9:13 p.m., Mayor Fligor reconvened the meeting.

The following individuals commented: Jon Baer, Pierre Bedard, Pete Dailey, Salim, Renee Rashid, Anne Paulson, Jeanine Valadez, and Freddie.

No action was taken.

5. Contract Amendment: Authorize the Interim City Manager to execute a contract amendment (Amendment #3) on behalf of the City with NOVA Partners for additional construction management services on the Los Altos Community Center Project, CF-01002 through June 30, 2021, in the amount of \$120,884.
6. Contract Amendment: Authorize the Interim City Manager to execute a contract amendment (Amendment #5) on behalf of the City with Noll & Tam Architects for added scope of services on the Los Altos Community Center Project CF-01002 in the amount of \$117,581.

Due to the relation of Items #5 and #6, Project Manager Maslo presented a combined presentation. Project Manager Maslo along with James Gwise of Noll & Tam, and Saul of NOVA Partners answered questions from the Council.

The following members of the public commented: Jon Baer, Roberta Phillips, and Joe Beninato.

Council Member Weinberg moved to authorize the Interim City Manager to execute a contract amendment (Amendment #3) on behalf of the City with NOVA Partners for additional construction management services on the Los Altos Community Center Project, CF- 01002 through June 30, 2021, in the amount of \$120,884. The motion was seconded by Council Member Meadows and the motion passed 4-0-1 with the following roll call vote:

AYES: Council Members Meadows, Weinberg, Vice Mayor Enander, and Mayor Fligor.
NOES: None
ABSENT: None
ABSTAIN: Council Member Lee Eng

Council Member Weinberg moved to authorize the Interim City Manager to execute a contract amendment (Amendment #5) on behalf of the City with Noll & Tam Architects for added scope of services on the Los Altos Community Center Project CF-01002 in the amount of \$117,581. The motion was seconded by Council Member Meadows and the motion passed 43-2 with the following roll call vote:

AYES: Council Members Meadows and Weinberg, and Mayor Fligor.
NOES: Council Member Lee Eng and Vice Mayor Enander
ABSENT: None
ABSTAIN: None

7. Design Options Update for the Los Altos Emergency Operations Center (EOC):
Receive building layout and budget options for the proposed Emergency Operation Center (EOC) per Council's October 13, 2020 direction and provide direction to staff on which design option to select for the new Emergency Operations Center. The project is exempt from environmental review as in-fill development in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended.

Engineering Services Director Sandoval provided a presentation to the Council and, he, along with Police Chief Galea, Information Technology Manager Tseng, and Project Architect Jeff Katz, answered questions from the Council.

The following members of the public commented: Jim Clark (with time ceded from Harry Guy and Art Whipple) and Roberta Phillips.

The Council discussed the matter and provided feedback to the staff on the desired design and features.

Vice Mayor Enander moved that the Council adopt Option D conditional on the receipt of the Federal grant for which has been applied. The motion was seconded by Mayor Fligor and the motion passed 5-0 with the following roll call vote:

AYES: Council Members Lee Eng, Meadows, Weinberg, Vice Mayor Enander, and Mayor Fligor.
NOES: None
ABSENT: None
ABSTAIN: None

Vice Mayor Enander moved that the Council direct staff to proceed with design and planning for Option C in the event that the Federal grant does not move through the process. The motion was seconded by Mayor Fligor and the motion passed 4-0-1 with the following roll call vote:

AYES: Council Members Meadows, Weinberg, Vice Mayor Enander, and Mayor Fligor.
NOES: None
ABSENT: None
ABSTAIN: Council Member Lee Eng

8. Safe Firearm Storage: Consider request for City Council initiation of a Safe Firearms Storage Ordinance. (Initiated by Council Member Weinberg)

Council Member Weinberg provided information on the matter.

City Attorney Houston and Police Chief Galea answered questions from the Council.

The following members of the public commented: Susie Maclean, Kelly Traver, Art Whipple, Renee Rashid, Pete Dailey, Richard Simmons, and Roberta Phillips.

Following Council comments, Council Member Weinberg moved that the Council direct staff to prepare a safe storage ordinance for the Council's consideration. The ordinance shall be substantially in accord with Santa Clara County Ordinance No NS-644 and include the following provisions:

- No person shall keep a loaded or unloaded firearm in any residence unless the firearm is (1) carried on their person; (2) in close proximity and control of a person who is authorized to carry the firearm in accordance with all applicable laws, or (3) is stored in a locked container or disabled by a trigger lock approved by the DOJ.
- Each day that a firearm is improperly stored shall constitute a separate violation.
- The first violation shall be an infraction punishable by a fine of \$500 and each violation thereafter shall be a fine of \$1,000.
- Nothing in our ordinance shall affect a person's obligation to report a lost or stolen firearm.

The motion was seconded by Council Member Meadows and the motion passed 4-1 with the following roll call vote:

AYES: Council Members Lee Eng, Meadows, Weinberg, and Mayor Fligor.
NOES: Vice Mayor Enander
ABSENT: None
ABSTAIN: None

9. Council Legislative Subcommittee Update And Potential Council Action: Receive update from the City Council Legislative Subcommittee; discuss pending legislation including, but not limited to: AB 14, AB17, AB 34, AB 68, AB 115, AB 215, AB 339*, AB 415*, AB 617, AB 678, AB 1091, AB 1258, AB 1322, AB 1401, SB 4, SB 5, SB 6, SB 7, SB 8, SB 9, SB 10, SB 15, SB 16, SB 55, SB 210, SB 278*, SB 477, SB 478, SB 556*,

SB 640, SB 695, SB 765, SB 785, SB 988 * indicates previous Council action taken- (Vice Mayor Enander, Council Member Weinberg)

Vice Mayor Enander provided an overview of certain pending legislation. Council commented. No action was taken.

10. Tentative Council Calendar: Review and consider changes to the Council Tentative Calendar

Council Members reviewed the tentative schedule, provided input, and inquired about scheduling of certain Council matters.

INFORMATIONAL ITEMS ONLY

- Community Center Construction Monthly Update- March 2021

No comments/No action taken.

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

Mayor Fligor, with support from Council Member Meadows, requested that a Council endorsement the Carbon Fee and Dividend legislation be placed on a future agenda. In addition, Mayor Fligor, with support of Council Member Lee Eng, requested that a matter of formally adding the Fremont Union High School District to the City/ Cupertino Union High School District School Issues Subcommittee be added to a future agenda.

ADJOURNMENT

At 1:27 a.m., Wednesday, April 28, 2021, Mayor Fligor adjourned the meeting.

ATTEST:

Neysa Fligor, MAYOR

Andrea M. Chelemengos MMC, CITY CLERK



CONSENT CALENDAR

Agenda Item # 2

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Countywide Household Hazardous Waste Collection Program and AB 939 Implementation Fee

Prepared by: Emiko Ancheta, Sustainability Coordinator

Reviewed by: James Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachment(s):

1. Agreement for Countywide Household Hazardous Waste Collection Program
2. Agreement for Countywide AB 939 Implementation Fee

Initiated by:

Staff

Previous Council Consideration:

April 14, 2015; May 10, 2016; May 23, 2017; May 8, 2018; May 28, 2019, May 26, 2020

Fiscal Impact:

The amount of \$90,803 will be included in the proposed FY 2021/22 Solid Waste Budget expense in which there are sufficient funds.

Environmental Review:

This is exempt from environmental review under section 15273 (a) of the California Environmental Quality Act (CEQA) Guidelines, because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of Meeting operating expenses.

Policy Question(s) for Council Consideration:

- None

Summary:

- On June 19, 2018, the City Council approved agreements for the City's participation with Santa Clara County for Household Hazardous Waste (HHW) Program management which must be amended annually.
- HHW is an important part of solid waste diversion and it is illegal to dispose of hazardous waste in sanitary landfills, therefore the program provides residents a safe method to dispose of items that require special handling.

Reviewed By:

Interim City Manager

City Attorney

Acting Finance Director

BK

JH

JM



Subject: Countywide Household Hazardous Waste Collection Program and AB 939 Implementation Fee

Staff Recommendation:

Authorize the Interim City Manager to execute the Agreements for Countywide Household Hazardous Waste Collection Program and Countywide AB 939 Implementation Fee with the County of Santa Clara on behalf of the City



Subject: Countywide Household Hazardous Waste Collection Program and AB 939 Implementation Fee

Purpose

Authorize the Interim City Manager to execute the Agreements for Countywide Household Hazardous Waste Collection Program and Countywide AB 939 Implementation Fee with the County of Santa Clara on behalf of the City.

Background

On June 19, 2018, the City Council approved a three-year agreement for the City's participation with Santa Clara County for Household Hazardous Waste (HHW) Program management. These agreements expire on June 30, 2021. The City has participated in the program since 2000. The Countywide HHW Collection program enables residents to conveniently dispose of small quantities of hazardous waste at any of the collection facilities in the County, and at a well-publicized annual event in the City. Hazardous wastes that are not allowed to be placed in household garbage containers include, but are not limited to, cleaning products, mercury thermostats, pesticides, flammable liquids, corrosives, solvents, car batteries, used motor oil, antifreeze, paint, fluorescent lights, electronic waste and other items.

AB 939 mandates and provides authority for agencies to collect funds for planning and implementation of integrated waste management programs. The HHW is a minor, but important, part of the diversion of waste to landfills. It is also illegal to dispose of hazardous waste in sanitary landfills, therefore the program provides residents a safe method to dispose of items that require special handling.

The agreement with the County for HHW Program and AB 939 implementation provides for collection of fees on waste disposed or treated at County landfills. The agreement provides for the City to receive \$1.50 per ton of landfilled waste that the City then uses to partially fund integrated waste management programs. A fee of \$2.60 per ton is collected for County-wide HHW programs. The HHW Program agreement defines the County, for the specific services it provides to municipalities, as the program manager.

Discussion/Analysis

Due to the COVID-19 pandemic and State and County Orders for Shelter in Place issued in March of 2020 that restrict non-essential business, require social distancing, and prevent certain events, the County cancelled the HHW drop-off event scheduled for the City of Los Altos on April 17, 2021.

While the City and County enter into a three-year agreement to provide HHW collection services; the agreement must be amended annually with a new operating schedule and a new augmentation amount for service levels above what is funded through AB 939 Implementation Fees. The AB 939 fees will continue to support a four percent level of participation by Los Altos residents in the County HHW



Subject: Countywide Household Hazardous Waste Collection Program and AB 939 Implementation Fee

Program. Funding augmentation for the HHW Program for FY 2021/22 is needed in the amount of \$90,803 based on anticipated participation from City residents. It is important to note when reviewing the attached amendment that the County uses the term “FY2022” to describe the fiscal year from July 1, 2021 to June 30, 2022.

Options

- 1) Authorize the Interim City Manager to execute the Agreements for Countywide Household Hazardous Waste Collection Program and Countywide AB 939 Implementation Fee with the County of Santa Clara on behalf of the City

Advantages: The County administration of the HHW and AB 939 Fee is an efficient program that provides residents with safe, convenient and economical means of disposing HHW

Disadvantages: None

- 2) The City could choose to not participate in the County’s administration of AB 939 Fees, which would require an alternative method be developed to recover the City’s costs of administering source reduction and recycling, and to collect and dispose of HHW.

Advantages: None

Disadvantages: Due to the comparatively small size of Los Altos, economies of scale gained by central administration of these programs county wide would be lost if this alternative was pursued.

Recommendation

The staff recommends Option 1.

**AGREEMENT FOR COUNTYWIDE
HOUSEHOLD HAZARDOUS WASTE
COLLECTION PROGRAM**

This Agreement is made by and between the City of Los Altos (CITY) and the County of Santa Clara (COUNTY) on the _____ day of _____ 2021.

RECITALS

WHEREAS, the County Board of Supervisors has approved a Countywide Household Hazardous Waste Collection Program whereby residents of the County and cities and towns participating in the Countywide program will have an opportunity to safely dispose of household hazardous wastes (HHW), regardless of the specific location at which the collection has been scheduled; and

WHEREAS, CITY desires to provide residents with convenient opportunities to safely dispose of their HHW in order to encourage the proper disposal of toxic products, and avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground, in a manner which creates a health or environmental hazard; and

WHEREAS, CITY desires to provide a safe, convenient, and economical means for residents to dispose of HHW. These wastes include, but are not limited to, common household products such as household cleaning products, furniture polish, solvents, oven cleaner, pesticides, oil based paints, motor oil, antifreeze, car batteries, mercury thermostats, fluorescent lamps, household batteries, and electronic waste; and

WHEREAS, CITY desires to schedule Household Hazardous Waste Collection Events (Events) for residents for FY 2022 through FY 2024 (July 1, 2021 – June 30, 2024); and

WHEREAS, CITY desires to provide household hazardous waste collection services to a minimum of 4% of the households per fiscal year in its jurisdiction; and

WHEREAS, CITY desires to participate in the Countywide Household Hazardous Waste Collection Program to meet these objectives; and

WHEREAS, pursuant to Public Resources Code Section 41901, the County Board of Supervisors has approved the collection of a \$4.10 per ton Countywide AB939 Implementation fee, including a \$2.60 per ton Household Hazardous Waste Fee (AB939 HHW Fee), for FY 2022 through FY 2024 (July 1, 2021 – June 30, 2024) on all wastes landfilled or incinerated within the County, received at any non-disposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County, collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County, or removed from any location in the county by any person or business for disposal or incineration outside the County; and

WHEREAS, the AB939 HHW Fee is allocated to the Countywide Household Hazardous Waste Program and participating jurisdictions to fund HHW program costs in accordance with the terms of the Countywide AB939 Implementation Fee Agreement; and

WHEREAS, CITY desires for COUNTY to utilize CITY's share of the AB939 HHW Fee to provide HHW services for CITY residents.

NOW THEREFORE, CITY and COUNTY AGREE AS FOLLOWS:

1. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which CITY will participate in the Countywide Household Hazardous Waste Collection Program (CoHHW Program) available to its residents. Participating jurisdictions are those jurisdictions that enter into an AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM with the County.

2. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 et seq. State law authorizes cities and counties to impose fees in amounts sufficient to support planning and implementation of integrated waste management programs, including HHW elements. The AB939 HHW Fee, of \$2.60 per ton, imposed by the County as part of the AB939 Implementation Fee and collected and distributed in accordance with the AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE will be the primary source of funding for CoHHW Program services. CITY agrees that COUNTY may utilize CITY's share of the AB939 HHW fee to provide HHW Program services in accordance with the terms and conditions of this Agreement.

Funds derived from the AB939 HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- B. San José Facility Use Surcharge will be apportioned based on CITY residents' participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José, CA 95133.
- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of

households in all participating jurisdictions. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."

- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San Jose Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Public Resources Code Section 41904.

The projected AB939 HHW Fee Allocation by jurisdiction is set out in Attachment A, attached hereto and incorporated herein.

3. FIXED PROGRAM COST

Estimated HHW Fixed Program Costs are projected in Attachment B, attached hereto and incorporated herein. Fixed Program Costs are allocated to CITY at the conclusion of each fiscal year based on CITY's proportional share of the County population and will not exceed \$3.75 per household for Fiscal Years 2022, 2023, and 2024. Fixed Program Costs may include, but are not limited to, up to eleven (11) County HHW Program staff members, facility lease costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance and union negotiated salary and benefit changes.

4. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Costs to the CITY based on a charge of \$.05 per household are set forth in Attachment A, attached hereto and incorporated herein.

For the purposes of this Agreement, "Nonprofit Charitable Reuser Organization" is defined in accordance with Public Resources Code Section 41904 as follows: a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

5. SAN JOSÉ FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY residents' proportional participation at the County Household Hazardous Waste Collection Facility located

at 1608 Las Plumas Avenue, San José. Estimated San José Facility Use Surcharges are projected in Attachment A, attached hereto and incorporated herein. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.29 per car for Fiscal Years 2022, 2023, and 2024.

6. VARIABLE COST PER CAR

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County Household Hazardous Waste Collection Facilities (CoHHWCF) and at Temporary Events. The Variable Cost Per Car is estimated to be approximately \$58.20 per participating resident car for Fiscal Years 2022, 2023 and 2024. The estimated cost per car will be adjusted to reflect actual service costs. After Fixed Program Costs and San José Facility Use Surcharge are allocated on a per household basis, the Variable Cost Per Car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached in the CITY, the CoHHW Program may use the remaining balance of funds, in cooperation with the CITY, to increase public outreach and/or provide additional services in that jurisdiction the following year.

7. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion of the AB939 HHW Fee will be allocated based on the tons of waste generated within each jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in that jurisdiction by the CoHHW Program, subsidizing curbside used motor oil collection, electronic waste (e-waste) collection, universal waste collection, emergency HHW services, funding HHW public education, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. COUNTY has discretion to determine appropriate uses of Available Discretionary Funding in accordance with the terms and conditions in this Agreement, and to apply the funding toward those uses.

8. ADMINISTRATION AND PAYMENT OF THE AB939 HHW FEE

The County of Santa Clara Recycling and Waste Reduction Division will administer the AB939 HHW Fee, as part of the existing online disposal reporting and payment system. Administration and payment will be made in accordance with the AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE and this Agreement. Notwithstanding the foregoing, the COUNTY shall maintain records of the amount, use, and distribution of Fixed Program Cost expenditures for at least five (5) years after the termination date of this Agreement, unless otherwise required by law to retain such records for a longer period. CITY may request in writing a review by COUNTY of the Fixed Program Cost records. The review shall be performed within 30 days of request and results shall be reported to participating cities in writing.

9. PROGRAM PUBLICITY

The CoHHW Program shall produce and make available to the public an HHW brochure for distribution. The brochure will be made available at various events, including but not limited to, environmental events and community fairs. The brochure may also be distributed, upon request, to cities within the County and to County residents and businesses. The CITY shall be responsible for developing and coordinating citywide awareness of the HHW Program. The CoHHW Program shall be responsible for Countywide public education for used oil recycling. CoHHW Program public awareness responsibilities shall include, but not be limited to, the following activities:

- Serving as the formal contact to the local media such as local newspapers and television news stations;
- Providing participating jurisdictions with educational materials developed for the CoHHW Program;
- Promoting oil and oil filter recycling by developing, purchasing, and distributing educational materials, media relations materials, basic art work and camera ready advertising materials for distribution countywide and for use by jurisdictions;
- Representing the program through educational presentations at schools and businesses and attendance at community events such as local fairs and festivals; and
- Providing participating jurisdictions opportunities to review and comment on the development of countywide outreach materials.

CITY's public awareness responsibilities, at the sole discretion of the CITY, shall include, but not be limited to, the following activities:

- Providing a copy of HHW promotional materials to the CoHHW Program for review for accuracy and completeness, prior to publication;
- Developing and distributing HHW promotion communications to residents for local and CITY newsletters, newspapers and to the electronic media;
- Providing the CoHHW Program with a copy of HHW promotion materials produced by the CITY; and,
- Conducting and supporting outreach and publicity to attain the goal of 4% of households in the CITY participating in the CoHHW Program.

10. TEMPORARY HHW EVENTS

COUNTY shall conduct Temporary HHW Events at various sites located in Santa Clara County. COUNTY shall obtain all necessary permits and licenses required for the Temporary HHW Events and shall provide or contract for the services of properly trained, qualified personnel and hazardous waste haulers, and shall provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at the Temporary HHW Events.

//

11. HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITIES

COUNTY shall conduct collection operations at two County Household Hazardous Waste Collection Facilities (CoHHWCF).

The CoHHWCF are located at:

- ◆ *San Martin, 13055 Murphy Avenue, San Martin, CA 95046*
- ◆ *San José, 1608 Las Plumas, San José, CA 95133*

The COUNTY shall obtain all necessary permits and licenses required for the CoHHWCF and shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected.

12. SMALL BUSINESS RECYCLING AND DISPOSAL PROGRAM

COUNTY will provide services to accept hazardous waste from Conditionally Exempt Small Quantity Generators (CESQG) in accordance with California Health and Safety Code Section 25218.3, as amended from time to time. Eligible businesses within the County will be allowed to bring their hazardous waste to CoHHWCF. These services to businesses located within the CITY will be provided on a cost recovery basis, which will include program administration, on-site collection, transportation, and disposal costs. COUNTY will assume responsibility for fee collection from participating businesses. The CITY may choose to pay for services for CESQG's within the City of San José and will notify the COUNTY in writing with 30-day advance notice in order to exercise this option. If the CITY exercises this option, the COUNTY will invoice the CITY for all costs associated with CSQG's within the CITY. If CITY has available Discretionary Funding, COUNTY may use this funding to pay for CESQG costs. For purposes of this Agreement, CESQG has the meaning provided by Health and Safety Code Section 25218.1.

13. ABANDONED HOUSEHOLD HAZARDOUS WASTE

The CoHHW Program will allow for the disposal of abandoned HHW by government agencies and qualified nonprofit charitable reusers. Abandoned HHW means HHW left at a property by an unknown party. Abandoned household hazardous waste does not include waste generated by a known organization or agency in the course of normal business operations such as, but not limited to, the assembly or manufacture of products from new or used materials or the provision of charitable services such as classroom education, meal preparation, and shelter, or the provision of services for a fee.

A) GOVERNMENT AGENCIES

Government agencies shall be charged for disposal of abandoned HHW according to the CoHHW Program's published rates for CESQGs.

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B) NONPROFIT CHARITABLE REUSER

In order to qualify as a Nonprofit Charitable Reuser, the business must submit to the County Executive a request to be so designated. The County Executive shall review the request and supporting documentation and shall make a final decision on the designation. COUNTY will accept abandoned HHW from Nonprofit Charitable Reusers and will waive disposal fees on the cost of disposal of the abandoned HHW in an annual amount not to exceed funds available from the existing unexpended abandoned waste fund. Funding for disposal available to Nonprofit Charitable Reuser shall be on a first come first serve basis. Once the cost for disposal of the abandoned HHW from Nonprofit Charitable Reusers is equal to the available funds, disposal fees shall no longer be waived, and Nonprofit Charitable Reusers shall be charged for disposal of abandoned HHW according to the CoHHW Program's published rates for CESQGs. No additional costs shall be applied to the budget of the CITY or any other participating jurisdiction.

14. HOUSEHOLD HAZARDOUS WASTES ACCEPTED

HHW accepted by the CoHHW Program shall be limited to those materials that qualify as Hazardous Waste under Health and Safety Code Section 25218.1, as amended from time to time. These materials include, but are not limited to, automotive fluids, automotive and other types of batteries, latex and oil paint, oil filters, garden chemicals, household cleaners, pool chemicals, mercury thermostats, fluorescent lamps containing mercury, household batteries, e-waste and other common hazardous consumer products.

15. WASTES NOT ACCEPTED

Certain hazardous wastes shall not be accepted for collection and disposal. These include, but are not limited to, compressed gas cylinders larger than 5 gallons, radioactive materials, and explosives. Other wastes not accepted by the CoHHW Program are wastes generated as part of operating a business, including a home operated business, except that waste from CESQGs as provided for in Section 12 of this Agreement shall be accepted.

16. ADDITIONAL SERVICES UNDER THIS AGREEMENT

CITY must augment funding provided under this Agreement to cover the cost of a minimum participation level of 4% of CITY households; CITY may also elect to augment funding to provide additional services to increase CITY participation beyond the 4% minimum participation level. Additional services shall be made available upon written agreement between the CITY's authorized representative and the County Executive Officer or designee. Additional services may include, but are not limited to, additional appointments (charged at the Variable Cost Per Car rate), door-to-door HHW collection, used oil filter collection, universal waste collection, electronic waste collection, and abandoned waste collection.

CITY agrees to augment up to an additional \$ 90,803 to the Countywide HHW Program during Fiscal Year 2022 for the purpose of attaining or increasing CITY household participation above the 4% minimum participation level at the scheduled collection dates listed in Attachment C, attached hereto and incorporated herein. Augmentation will be calculated, where applicable, at the Variable Cost Per Car rate. Other services will be charged based on a cost recovery basis. CITY authorizes the COUNTY to use CITY'S Available Discretionary Funding portion of the AB939 HHW Fee, if available, to offset the above agreed additional augmentation amount.

At the end of each fiscal year, a final annual cost statement shall be prepared by COUNTY and issued to CITY by November 30th. The annual cost statement will take into consideration costs incurred on behalf of CITY for additional services and all payments made by CITY to COUNTY. If any balance is owed to COUNTY, it will be due within 30 days following receipt of the annual cost statement. If any credit is owed to CITY, COUNTY will refund that amount to CITY within 30 days following delivery of the annual cost statement.

17. INFORMATION AND APPOINTMENT LINE

COUNTY will operate a telephone information and appointment desk Monday through Friday, from the hours of 9:00 a.m. to 5:00 p.m. The information service will register residents for the Temporary HHW Events and the collections at CoHHWCF. The information service will provide information about hazardous household materials. CITY will be notified immediately if resident participation approaches a level of service that may not be supported by available funding.

18. SCHEDULING AND SITE SELECTION

COUNTY shall work with CITY to determine the date(s) of Temporary Events and collections at the CoHHWCF. CITY shall coordinate with COUNTY in locating and securing sites for Temporary HHW Events. It is recognized that some of the jurisdictions participating in the CoHHW Program may not have appropriate sites available. A proposed HHW schedule for Fiscal Year 2022 of Temporary Events and collections at CoHHWCF is included as Attachment C. COUNTY will schedule an adequate number of collection days to serve the 4% level of service. The COUNTY determines the adequate number of collection days by tracking attendance at each event.

19. OUTSIDE FUNDING

During the term of this Agreement, COUNTY may seek outside funding sources for services that would supplement existing HHW services such as permanent collection sites, equipment, retail take-back collection and operational funding. If outside funding is obtained, the CoHHW Program will, at COUNTY'S discretion, proceed with development of additional programs using that outside funding without drawing on CITY'S funding provided under this Agreement.

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20. REGIONAL GRANT AND OIL PAYMENT PROGRAM PARTICIPATION

The CITY authorizes the CoHHW Program to apply for lead agency grants, including but not limited to Used Oil Payment Program grants, from the California Department of Resources Recycling and Recovery (CalRecycle), on behalf of participating jurisdictions. The CoHHW Program will act on behalf of all participating jurisdictions, as the lead applicant and administrator. The CoHHW Program will oversee how the moneys are used and work in cooperation with CITY as to how the funds will be spent. Nothing in this section shall preclude the COUNTY or a participating jurisdiction from applying for grant funds in any case where the CoHHW Program does not apply for the grant opportunity.

21. EMERGENCY SERVICES

Participating jurisdictions, at their option, may desire to provide residents with convenient emergency opportunities to safely dispose of their HHW in the event of a disaster. The purpose of this emergency planning for HHW is to minimize potential public health and safety impacts, as well as to minimize costs and confusion. Attachment D sets out CITY and COUNTY responsibilities for the collection of household hazardous wastes in response to an emergency. CITY shall make good faith efforts to provide the public with information related to the problems associated with HHW. Upon the decision to hold an emergency collection event, it is CITY's responsibility to make a good faith effort to prepare and disseminate the necessary outreach to notify the public of an emergency collection event. An emergency collection event shall be initiated by a written request from CITY to COUNTY. Emergency collection events can be scheduled in as little as ten (10) working days of CITY's written request or at an agreed upon date thereafter. The emergency collection plan is set out in Attachment D, Household Hazardous Waste Emergency Collection Plan.

COUNTY agrees to conduct the Emergency Collection Event at a mutually agreeable site and time. The COUNTY will obtain the necessary permit from the State Department of Toxic Substances Control and will handle wastes in accordance with State law. COUNTY will bill CITY for all Emergency Collection Events on a cost recovery basis and all payments shall be due COUNTY within thirty days following the receipt of the invoice.

22. PRIVATE SPONSORED EVENTS

COUNTY may also secure funding from corporations or agencies to conduct HHW Collection Events for corporate employees and residents of participating jurisdictions and to pay for special programs such as Universal Waste collection at retail locations. The transportation, treatment and disposal liability for nonresident employee participation in these events shall be shared by all participating jurisdictions, including the CITY, and the COUNTY, as described in Section 26 of this Agreement. Summary information concerning these corporate sponsored events, if any, will be included in the CoHHW Program's annual report to the participating jurisdictions.

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23. INSURANCE REQUIREMENTS

Contractors who provide hazardous waste transportation, treatment, or disposal services shall have the required insurance as outlined in Attachment E, Exhibit B-2D (revised) Insurance Requirements for Environmental Services Contract. Other contractors shall have insurance in amounts to be determined by COUNTY Insurance Manager, after consultation with CITY. COUNTY shall obtain insurance certificates from each of the contractors prior to the contractor providing service to the program naming the COUNTY as an additional insured.

24. WASTE TRACKING AND REPORTING

COUNTY will provide a mid-year report to CITY regarding participation rates from each participating jurisdiction by March 15 of each year. Mid-year and year end reports will outline the types and quantities of waste collected, the amount of waste diverted for reuse or recycling and the waste management method for each waste stream and associated costs for services. COUNTY will prepare a report summarizing program activities which will be delivered to the participating jurisdictions no later than six months after the end of COUNTY's fiscal year.

It will be assumed for cost and reporting purposes that each participating jurisdiction is contributing to the waste stream in proportion to the number of its residents who directly participate.

COUNTY shall take steps to assure that the bi-annual statements to jurisdictions reflect the funds necessary to cover costs for CITY participation in services scheduled during the next quarter.

25. PARTICIPATION REPORTING

COUNTY shall employ means necessary to verify the place of residence of all participants in the CoHHW Program.

26. HOLD HARMLESS AND INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 23 above.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste shall be shared by the cities and the COUNTY as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require CESQGs and Nonprofit Charitable Reusers to indemnify COUNTY, at minimum, for their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The CESQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to CESQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY's apportioned share of any liability for household hazardous waste.

27. TERMINATION

This Agreement may be terminated by either the COUNTY or CITY upon thirty (30) days written notice given by the terminating party.

28. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2021 to June 30, 2024, or until all revenue from the last quarter's AB939 fee payments have expended and/or distributed, whichever is later.

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29. INDEPENDENT CONTRACTOR

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

30. EXECUTION BY COUNTERPART

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed an original and all of which shall together constitute one and the same instrument.

31. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

32. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designates.

33. NOTICES

All notices and communications herein required shall be in writing to the other party as follows, unless expressly changed in writing:

CITY of _____	City Representative _____
	Representative's Title _____
	City Address _____

Santa Clara County

Director
Consumer and Environmental Protection Agency
1553 Berger Drive
San José, California 95112

34. CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect

as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM on the dates as stated below:

Date: _____

COUNTY OF SANTA CLARA

JEFFREY V. SMITH
County Executive

Date: _____

“CITY”

CITY/TOWN OF _____
Title _____
A municipal corporation

APPROVED AS TO FORM AND LEGALITY:

STEPHANIE SAFDI
Deputy County Counsel

Attachments:

- A Projected Fiscal Years 2022, 2023, and 2024 AB939 HHW Fee Funding Allocation by Jurisdiction
- B Estimated HHW Program Fixed Costs for Fiscal Years 2022, 2023, and 2024
- C HHW Schedule of Collection Events for Fiscal Year 2022
- D Household Hazardous Waste Emergency Collection Plan
- E Exhibit B-2D (revised) Insurance Requirements for Environmental Services Contracts

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ATTACHMENT A: PROJECTED FISCAL YEARS 2022-2024 ANNUAL HHW FEE FUNDING ALLOCATION BY JURISDICTION

Cities	No of Households	4% of Households	Disposal Tonnage	AB939 HHW Fee \$2.60 per Ton	Fixed Cost \$3.75 per HH	SJ Facility \$8.29 Surcharge	Variable Cost \$58.20 per Car	Abandoned Waste Disposal Cost \$.05 per Household	Discretionary Fund	Estimated Augmentation	Anticipated Participation	Anticipated Participation at SJ Facility
Campbell	18,158	726	40,970	\$ 106,521	\$ 68,093	\$ 7,162	\$ 42,272	\$ 908	\$ (11,913)	\$ 45,525	1,268	1,221
Cupertino	21,050	842	41,603	\$ 108,168	\$ 78,938	\$ 4,242	\$ 49,004	\$ 1,053	\$ (25,068)	\$ 36,963	1,034	723
Gilroy	16,676	667	53,681	\$ 139,571	\$ 62,535	\$ 1,086	\$ 38,822	\$ 834	\$ 36,295	\$ 23,027	1,038	185
Los Altos	11,677	467	17,678	\$ 45,963	\$ 43,789	\$ 4,188	\$ 27,184	\$ 584	\$ (29,781)	\$ 90,803	1,451	714
Los Altos Hills	3,180	127	9,303	\$ 24,188	\$ 11,925	\$ 958	\$ 7,403	\$ 159	\$ 3,743	\$ 4,413	259	163
Los Gatos	13,637	545	25,338	\$ 65,878	\$ 51,139	\$ 6,784	\$ 31,747	\$ 682	\$ (24,474)	\$ 66,018	1,216	1,157
Milpitas	22,553	902	100,225	\$ 260,586	\$ 84,574	\$ 5,247	\$ 52,503	\$ 1,128	\$ 117,135	\$ 24,851	1,303	895
Monte Sereno	1,383	55	1,278	\$ 3,323	\$ 5,186	\$ 789	\$ 3,220	\$ 69	\$ (5,941)	\$ 11,138	139	135
Morgan Hill	15,350	614	43,759	\$ 113,774	\$ 57,563	\$ 2,252	\$ 35,735	\$ 768	\$ 17,456	\$ 78,579	1,881	384
Mountain View	36,727	1,469	77,033	\$ 200,285	\$ 137,726	\$ 4,700	\$ 85,500	\$ 1,836	\$ (29,478)	\$ 39,356	1,628	802
Palo Alto	29,298	0	63,437	\$ 164,936		\$ -	\$ -	\$ 1,465	\$ 163,471			
San Jose	336,507	13,460	810,331	\$ 2,106,860	\$ 1,261,901	\$ 114,172	\$ 783,388	\$ 16,825	\$ (69,427)	\$ 476,507	20,026	19,470
Santa Clara	48,975	1,959	160,175	\$ 416,455	\$ 183,656	\$ 9,178	\$ 114,014	\$ 2,449	\$ 107,157	\$ 121,604	3,920	1,565
Saratoga	11,301	452	19,996	\$ 51,990	\$ 42,379	\$ 4,458	\$ 26,309	\$ 565	\$ (21,720)	\$ 45,244	831	760
Sunnyvale	60,273	2,411	116,128	\$ 301,932	\$ 226,024	\$ 6,717	\$ 140,316	\$ 3,014	\$ (74,138)	\$ 152,321	3,672	1,145
Unincorporated	18,558	742	38,112	\$ 99,092	\$ 69,593	\$ 4,640	\$ 43,203	\$ 928	\$ (19,271)	\$ 57,932	1,677	791
Total	665,303	25,440	1,619,047	\$ 4,209,522	\$ 2,385,019	\$ 176,572	\$ 1,480,620	\$ 33,265	\$ 134,047	\$ 1,274,282	41,345	30,110

Notes: Number of HH and Disposal tonnage are based on FY2019-2020 actuals. Anticipated participation and anticipated participation at SJ facility are based on 15% increase from FY2018-2019 actual participation.

**ATTACHMENT B: ESTIMATED ANNUAL HHW PROGRAM FIXED COSTS
FOR FISCAL YEARS 2022, 2023, AND 2024**

FIXED COST		
Staff Salary and Benefits		\$1,568,216
County Admin Overhead		\$421,899
County Counsel		\$13,650
Phones and Communications		\$10,605
Facilities Lease Costs	San Jose	\$176,572
Vehicle Costs		\$34,125
Office Supplies and postage		\$1,916
Maintenance, Software		\$115,500
HHW Hotline		\$50,000
Garbage & Utilities		\$36,488
Membership & Dues		\$15,750
Training & Conference		\$5,250
Safety Wear		\$21,840
Printing		\$13,583
Other Services & Supplies		\$56,175
ESTIMATED ANNUAL TOTAL		\$2,541,568

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2021-2022***

2021/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
July	Thurs,Fri	1,2	San Jose	Permanent	
	Saturday	3	No Event	No Event	4th OF JULY WEEK
	Wed,Thurs,Fri,Sat	7,8,9,10	San Jose	Permanent	
	Fri,Sat	9,10	San Martin	Permanent	
	Thurs,Fri,Sat	15,16,17	San Jose	Permanent	
	Saturday	17	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	21,22,23,24	San Jose	Permanent	
	Thurs,Fri,Sat	29,30,31	San Jose	Permanent	
August	Wed,Thurs,Fri,Sat	4,5,6,7	San Jose	Permanent	
	Fri,Sat	6,7	San Martin	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Saturday	14	Mountain View	Temporary	TBD
	Wed,Thurs,Fri,Sat	18,19,20,21	San Jose	Permanent	
	Thurs,Fri,Sat	26,27,28	San Jose	Permanent	
September	Wed,Thurs,Fri	1,2,3	San Jose	Permanent	
	Saturday	4	No Event	No Event	LABOR DAY WEEKEND
	Thurs,Fri,Sat	9,10,11	San Jose	Permanent	
	Fri,Sat	10,11	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	15,16,17,18	San Jose	Permanent	
	Saturday	18	Santa Clara	Temporary	TBD
	Wed,Thurs,Fri,Sat	22,23,24,25	San Jose	Permanent	
	Thursday	30	San Jose	Permanent	
October	Fri,Sat	1,2	San Jose	Permanent	
	Fri, Sat	1,2	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	6,7,8,9	San Jose	Permanent	
	Thurs,Fri,Sat	14,15,16	San Jose	Permanent	
	Saturday	16	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	20,21,22,23	San Jose	Permanent	
	Thurs,Fri,Sat	28,29,30	San Jose	Permanent	
November	Wed,Thurs,Fri,Sat	3,4,5,6	San Jose	Permanent	
	Fri, Sat	5,6	San Martin	Permanent	
	Fri,Sat	12,13	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	17,18,19,20	San Jose	Permanent	
	Tuesday	23	San Jose	Permanent	
	Thurs,Fri,Sat	25,26,27	No Event	No Event	THANKSGIVING
December	Wed,Thurs,Fri,Sat	1,2,3,4	San Jose	Permanent	
	Fri, Sat	3,4	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	8,9,10,11	San Jose	Permanent	
	Thurs,Fri,Sat	16,17,18	San Jose	Permanent	
	Tues,Wed,Thurs	21,22,23	San Jose	Permanent	
	Fri,Sat	24,25	No Event	No Event	CHRISTMAS
	Tues,Wed,Thurs	28,29,30	San Jose	Permanent	
	Friday	31	No Event	No Event	NEW YEAR's DAY

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2021-2022* (Continued)**

2022/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
2022/Jan	Saturday	1	No Event	No Event	NEW YEAR's DAY
	Thurs,Fri,Sat	6,7,8	San Jose	Permanent	
	Fri, Sat	7,8	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	12,13,14,15	San Jose	Permanent	
	Saturday	15	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	19,20,21,22	San Jose	Permanent	
	Thurs,Fri,Sat	27,28,29	San Jose	Permanent	
	Saturday	29	Santa Clara	Temporary	TBD
February	Wed,Thurs,Fri,Sat	2,3,4,5	San Jose	Permanent	
	Fri, Sat	4,5	San Martin	Permanent	
	Thurs,Fri,Sat	10,11,12	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	16,17,18,19	San Jose	Permanent	
	Thurs,Fri,Sat	24,25,26	San Jose	Permanent	
March	Wed,Thurs,Fri,Sat	2,3,4,5	San Jose	Permanent	
	Fri, Sat	4,5	San Martin	Permanent	
	Thurs,Fri,Sat	10,11,12	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	16,17,18,19	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	23,24,25,26	San Jose	Permanent	
April	Fri,Sat	1,2	San Jose	Permanent	
	Fri, Sat	1,2	San Martin	Permanent	
	Wed,Thurs,Fri,Sat	6,7,8,9	San Jose	Permanent	
	Saturday	9	Los Altos	Temporary	TBD
	Thurs,Fri,Sat	14,15,16	San Jose	Permanent	
	Saturday	16	Sunnyvale	Temporary	TBD
	Wed,Thurs,Fri,Sat	20,21,22,23	San Jose	Permanent	
	Thurs,Fri,Sat	28,29,30	San Jose	Permanent	
	Saturday	30	Santa Clara	Temporary	TBD
May	Wed,Thurs,Fri,Sat	4,5,6,7	San Jose	Permanent	
	Fri, Sat	6,7	San Martin	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Wed,Thurs,Fri,Sat	18,19,20,21	San Jose	Permanent	
	Thurs,Fri	26,27	San Jose	Permanent	
	Saturday	28	No Event	No Event	MEMORIAL DAY WEEKEND
June	Wed,Thurs,Fri,Sat	1,2,3,4	San Jose	Permanent	
	Fri, Sat	3,4	San Martin	Permanent	
	Thurs,Fri,Sat	9,10,11	San Jose	Permanent	
	Wed,Thurs	15,16	San Jose	Permanent	
	Friday	17	No Event	No Event	JUNETEENTH DAY
	Saturday	18	San Jose	Permanent	
	Saturday	25	Milpitas	Temporary	TBD
	Thurs,Fri,Sat	23,24,25	San Jose	Permanent	
	Wed,Thurs	29,30	San Jose	Permanent	
*SUBJECT TO CHANGE					

ATTACHMENT D:**COUNTY HOUSEHOLD HAZARDOUS WASTE
EMERGENCY COLLECTION PLAN****1. PURPOSE**

The purpose of the Household Hazardous Waste Emergency Collection Plan is to minimize potential public health and safety impacts, as well as to minimize costs and confusion during an emergency or disaster. This Attachment describes the services the County can provide and the responsibilities of each party for the collection of household hazardous wastes (HHW) in response to an emergency as defined by the local jurisdiction.

Jurisdictions should contact local emergency agencies, the Governor's Office of Emergency Services (OES), and the Department of Toxic Substances Control (DTSC) for more specific information on hazardous materials emergency response.

2. Timing of HHW

While it is important to have special collection opportunities for disaster-related HHW as soon as possible to avoid illegal disposal or harm to people and/or the environment, having an event or service too soon after a disaster may result in low participation. Sufficient public notification, assessment and monitoring of the disaster and cleanup process by the designated City HHW Coordinator(s) is essential.

3. Public Information/Notification:

Cities should be prepared to provide the public with information related to the problems associated with HHW along with information about special collection events and services. Upon the decision to hold an emergency collection event, it is the City's responsibility to prepare and deliver the necessary public outreach to notify the public of an upcoming event. A City's public outreach program should evaluate all forms of media including: newspaper ads, posters, flyers, press releases, banners, door-to-door notices, roadside signs, signs on dumpsters, radio public service announcements, social media outlets and television public access stations. Be aware of communities where multiple language outreach efforts will be necessary.

4. State HHW Collection Permits

The State Department of Toxic Substances Control (DTSC) is responsible for issuing the necessary state permits for HHW collection facilities. During an emergency, the County will obtain the necessary emergency permit for special collection of household hazardous waste from DTSC through their expedited approval process.

5. Collection Events

Temporary collection events can be set-up at various sites including parking lots, city maintenance yards, within neighborhoods needing service, and at landfills or a centralized location to service larger segments of the population. Waste collected will be transported with a transportation vehicle provided by the HHW Program. In addition, events can be scheduled at the two existing Countywide Household Hazardous Waste Collection Facilities (CoHHWCF). The following options are available to each participating City.

- Neighborhood Drop-off Events: The County is able to provide localized service to specific areas in need of household hazardous waste collection services. The County will work with City Solid Waste Coordinators to conduct coordinated efforts to residents in the affected area. After a specific event, waste will be transported by County staff or a hazardous waste contractor to an appropriate facility.
- Mobile HHW Event: The County conducts Household Hazardous Waste Collection Event (Events) at various sites located in Santa Clara County throughout the year. Events will be expanded to give priority to disaster victims when requested by the City. The County shall obtain all necessary permits and licenses required for the events and shall provide and/or contract for the services of properly trained personnel and hazardous waste haulers. The County shall also provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at events.
- CoHHWCF: The County operates two permitted HHW collection facilities for the collection and storage of HHW. The County shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected at the CoHHWCF.

The CoHHWCF are located at:

- *San Martin, 13055 Murphy Ave, San Martin*
- *San Jose, 1608 Las Plumas, San Jose*

6. Costs, Documentation, and Reimbursements

Cities will be billed on a cost recovery basis. Costs of emergency events will be tracked and billed separately. Emergency funding applications pending from the State or Federal government for reimbursements in no way relieves the City of responsibility to make timely payment to the County in accordance with the terms of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

The County agrees to provide the City with a detailed accounting of services provided for an emergency collection. Documentation will track the time and materials of staff, outside contractor expenses, and quantities and types of waste collected to demonstrate that the wastes were generated above and beyond existing collection programs.

Services to businesses will be provided on a cost recovery basis and according to Section 12 of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM, which includes program administration, on-site collection,

transportation, and disposal costs. The County will assume responsibility for collecting fees from participating businesses.

7. State and Federal Assistance and Funds

It is the City responsibility to pursue reimbursement from State or Federal agencies.

State Office of Emergency Services (OES)

The OES is responsible for requesting assistance on behalf of local jurisdictions for resources beyond the capability of the jurisdiction. State assistance may include assistance available from State, Federal, or private sources. If a local jurisdiction is declared a state disaster area, and the local jurisdiction deems that the needs of the disaster response are beyond its capabilities, then the local jurisdiction can request assistance and reimbursement of costs from OES.

Follow Standardized Emergency Management System (SEMS)

All requests and emergency responses must be in accordance with the SEMS. The State Department of Toxic Substances Control may have funding available for hazardous waste response and collection.

Federal Assistance

If a state disaster area is declared a federal disaster, then federal funding assistance may be available through the State OES. Funding and assistance may be available from Federal agencies such as FEMA and the U.S. EPA.

Damage estimates: The city should provide to the State OES estimates of damages and a "scope of work requested." It is recommended that the local HHW coordinator meet ahead of time with local emergency agencies or State OES contacts regarding the proper procedures and wording of requests for assistance.

Funding Process: The funding process may vary depending on the unique circumstances of the disaster. The process can either be the traditional FEMA reimbursement process, or by direct assistance from EPA.

REFERENCES

California Integrated Waste Management Board, Integrated Waste Management Disaster Plan: Guidance for local government on disaster debris management, January 1997.

Emergency Planning Contacts and Personnel

Primary County Contact: County of Santa Clara
 Consumer and Environmental Protection Agency
 Recycling and Waste Reduction Division
 Household Hazardous Waste Program
 ATTN: Hazardous Materials Program Manager
 (408)-918-1967

For Non-Emergency after-hours, contact County Communications at: (408) 977-3220

Responsibility: Coordinate and establish proper collection and disposal methods for household hazardous waste. Assess the need for HHW and CESQG services in consultation with the City and other operations.

Cal OES Public Safety Communications Main Office

601 & 630 Sequoia Pacific Boulevard
 Sacramento, CA 95811
 (916) 657-9494

Cal OES

3650 Schriever Avenue
 Mather, CA 95655-4203
 (916) 845-8510

CHEMTREC Emergency number, (800) 424-9300
 Non-emergency (800) 262-8200

Chemtrec is a public service established by the Chemical Manufacturers Association. The Center was developed as a resource for obtaining immediate emergency response information to mitigate accidental chemical releases, and as a means for emergency responders to obtain technical assistance from chemical industry product safety specialists, emergency response coordinators, toxicologists, physicians, and other industry experts to safely mitigate incidents involving chemicals.

EXHIBIT B-2D (revised)

INSURANCE REQUIREMENTS FOR
ENVIRONMENTAL SERVICES CONTRACTS

(Hazardous Waste Disposal, Remediation Services, Environmental Consulting, etc.)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

EXHIBIT B-2D (revised)

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$1,000,000
 - b. General aggregate - \$2,000,000
 - c. Products/Completed Operations aggregate - \$2,000,000
 - d. Personal Injury - \$1,000,000

2. General liability coverage shall include:
 - a. Premises and Operations
 - b. Products/Completed
 - c. Personal Injury liability
 - d. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the

EXHIBIT B-2D (revised)

additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles. Coverage shall include Environmental Impairment Liability Endorsement MCS90 for contracts requiring the transportation of hazardous materials/wastes.

4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

6. Contractors Pollution Liability Insurance

Coverage shall provide a minimum of not less than five million dollars (\$5,000,000) per occurrence and aggregate for bodily injury, personal injury, property damage and cleanup costs both on and offsite.

7. Professional Errors and Omissions Liability Insurance (required for contractors providing professional services, such as through a professional engineer, registered geologist, etc.)

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence/aggregate.
- b. If coverage contains a deductible or self-retention, it shall not be greater than fifty thousand dollars (\$50,000) per occurrence/event.

EXHIBIT B-2D (revised)

- c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this Agreement.

8. Claims Made Coverage

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or

EXHIBIT B-2D (revised)

countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

**AGREEMENT FOR COUNTYWIDE
AB939 IMPLEMENTATION FEE**

This Agreement is made by and among the Cities and Towns of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Morgan Hill, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale (CITIES) and the County of Santa Clara (COUNTY) on the _____ day of _____ 2021. The term CITIES may refer to CITIES collectively or individually.

RECITALS

WHEREAS, pursuant to Public Resources Code Section 41901, a city, county, or city and county may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan;

WHEREAS, State law, Public Resource Code Section 41750, requires that the countywide integrated waste management plans contain a household hazardous waste (“HHW”) element for each city within the county as well as for the unincorporated area of the county;

WHEREAS, the County of Santa Clara Board of Supervisors (“Board”) has imposed a Countywide AB939 Implementation Fee (“Fee”) since July 1, 1992 to pay for the costs of preparing, adopting, and implementing integrated waste management plans and programs, including HHW program elements;

WHEREAS, the Board has approved reimposing the Fee for Fiscal Years 2022, 2023, and 2024 (July 1, 2021 through June 30, 2024) at \$4.10 per ton of waste landfilled or incinerated in the County; received at any nondisposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County; and removed from any location in the County by any person or business for disposal or incineration outside the County;

WHEREAS, HHW programs provide household hazardous waste management services to residents of Santa Clara County and are necessary to meet HHW planning and management requirements under State law;

WHEREAS, jurisdictions in Santa Clara County desire to provide safe, convenient, and economical means for residents to properly dispose of household hazardous wastes in an environmentally safe manner in order to avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground or in any other manner which creates a health or environmental hazard. These wastes include, but are not limited to, common household products such as household cleaning products, spot remover, furniture polish, solvents, oven cleaner, pesticides, oil based paints, motor oil, antifreeze, fluorescent lamps, and batteries; and

WHEREAS, the County will collect the Fee on behalf of the fifteen cities and for the unincorporated area of the County and will apportion the Fee according to the terms of this Agreement.

NOW THEREFORE, CITIES and COUNTY AGREE AS FOLLOWS:

1. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which the COUNTY will collect and distribute the Fee of \$4.10 per ton of waste to be disposed in Fiscal Years 2022, 2023 and 2024. The Fee is divided into two parts: 1) a Program Fee of \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the integrated waste management plan in the fifteen cities and the unincorporated area of the County; and 2) a Household Hazardous Waste Fee of \$2.60 per ton to provide funding to implement the Countywide HHW Program. The Program Fee will be allocated among the CITIES and COUNTY as described in Exhibit B, attached hereto and incorporated herein. The HHW Fee will be allocated to the COUNTY, CITIES, and Countywide HHW Program as described in Exhibit C, attached hereto and incorporated herein. The Fee shall be imposed on each ton of waste landfilled or incinerated within the County; received at any non-disposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County; or removed from any location in the County by any person or business for disposal or incineration outside the County. Non-Disposal Facilities are defined as those facilities included in the County of Santa Clara Non-Disposal Facility Element (and subsequent amendments to that Element) and are listed in Exhibit A, attached hereto and incorporated herein.

2. SERVICES PROVIDED BY COUNTY

COUNTY will collect and distribute the Fee. COUNTY will collect the Fee from landfills and non-disposal facilities listed in Exhibit A, and any landfill or non-disposal facility subsequently permitted, on a quarterly basis using data from tonnage reports filed by landfill and non-disposal facility operators with the County Recycling and Waste Reduction Division. COUNTY shall require each landfill and non-disposal facility to submit required payment, documentation of tonnages disposed, and state-mandated Disposal Reporting System Reports on a quarterly basis, within 45 days of the end of each calendar quarter. Late submissions and/or payments shall be subject to a late filing penalty and delinquent penalties. COUNTY will research Santa Clara County tonnage reported to COUNTY by landfills outside the COUNTY in significant amounts to determine the identity of the hauler. That hauler will subsequently be billed in the same fashion subject to the same penalties as mentioned above. Collected funds and any late filing payments and delinquency penalties shall be distributed to CITIES and Countywide HHW Program based on the formula set forth in Exhibits B and C. COUNTY shall not be obligated to distribute funds that COUNTY has been unable to collect from landfill or non-disposal facility operators.

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3. ROLE OF CITIES

CITIES shall review the Disposal Reporting System Reports as prepared and submitted by the COUNTY and within 30 days of receipt shall report to COUNTY, with appropriate documentation, errors in waste allocations among jurisdictions.

4. COLLECTION AND USE OF FEE

Each ton of waste will be subject to the fee if it is landfilled or incinerated in the County; received at any non-disposal facility or collection facility in the County and subsequently transported for disposal or incineration outside the County; collected from any location within the County by a solid waste hauler operating under franchise, contract, license, or permit issued by a local jurisdiction and subsequently transported for disposal or incineration outside the County; or removed from any location in the County by any person or business for disposal or incineration outside the County. Best efforts will be made to prevent tonnage from being assessed a double fee (for instance, once at a non-disposal facility and again at a landfill within Santa Clara County). The Program Fee funding share paid to CITIES shall be used to assist in funding the CITIES' costs of preparing, adopting, and implementing the integrated waste management plan of each of the CITIES and the unincorporated area of the COUNTY. The HHW Fee portion shall be applied to fund the costs of CITIES' share of Countywide Household Hazardous Waste services; any HHW fees directly disbursed to CITIES as provided in this Agreement shall be used to fund the costs of preparing, adopting, and implementing the jurisdiction's HHW element of the Countywide integrated waste management plan, including providing HHW services to residents.

5. INSURANCE

Each party shall maintain its own insurance coverage, through third party insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage or liability arising out of the performance of its responsibilities pursuant to this Agreement. CITIES agree to provide evidence of such insurance to COUNTY via Certificate of Insurance or other documentation acceptable to the COUNTY upon request.

6. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITIES and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the parties agree that each of the parties hereto shall fully indemnify and hold each of the other parties harmless from any claim, expense or cost, damage or liability arising out of, or in connection with, performance of its responsibilities pursuant to this Agreement and as described in Exhibit D.

Additionally, CITIES shall indemnify, hold harmless, and defend COUNTY, its officers, agents, and employees with respect to any loss, damage, liability, cost or expenses, including attorney fees and court costs, arising from any misuse of the Fee distributed to CITIES. COUNTY shall indemnify, hold harmless, and defend CITIES, its officers, agents, and

employees with respect to any loss, damage, liability, cost or expenses, including attorney fees and court costs, brought by third parties based on COUNTY's sole negligence in the collection or distribution of said Fees.

7. DISTRIBUTION OF FEE

COUNTY shall distribute the AB939 Program Fee to CITIES and the HHW Program Fee to the Countywide HHW Program pursuant to the formulas described in Exhibits B and C within 45 days of receipt of landfill and non-disposal facility payments and disposal documentation required for calculation of Fee distribution amounts. Distributions shall begin December 15, 2021, and continue quarterly through October 15, 2024.

8. PARTICIPATION IN THE COUNTYWIDE HHW PROGRAM

CITIES, at their option, may individually participate in the Countywide HHW Program by entering into the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

9. LATE PAYMENTS

If Fee payments and disposal documentation are not received from landfill or non-disposal facility operators prior to scheduled distribution of payments to CITIES and the Countywide HHW Program, payment distribution shall be calculated on a pro rata share of monies received. Upon collection, late payments and accrued delinquent penalties, if any, shall be distributed among CITIES and the Countywide HHW Program according to the formula in Exhibits B and C.

10. ACCOUNTING

COUNTY shall maintain records of all transactions related to collection, use and distribution of the Fee for at least five (5) years after the termination date of this Agreement, unless otherwise required by law to retain such records for a longer period. Such records will be available for inspection upon written request by CITIES, and will include but not be limited to tonnage reports submitted by landfills and non-disposal facilities, waste stream documentation provided by cities, payments made by the landfills and non-disposal facilities to the COUNTY and by the COUNTY to CITIES, and expenditures for programmatic and overhead costs.

11. REQUEST FOR REVIEW

In the event CITIES have a dispute regarding the calculation of its share of the Fee or the distribution or use of the Fee, CITIES may request in writing a review by COUNTY within 10 days of receipt of their Fee allocation. The review shall be performed within 30 days of request and results shall be reported to CITIES in writing.

12. EFFECTIVE DATE OF AGREEMENT

This agreement is effective upon approval by all fifteen CITIES and the COUNTY.

13. AMENDMENT

This Agreement may be amended only by an instrument signed by all fifteen CITIES and the COUNTY.

14. INDEPENDENT CONTRACTOR

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

15. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2021 to June 30, 2024, or until all funds from the last quarter's Fee payments have been distributed, whichever is later. COUNTY shall bill the operators of the landfills and non-disposal facilities listed in Exhibit A for the Fee commencing with the Quarter ending September 30, 2021. Said landfills and non-disposal facilities will be billed for the Fee through June 30, 2024.

16. NOTICES

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such address as the party may designate in writing in accordance with this section.

City of _____
 Contact: _____
 Title: _____
 Address: _____

County of Santa Clara
 Contact: Recycling and Waste Reduction Program Manager
 Recycling and Waste Reduction Division
 Address: 1555 Berger Drive, Suite 300
 San Jose, CA 95112

17. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

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18. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designees.

19. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

20. CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

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IN WITNESS WHEREOF, the parties have executed this AGENCY AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE on the dates as stated below:

Date: _____

COUNTY OF SANTA CLARA

MIKE WASSERMAN, President
Board of Supervisors

Date: _____

“CITY”

CITY/TOWN OF _____
Title _____
A municipal corporation

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors
ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

STEPHANIE SAFDI
Deputy County Counsel

EXHIBIT A**LANDFILLS LOCATED IN SANTA CLARA COUNTY**

Guadalupe Rubbish Disposal Site
 Kirby Canyon Sanitary Landfill
 Newby Island Sanitary Landfill
 Zanker Materials Processing Facility
 Zanker Road Landfill

**NON-DISPOSAL FACILITIES AND TRANSFER STATIONS LOCATED IN
 SANTA CLARA COUNTY**

California Waste Solutions Recycling & Transfer Station
 City of Palo Alto Green Composting Facility
 Environmental Resource Recovery, Inc. (Valley Recycling)
 Green Earth Management LLC Kings Row Recycling Facility
 Green Waste Materials Facility and Transfer Station
 Green Waste Recovery Facility
 GreenTeam of San Jose Material Recovery Facility and Transfer Station
 Guadalupe Landfill
 Lam Hauling Inc. Chipping and Grinding
 Lam Hauling Inc. Inert Debris Type A
 Leo Recycle
 Material Recovery Systems Facility
 Mission Trail Waste Systems, Inc.
 Newby Island Compost Facility
 Pacheco Pass Transfer Station
 Pacific Coast Recycling, Inc.
 Premier Recycle Facility
 Recology Silicon Valley Processing and Transfer Facility
 The Recyclery at Newby Island
 San Martin Transfer Station
 Smurfit-Stone Recycling San Jose Facility
 South Valley Organics
 Stanford Recycling Center and Direct Transfer Facility
 Sunnyvale Materials Recovery and Transfer Station (SMaRT Station)
 Valley Recycling San Jose CDI Processing/Transfer Facility
 Wood Processing Facility at Recology Pacheco Pass
 Z-Best Composting Facility
 Zanker Materials Processing Facility
 Zanker Road Class III Landfill
 Zero Waste Energy Development Company Anaerobic Digestion Facility

EXHIBIT B**FORMULA FOR DISTRIBUTION OF AB939 PROGRAM FEE**

Each of the CITIES, and the COUNTY for its unincorporated area, will receive \$1.50 per ton of solid waste disposed of in landfills or taken to non-disposal facilities located in Santa Clara County that originates from that jurisdiction, as documented in quarterly reports submitted by the County to the State Disposal Reporting System.

Fees collected from undocumented disposed tonnage, or tonnage originating outside of Santa Clara County, will be distributed according to each jurisdiction's percent of countywide population, according to the latest available population report issued by the California Department of Finance.

EXHIBIT C

COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM FEE (HHW Fee)

1. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 et seq. Public Resources Code Section 41901 authorizes imposition of a fee to support planning and implementation of integrated waste management programs, including their HHW elements. The HHW Fee, of \$2.60 per ton, collected as part of the AB939 Implementation Fee, will be the primary source of funding for Countywide Household Hazardous Waste Collection Program (CoHHW Program) services.

Funds derived from the HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- B. San Jose Facility Use Surcharge will be apportioned based on CITIES' anticipated participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San Jose.
- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of households in all participating jurisdictions. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San Jose Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Public Resources Code Section 41904.

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2. FIXED PROGRAM COST

Funds shall be allocated on a per household basis for Fixed Program Costs at the conclusion of each Fiscal Year. This portion of the funds shall be distributed directly to the Countywide HHW Program to pay for HHW Program costs. Fixed Program Costs funding shall be calculated shall not exceed \$3.75 per household in Fiscal Years 2022, 2023, and 2024. Fixed Program Costs may include, but are not limited to eleven (11) CoHHW Program staff members, facility leasing costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance, and union negotiated salary and benefit changes.

3. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Costs to the CITY based on a charge of \$.05 per household are set forth in Attachment A, attached hereto and incorporated herein. Any existing unexpended non-profit abandoned waste fund balance may be allocated toward funding of disposal of HHW illegally abandoned at nonprofit charitable reuser organizations as defined in Public Resources Code Section 41904.

For the purposes of this agreement, a nonprofit charitable reuse organization has the definition provided in Public Resources Code Section 41904 as follows: “Nonprofit charitable reuser” means a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

4. SAN JOSE FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY residents’ proportional participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.29 per car for Fiscal Years 2022, 2023, and 2024. The total San Jose Facility Use Surcharge for CITY will be based on CITY’s participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San Jose.

5. VARIABLE COST PER CAR

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County HHW Collection Facilities and Temporary Events. This portion of the funds shall be distributed directly to the Countywide HHW Program. The Variable Cost Per Car is estimated to be \$58.20 per car for

Fiscal Years 2022, 2023, and 2024. The estimated cost per car will be adjusted annually to reflect actual service costs. After fixed costs and San Jose Facility Use Surcharge are allocated on a per household basis, the variable cost per car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached, the Countywide HHW Program will use the remaining balance of funds, in cooperation with the CITIES, to increase public outreach and/or provide additional services in that jurisdiction where the level of 4% is not reached the following year.

6. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion will be allocated based on the tons of waste generated within each jurisdiction and after allocation of Fixed Program Cost, San Jose Facility Use Surcharge, and Variable Per Car Cost. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in the jurisdiction by the Countywide HHW Program, universal waste collection, emergency HHW services, funding HHW public education, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. CITIES authorize the COUNTY to determine appropriate uses of available discretionary funding and to use CITIES' Available Discretionary Funding portion of the AB939 HHW Fee to provide for additional HHW services requested by the CITIES.

7. PROGRAM FUNDING PASS-THROUGH

Annual funding calculations include HHW Fees collected on behalf of all jurisdictions in the County. CITIES, at their option, may participate in the Countywide HHW Program by entering into the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM. If CITIES elect to participate in the Countywide HHW Program, their pro-rata share of the HHW Fee shall be retained by the County to utilize for HHW Program costs, as provided in this Agreement and the Agreement for Countywide Household Hazardous Waste Collection Program. The COUNTY will distribute to CITIES not participating in the Countywide Household Hazardous Waste Collection Program their pro-rata share of funding received by the COUNTY from the HHW Fee, except that the COUNTY may retain and expend that portion of the non-participating CITIES' fee attributable to Abandoned Waste Disposal Costs.

If CITIES not participating in the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM desire to allow residents to participate in HHW Program services on an emergency basis, then services to these residents will be provided on a cost recovery basis. A charge equal to the established rates charged by the Countywide HHW Program to Conditionally Exempt Small Quantity Generators will be billed to the CITIES. A CITIES' representative must call the Countywide HHW Program appointment line to schedule an appointment for the resident. Liability shall be apportioned as provided in Exhibit D to this Agreement.

EXHIBIT D

SECTION 28 OF AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

HOLD HARMLESS AND INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 23 of the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste shall be shared by the cities and the county as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require Conditionally Exempt Small Quantity Generators (“CESQG”) and Nonprofit Charitable Reusers to indemnify COUNTY for, at minimum, their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The CESQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to CESQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY’s apportioned share of any liability for household hazardous waste.



CONSENT CALENDAR

Agenda Item # 3

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Resolution No. 2021-22: Solid Waste Rate Adjustment

Prepared by: Emiko Ancheta, Sustainability Coordinator

Reviewed by: James Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachments:

1. Resolution No. 2021-22
2. Maximum Rates for Adoption (FY 2021/22)

Initiated by:

Staff; Solid Waste Franchise Agreement

Previous Council Consideration:

May 28, 2019, May 12, 2020

Fiscal Impact:

An 8.48% increase in rates charged for service affects all rate payers, including the City.

Environmental Review:

This is exempt from environmental review under section 15273 (a) of the California Environmental Quality Act (CEQA) Guidelines, because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of Meeting operating expenses.

Policy Question(s) for Council Consideration:

None

Summary:

- The City of Los Altos Municipal Code Section 6.12.020 - Charge for solid waste collection service states that “Any and all charges for solid waste collection service shall be set forth in the franchise agreement, contract or the collection service agreement between the city and its franchised hauler”
- The Franchise Agreement with Mission Trail Waste Systems (MTWS) provides for periodic rate adjustments based on the Water-Sewer-Trash Consumer Price Index
- The negotiations for an extension of the franchise agreement concluded in 2020 resulted in an extension and restatement of the Agreement, which specifies rate increases at 8.48% in each 2020, 2021, and 2022

Reviewed By:

Interim City Manager

City Attorney

Interim Finance Director

BK

JH

JM



Subject: Resolution No. 2021-22: Solid Waste Rate Adjustment

-
- The amended and restated agreement with MTWS was executed April 23, 2020
 - The increase that will be applied to the existing Solid Waste Collection rates is 8.48% and is captured in the Maximum Service Rates exhibit in Attachment 2

Staff Recommendation:

Adopt Resolution No. 2021-22, authorizing the increase of Solid Waste Collection Rates by 8.48% effective July 1, 2021



Subject: Resolution No. 2021-22: Solid Waste Rate Adjustment

Purpose

Adopt Resolution No. 2021-22, authorizing the increase of Solid Waste Collection Rates by 8.48% effective July 1, 2021

Background

The City of Los Altos Municipal Code Section 6.12.020 - Charge for solid waste collection service states that “Any and all charges for solid waste collection service shall be set forth in the franchise agreement, contract or the collection service agreement between the city and its franchised hauler.” The Franchise Agreement with Mission Trail Waste Systems (MTWS) provides for periodic rate adjustments based on the Consumer Price Index, as defined below, and establishes that the next adjustment would apply to service beginning July 1, 2021.

The Franchise Agreement provides that MTWS shall charge service recipients an amount not to exceed the Maximum Service Rates (Attachment 2) approved by City Resolution as may be adjusted under the terms of the agreement.

The amended and restated Franchise Agreement was executed on April 23, 2020.

Discussion/Analysis

At its October 22, 2019 meeting, the City Council approved an extension of the Franchise Agreement concluded in 2020, which resulted in an amended and restated Franchise Agreement that specifies rate increases of 8.48% on each July 1st of 2020, 2021, and 2022. Thereafter, annual rate adjustments will be based upon the inflationary index measure for Water-Sewer-Trash (U.S. Department of Labor, Bureau of Labor Statistics, Series Id: CUSR0000SEHG, Water and sewer, and trash collection services in U.S. city average, all urban consumers, seasonally adjusted, U.S. city average) as well as an adjustment for organics processing cost increases and, in one year, a change in the cost of disposal. The 8.48% increases include CPI adjustments each year.

Option

- 1) Adopt Resolution No. 2021-22, authorizing the increase of Solid Waste Collection Rates by 8.48% effective July 1, 2021

Advantages: The rate increase is in accordance with the newly executed Amended and Restated Collection Service Agreement (i.e., Franchise Agreement)

Disadvantages: None

Recommendation

The staff recommends Option 1.

RESOLUTION NO. 2021-22

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AUTHORIZING THE INCREASE OF SOLID WASTE COLLECTION RATES
BY 8.48% EFFECTIVE JULY 1, 2021**

WHEREAS, the City of Los Altos Municipal Code Section 6.12.020 (Charge for solid waste collection service) states that “Any and all charges for solid waste collection service shall be set forth in the franchise agreement, contract or the collection service agreement between the City and its franchised hauler.”; and

WHEREAS, the agreement between the City of Los Altos and Mission Trail Waste Systems (MTWS) provides for periodic rate adjustments based on the Water-Sewer-Trash inflation index (i.e., U.S. Department of Labor, Bureau of Labor Statistics, Series Id: CUSR0000SEHG, Water and sewer, and trash collection services in U.S. city average, all urban consumers, seasonally adjusted, U.S. city average); and

WHEREAS, the City Council has determined that the appropriate increase to be effective July 1, 2021 is 8.48%.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby authorizes the attached rate schedule to be applied to solid waste collection services within the service area provided in the City’s Franchise Agreement with Mission Trail Waste Systems.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 11th day of May, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Neysa Fligor, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK

Exhibit 1a Maximum Service Rates – SFD Services Effective July 1, 2021					
A. CURBSIDE COLLECTION SERVICE					
	Garbage Cart Sizes (gallons)	20	32	64	96
1	MONTHLY CURBSIDE RATE	\$39.13	\$42.15	\$84.28	\$126.45
2	Additional Curbside Garbage Cart – (added to Line A2)	\$39.13	\$42.15	\$84.28	\$126.45
B. ON-PREMISE COLLECTION SERVICE					
1	MONTHLY ON-PREMISE RATE (5 – 100 ft)	\$53.75	\$56.74	\$98.89	\$141.04
2	Additional On-Premise Garbage Cart – (added to Line B2)	\$53.75	\$56.74	\$98.89	\$141.04
3	Additional Walk-in Distance – Each 100 feet (add to line B1 or B2)	\$14.97	\$14.97	\$14.97	\$14.97
C. ADDITIONAL BULKY WASTE COLLECTION					
1	Additional On-Call Bulky Waste Collection (Individual Large Items)	\$24.33	Each additional large item (over 3 Large Items per Bulky Waste Collection)		
3	Additional On-Call Bulky Waste Collection (Loose)	\$37.47	Per cubic yard/occurrence (over 2 Bulky Waste Collections per Agreement Year)		
2	Collection of Large Items Containing Freon	\$74.95	Each item/each occurrence		
D. ADDITIONAL CART EXCHANGE OR REPLACEMENT					
1	Additional Garbage Cart Exchange	\$37.47	Each occurrence		
E. ON-CALL HHW COLLECTION					
1	On-Call HHW Collection	\$37.47	Each occurrence		
F. DISPOSAL COST PER TON COST					
	Disposal Facility Charge Per Ton	City Contract Rate	Newby Island Sanitary Landfill		

Exhibit 1b
Maximum Service Rates – Commercial and MFD Services
Effective July 1, 2021

Container Size	Collection Frequency					
	1X Week	2X Week	3X Week	4X Week	5X Week	6X Week
32 Gallon	\$42.14	\$84.28	\$126.43	\$168.55	\$210.71	\$252.83
64 Gallon	\$84.28	\$168.58	\$252.85	\$337.18	\$421.44	\$505.74
96 Gallon	\$126.45	\$252.84	\$379.28	\$505.72	\$632.16	\$758.54
1 CY BIN	\$165.35	\$330.75	\$496.08	\$661.45	\$826.82	\$992.16
2 CY BIN	\$330.75	\$661.45	\$992.16	\$1,322.89	\$1,653.62	\$1,984.34
3 CY BIN	\$496.07	\$992.16	\$1,488.27	\$1,984.35	\$2,480.44	\$2,976.51
4 CY BIN	\$661.45	\$1,322.89	\$1,984.35	\$2,645.76	\$3,307.25	\$3,968.72
6 CY BIN	\$992.16	\$1,984.35	\$2,976.51	\$3,968.69	\$4,960.86	\$5,953.03
Bin Push Rates (rate multiplied by collection frequency)	0 - 25 feet	\$31.13	per month for each 25 feet			
	No Charge		increment over the first 25 feet			
Disposal Charge Per Ton			City Contract Rate	Newby Island Sanitary Landfill		
Organic Waste Processing Charge Per Ton			City Contract Rate	Zanker Road Processing Facility		
Organic Waste Processing Charge Per Ton			MTWS Contract Rate	Newby Island Processing Facility, (must be approved by CITY)		
Mixed C&D, Inerts, Green Waste, Wood Waste Processing Charge Per Ton			City Contract Rate	Newby Island Processing Facility		
On-Call Bulky Waste Collection (Loose)			\$37.47	Per cubic yard/occurrence		
On-Call Bulky Waste Collection (Individual Large Items)			\$24.34	Each item/each occurrence		
On-Call Bulky Waste – Large Items Containing Freon			\$74.95	Each item/each occurrence		
Charge for Opening Locked Gate			\$37.47	Per month		
Charge for CONTRACTOR supplied lock			\$37.47	Each lock		
Charge for installing lock bar			\$262.31	Each locking bar		
Charge for special bin delivery			\$112.44	Each special bin		
Charge for extra bin service same day			\$112.44	Each occurrence		
Extra Bin Cleaning			\$112.43	Each occurrence		
Additional Garbage Bin Exchange			\$37.47	Each occurrence		
Additional Bin Garbage Replacement			\$112.44	Each occurrence		
Charge for collecting manure			95% of Garbage rate			
Charge for extra day bin service on regular collection day			1/3 of Monthly Rate			
Charge for extra bin service not on regular collection day			1/2 of Monthly Rate			

Exhibit 1c Maximum Service Rates – SFD, MFD and Commercial Debris Box Services Effective July 1, 2021					
10 CY Debris Box	\$804.71	Per Pull		10 CY Compactor	\$913.94 Per Pull
15 CY Debris Box	\$804.71	Per pull		15 CY Compactor	\$913.94 Per Pull
20 CY Debris Box	\$913.94	Per pull		20 CY Compactor	\$921.31 Per Pull
30 CY Debris Box	\$921.31	Per pull		30 CY Compactor	\$921.31 Per Pull
40 CY Debris Box	\$921.31	Per pull		40 CY Compactor	\$921.31 Per Pull
Disposal Charge Per Ton					
		City Contract Rate	Newby Island Sanitary Landfill		
		City Contract Rate	Zanker Road Processing Facility		
		MTWS Contract Rate	Newby Island Processing Facility, (must be approved by CITY)		
		City Contract Rate	Newby Island Processing Facility		
Demurrage Per Charge (not dumped every 7 days)					
		\$179.91	Per week		
Per hour Stand-by Charge (box not ready to be pulled)					
		\$149.91	Per hour		
Saturday Service					
		\$224.85	Per pull		
Charge for Opening Locked Gate					
		\$37.49	Per month		
Notes:					
All 10, 20, 30, 40 CY debris boxes and compactors are pull rates only; disposal or processing will be based on actual disposal processing and the Franchise Fee will be 15% of the gross receipts per box (including collection, processing or disposal). The total customer rate will be the total cost for the collection, processing or disposal and the franchise fee.					

Exhibit 1d
Maximum Service Rates – City Services
Effective July 1, 2021

Container Size	Collection Frequency					
	1X Week	2X Week	3X Week	4X Week	5X Week	6X Week
32 Gallon	\$35.81	\$71.65	\$107.45	\$143.25	\$179.09	\$214.90
64 Gallon	\$71.66	\$143.29	\$214.95	\$286.59	\$358.23	\$429.87
96 Gallon	\$107.47	\$214.92	\$322.42	\$429.86	\$537.33	\$644.78
1 CY BIN	\$140.56	\$281.12	\$421.68	\$562.23	\$702.77	\$843.33
2 CY BIN	\$281.12	\$562.23	\$843.33	\$1,124.45	\$1,405.58	\$1,686.69
3 CY BIN	\$421.68	\$843.33	\$1,265.04	\$1,686.69	\$2,108.36	\$2,530.03
4 CY BIN	\$562.23	\$1,124.45	\$1,686.69	\$2,248.94	\$2,811.17	\$3,373.36
6 CY BIN	\$843.33	\$1,686.69	\$2,530.03	\$3,373.36	\$4,216.74	\$5,060.09
10 CY Debris Box	\$684.01	Per Pull		10 CY Compactor	\$776.83	Per Pull
15 CY Debris Box	\$684.01	Per pull		15 CY Compactor	\$776.83	Per Pull
20 CY Debris Box	\$776.83	Per pull		20 CY Compactor	\$783.12	Per Pull
30 CY Debris Box	\$783.12	Per pull		30 CY Compactor	\$783.12	Per Pull
40 CY Debris Box	\$783.12	Per pull		40 CY Compactor	\$783.12	Per Pull
Public Containers Collection (as included in Exhibit 2)	\$8,532.01	per month	7 days/week			
	\$102,384.00	per 12 months				
Green Waste Drop-off	\$44.97	per ton	MTWS transfer facility in Santa Clara			
Disposal Charge Per Ton	City Contract Rate		Newby Island Sanitary Landfill			
Organic Waste Processing Charge Per Ton	City Contract Rate		Zanker Road Processing Facility			
Organic Waste Processing Charge Per Ton	MTWS Contract Rate		Newby Island Processing Facility, (must be approved by CITY)			
Mixed C&D, Inerts, Green Waste, Wood Waste Processing Charge Per Ton	City Contract Rate		Newby Island Processing Facility			
Notes:						
All 10, 20, 30, 40 CY debris boxes and compactors are pull rates only; disposal or processing will be based on actual disposal processing and the Franchise Fee will be 15% of the gross receipts per box (including collection, processing or disposal). The total customer rate will be the total cost for the collection, processing or disposal and the franchise fee.						

Exhibit 1e Maximum Service Rates – Emergency Service Rates - Employees Effective July 1, 2021	
Labor Position	Hourly Rate
As needed	\$112.44

Exhibit 1f Maximum Service Rates – Emergency Service Rates - Equipment Effective July 1, 2021		
Labor Position or Equipment Type	Make & Model	Hourly Rate
Truck and One person	As needed	\$262.31



CONSENT CALENDAR

Agenda Item # 3

PUBLIC CORRESPONDENCE

Meeting Date: May 11, 2021

Subject: Solid Waste Rate Adjustment

The following is public correspondence received by the City Clerk's Office after the posting of the original agenda. Individual contact information has been redacted for privacy. This may *not* be a comprehensive collection of the public correspondence, but staff makes its best effort to include all correspondence received to date.

To send correspondence to the City Council, on matters listed on the agenda please email PublicComment@losaltosca.gov

From: [Joanna Chen](#)
To: [Public Comment](#)
Subject: PUBLIC COMMENT AGENDA ITEM 03 - May 11
Date: Tuesday, May 4, 2021 6:52:06 PM

Good Evening Mayor Fligor and Councilmembers,

As utility rates increase, please consider creating financial assistance program for seniors and low-income households. California Water has a low-income rate assistance program, which offers a fixed amount equivalent to 50% of the 5/8-inch meter service charge. A financial relief program would greatly help seniors and low-income households as some residents may have suffered financial hardship, especially during the COVID pandemic.

Thank you for your time and consideration.



CONSENT CALENDAR

Agenda Item # 4

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Resolution No. 2021-21: Energy Innovation and Carbon Dividend Act of 2021 Endorsement

Prepared by:

Approved by: Andrea Chelemengos, City Clerk
Neysa Fligor, Mayor

Attachment(s):

1. Resolution No. 2021-21
2. Legislation Comparison Chart
3. Legislation Text - Energy Innovation and Carbon Dividend Act of 2021

Initiated by:

Council

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to endorse the proposed Energy Innovation and Carbon Dividend Act of 2021 ?

Summary:

- Proposed legislation would place a fee on fossil fuels
- Support would permit the use the City of Los Altos' name as an endorser of the proposed legislation

Staff Recommendation:

Adopt Resolution No. 2021-21 endorsing the Carbon Fee and Dividend legislation proposed by U.S. Representatives Ted Deutch (FL-22), Judy Chu (CA-27), Charlie Crist (FL-13), Anna G. Eshoo (CA-18), and Scott Peters (CA-52)

RESOLUTION NO. 2021-23

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS URGING
THE UNITED STATES CONGRESS TO ENACT THE ENERGY INNOVATION AND
CARBON DIVIDEND ACT OF 2021**

WHEREAS, the Los Altos City Council recognizes the importance of reducing greenhouse gas emissions; and

WHEREAS, on December 10, 2013, the City Council adopted the Los Altos Climate Action Plan that sets measures to reduce greenhouse gas emissions within the City; and

WHEREAS, on October 25, 2016, the City Council adopted a Resolution endorsing a Carbon Fee and Dividend Legislation; and

WHEREAS, the Energy Innovation and Carbon Dividend Act of 2021 builds on the 2016 Carbon Fee and Dividend Legislation; and

WHEREAS, while Los Altos has adopted a Climate Action Plan, it understands that a national approach to reducing harmful pollution is also necessary; and

WHEREAS, Los Altos also recognizes the need for national legislation to include more innovative solutions that leverage actions by the private sector, municipal, state, and federal across the country.

NOW, THEREFORE, BE IT RESOLVED that the Los Altos City Council urges Congress to enact without delay the Energy Innovation and Carbon Dividend Act of 2021;

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to Congresswoman Eshoo and Senators Feinstein and Padilla.

AYES:

NOES:

ABSENT:

ABSTAIN:

Neysa Fligor, MAYOR

Attest:

Andrea M. Chelemengos , MMC, CITY CLERK



Comparison Chart of The Energy Innovation and Carbon Dividend Acts

	Energy Innovation Act of 2019	Energy Innovation Act of 2021
Congress	116th	117th
House Bill # Lead Sponsors	H.R.763 Rep. Ted Deutch (D-FL) Rep. Francis Rooney (R-FL)	H.R.2307 Rep. Ted Deutch (D-FL)
Cosponsors	7 Original Cosponsors (85 at end of session)	28 Original Cosponsors
Start Date	2020	2022
Initial Fee	\$15 / ton of CO ₂ e	No Change
Annual Increase	\$10 / ton of tCO ₂ e If emission targets aren't met, increases to +\$15 / ton of CO ₂ e in 2025 Inflation adjustment applies to annual increase	No Change If emission targets aren't met, increases to +\$15 / ton of CO ₂ e in 2023 Inflation adjustment applies to entire fee
Emissions table	Reference year: 2016 covered emissions Annual Reduction Rate: 5% (2025-2034) and 2.5% (2035-2050) 2050 Reduction Target: 90%	Reference year: 2010 net GHG emissions Annual Reduction Rate: 5% (2023-2030) and 3% (2031-2050) 2050 Reduction Target: 100% (net zero)
Fluorinated gas fee	10% of GWP	Removed ¹
National Academies studies	Carbon Fee Effectiveness: 10 years Biomass ecosystem impacts: 18 months	Carbon Fee Effectiveness: 5 years Biomass ecosystem impacts: No Change
Regulatory Adjustment	Coverage: Stationary GHG sources Time of Suspension: 10 years Must regulate to comply with emissions table	Coverage: Removed Time of Suspension: Removed No EPA obligation
CCUS refunds	CO ₂ source: Covered fuel only Eligibility: CO ₂ capture operator	CO ₂ source: Facility-based offset ² Eligibility: Sequestration operator ³
Border Adjustment	Fee adjustment: Full fuel cycle emissions Excess revenues ⁴ : U.S. carbon dividends	Fee adjustment: Equivalence to U.S. fee ⁵ Excess revenues: Green Climate Fund

¹Since legislation passed in 2020 to bring the U.S. in alignment with the Kigali Amendment, this bill does not place a fee on F-gases.

²A facility that burns fossil fuel (e.g., an ethanol plant with gas-fired boilers) can get a refund for biomass-based CO₂ up to the amount of fossil-based CO₂ they emit in their facility

³This allows multiple facilities to get refunds for aggregating CO₂ and piping it to a single sequestration site

⁴Revenues in excess of those used to cover Customs & Border Protection expenses

⁵Changed to ensure that domestic and foreign covered fuels or products bear the exact same carbon cost

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R.

To create a Carbon Dividend Trust Fund for the American people in order to encourage market-driven innovation of clean energy technologies and market efficiencies which will reduce harmful pollution and leave a healthier, more stable, and more prosperous nation for future generations.

IN THE HOUSE OF REPRESENTATIVES

Mr. DEUTCH introduced the following bill; which was referred to the Committee on _____

A BILL

To create a Carbon Dividend Trust Fund for the American people in order to encourage market-driven innovation of clean energy technologies and market efficiencies which will reduce harmful pollution and leave a healthier, more stable, and more prosperous nation for future generations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Energy Innovation and
3 Carbon Dividend Act of 2021”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) efficient markets strengthen our economy
7 and benefit our Nation by encouraging competition,
8 innovation, and technological progress;

9 (2) efficient markets should reflect all costs of
10 goods to ensure that they advance America’s pros-
11 perity and national interests;

12 (3) emissions of carbon pollution and other
13 harmful pollutants into our Nation’s air impose sub-
14 stantial costs on all Americans and on future gen-
15 erations; and

16 (4) creation of a Carbon Dividend Trust Fund,
17 to be distributed to the American people, will make
18 markets more efficient, create jobs, and stimulate
19 competition, innovation, and technological progress
20 that benefit all Americans and future generations.

21 **SEC. 3. CARBON DIVIDENDS AND CARBON FEE.**

22 The Internal Revenue Code of 1986 is amended by
23 adding at the end the following new subtitle:

1 **“Subtitle L—CARBON DIVIDENDS**
2 **AND CARBON FEE**

“CHAPTER 101. CARBON FEES.

“CHAPTER 102. CARBON BORDER FEE ADJUSTMENT.

3 **“CHAPTER 101—CARBON FEES**

“Sec. 9901. Definitions.

“Sec. 9902. Carbon fee.

“Sec. 9903. Emissions reduction schedule.

“Sec. 9904. Decommissioning of carbon fee.

“Sec. 9905. Carbon Capture and Sequestration.

“Sec. 9906. Administrative authority.

4 **“SEC. 9901. DEFINITIONS.**

5 “For purposes of this subtitle:

6 “(a) ADMINISTRATOR.—The term ‘Administrator’
7 means the Administrator of the Environmental Protection
8 Agency.

9 “(b) CARBON DIOXIDE EQUIVALENT OR CO₂-E.—
10 The term ‘carbon dioxide equivalent’ or ‘CO₂-e’ means the
11 number of metric tons of carbon dioxide emissions with
12 the same global warming potential as one metric ton of
13 another greenhouse gas.

14 “(c) CARBON-INTENSIVE PRODUCT.—The term ‘car-
15 bon-intensive product’ means, as identified by the Sec-
16 retary by rule—

17 “(1) for purposes of this chapter—

18 “(A) any manufactured or agricultural
19 product which the Secretary in consultation
20 with the Administrator determines is emissions-

1 intensive and trade-exposed, except that no cov-
2 ered fuel is a carbon-intensive product, and

3 “(B) until such time that the Secretary
4 promulgates rules identifying carbon-intensive
5 products, the following shall be considered car-
6 bon-intensive products: iron, steel, steel mill
7 products (including pipe and tube), aluminum,
8 cement, glass (including flat, container, and
9 specialty glass and fiberglass), pulp, paper,
10 chemicals, or industrial ceramics, and

11 “(2) for purposes of chapter 102, any economic
12 sector, or product from that sector, which the Sec-
13 retary in consultation with the Administrator deter-
14 mines is prone to carbon leakage because it is emis-
15 sions-intensive and trade-exposed, along with other
16 pertinent criteria, except that no covered fuel is a
17 carbon-intensive product.

18 “(d) CARBON LEAKAGE.—The term ‘carbon leakage’
19 means an increase of global greenhouse gas emissions
20 which are substantially due to the relocation of greenhouse
21 gas sources from the United States to jurisdictions which
22 lack comparable controls upon greenhouse gas emissions.

23 “(e) COST OF CARBON OR CARBON COSTS.—The
24 term ‘cost of carbon’ or ‘carbon costs’ means a national
25 or sub-national government policy which explicitly places

1 a price on greenhouse gas pollution and shall be limited
2 to either a tax on greenhouse gases or a system of cap-
3 and-trade. The cost of carbon is expressed as the price
4 per metric ton of CO₂-e.

5 “(f) COVERED ENTITY.—The term ‘covered entity’
6 means—

7 “(1) in the case of crude oil—

8 “(A) a refinery operating in the United
9 States, and

10 “(B) any importer of any petroleum or pe-
11 troleum product into the United States,

12 “(2) in the case of coal—

13 “(A) any coal mining operation in the
14 United States, and

15 “(B) any importer of coal into the United
16 States,

17 “(3) in the case of natural gas—

18 “(A) any entity entering pipeline quality
19 natural gas into the natural gas transmission
20 system, and

21 “(B) any importer of natural gas into the
22 United States, and

23 “(4) any entity or class of entities which, as de-
24 termined by the Secretary, is transporting, selling,
25 or otherwise using a covered fuel in a manner which

1 emits a greenhouse gas to the atmosphere and which
2 has not been covered by the carbon fee or the carbon
3 border fee adjustment.

4 “(g) COVERED FUEL.—The term ‘covered fuel’
5 means crude oil, natural gas, coal, or any other product
6 derived from crude oil, natural gas, or coal which shall
7 be used so as to emit greenhouse gases to the atmosphere.

8 “(h) CRUDE OIL.—The term ‘crude oil’ means
9 unrefined petroleum.

10 “(i) EXPORT.—The term ‘export’ means to transport
11 a product from within the jurisdiction of the United States
12 to persons outside the United States.

13 “(j) FOSSIL FUEL.—The term ‘fossil fuel’ means
14 coal, coal products, petroleum, petroleum products, or nat-
15 ural gas.

16 “(k) FULL FUEL CYCLE GREENHOUSE GAS EMIS-
17 SIONS.—The term ‘full fuel cycle greenhouse gas emis-
18 sions’ means the greenhouse gas content of a covered fuel
19 plus that covered fuel’s upstream greenhouse gas emis-
20 sions.

21 “(l) GLOBAL WARMING POTENTIAL.—The term
22 ‘global warming potential’ means the ratio of the time-
23 integrated radiative forcing from the instantaneous release
24 of one kilogram of a trace substance relative to that of
25 one kilogram of carbon dioxide.

1 “(m) GREENHOUSE GAS.—The term ‘greenhouse
2 gas’ means carbon dioxide (CO₂), methane (CH₄), nitrous
3 oxide (N₂O), and other gases as defined by rule of the
4 Administrator.

5 “(n) GREENHOUSE GAS CONTENT.—The term
6 ‘greenhouse gas content’ means the amount of greenhouse
7 gases of a product or a fuel, expressed in metric tons of
8 CO₂-e, which would be emitted to the atmosphere by the
9 use of a covered fuel and shall include, nonexclusively,
10 emissions of carbon dioxide (CO₂), nitrous oxide (N₂O),
11 methane (CH₄), and other greenhouse gases as identified
12 by rule of the Administrator.

13 “(o) GREENHOUSE GAS EFFECT.—The term ‘green-
14 house gas effect’ means the adverse effects of greenhouse
15 gases on health or welfare caused by the greenhouse gas’s
16 heat-trapping potential or its effect on ocean acidification.

17 “(p) IMPORT.—Irrespective of any other definition in
18 law or treaty, the term ‘import’ means to land on, bring
19 into, or introduce into any place subject to the jurisdiction
20 of the United States.

21 “(q) PETROLEUM.—The term ‘petroleum’ means oil
22 removed from the earth or the oil derived from tar sands
23 or shale.

24 “(r) PRODUCTION GREENHOUSE GAS EMISSIONS.—
25 The term ‘production greenhouse gas emissions’ means

1 the quantity of greenhouse gases, expressed in metric tons
2 of CO₂-e, emitted to the atmosphere resulting from, non-
3 exclusively, the production, manufacture, assembly, trans-
4 portation, or financing of a product.

5 “(s) UPSTREAM GREENHOUSE GAS EMISSIONS.—
6 The term ‘upstream greenhouse gas emissions’ means the
7 quantity of greenhouse gases, expressed in metric tons of
8 CO₂-e, emitted to the atmosphere resulting from, non-
9 exclusively, the extraction, processing, transportation, fi-
10 nancing, or other preparation of a covered fuel for use.

11 **“SEC. 9902. CARBON FEE.**

12 “(a) CARBON FEE.—There is hereby imposed a car-
13 bon fee on any covered entity’s emitting use, or sale or
14 transfer for an emitting use, of any covered fuel.

15 “(b) AMOUNT OF THE CARBON FEE.—The carbon
16 fee imposed by this section is an amount equal to—

17 “(1) the greenhouse gas content of the covered
18 fuel, multiplied by

19 “(2) the carbon fee rate.

20 “(c) CARBON FEE RATE.—For purposes of this sec-
21 tion—

22 “(1) IN GENERAL.—The carbon fee rate, with
23 respect to any use, sale, or transfer during a cal-
24 endar year, shall be—

1 “(A) in the case of calendar year 2021,
2 \$15 per metric ton of CO₂-e, and

3 “(B) except as provided in paragraph (2),
4 in the case of any calendar year thereafter—

5 “(i) the carbon fee rate in effect
6 under this subsection for the preceding cal-
7 endar year, plus

8 “(ii) \$10.

9 “(2) EXCEPTIONS.—

10 “(A) INCREASED CARBON FEE RATE
11 AFTER MISSED ANNUAL EMISSIONS REDUCTION
12 TARGET.—In the case of any year immediately
13 following a year for which the Secretary deter-
14 mines under section 9903(b) that the actual
15 emissions of greenhouse gases from covered
16 fuels exceeded the emissions reduction target
17 for the previous year, paragraph (1)(B)(ii) shall
18 be applied by substituting ‘\$15’ for the dollar
19 amount otherwise in effect for the calendar year
20 under such paragraph.

21 “(B) CESSATION OF CARBON FEE RATE IN-
22 CREASE AFTER CERTAIN EMISSION REDUCTIONS
23 ACHIEVED.—In the case of any year imme-
24 diately following a year for which the Secretary
25 determines under 9903(b) that actual emissions

1 of greenhouse gases from covered fuels is not
2 more than 10 percent of the greenhouse gas
3 emissions from covered fuels during the year
4 2010, paragraph (1)(B)(ii) shall be applied by
5 substituting ‘\$0’ for the dollar amount other-
6 wise in effect for the calendar year under such
7 paragraph.

8 “(3) INFLATION ADJUSTMENT.—In the case of
9 any calendar year after 2021, each of the dollar
10 amounts in paragraphs (1)(B) and (2)(A) shall be
11 increased by an amount equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year, determined by substituting ‘calendar year
16 2010’ for ‘calendar year 2016’ in subparagraph
17 (A)(ii) thereof.

18 “(d) EXEMPTION AND REFUND.—The Secretary
19 shall prescribe such rules as are necessary to ensure the
20 fee imposed by this section is not imposed with respect
21 to any nonemitting use, or any sale or transfer for a non-
22 emitting use, including rules providing for the refund of
23 any carbon fee paid under this section with respect to any
24 such use, sale, or transfer.

25 “(e) EXEMPTIONS.—

1 “(1) AGRICULTURE.—

2 “(A) FUEL.—If any covered fuel or its de-
3 rivative is used on a farm for a farming pur-
4 pose, the Secretary shall pay (without interest)
5 to the ultimate purchaser of such covered fuel
6 or its derivative, the total amount of carbon
7 fees previously paid upon that covered fuel or
8 its derivative, as specified by rule of the Sec-
9 retary.

10 “(B) FARM, FARMING USE, AND FARMING
11 PURPOSE.—The terms ‘farm’, ‘farming use’,
12 and ‘farming purpose’ shall have the respective
13 meanings given such terms under section
14 6420(c).

15 “(C) OTHER GREENHOUSE GASES EMIS-
16 SIONS FROM AGRICULTURE.—The carbon fee
17 shall not be levied upon non-fossil fuel green-
18 house gas emissions which occur on a farm.

19 “(2) ARMED FORCES OF THE UNITED
20 STATES.—If any covered fuel or its derivative is
21 used by the Armed Forces of the United States as
22 supplies for vessels of war, vehicles, or electrical
23 power generation equipment, the Secretary shall pay
24 (without interest) to the ultimate purchaser of such
25 covered fuel or its derivative, the total amount of

1 carbon fees previously paid upon that covered fuel or
2 its derivative, as specified by rule of the Secretary.

3 **“SEC. 9903. EMISSIONS REDUCTION SCHEDULE.**

4 “(a) IN GENERAL.—An emissions reduction schedule
5 for greenhouse gas emissions from covered fuels is hereby
6 established, as follows:

7 “(1) REFERENCE YEAR.—The net greenhouse
8 gas emissions during the year 2010 shall be the ref-
9 erence amount of emissions and shall be determined
10 from the ‘Inventory of U.S. Greenhouse Gas Emis-
11 sions and Sinks: 1990–2010’ published by the Envi-
12 ronmental Protection Agency in April of 2012.

13 “(2) EMISSIONS REDUCTION TARGET.—The
14 first emission reduction target shall be for the year
15 2023. The emission target for each year thereafter
16 shall be the previous year’s target emissions minus
17 a percentage of emissions during the reference year
18 determined in accordance with the following table:

“Year	Emissions Reduction Target
2010	Reference year
2021 to 2022	No emissions reduction target
2023 to 2030	5 percent of 2010 emissions per year
2031 to 2050	3 percent of 2010 emissions per year

19 “(b) ADMINISTRATIVE DETERMINATION.—Not later
20 than 60 days after the beginning of each calendar year

1 beginning after the enactment of this section, the Sec-
2 retary, in consultation with the Administrator, shall deter-
3 mine whether actual emissions of greenhouse gases from
4 covered fuels exceeded the emissions reduction target for
5 the preceding calendar year. The Secretary shall make
6 such determination using the same, or appropriately up-
7 dated, greenhouse gas accounting method as was used to
8 determine the net greenhouse gas emissions in the ‘Inven-
9 tory of U.S. Greenhouse Gas Emissions and Sinks: 1990–
10 2010’ published by the Environmental Protection Agency
11 in April of 2012.

12 **“SEC. 9904. DECOMMISSIONING OF CARBON FEE.**

13 “(a) IN GENERAL.—At such time that—

14 “(1) the Secretary determines under 9903(b)
15 that actual emissions of greenhouse gases from cov-
16 ered fuels is not more than 10 percent of the green-
17 house gas emissions during the year 2010, and

18 “(2) the monthly carbon dividend payable to an
19 adult eligible individual has been less than \$20 for
20 3 consecutive years,

21 the Secretary shall decommission in an orderly manner
22 programs administering the carbon fee, the carbon border
23 fee adjustment, and the Carbon Dividend Trust Fund.

1 “(b) INFLATION ADJUSTMENT.—In the case of any
2 calendar year after 2021, the \$20 amount under sub-
3 section (a)(2) shall be increased by an amount equal to—

4 “(1) such dollar amount, multiplied by

5 “(2) cost-of-living adjustment determined under
6 section 1(f)(3) for the calendar year, determined by
7 substituting ‘calendar year 2020’ for ‘calendar year
8 2010’ in subparagraph (A)(ii) thereof.

9 **“SEC. 9905. CARBON CAPTURE AND SEQUESTRATION.**

10 “(a) IN GENERAL.—The Secretary, in consultation
11 with the Administrator and the Secretary of Energy, shall
12 prescribe regulations for making payments as provided in
13 subsection (b) to qualified facilities which capture and se-
14 quester qualified carbon dioxide or sequester qualified car-
15 bon dioxide obtained from one or more qualified facilities.

16 “(b) PAYMENT AMOUNTS.—

17 “(1) IN GENERAL.—The Secretary shall make
18 payments to a qualified facility in the same manner
19 as if such payment was a refund of an overpayment
20 of the carbon fee imposed by section 9902, in cases
21 in which such qualified facility—

22 “(A) uses any covered fuel—

23 “(i) with respect to which the carbon
24 fee has been paid, and

1 “(ii) which results in the emission of
2 qualified carbon dioxide,

3 “(B) captures such emitted, or an equiva-
4 lent amount of, qualified carbon dioxide, and

5 “(C)(i) sequesters such qualified carbon di-
6 oxide in a manner which is safe, permanent,
7 and in compliance with any applicable local,
8 State, and Federal laws, or

9 “(ii) utilizes such qualified carbon dioxide
10 or an equivalent amount of carbon dioxide in a
11 manner provided in paragraph (3)(C).

12 “(2) AMOUNT OF REFUND.—The payment de-
13 termined under this section shall be an amount
14 equal to the lesser of—

15 “(A)(i) the adjusted metric tons of quali-
16 fied carbon dioxide captured and sequestered or
17 utilized, multiplied by

18 “(ii) the carbon fee rate during the year in
19 which the carbon fee was imposed by section
20 9902 upon the covered fuel to which such car-
21 bon dioxide relates, or

22 “(B) the amount of the carbon fee imposed
23 by section 9902 with respect to such covered
24 fuel.

1 “(3) DEFINITIONS AND SPECIAL RULES.—For
2 purposes of this section—

3 “(A) QUALIFIED CARBON DIOXIDE; QUALI-
4 FIED FACILITY.—

5 “(i) QUALIFIED CARBON DIOXIDE.—
6 The term ‘qualified carbon dioxide’ has the
7 same meaning given such term under sec-
8 tion 45Q(e).

9 “(ii) QUALIFIED FACILITY.—The term
10 ‘qualified facility’ means any industrial fa-
11 cility at which carbon capture equipment is
12 placed in service.

13 “(B) ADJUSTED TOTAL METRIC TONS.—
14 The adjusted total metric tons of qualified car-
15 bon dioxide captured and sequestered or utilized
16 shall be the total metric tons of qualified carbon
17 dioxide captured and sequestered or utilized, re-
18 duced by the amount of any carbon dioxide like-
19 ly to escape and be emitted into the atmosphere
20 due to imperfect storage technology or other-
21 wise, as determined by the Secretary in con-
22 sultation with the Administrator.

23 “(C) UTILIZATION.—The Secretary, in
24 consultation with the Administrator, shall es-
25 tablish regulations providing for the methods

1 and processes by which qualified carbon dioxide
2 may be utilized so as to exclude that qualified
3 carbon dioxide safely and permanently from the
4 atmosphere. Utilization may include the produc-
5 tion of substances such as but not limited to
6 plastics and chemicals. Such regulations shall
7 minimize the escape or further emission of the
8 qualified carbon dioxide into the atmosphere.

9 “(D) SEQUESTRATION.—Not later than
10 540 days after the date of the enactment of this
11 section, the Secretary, in consultation with the
12 Administrator, shall prescribe regulations iden-
13 tifying the conditions under which carbon diox-
14 ide may be safely and permanently sequestered.

15 “(4) COORDINATION WITH CREDIT FOR CARBON
16 DIOXIDE SEQUESTRATION.—At such time that the
17 Secretary prescribes regulations implementing this
18 section, no payment under this section shall be al-
19 lowed to a taxpayer to whom a credit has been al-
20 lowed for any taxable year under section 45Q.

21 **“SEC. 9906. ADMINISTRATIVE AUTHORITY.**

22 “(a) IN GENERAL.—The Secretary in consultation
23 with the Administrator shall prescribe such regulations,
24 and other guidance, as may be necessary to carry out the

1 purposes of this subtitle and assess and collect the carbon
2 fee imposed by section 9902.

3 “(b) SPECIFICALLY.—Such regulations and guidance
4 shall include—

5 “(1) the identification of an effective point in
6 the production, distribution, or use of a covered fuel
7 for collecting such carbon fee, in such a manner so
8 as to minimize administrative burden and maximize
9 the extent to which full fuel cycle greenhouse gas
10 emissions from covered fuels have the carbon fee lev-
11 ied upon them,

12 “(2) the identification of covered entities which
13 shall be liable for the payment of the carbon fee,

14 “(3) requirements for the monthly payment of
15 such fees,

16 “(4) as may be necessary or convenient, rules
17 for distinguishing between different types of covered
18 fuels,

19 “(5) as may be necessary or convenient, rules
20 for distinguishing between a covered fuel’s green-
21 house gas content and its upstream greenhouse gas
22 emissions;

23 “(6) rules to ensure that no covered fuel has
24 the carbon fee or carbon border fee adjustment im-
25 posed upon it more than once, and

1 “(2) IMPORTED CARBON-INTENSIVE PRODUCTS
2 FEE.—In the case of any person that imports into
3 the United States any carbon-intensive product,
4 there shall be imposed a fee equal to the total car-
5 bon fee which would have accumulated upon the
6 greenhouse gas content of the imported carbon-in-
7 tensive product had the imported carbon-intensive
8 product been produced domestically and subject to
9 the domestic carbon fee.

10 “(3) MODIFICATIONS.—The Secretary shall
11 make an administrative determination of whether
12 any class of imported covered fuels or class of im-
13 ported carbon-intensive product is carrying any total
14 foreign carbon cost. The Secretary shall make a de-
15 termination of whether international law or the en-
16 hancement of global greenhouse gas mitigation ef-
17 forts require that those foreign cost of carbon be de-
18 ducted from the border carbon fee adjustment deter-
19 mined in subsection (c)(1) or subsection (d)(1).

20 “(4) FOREIGN COST OF CARBON; FOREIGN CAR-
21 BON COSTS.—For purposes of this subsection, the
22 term ‘foreign cost of carbon’ or ‘foreign carbon cost’
23 means the explicit price a foreign jurisdiction places
24 upon the emission of greenhouse gas pollution to the
25 atmosphere through law or regulation. Such price

1 shall be expressed as the price per metric ton of
2 CO₂-e.

3 “(d) REFUND ON EXPORTS FROM UNITED
4 STATES.—

5 “(1) COVERED FUELS.—Under regulations pre-
6 scribed by the Secretary, in the case of a covered
7 fuel produced in the United States with respect to
8 which the fee under section 9902 was paid, there
9 shall be allowed as a credit or refund (without inter-
10 est) to any exporter of such covered fuels an amount
11 equal to the total carbon fee levied upon the ex-
12 ported covered fuel up to the time of its exportation,
13 including processing emissions. Any such credit or
14 refund shall be allowed in the same manner as if it
15 were an overpayment of tax imposed by section
16 9902.

17 “(2) CARBON-INTENSIVE PRODUCTS.—Under
18 regulations prescribed by the Secretary, there shall
19 be allowed a credit or refund (without interest) to
20 exporters of carbon-intensive products manufactured
21 or produced in the United States an amount equal
22 to the total carbon fees accumulated upon the green-
23 house gas content of the exported carbon-intensive
24 product up to the time of exportation. Any such
25 credit or refund shall be allowed in the same manner

1 as if it were an overpayment of the fee imposed by
2 section 9902 or 9904.

3 **“SEC. 9909. ADMINISTRATION OF THE CARBON BORDER**
4 **FEE ADJUSTMENT.**

5 “(a) **GENERALLY.**—The Secretary in consultation
6 with the Administrator shall prescribe regulations and
7 guidance which implement the carbon border fee adjust-
8 ment under section 9908.

9 “(b) **COLLABORATION.**—In administering any aspect
10 of the border carbon fee adjustment it is the sense of Con-
11 gress that the Secretary should collaborate with author-
12 ized officers of any jurisdiction, including sub-national
13 governments, affected by the carbon border fee adjust-
14 ment.

15 “(c) **METHODOLOGY.**—In administering the border
16 carbon fee adjustment, the Secretary shall use methodolo-
17 gies, procedures, and data which as may be necessary or
18 convenient—

19 “(1) disaggregate a product’s greenhouse gas
20 content;

21 “(2) are consistent with international law and
22 facilitate international cooperation;

23 “(3) in the case of incomplete data, use cus-
24 tomary methods of interpolation that favor enhanced
25 mitigation and facilitate international cooperation;

1 “(4) avoid the double pricing of greenhouse gas
2 emissions; and

3 “(5) harmonize the border carbon fee adjust-
4 ment with the domestic carbon fee so as to ensure
5 all covered fuels used in the United States are sub-
6 ject to the carbon fee.

7 “(d) SCHEDULE.—The Secretary shall—

8 “(1) begin implementation the border carbon
9 fee adjustment for covered fuels at the same time as
10 the implementation of the carbon fee; and

11 “(2) begin implementation of the border carbon
12 fee adjustment for carbon-intensive products within
13 two years of the date of the enactment of the En-
14 ergy Innovation and Carbon Dividend Act of 2021.

15 “(e) PROCEDURE.—The Secretary shall—

16 “(1) establish fair, timely, impartial, and as
17 necessary confidential procedures by which the im-
18 porter of any carbon-intensive product or any cov-
19 ered fuel may petition the Secretary to revise the
20 Secretary’s determination of its border carbon fee
21 adjustment liability calculated under section
22 9908(e)(1);

23 “(2) establish fair, timely, impartial, and as
24 necessary confidential procedures by which any ex-
25 porter of any product from the United States may

1 petition the Secretary to include that exported prod-
2 uct on the list of carbon-intensive products; and

3 “(3) establish fair, timely, impartial, and as
4 necessary confidential procedures by which the ex-
5 porter of any carbon-intensive product or any cov-
6 ered fuel may petition the Secretary to revise the
7 Secretary’s determination of its border carbon fee
8 adjustment refund calculated under section 9908(d).

9 “(f) SHIPMENTS FROM THE UNITED STATES TO THE
10 TERRITORIES OF THE UNITED STATES.—Notwith-
11 standing any other treaty, law, or policy, shipments of cov-
12 ered fuels or carbon-intensive products from the United
13 States to Guam, the United States Virgin Islands, Amer-
14 ican Samoa, Puerto Rico, and the Northern Mariana Is-
15 lands shall be eligible for a refund of the carbon fee under
16 section 9908(d).

17 “(g) IMPORTS TO THE TERRITORIES OF THE UNITED
18 STATES.—Notwithstanding any other treaty, law, or pol-
19 icy, imports of covered fuels or carbon-intensive products
20 to Guam, the United States Virgin Islands, American
21 Samoa, Puerto Rico, and the Northern Mariana Islands
22 shall not be subject to section 9908(e).

1 **“SEC. 9910. ALLOCATION OF CARBON BORDER FEE ADJUST-**
2 **MENT REVENUES.**

3 “The revenues collected under this chapter may be
4 used to supplement appropriations made available in fiscal
5 years 2022 and thereafter—

6 “(1) to U.S. Customs and Border Protection, in
7 such amounts as are necessary to administer the
8 carbon border fee adjustment, then

9 “(2) to the Green Climate Fund, created by de-
10 cision 3/CP.17 adopted at the 17th Conference of
11 the Parties to the United Nation Framework Con-
12 vention on Climate Change held in Durban, Novem-
13 ber 28 to December 11, 2011.

14 **“SEC. 9911. TREATIES AND INTERNATIONAL NEGOTIA-**
15 **TIONS.**

16 “(a) CONFORMANCE WITH INTERNATIONAL TREA-
17 TIES.—In the case that the Appellate Body of the World
18 Trade Organization, or any other authoritative inter-
19 national treaty interpreter, shall find any portion of the
20 carbon border fee adjustment under this chapter to violate
21 any treaty to which the United States is a party, the Sec-
22 retary of State is authorized to alter that aspect of such
23 carbon border fee adjustment found to violate a treaty ob-
24 ligation so as to bring the carbon border fee adjustment
25 into conformance with international law.

1 “(b) INTERNATIONAL NEGOTIATIONS.—The Con-
2 gress finds the international mitigation of greenhouse gas
3 emissions to be of national importance. Therefore, the
4 Congress encourages the Secretary of State, or the Sec-
5 retary’s designee, to commence and complete negotiations
6 with other nations with the goal of forming treaties, envi-
7 ronmental agreements, accords, partnerships or any other
8 instrument that effectively reduces global greenhouse gas
9 emissions to zero percent of 2010 levels by 2050 and
10 which respect the principle of common but differentiated
11 responsibilities and respective capabilities.

12 “(c) SUSPENSION OF THE CARBON BORDER FEE AD-
13 JUSTMENT.—The Secretary may suspend the border car-
14 bon fee adjustment, in whole or in part—

15 “(1) when, in the determination of the Sec-
16 retary, a country has implemented greenhouse gas
17 mitigation policies sufficient to contribute to a global
18 net reduction of greenhouse gas emissions to zero by
19 2050. In making such determination, the Secretary
20 may partially suspend particular provisions of the
21 carbon border fee adjustment. In making the deter-
22 mination, the Secretary shall consult with the im-
23 porting country. In making the determination, the
24 Secretary shall follow all existing treaty obligations.

1 The Secretary shall review any carbon border fee ad-
2 justment suspension at least every 5 years, or

3 “(2) by treaty or other international agreement
4 that meets the criteria of section 9911(c)(1) and in-
5 cludes provisions for the suspension of the border
6 carbon fee adjustment.”.

7 **SEC. 4. ESTABLISHMENT OF THE CARBON DIVIDEND TRUST**
8 **FUND.**

9 (a) IN GENERAL.—Subchapter A of chapter 98 of the
10 Internal Revenue Code of 1986 is amended by adding at
11 the end the following:

12 **“SEC. 9512. CARBON DIVIDEND TRUST FUND.**

13 “(a) ESTABLISHMENT AND FUNDING.—There is
14 hereby established in the Treasury of the United States
15 a trust fund to be known as the ‘Carbon Dividend Trust
16 Fund’, consisting of such amounts as may be appropriated
17 to such trust fund as provided for in this section.

18 “(b) TRANSFERS TO THE CARBON DIVIDEND TRUST
19 FUND.—There is hereby appropriated to the Carbon Divi-
20 dend Trust Fund amounts equal to the fees received into
21 the Treasury less any amounts refunded or paid under
22 section 9902(d) or 9905 of chapter 101 for each month.

23 “(c) EXPENDITURES.—Amounts in the trust fund
24 shall be available for the following purposes:

1 “(1) ADMINISTRATIVE EXPENSES.—So much of
2 the expenses necessary to administer the Carbon
3 Dividend Trust Fund for each year, as does not ex-
4 ceed—

5 “(A) in the case of the first 5 calendar
6 years ending after the date of the enactment of
7 this section, the administrative expenses for any
8 year may not exceed 8 percent of amounts ap-
9 propriated to the Carbon Dividend Trust Fund
10 during such year, and

11 “(B) in the case of any calendar year
12 thereafter, 2 percent of the 5-year rolling aver-
13 age of the amounts appropriated to the Carbon
14 Dividend Trust Fund.

15 “(2) OTHER ADMINISTRATIVE EXPENSES.—So
16 much of the expenses as are necessary to administer
17 chapter 101 for any year as does not to exceed 0.60
18 percent of the amounts appropriated to the Carbon
19 Dividend Trust Fund for the previous year, and fur-
20 ther limited as follows:

21 “(A) The Department of the Treasury.

22 “(B) The Social Security Administration.

23 “(C) The Environmental Protection Agen-
24 cy.

25 “(D) Department of State.

1 “(3) CARBON DIVIDEND PAYMENTS.—

2 “(A) IN GENERAL.—From the amounts in
3 the Carbon Dividend Trust Fund made avail-
4 able under paragraphs (1) and (2) of this sub-
5 section for any year, the Secretary shall for
6 each month beginning no more than 270 days
7 after the date of the enactment of the Energy
8 Innovation and Carbon Dividend Act of 2021,
9 make carbon dividend payments to each eligible
10 individual.

11 “(B) PRO-RATA SHARE.—A carbon divi-
12 dend payment is one pro-rata share for each
13 adult, and half a pro-rata share for each child
14 under 19 years old, of amounts available for the
15 month in the Carbon Dividend Trust Fund.

16 “(C) ELIGIBLE INDIVIDUAL.—The term
17 ‘eligible individual’ means, with respect to any
18 month, any natural living person who has a
19 valid Social Security number or taxpayer identi-
20 fication number and is a citizen or lawful resi-
21 dent of the United States (other than any indi-
22 vidual who is a citizen of any possession of the
23 United States and whose bona fide residence is
24 outside of the United States). The Secretary is

1 authorized to verify an individual's eligibility to
2 receive a carbon dividend payment.

3 “(D) FEE TREATMENT OF PAYMENTS.—
4 Amounts paid under this subsection shall be in-
5 cludible in gross income.

6 “(E) FEDERAL PROGRAMS AND FEDERAL
7 ASSISTED PROGRAMS.—The carbon dividend
8 amount received by any individual shall not be
9 taken into account as income and shall not be
10 taken into account as resources for purposes of
11 determining the eligibility of such individual or
12 any other individual for benefits or assistance,
13 or the amount or extent of benefits or assist-
14 ance, under any Federal program or under any
15 State or local program financed in whole or in
16 part with Federal funds.

17 “(F) ADVANCE PAYMENT.—The Secretary
18 shall transfer to the Carbon Dividend Trust
19 Fund such amounts as are necessary for the
20 disbursement of an advanced carbon dividend to
21 all eligible individuals as follows:

22 “(i) An advanced carbon dividend
23 shall be the same as the anticipated first
24 carbon dividend required to be distributed
25 under subparagraph (A) and shall be dis-

1 tributed the month prior to the first collec-
2 tion of the carbon fee.

3 “(ii) Total amounts disbursed as ad-
4 vanced carbon dividends shall be deducted
5 from the carbon dividends on a pro-rata
6 basis over the first 3 years after the dis-
7 bursement of the first carbon dividends.

8 “(d) ADMINISTRATIVE AUTHORITY.—The Secretary
9 shall promulgate rules, guidance, and regulations useful
10 and necessary to implement the Carbon Dividend Trust
11 Fund.

12 “(e) ASSIGNMENT OF BENEFITS.—The right of any
13 person to any future payment under this chapter shall not
14 be transferable or assignable, at law or in equity, and none
15 of the moneys paid or payable or rights existing under
16 subsection (c)(3) shall be subject to execution, levy, at-
17 tachment, garnishment, or other legal process, or to the
18 operation of any bankruptcy or insolvency law.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for subchapter A of chapter 98 of such Code is amended
21 by adding at the end the following new item:

 “Sec. 9512. Carbon Dividend Trust Fund.”.

22 **SEC. 5. LIMITED DISCLOSURE OF INFORMATION.**

23 Section 6103(l) of the Internal Revenue Code of 1986
24 is amended by adding at the end the following new para-
25 graphs:

1 “(23) LIMITED DISCLOSURE OF IDENTITY IN-
2 FORMATION RELATING TO CARBON DIVIDEND PAY-
3 MENTS.—

4 “(A) DEPARTMENT OF TREASURY.—Indi-
5 vidual identity information shall, without writ-
6 ten request, be open to inspection by or disclo-
7 sure to officers and employees of the Depart-
8 ment of the Treasury whose official duties re-
9 quire such inspection or disclosure for purposes
10 of administering section 9512 (relating the Car-
11 bon Dividend Trust Fund).

12 “(B) COMMISSIONER OF SOCIAL SECUR-
13 ITY.—The Commissioner of Social Security
14 shall, on written request, disclose to officers
15 and employees of the Department of the Treas-
16 ury individual identity information which has
17 been disclosed to the Social Security Adminis-
18 tration as is necessary to administer section
19 9512.

20 “(C) RESTRICTION ON DISCLOSURE.—In-
21 formation disclosed under this paragraph shall
22 be disclosed only for purposes of, and to the ex-
23 tent necessary in, carrying out section 9512.”.

1 **SEC. 6. NATIONAL ACADEMY OF SCIENCES REVIEW OF CAR-**
2 **BON FEE AND EMISSIONS REDUCTION**
3 **SCHEDULE.**

4 (a) IN GENERAL.—Not later than 5 years after the
5 date of the enactment of this Act, the Secretary of Energy
6 shall enter into an agreement with the National Academy
7 of Sciences to prepare a report relating to the carbon fee
8 imposed by section 9902 of the Internal Revenue Code of
9 1986 and the emissions reductions schedule established
10 under section 9903 of such Code.

11 (b) REPORT REQUIREMENTS.—Such report shall—

12 (1) assess the efficiency and effectiveness of the
13 carbon fee in achieving the emissions reduction tar-
14 gets set forth in section 9903 of such Code;

15 (2) describe and make recommendations on
16 whether the carbon fee rate and annual increases
17 prescribed by section 9902(c) of such Code should
18 be adjusted in order to optimize the efficiency and
19 effectiveness of this Act in achieving the emissions
20 reduction targets set forth in section 9903 of such
21 Code;

22 (3) describe the potential of the carbon fee to
23 achieve future emissions targets set forth in section
24 9903(a) of such Code through the year 2050;

25 (4) describe and evaluate the effectiveness of
26 the carbon fee in reducing emissions from key sec-

1 tors of the economy, including sectors of the econ-
2 omy that have decreased their carbon emissions, sec-
3 tors of the economy that have increased their carbon
4 emissions, and sectors of the economy in which car-
5 bon emissions have not changed;

6 (5) make findings and recommendations to
7 Federal departments and agencies and to Congress
8 on actions that could be taken to reduce carbon
9 emissions in the sectors of the economy in which
10 carbon emissions have not decreased.

11 (6) make findings and recommendations on ad-
12 justing regulations enacted under the Clean Air Act
13 and other Federal laws that affect economic sectors
14 achieving the emissions reduction targets set forth in
15 section 9903 of such Code; and

16 (7) provide an assessment of any other factors
17 determined to be material to the program's effi-
18 ciency and effectiveness in achieving the goals set
19 forth in this Act.

20 (c) **REPORT MADE PUBLICLY AVAILABLE.**—Not later
21 than one year after the review in subsection (a) has com-
22 menced, the Secretary of Energy shall submit to Congress
23 the report required under subsection (a). Such report shall
24 be made electronically available to the public and open to

1 public comment for at least 60 days before the final sub-
2 mission to Congress.

3 **SEC. 7. IMPACT OF CARBON FEE ON BIOMASS USE AND**
4 **CARBON SINKS.**

5 (a) **STUDY OF BIOMASS.**—The Secretary of Energy
6 shall enter into an agreement with the National Academy
7 of Sciences and the Administrator of the Environmental
8 Protection Agency to conduct a study, make recommenda-
9 tions, and submit a report regarding the impact of the
10 carbon fee on the use of biomass as an energy source and
11 the resulting impacts on carbon sinks and biodiversity.

12 (b) **STUDY REQUIREMENTS.**—The study conducted
13 under subsection (a) by the National Academy of Sciences
14 shall include analysis, documentation, and determinations
15 on—

16 (1) the carbon fee and its impact on the use of
17 biomass as an energy source and greenhouse gas
18 emissions from the use of biomass as an energy
19 source;

20 (2) the impacts of the use of biomass as an en-
21 ergy source on carbon sinks and biodiversity; and

22 (3) the various types of biomass that are being
23 used as an energy source.

24 (c) **RECOMMENDATIONS.**—Based on the findings and
25 conclusions of the study, the National Academy of

1 Sciences shall make recommendations to Federal depart-
2 ments and agencies and to Congress. The recommenda-
3 tions shall include any actions that should be taken to
4 mitigate impacts of the carbon fee on—

5 (1) increasing greenhouse gas emissions from
6 the use of biomass as an energy source; and

7 (2) degradation of carbon sinks and biodiversity
8 relating to the use of biomass as an energy source.

9 (d) REPORT.—The National Academy of Sciences
10 shall prepare a report that includes any findings and rec-
11 ommendations made pursuant to this section and, not
12 later than 18 months after the date of the enactment of
13 this Act, make such report electronically available to the
14 public.

15 **SEC. 8. EFFECTIVE DATE.**

16 The amendments made by this Act shall take effect
17 on the date of the enactment of this Act, except the carbon
18 fee under section 9902 of the Internal Revenue Code of
19 1986 shall apply to uses, sales, or transfers no more than
20 270 days after the date of the enactment of this Act.

21 **SEC. 9. PRINCIPLE OF INTERPRETATION.**

22 In the case of ambiguity, the texts of this statute and
23 its amending texts shall be interpreted so as to allow for
24 the most effective abatement of greenhouse gas emissions.

1 **SEC. 10. NO PREEMPTION OF STATE LAW.**

2 (a) IN GENERAL.—Nothing in this Act shall preempt
3 or supersede, or be interpreted to preempt or supersede,
4 any State law or regulation.

5 (b) NO PREEMPTION OF STATE COMMON LAW OR
6 STATUTORY CAUSES OF ACTION.—Nothing in this Act, nor
7 any standard, rule, requirement, risk evaluation, or assess-
8 ment created or implemented pursuant to this Act, shall
9 be construed to preempt any State common law or State
10 statutory law creating a remedy for civil relief.



CONSENT CALENDAR

Agenda Item # 5

AGENDA REPORT SUMMARY

Meeting Date: May 25, 2021

Subject: City/Cupertino Union School District Subcommittee Membership

Prepared by: Andrea Chelemengos, City Clerk

Reviewed by: Jin Maginot, Deputy City Manager

Approved by: Brad Kilger, Interim City Manager

Attachment(s):

1. Fremont Union High School District Boundary Map

Initiated by:

City Council

Previous Council Consideration:

None

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to include representation of the Fremont Union High School District with two school district designees on the City/CUSD Subcommittee and formally change the name of the Subcommittee to the Los Altos (City)/ CUSD/FUHSD Subcommittee?

Summary:

A number of years ago the City formed City/School District Subcommittees for the purpose of facilitate communication between the Council and the various school districts that serve the Los Altos community on issues of mutual concern by both legislative bodies, as directed by the City Council and/or School Board.

The subcommittees currently include Los Altos School District, Mountain View/Los Altos High School District and Cupertino School District.

However, a portion of the Los Altos community is served by the Fremont Union High School District which is not included in any of the established School subcommittees.

Reviewed By:

City Manager

BK

City Attorney

JH

Finance Director

JM



Subject: City/Cupertino Union School District Subcommittee Membership

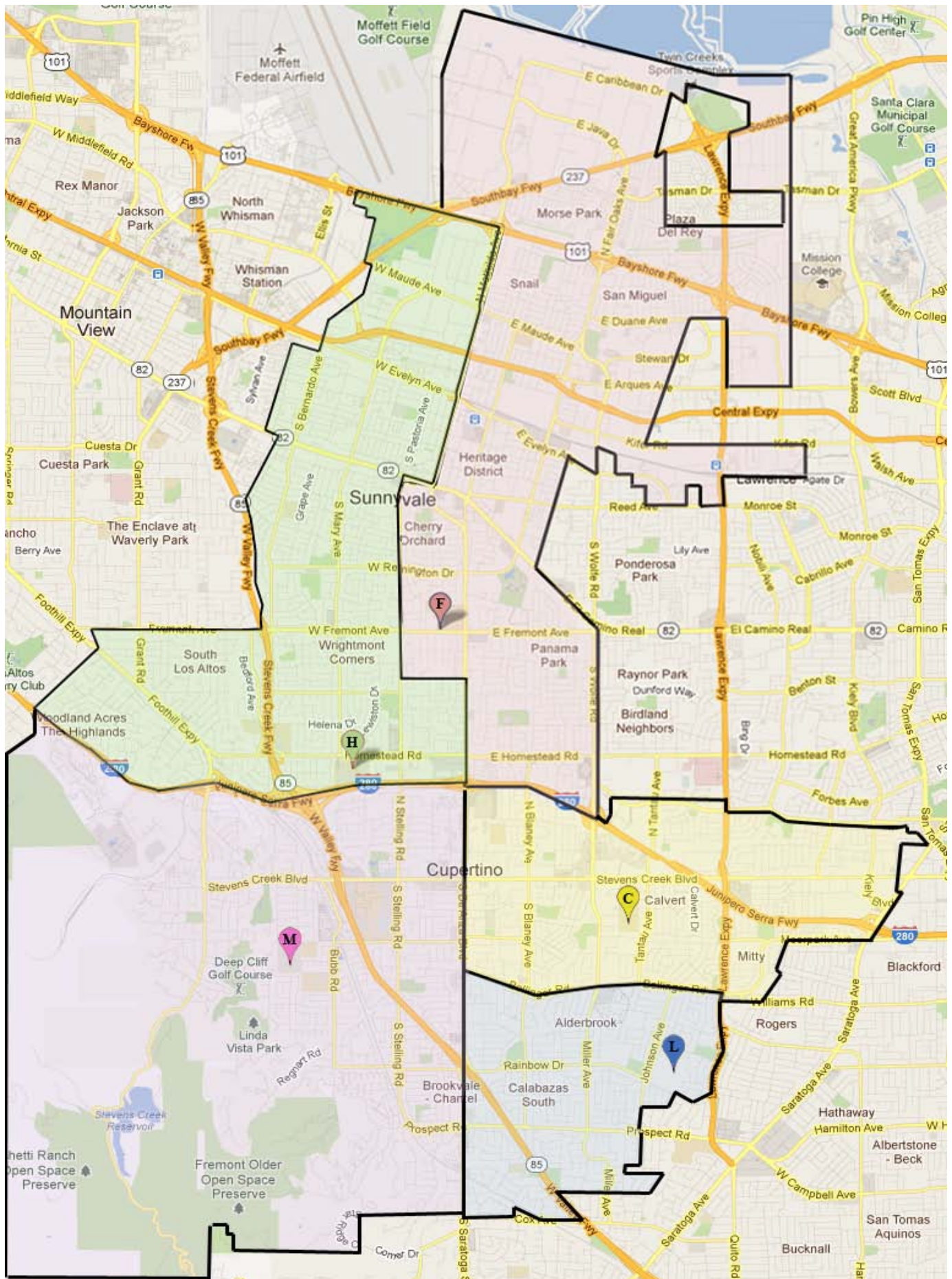
Because the scope of the Los Altos/Cupertino School District Subcommittee also impacts the jurisdiction of the Fremont Union High School, and members of the Fremont Union High School District have expressed a desire to be a formal part of this partnership with the City, it would be an asset to include the membership of Fremont Union High School District.

Staff Recommendation:

Approve the addition of representation from the Fremont Union High School District as members of the City/CUSD Subcommittee and change the name of the Subcommittee to City of Los Altos/CUSD/FUHSD School Issue Subcommittee.

FREMONT UNION HIGH SCHOOL DISTRICT ATTENDANCE BOUNDARY MAP

This is a general overview map. Please do not use for residency or purchase/rental decisions.
For detail boundary listings please go to <http://www.schvision.com/schoolfinder3/fuhsd/>.





DISCUSSION ITEMS

Agenda Item # 6

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Objective Zoning Standards-Contract Amendment #1

Prepared by: Guido F. Persicone, Planning Services Manager

Reviewed by: Jon Biggs, Community Development Director

Approved by: Brad Kilger, Interim City Manager

Attachments:

1. Resolution
2. Lisa Wise Consultant (LWC) Proposal

Initiated by:

City staff

Fiscal Impact:

An additional \$42,000 to the base contract of \$300,000. The City will be reimbursed \$310,000 of this amount by the State grants authorized under SB 2 and LEAP.

Environmental Review:

Preparation of contracts is not a project under California Environmental Quality Act (CEQA) and therefore is exempt from additional environmental review per Section 15061(b)(3) of the California Environmental Quality Act (CEQA) as the activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Policy Question(s) for Council Consideration:

- Will this effort result in preparation of objective zoning standards that are compliant with state law?

Summary:

- This is a request authorizing the City Manager to sign a \$42,000 contract amendment with Lisa Wise Consultant (LWC) to complete the preparation of objective zoning standards for a total contract amount not to exceed \$342,000. However, the true fiscal impact will only be \$32,000 after the City is reimbursed by State HCD through the issuance of SB 2 and LEAP grants.

Purpose

To prepare objective zoning standards in compliance with State law.



Subject: Objective Zoning Standards-Contract Amendment #1

Background

Pursuant to the City’s Procurement and Policies Manual contracts over \$75,000 require City Council authorization.



On March 17, 2020, the City Council authorized a contract with the consultant team (Lisa Wise Consultant in conjunction with Opticos Design) to prepare objective zoning standards to help guide future development in the City based on recent changes to state law.¹ While the \$300,000 contract was approved by the City Council, a subcommittee composed of Councilmembers Bruins and Pepper was formed to iron out the project schedule and the final language of the agreement. After two meetings with the consultant team in April of 2020, the contract was ready for signature and fully executed by the City on April 30, 2020.

Based on feedback provided by the City Council at the first joint study session with the Planning Commission, the consultant team undertook additional outreach with key stakeholders to obtain more community input. In addition, there have been more study sessions with the City Council and Planning Commission than called for in the original scope of work. The feedback provided at these Study

¹ See SB 330, SB 35, AB 1485 and AB 881 for modifications to State law that require more clear zoning standards moving forward.



Subject: Objective Zoning Standards-Contract Amendment #1

Sessions also generated the need for additional draft versions of the document. As a result of these additional tasks, the original contract amount of \$300,000 has been expended.

The following table provides, Table 1 below, provides a comparison between the tasks of the original scope of work, first column, and the additional tasks undertaken by the Consultant team (second column):

Table 1-Scope of Work	
ORIGINAL SCOPE OF WORK	REVISED TASK LIST
Task 2B: 15 Stakeholder Interviews over 1 or 2 days	36 Stakeholder interviews over 4 full days and 5 partial days:
Task 2D: Two (2) CC or Joint PC/CC Study Sessions	5 public study sessions and 3 one-on-one sessions with individuals:
	September 9, 2020 Joint PC/CC Study Session
	November 5, 2020 PC Study Session
	December 3 PC Study Session
	February 23, 2021 CC Study Session
	March 16, 2021 CC Study Session
	March 9, 2021 one-on-one sessions (2)
	March 10, 2021 one-on-one session (1)
Task 3: Two (2) Drafts of Objective Design Standards - Admin and Public Review	4 drafts submitted for review:
	October 2020 Admin Draft
	November 2020 Revised Admin Draft
	January 2021 Public Review Draft
	February 2021 Revised Public Review Draft
Task 5: Two (2) Public Hearings	3 Public Hearings:
	January 21, 2021 PC Hearing
	2 City Council Hearings (Dates TBD)



Subject: Objective Zoning Standards-Contract Amendment #1

The funding for this effort was allocated from the City's General fund; however, staff did apply for an receive two (2) grants in the amount of \$160,000 (SB 2 Funds) \$150,000 (LEAP Funds) which have helped off-set the cost to the City for developing these objective standards.

Staff anticipates the final objective zoning standards document will be ready for City Council review in June, but the additional work will require a contract amendment of \$42,000. This brings the total contract amount to \$342,000; however, the final expenditure from the City's General Fund is expected to be \$32,000 because the City will be reimbursed \$310,000 by the SB 2 and LEAP grants that have been awarded by the State of California.

All were optimistic that development of the objective standards would be completed in the time frame initially identified and at the anticipated cost. However, the complexities of a sweeping set of zoning standards such as these has demonstrated that their development requires careful and multiple considerations to be sure they reflect the desires of the community but also that they provide compliance with State Law and its expanding role in the land use review process at the local level. It is for these reasons that Staff respectfully requests that the City Council authorize the Interim City Manager to sign the requested amendment to this agreement so that the objective standards can be completed and adopted.

Options

- 1) Authorize the City Manager to execute contract amendment with Lisa Wise Consulting for \$42,000 for a new contract amount not to exceed \$342,000.

Advantages: Allows an agreement with the recommended consulting firm to be executed so that the objective zoning standards project can be completed in a timely manner.

Disadvantages: NA

- 2) Decline authorization to execute a contract amendment agreement with Lisa Wise Consulting (LWC)

Advantages: Would provide an opportunity for an alternate course of action.

Disadvantages: This would further delay completion of the project.

Recommendation

The staff recommends Option 1.

RESOLUTION NO. 2021-23

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AND EXECUTE
A CONTRACT AMENDMENT (AMENDMENT NO. 1) BETWEEN THE CITY OF
LOS ALTOS AND LISA WISE CONSULTING., FOR \$42,000 FOR A NEW CONTRACT
AMOUNT NOT TO EXCEED \$342,000**

WHEREAS, on January 1, 2018, Senate Bill 35, intended to help address California's housing shortage, went into effect requiring streamlined and ministerial review process for multifamily and mixed-use housing projects meeting specific qualifications; and

WHEREAS there is a continued effort by the State of California to require jurisdictions to utilize a ministerial and streamlined process for specified housing projects; and

WHEREAS this ministerial and streamlined process requires objective standards to address a variety of site development and design concerns typically resolved during a discretionary review process; and

WHEREAS, on March 17, 2020, the City Council authorized a contract with the consultant team (Lisa Wise Consultant in conjunction with Opticos Design) to prepare objective zoning standards to help guide future development in the City; and

WHEREAS, the City Council will be reviewing the revised objective zoning standards in June of 2021 and additional work is needed to ensure compliance with state law; and

WHEREAS, the additional work requires City Council approval of a revised contract pursuant to the City of Los Altos Procurement and Policies Manual;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Altos hereby authorizes the City Manager to negotiate and execute agreements with Lisa Wise Consulting (LWC) for a contract amendment of \$42,000 for a new contract not to exceed amount of \$342,000.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 11th day of May, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Neysa Fligor, MAYOR

Attest:

Andrea M. Chelemengos, MMC, CITY CLERK

MEMO

To: Guido Persicone, City of Los Altos
From: Lisa Wise and Monica Szydluk, LWC
Date: 04/15/21
Subject: Change order request #2

Based on direction from Los Altos City Council and City staff, LWC requests the following additions to the Los Altos Objective Design Standards project scope and budget:

SCOPE

Task 7A: Meetings with Councilmembers. LWC participated in three 1-hour meetings with individual councilmembers to discuss the Hearing Draft Objective Design Standards. Meetings were held on March 9 (2pm and 5pm) and March 10 (4pm) via video conference. The team discussed with the Councilmembers specific concerns about the standards and their application to development proposals and documented feedback received.

Budget: \$1,725

Task 7B: City Council Study Session. LWC and Opticos participated in a March 16 City Council Study Session to review the Objective Design Standards, hear Councilmembers' ideas and concerns, and discuss options for revisions.

Budget: \$3,225

Task 7C: Hearing Draft Objective Design Standards. LWC and Opticos will prepare a Hearing Draft for presentation at the City Council Adoption Hearings that takes into account input received in writing and at the March 16 City Council Study Session. This effort involves participating in a series of meetings with City staff to review edits and changes and making needed revisions to text and graphics.

Budget: \$15,770

Task 7D: City Council Adoption Hearings (2). LWC and Opticos will prepare presentations for and present at two City Council hearings. These are anticipated to be the first and second readings the Objective Design Standards for adoption.

Budget: \$8,000

Task 7E: Staff Training. LWC will lead two 1.5-hour sessions with City planning staff to help familiarize staff with the new Code sections and prepare for the counter-level review of multi-family and residential mixed-use projects.

Budget \$8,280

BUDGET

The cost of the additional tasks described above is \$37,000. Including a \$5,000 contingency, the total budget requested for the additional tasks is \$42,000. Below is a detailed budget worksheet.

Task		LWC, Inc.										Opticos Design, Inc.	W-Trans	Project Total
		Principal		Director		Senior		Associate		LWC, Inc. TOTAL				
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost			
Task 1: Project Initiation, Background Review, and Direction Setting	Task 1A: Project Initiation and Data Request	4	\$ 1,100	2	\$ 410	8	\$ 1,440	8	\$ 1,160	22	\$ 4,110	\$ 4,120	\$ 2,000	\$ 10,230
	Task 1B: Assessment of Existing Code and Relevant Material	4	\$ 1,100	4	\$ 820	32	\$ 5,760	24	\$ 3,480	64	\$ 11,160	\$ 19,000	\$ 4,000	\$ 34,160
	Task 1C: Direction Setting Presentation	2	\$ 550	8	\$ 1,640	24	\$ 4,320	24	\$ 3,480	58	\$ 9,990	\$ 4,120	\$ -	\$ 14,110
Task 2: Community Involvement	Task 2A: Project Website	-	\$ -	-	\$ -	16	\$ 2,880	24	\$ 3,480	40	\$ 6,360	\$ -	\$ -	\$ 6,360
	Task 2B: Stakeholder Interviews	8	\$ 2,200	8	\$ 1,640	32	\$ 5,760	32	\$ 4,640	80	\$ 14,240	\$ 3,140		\$ 17,380
	Task 2C: Community Outreach	8	\$ 2,200	-	\$ -	32	\$ 5,760	40	\$ 5,800	80	\$ 13,760	\$ 5,000		\$ 18,760
	Task 2D: CC/PC Study Sessions (2)	8	\$ 2,200	8	\$ 1,640	24	\$ 4,320	32	\$ 4,640	72	\$ 12,800	\$ 5,000	\$ 1,500	\$ 19,300
Task 3: Public Review Draft Objective Design Standards	Task 3A: Annotated Framework	-	\$ -	8	\$ 1,640	32	\$ 5,760	12	\$ 1,740	52	\$ 9,140	\$ 4,970	\$ -	\$ 14,110
	Task 3B: Admin Draft Objective Design Standards	16	\$ 4,400	24	\$ 4,920	60	\$ 10,800	100	\$ 14,500	200	\$ 34,620	\$ 24,000	\$ -	\$ 58,620
	Task 3C: Public Review Draft Objective Design Standards	8	\$ 2,200	12	\$ 2,460	32	\$ 5,760	80	\$ 11,600	132	\$ 22,020	\$ 12,500	\$ -	\$ 34,520
Task 4: CEQA	Task 4A: CEQA Documentation	4	\$ 1,100	-	\$ -	8	\$ 1,440	-	\$ -	12	\$ 2,540	\$ -	\$ -	\$ 2,540
Task 5: Public Hearings	Task 5A: Joint CC/PC Hearing (1)	8	\$ 2,200	8	\$ 1,640	16	\$ 2,880	16	\$ 2,320	48	\$ 9,040	\$ 2,500	\$ 1,500	\$ 13,040
Task 6: Final Products	Task 6A: Final Objective Design Standards	-	\$ -	-	\$ -	24	\$ 4,320	24	\$ 3,480	48	\$ 7,800	\$ -	\$ -	\$ 7,800
	Task 6B: Supporting Docs		\$ -	4	\$ 820	40	\$ 7,200	40	\$ 5,800	84	\$ 13,820	\$ -	\$ -	\$ 13,820
TOTAL BASE FEE											\$ 171,400	\$ 84,350	\$ 9,000	\$ 264,750
Contingency														\$ 35,000
Total With Contingency														\$ 299,750
Task 7: Additional Tasks	Task 7A: Meetings with Councilmembers	3	\$ 825	-	\$ -	5	\$ 900	-	\$ -	8	\$ 1,725	\$ -	\$ -	\$ 1,725
	Task 7B: CC Study Session	3	\$ 825	-	\$ -	5	\$ 900		\$ -	8	\$ 1,725	\$ 1,500	\$ -	\$ 3,225
	Task 7C: Hearing Draft Objective Design Standards	4	\$ 1,100		\$ -	24	\$ 4,320	30	\$ 4,350		\$ 9,770	\$ 6,000		\$ 15,770
	Task 7D: CC Adoption Hearing2 (2)	4	\$ 1,100	-	\$ -	12	\$ 2,160	12	\$ 1,740	28	\$ 5,000	\$ 3,000	\$ -	\$ 8,000
	Task 7E: Staff Training	4	\$ 1,100	4	\$ 820	16	\$ 2,880	24	\$ 3,480	48	\$ 8,280	\$ -	\$ -	\$ 8,280
Additional Fee														\$ 37,000
Contingency														\$ 5,000
Additional Budget											26,500	\$ 10,500	\$ -	\$ 42,000

From: [REDACTED]
To: [Public Comment](#)
Subject: AGENDA ITEM 6 - MEETING DATE May 11,2021
Date: Friday, May 7, 2021 4:45:44 PM
Attachments: [20-05.LisaWiseConsultingInc.PrepObjtvDesignStd.Agreement - signed.pdf](#)

Mayor Fligor and Council Members:

The staff report for [Item 6. Contract Amendment - Objective Standards](#) says:

On March 17, 2020, the City Council authorized a contract with the consultant team (Lisa Wise Consultant in conjunction with Opticos Design) to prepare objective zoning standards to help guide future development in the City based on recent changes to state law.¹ While the \$300,000 contract was approved by the City Council, a subcommittee composed of Councilmembers Bruins and Pepper was formed to iron out the project schedule and the final language of the agreement. After two meetings with the consultant team in April of 2020, the contract was ready for signature and fully executed by the City on April 30, 2020.

However, the actual amount of that contract (attached) was \$265,000:

COMPENSATION. CONSULTANT will perform the work outlined above and will invoice the CITY monthly. CONSULTANT's total compensation, including reimbursed expenses, for the services set forth for the Contract shall not exceed \$265,000 as outlined in Exhibit A. A contingency amount of \$35,000 has been authorized by the City Council but the contingency funds cannot be accessed unless a change order is submitted and approved by the Community Development Director.

It's important to distinguish between actual contract amounts and contingencies. While contingencies are important to consider, we can always hope they won't be necessary.

Thanks,

Pat Marriott



**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF LOS ALTOS, CALIFORNIA
AND
LISA WISE CONSULTING INC.,
FOR CONSULTANTS TO PREPARE OBJECTIVE DESIGN STANDARDS**

THIS AGREEMENT is made and entered into as of the 30th day of April, 2020, by and between the CITY OF LOS ALTOS, a municipal corporation, hereinafter referred to as “**CITY**,” and Lisa Wise Consulting, Inc. (LWC), hereinafter referred to as “**CONSULTANT**.”

RECITALS

WHEREAS, CITY desires to retain a qualified consulting firm to prepare objective design standards; and

WHEREAS, CITY has determined that CONSULTANT possesses the skills, experience and certifications required to provide the services required by the CITY; and

WHEREAS, CONSULTANT is an independent consultant providing similar professional services to numerous other cities; and

WHEREAS, CITY desires to retain CONSULTANT to provide professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises identified herein, the parties mutually agree as follow:

1. SCOPE OF SERVICES.

A. CONSULTANT. CONSULTANT shall assist the CITY by executing the following scope of services in a satisfactory and proper manner in accordance with requirements provided by the City Manager, or designee. Services will include, but not be limited to, the items noted in CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit A.

2. SCHEDULE. Services of CONSULTANT are to commence upon the execution of this Agreement and shall continue in full force and effect until it is terminated. It is intended that the termination of this Agreement be contemporaneous with final acceptance of all services described in Exhibit A by the Los Altos City Manager, or designee. CONSULTANT shall meet the completion date as indicated on Exhibit A.

3. TERM. The term of this Agreement shall continue in full force and effect for the FY 19-20, FY 20-21 and 21-22 and can be extended for an additional two years for a total of five years. Changes

in Scope of Services and Payment Schedule, Exhibit A, can be amended, as needed, thirty (30) days prior to the expiration of each fiscal year and agreed to by both parties. If the Agreement is terminated, it is intended that the termination of the Agreement be contemporaneous with final acceptance of all services by CITY.

4. **COMPENSATION.** CONSULTANT will perform the work outlined above and will invoice the CITY monthly. CONSULTANT's total compensation, including reimbursed expenses, for the services set forth for the Contract shall not exceed \$265,000 as outlined in Exhibit A. A contingency amount of \$35,000 has been authorized by the City Council but the contingency funds cannot be accessed unless a change order is submitted and approved by the Community Development Director.

A. **Compensation.** The compensation shall be paid to CONSULTANT based on the following hourly rates guide:

Consultant	\$ /hour
Principal	\$275
Director	\$205
Senior Associate	\$180
Lead Associate	\$155
Associate	\$145

B. **Method of Payment.** As a condition precedent to any payment to CONSULTANT under this Agreement, CONSULTANT shall submit monthly to the CITY a statement of account which clearly sets forth the designated items of work for which the billing is submitted. Each statement of account shall also include a detailed record of the month's actual reimbursable expenditures.

CITY shall review CONSULTANT's monthly statement and pay CONSULTANT for services rendered hereunder at the rates if acceptable and in the amounts provided hereunder on a monthly basis in accordance with the approved monthly statements. Payment will be made according to the CITY's standard Payment Schedule and Terms.

5. **OWNERSHIP OF WORK.** All documents furnished to CONSULTANT by CITY and all reports and supportive data prepared by CONSULTANT by this Agreement are CITY's property, for the exclusive use of the CITY, shall be given to CITY at the completion of CONSULTANT services.

6. **COMPLIANCE WITH LAW.** CONSULTANT shall comply with all applicable federal, state and local laws, codes, ordinances and regulations, including Cal/OSHA requirements. CONSULTANT represents to CITY that it has, and will maintain through the term of the Agreement, all licenses, permits, qualifications, insurance and approvals of whatsoever nature, which are legally required for CONSULTANT to practice its profession. CONSULTANT shall maintain a City of Los Altos Business License.

7. **STANDARD OF CARE.** CONSULTANT's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level

of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

8. **INSURANCE.** CONSULTANT shall procure and maintain for the duration of the contract insurance as described in Exhibit B against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, its agents, representatives, employees or subcontractors.
9. **RELATIONSHIP BETWEEN THE PARTIES.** CONSULTANT is, and at all times shall remain, an independent contractor, not an agent or employee of the CITY. CONSULTANT shall be solely responsible for all acts of its employees, agents or sub-consultants, including any negligent acts or omissions. CONSULTANT shall have no authority to act on behalf of the CITY or to bind the CITY to any obligation whatsoever, unless the CITY provides prior written authorization to CONSULTANT. As an independent contractor, CONSULTANT shall not be entitled to any benefit, right or compensation from the CITY other than those provided for in this Agreement.
10. **INDEMNIFICATION.** To the fullest extent permitted by law, CONSULTANT shall defend (with counsel reasonably approved by CITY), indemnify and hold CITY, the City Council, members of the City Council, its employees, representatives, agents and volunteers harmless from any and all suits, damages, costs, fees, claims, demands, causes of action, liabilities, losses expenses, damage or injury of any kind, in law or equity, to property or persons, including wrongful death and financial losses (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of CONSULTANT or CONSULTANT'S officers, assistants, subcontractors, employees or agents in connection with the performance of CONSULTANT's services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, to the extent CONSULTANT's services are subject to Civil Code Section 2782.8, (Design Professionals) the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. CONSULTANT's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CITY, the City Council, members of the City Council, its employees, or authorized volunteers.

11. **CALIFORNIA LABOR CODE REQUIREMENTS.** CONSULTANT is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" or "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, CONSULTANT agrees to fully comply with such Prevailing Wage Laws, if applicable. CONSULTANT shall defend, indemnify and hold the CITY, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the CONSULTANT and all sub-consultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5),

certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, CONSULTANT and all sub-consultants performing such services must be registered with the Department of Industrial Relations. CONSULTANT shall maintain registration for the duration of the Project and require the same of any sub-consultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be CONSULTANT's sole responsibility to comply with all applicable registration and labor compliance requirements.

12. **TERMINATION OF AGREEMENT.** Notwithstanding any other provision of this Agreement, the CITY may terminate this Agreement without cause at any time upon giving ten days written notice to CONSULTANT. In the event of such a termination, CONSULTANT shall be entitled to any compensation owed for services rendered up to the effective date of termination.
13. **MAINTENANCE OF RECORDS.** Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by CONSULTANT and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under this Agreement for inspection by CITY.
14. **ORGANIZATION.** CONSULTANT shall assign Monica Szydluk as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of CITY.
15. **WRITTEN NOTIFICATION.** Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other part at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing it mailed as provided in this section.

CITY: City of Los Altos
Christopher Jordan, City Manager
1 N. San Antonio Road
Los Altos, CA 94022

CONSULTANT: Lisa Wise
President and Owner
Lisa Wise Consulting, Inc.
983 Osos Street
San Luis Obispo, CA 93401
lisa@lisawiseconsulting.com
805-595-1345

16. **PARTIAL INVALIDITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

17. **WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of the Agreement.
18. **NO IMPLIED WAIVERS.** The failure of either party at any time to require performance by the other party of any provisions hereof shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
19. **ASSIGNMENT.** The parties recognize that a substantial inducement to CITY for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. CONSULTANT, therefore, shall not assign, delegate, nor transfer any rights or obligations pursuant to this Agreement, except as specified in this Agreement, without the prior written consent of CITY. Any assignment of any right or obligation or subcontracting of any work without CITY consent shall be void and of no effect.
20. **TAXES.** CONSULTANT agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement, and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONSULTANT agrees to indemnify and hold CITY harmless from any liability which it may incur to the United States of America or the State of California as a consequence of CONSULTANT's failure to pay, when due, all such taxes and obligations. In the event CITY is audited for compliance regarding withholding or other applicable taxes, CONSULTANT agrees to furnish CITY with proof of payment of taxes on these earnings.
21. **NONDISCRIMINATION.** CONSULTANT shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) or the basis of race, color, religious creed, national origin, gender, physical or mental disability, marital status, or sexual orientation.
22. **DEFAULT.** In the event CONSULTANT fails to provide the services set forth in this Agreement due to the fault of CONSULTANT, CITY shall have the right to either do the work itself or hire an outside contractor to perform those services.
23. **TIME OF ESSENCE.** Time is of the essence for each and every provision of this Agreement.
24. **CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS.** CITY reserves its right to employ other consultants in connection with this Project or other projects.
25. **VENUE.** In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Santa Clara, San Jose, California.
26. **CONSTRUCTION.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in the manner that avoids any violation of statute, ordinance, regulation or law.
27. **AMENDMENT.** This Agreement constitutes the complete and exclusive statement of the Agreement to CITY and CONSULTANT. It may be amended or extended from time-to-time by written agreement of the parties hereto.

- 28. INTEGRATION.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by CONSULTANT for CITY, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed by the party to be charged. If there is any conflict in the terms of this Agreement with the exhibits or attachments, then the provisions of this Agreement shall control.
- 29. EXECUTION.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement it shall not be necessary to produce or account for more than one such counterpart.
- 30. IN WITNESS. WHEREOF,** the CITY and CONSULTANT have executed this Agreement as of the date first above written.

EXHIBIT A SCOPE OF WORK

At the direction of Community Development Director or his/her designee, the consulting will coordinate with the City of Los Altos to perform the following tasks:

This contract will result in updated objective design standards for the mixed use, commercial and multifamily zoning districts within the City of Los Altos. Objective design standards mean changes to existing codes, design guidelines and other regulations that are applicable to impacted zoning districts.

Task 1: Project Initiation, Background Analysis, and Direction Setting

- A. **Project Initiation Meeting and Document/Data Request (Team).** The consulting team will prepare for a project initiation meeting with City staff (teleconference). At this meeting, the consulting team will review the project scope of work and timeline, confirm project goals and objectives, and provide an overview of recent State legislation as it relates to the project. The team will also discuss applicable material, including the General Plan, Zoning Code, the General Plan Negative Declaration, the Housing Element Neg Dec, Downtown Vision Plan, Sherwood Specific Plan, and the Loyola Corner Specific Plan, the City's design review criteria for various project types, and other relevant information. The consulting team will submit a formal document request to City staff following the project initiation meeting.
- B. **Assessment of Existing Code and Other Relevant Material (Team).** The consulting team will conduct a thorough background assessment relevant to multi-family and residential mixed-use objective design standards to inform the project scope and direction. This task will include:
- An evaluation of the Los Altos Zoning Code for consistency with recent State law, including but not limited to SB2, SB35, SB330, AB1485 and AB881;
 - A review of relevant subjective and objective standards, criteria, and guidelines for multi-family and residential mixed-use development, primarily focusing on the subjective;
 - An assessment of the areas of the city that are subject to SB35 and other housing laws to better understand the geographic areas of the City that will need to be considered for objective design standards;
 - A micro-scale analysis of existing characteristics of the City's built environment to identify exemplars and unique attributes;
 - Lot testing on sample lots/sites within existing zoning districts. The focus will be zoning districts where multi-family and residential mixed-use objective standards may be required; and
 - A close look at transportation conditions such as parking standards, traffic studies, and best management practices related to transportation services to gauge on-site parking and transportation demands.

Collectively, the analysis will help inform the development of thoughtful, robust, and legally compliant objective standards that lead to predictable built results.

- C. **Direction Setting Presentation (LWC).** Based on the findings of the consulting team's assessment of existing regulatory documents and site testing, the consultant team will prepare a Direction Setting and Recommendations Presentation. The presentation will document the

findings from Task 1B (Assessment of the Existing Regulations), show the “big ideas” for preparing objective design standards for multi-family and residential mixed-use development, and outline potential amendments to the City’s existing Zoning Code. The presentation will be given at the first City Council study session by no later than June 30, 2020.

MEETINGS

- Project Initiation Meeting

DELIVERABLES

- Direction Setting and Recommendations PowerPoint Presentation

Task 2: Stakeholder and Community Outreach

Due to the current statewide shelter in place order from the Governor of California, the Public Outreach Program will focus on online and teleconferencing alternatives.

- A. **Project Website (LWC).** Throughout the project, LWC will work closely with the City to develop, review, edit and provide material for the project website, such as text, photographs, maps, diagrams, and other information about the project. LWC anticipates that the City will upload material provided by the consulting team to the project page on the City website. The site may include a link to social media, an email list-serve sign-up so community members can stay engaged and advised on upcoming meetings, and access to project-related material and drafts for public review. (Assumes a 6-month project engagement.)
- B. **Stakeholder Interviews (LWC).** LWC will prepare for and participate in one or two days of interviews with City staff, City Councilmembers, Planning Commissioners, city identified developers and architects, and others familiar with the Zoning Code and development in the City. City staff will be responsible for identifying and coordinating interviews and meetings. LWC anticipates about fifteen, 30-minute interviews. The consultant will summarize the concerns and comments from the stakeholder process into a document for review by the public.
- C. **Community Outreach on Annotated Objective Design Standards Framework (LWC).** The consulting team will design an online, interactive community workshop to provide context (background information, visualization of concepts, etc.), introduce specific changes, and gather community input. The consulting team will also prepare an appropriate online feedback mechanism to gather concerns and suggestions. Context information should include, but not be limited to, scope of the project, goals & objectives, and visualization of the concepts introduced. A summary memo of all public comments received will be provided to the City and posted on the project website.
- D. **City Council or Joint Planning Commission/City Council Study Sessions (Team).** The consulting team will conduct two City Council or Joint Planning Commission and City Council study sessions at key milestones in the project. These study sessions will be opportunities for in-depth discussions of key deliverables and issues related to the preparation of the objective design standards. Topics of the study sessions are:
 1. **Discussion of the Findings and Recommendations (Task 1C).** The consulting team will present the assessment of existing Code and site testing to facilitate a

discussion about the concerns expressed in the stakeholder interviews and the priorities for the objective design standards.

2. **Discussion of the Annotated Framework (Task 3A).** The consulting team will present the Annotated Framework to facilitate a discussion on the organization and content of the objective design standards.

MEETINGS

- Stakeholder Interviews and Summary of the Interviews
- Community Outreach Workshop (online)
- City Council or Joint Planning Commission/City Council Study Sessions (2)

DELIVERABLES

- Project website and social media content

Task 3: Public Review Draft Objective Design Standards

- A. **Annotated Objective Design Standards Framework (LWC and Opticos).** Based on the final Recommendations Memo and community input, the team will prepare an Annotated Objective Design Standards Framework. The Framework will provide the recommended format, template, organization, graphics, and content of the objective design standards. The Annotated Framework will be given at the second City Council study session (see Task 2).
- B. **Administrative Draft Objective Design Standards (LWC and Opticos).** Based on the Annotated Outline and reflective of the analysis, review, and input gathered in Tasks 1 and 2, the consulting team will prepare Administrative Draft Objective Design Standards for multi-family and residential mixed-use development.
- C. **Public Review Draft Objective Design (LWC and Opticos).** Based on staff comments received on the Administrative Draft, the consulting team will prepare a Public Review Draft of the Objective Design Standards will be prepared for review by the community at a City Council meeting.

DELIVERABLES

- Annotated Objective Design Standards Framework
- Administrative Draft Objective Design Standards
- Public Review Draft Objective Design Standards

Task 4: CEQA Documentation

- A. **CEQA Determination Memo (LWC).** It is anticipated the Objective Design Standards will be consistent with the General Plan's CEQA clearance. LWC will prepare a technical memo supporting findings of consistency. However, if additional CEQA clearance is required, an IS, ND, or an MND may be prepared as an optional task. Additionally, City staff will work with the City Attorney to determine if a Notice of Exemption with the appropriate findings of fact can be made for this project.

DELIVERABLES

- CEQA Determination Memo

Task 5: Public Hearings

- A. **City Council and Planning Commission Hearings (LWC).** LWC will present the Public Review Draft Objective Design Standards to the Planning Commission for recommendation to the City Council and to the City Council for adoption.

MEETINGS

- Planning Commission Hearing (1)
- City Council Hearing (1)

Task 6: Final Objective Design Standards and Supporting Documents

- A. **Final Objective Design Standards (LWC).** Based on the feedback from the final adoption hearings, LWC will prepare the Final Objective Design Standards reflective of input received from the City Council hearings.
- B. **Supporting Documents (LWC).** LWC will prepare an application checklist and a handout for the objective design standards for planning counter hand-outs and online distribution.

DELIVERABLES

- Final Objective Design Standards
- Supporting Documents (PDF format)

Exhibit 1-A (Project Schedule) and Exhibit 1-B (Project Budget) are attachments to the contract and both parties agree to the timelines and budget of said documents.

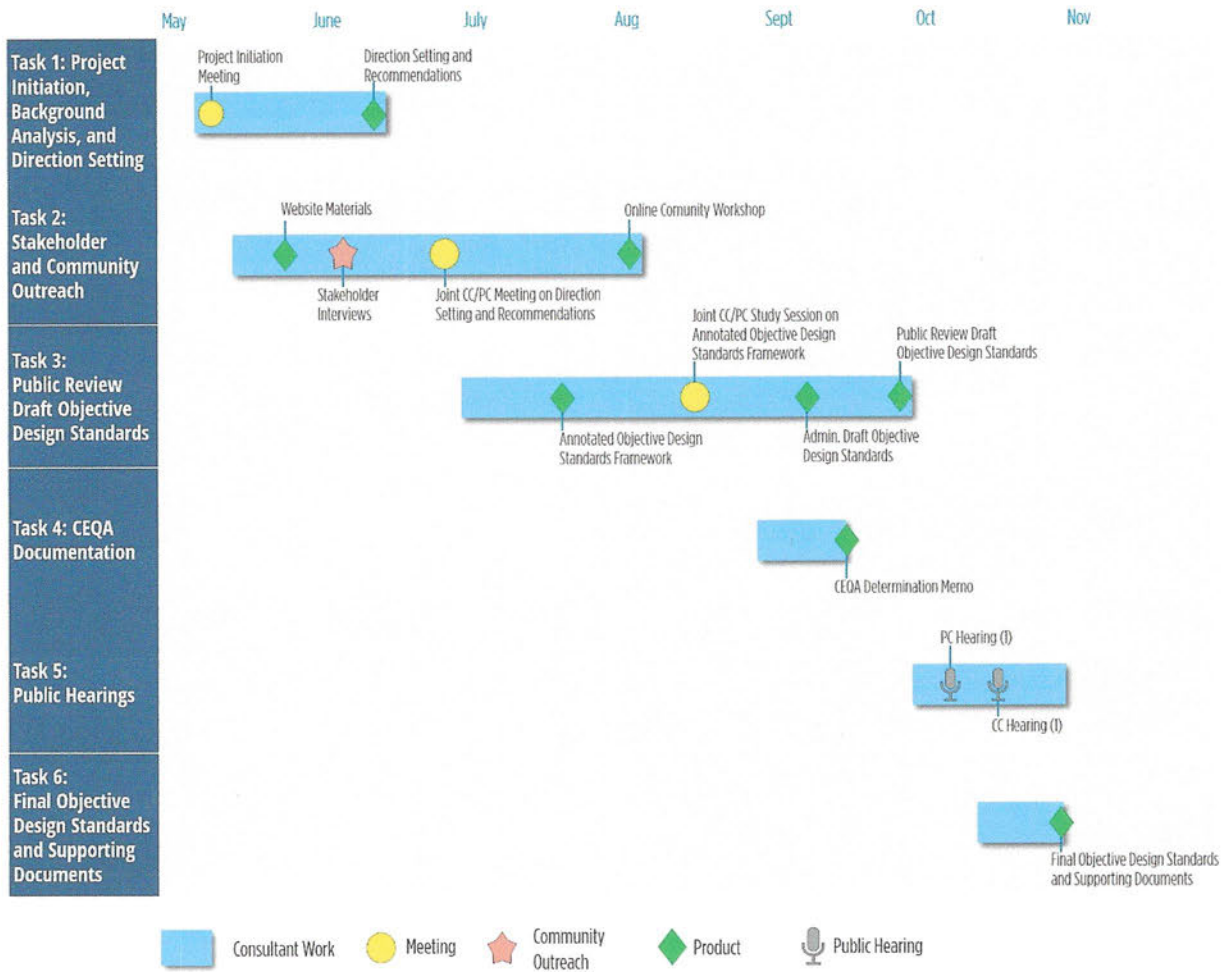


Exhibit 1-A (Project Schedule)

Exhibit 1B (Project Budget)
Los Altos Objective Design Standards

April 27, 2020

Task		LWC, Inc.										Opticos Design, Inc.	W-Trans	Project Total
		Principal		Director		Senior		Associate		LWC, Inc. TOTAL				
		\$275		\$205		\$180		\$145						
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost			
Task 1: Project Initiation, Background Review, and Direction Setting	Task 1A: Project Initiation and Data Request	4	\$ 1,100	2	\$ 410	8	\$ 1,440	8	\$ 1,160	20	\$ 4,110	\$ 4,120	\$ 2,000	\$ 10,230
	Task 1B: Assessment of Existing Code and Relevant Material	4	\$ 1,100	4	\$ 820	32	\$ 5,760	24	\$ 3,480	60	\$ 11,160	\$ 19,000	\$ 4,000	\$ 34,160
	Task 1C: Direction Setting Presentation	2	\$ 550	8	\$ 1,640	24	\$ 4,320	24	\$ 3,480	50	\$ 9,990	\$ 4,120	\$ -	\$ 14,110
Task 2: Community Involvement	Task 2A: Project Website	-	\$ -	-	\$ -	16	\$ 2,880	24	\$ 3,480	40	\$ 6,360	\$ -	\$ -	\$ 6,360
	Task 2B: Stakeholder Interviews	8	\$ 2,200	8	\$ 1,640	32	\$ 5,760	32	\$ 4,640	72	\$ 14,240	\$ 3,140		\$ 7,380 ¹
	Task 2C: Community Outreach	8	\$ 2,200	-	\$ -	32	\$ 5,760	40	\$ 5,800	80	\$ 13,760	\$ 5,000		\$ 8,760 ¹
	Task 2D: CC/PC Study Sessions (2)	8	\$ 2,200	8	\$ 1,640	24	\$ 4,320	32	\$ 4,640	64	\$ 12,800	\$ 5,000	\$ 1,500	\$ 19,300
Task 3: Public Review Draft Objective Design Standards	Task 3A: Annotated Framework	-	\$ -	8	\$ 1,640	32	\$ 5,760	12	\$ 1,740	44	\$ 9,140	\$ 4,970	\$ -	\$ 14,110
	Task 3B: Admin Draft Objective Design Standards	16	\$ 4,400	24	\$ 4,920	60	\$ 10,800	100	\$ 4,500 ¹	176	\$ 34,620	\$ 24,000	\$ -	\$ 58,620
	Task 3C: Public Review Draft Objective Design Standards	8	\$ 2,200	12	\$ 2,460	32	\$ 5,760	80	\$ 1,600 ¹	120	\$ 22,020	\$ 12,500	\$ -	\$ 34,520
Task 4: CEQA	Task 4A: CEQA Documentation	4	\$ 1,100	-	\$ -	8	\$ 1,440	-	\$ -	12	\$ 2,540	\$ -	\$ -	\$ 2,540
Task 5: Public Hearings	Task 5A: Joint CC/PC Hearing (1)	8	\$ 2,200	8	\$ 1,640	16	\$ 2,880	16	\$ 2,320	40	\$ 9,040	\$ 2,500	\$ 1,500	\$ 13,040
Task 6: Final Products	Task 6A: Final Objective Design Standards	-	\$ -	-	\$ -	24	\$ 4,320	24	\$ 3,480	48	\$ 7,800	\$ -	\$ -	\$ 7,800
	Task 6B: Supporting Docs		\$ -	4	\$ 820	40	\$ 7,200	40	\$ 5,800	80	\$ 13,820	\$ -	\$ -	\$ 13,820
TOTAL BASE FEE											\$ 171,400	\$ 84,350	\$ 9,000	\$ 264,750
Contingency														\$ 35,000
Total With Contingency														\$ 299,750

EXHIBIT B

INSURANCE

CONSULTANT shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements to: **Project Manager, City of Los Altos, 1 N. San Antonio Road, Los Altos, CA 94022**

Minimum Scope of Insurance

Coverage shall be *at least as broad as*:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, with limits no less than **\$1,000,000 or \$2,000,000 aggregate** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following:

- a. Bodily Injury and Property Damage
- b. Personal Injury/Advertising Injury
- c. Premises/Operations Liability
- d. Products/Completed Operations Liability
- e. Aggregate Limits that Apply per Project
- f. Explosion, Collapse and Underground (UCX) exclusion deleted
- g. Contractual Liability with respect to this Agreement
- h. Broad Form Property Damage
- i. Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

2. **Automobile Liability:** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if CONSULTANT has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation/Employer’s Liability:** CONSULTANT certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent CONSULTANT has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement CONSULTANT shall maintain insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONSULTANT’s profession, with limit no less than **\$1,000,000** per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement

and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the CONSULTANT. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.

5. **Umbrella or Excess Liability: Umbrella or Excess Insurance.** If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. CONSULTANT shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the CITY indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
6. The CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the umbrella or excess policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. If CONSULTANT maintains broader coverage, umbrella or excess coverage and/or higher limits than the minimums shown above, the CITY requires and shall be entitled to the broader coverage, umbrella or excess coverage and/or the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and any other coverages shall be available to the CITY.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status. The CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy and the Automobile Liability policy, with endorsements under CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage, with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations.

Primary Coverage. For any claims related to this contract, the CONSULTANT's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

Notice of Cancellation. Each insurance policy required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the CITY.

Waiver of Subrogation. CONSULTANT hereby grants to CITY a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the CITY. The CITY may require the CONSULTANT to provide proof

of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

Claims Made Policies. If any of the required policies provide claims-made coverage:

7. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
8. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract work.*
9. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONSULTANT must purchase "extended reporting" coverage for a minimum of *three (3) years* after completion of contract work.

Verification of Coverage. CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances. CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/29/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER License # 0305584 Morris & Garritano Insurance Agency, Inc. CONTACT NAME: Kim Garcia PHONE (A/C, No, Ext): (805) 543-6887 133 FAX (A/C, No): E-MAIL ADDRESS: kgarcia@morrisingarritano.com

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER: 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation, and Professional Liabili.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) If required by written contract, The City of Los Altos, its officers, officials, employees, and volunteers are Additional Insured as respects to General, Auto, and Excess Liability per forms attached.

CERTIFICATE HOLDER: City of Los Altos, a municipal Corporation 1 N. San Antonio Road, Los Altos, CA 94022 CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

BUSINESS LIABILITY COVERAGE FORM

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

g. Business Liability Exclusions

Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

BUSINESS LIABILITY COVERAGE FORM

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
 - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
 - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
 - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
 - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - (a) In connection with your premises; or
 - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

 - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
 - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - (a) In the performance of your ongoing operations;
 - (b) In connection with your premises owned by or rented to you; or
 - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
 - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

BUSINESS LIABILITY COVERAGE FORM

- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D. – Limits Of Insurance**.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E. – Liability And Medical Expenses General Conditions**.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b.** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

BUSINESS LIABILITY COVERAGE FORM

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

ENDORSEMENT No. 16

This endorsement, effective 12:01 AM: June 27, 2019

Forms a part of policy no: BE 035882751

Issued to: LISA WISE CONSULTING, INC.

By: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

Prime ExpressSM

Additional Insured Endorsement -- Primary and Non-Contributory

This policy is amended as follows:

Section VII. DEFINITIONS, Paragraph N. is amended to include the following additional provision:

Insured means:

Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is an additional insured on your policy, but only if such person or organization is included under the coverage provided by **Scheduled Underlying Insurance**. Such person or organization is an additional insured only with respect to liability arising out of **Your Work** at the location(s) designated in such contract or agreement.

This provision does not apply to liability arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. Coverage afforded to these additional insured parties will be primary to, and non-contributory with, any other insurance available to that person or organization.

All other terms, definitions, conditions, and exclusions of this policy remain unchanged.



Authorized Representative or
Countersignature (Where Applicable)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA
BLANKET BASIS**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be calculated by applying a factor of 2% to the total manual premium, with a minimum initial charge of \$350, then applying all other pricing factors for the policy to this calculated charge to derive the final cost of this endorsement.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Blanket Waiver

Person/Organization Blanket Waiver – Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

Job Description	Waiver Premium (prior to adjustments)
All CA Operations	350.00

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 04/01/2020

Policy No.: LIWC115710

Endorsement No.:

Insured:

Premium \$

Insurance Company: Oak River Insurance Company

Countersigned by _____











20-05.LisaWiseConsultingInc.PrepObjtvDesignStd.Agreement

Final Audit Report

2020-04-30

Created:	2020-04-30
By:	Angel Rodriguez (arodriguez@losaltosca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAADCMfgW50GCVOm2sOJvvWLGuhe6IVRDZ8

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2020-04-30 - 11:20:56 PM GMT



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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

COVERAGE INDEX

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SECTION II - LIABILITY COVERAGE is amended as follows:

1. BROAD FORM INSURED

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

d. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, "insured" does not include any organization that:

- (1) Is a partnership or joint venture; or
- (2) Is an insured under any other automobile policy; or
- (3) Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph d. (2) of this provision does not apply to a policy written to apply specifically in excess of this policy.

e. Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1) If there is similar insurance or a self-insured retention plan available to that organization;



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- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

2. EMPLOYEES AS INSURED

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow, but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit

4. SUPPLEMENTARY PAYMENTS

SECTION II - LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are replaced by the following:

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

5. AMENDED FELLOW EMPLOYEE EXCLUSION

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II - LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

SECTION III - PHYSICAL DAMAGE COVERAGE is amended as follows:

6. HIRED AUTO PHYSICAL DAMAGE

Paragraph A.4. Coverage Extensions of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
 - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$1,000 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
 - (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V - DEFINITIONS is amended by adding the following:
"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

7. TOWING AND LABOR

SECTION III - PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 - 20,000 pounds.

However, the labor must be performed at the place of disablement.

8. PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500



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9. RENTAL REIMBURSEMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

11. PERSONAL EFFECTS COVERAGE

A. SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

B. SECTION V - DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

12. ACCIDENTAL AIRBAG DEPLOYMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III - PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:

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Exclusion 4.c. and 4.d. do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

14. LOAN / LEASE GAP COVERAGE

- A. Paragraph C., LIMIT OF INSURANCE of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
 - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
 - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
 - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
 - d. Transfer or rollover balances from previous loans or leases,
 - e. Final payment due under a "Balloon Loan",
 - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
 - g. Security deposits not refunded by a lessor,
 - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
 - i. Any amount representing taxes,
 - j. Loan or lease termination fees; or
2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

- C. SECTION V - DEFINITIONS is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.



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15. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to "loss" caused by collision to such covered "auto" of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the "auto" is designed to carry while it is:

- a. In the charge of an "insured";
- b. Legally parked; and
- c. Unoccupied.

The "loss" must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations.

This provision does not apply to any "loss" if the covered "auto" is in the charge of any person or organization engaged in the automobile business.

17. TWO OR MORE DEDUCTIBLES

Under SECTION III PHYSICAL DAMAGE COVERAGE, if two or more company policies or coverage forms apply to the same accident, the following applies to paragraph D. Deductible:

- a. If the applicable Business Auto deductible is the smaller (or smallest) deductible it will be waived; or
- b. If the applicable Business Auto deductible is not the smaller (or smallest) deductible it will be reduced by the amount of the smaller (or smallest) deductible; or
- c. If the loss involves two or more Business Auto coverage forms or policies the smaller (or smallest) deductible will be waived.

For the purpose of this endorsement company means any company that is part of the Liberty Mutual Group.

SECTION IV - BUSINESS AUTO CONDITIONS is amended as follows:

18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

19. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when it is known to:
 - 1. You, if you are an individual;
 - 2. A partner, if you are a partnership;
 - 3. Member, if you are a limited liability company;
 - 4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.

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To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

20. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

21. HIRED AUTO COVERAGE TERRITORY

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

SECTION V - DEFINITIONS is amended as follows:

22. BODILY INJURY REDEFINED

Under SECTION V - DEFINITIONS, definition **C.** is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

COMMON POLICY CONDITIONS

23. EXTENDED CANCELLATION CONDITION

COMMON POLICY CONDITIONS, paragraph **A.** - CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.



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CONSENT CALENDAR

Agenda Item # 7

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Professional Services Agreement with 4Leaf, Inc. for Construction Inspection Services for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Prepared by: Kathy Kim, Assistant Civil Engineer

Reviewed by: Jim Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachment:

1. Proposed Fee Schedule

Initiated by:

City Council – CIP Project TS-01056

Previous Council Consideration:

None

Fiscal Impact:

The following action will cost \$185,193 from Fremont Avenue Pavement Rehabilitation, Project TS-01056. This project has two funding sources, CIP and One Bay Area Grant (OBAG), please see below for the breakdown. There is sufficient funding to cover the resurfacing construction job and the inspection agreement with 4Leaf, Inc. Additional fund is not requested for this item.

- Breakdown of funds to be used:
 - o \$1,750,000 CIP Fund
 - o \$336,000 OBAG Grant
- Amount already included in approved budget: Y
- Amount above budget requested: 0

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301(c) consisting of the operation, repair and maintenance of existing facilities such as streets and involves negligible or no expansion of existing or former use.

Policy Question(s) for Council Consideration:

- None

Interim City Manager

BK

Reviewed By:

City Attorney

JH

Finance Director

JM



Subject: Professional Services Agreement with 4Leaf, Inc. for Construction Inspection Services for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Summary:

- Upon evaluation of the project needs, it has been determined that there are not enough staff resources to provide adequate inspection services for the project.
- City requested on-call consultants to submit proposals for inspection services.
- Upon review of the proposals, staff recommends awarding the agreement to 4Leaf, Inc. for inspection services.

Staff Recommendation:

Move to authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and 4Leaf, Inc. in an amount not to exceed \$185,193 for inspection services for Fremont Avenue Pavement Rehabilitation, Project TS-01056.

Purpose

Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and 4Leaf, Inc. in an amount not to exceed \$185,193 for inspection services for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Background

Fremont Avenue Pavement Rehabilitation project was initiated in Fall 2019 to resurface Fremont Avenue from Grant Road to the easterly City Limit. This segment of Fremont Avenue will receive a 1.5” asphalt-concrete (AC) overlay and dig-out repairs on base failure areas. After pavement treatments are completed, the City will implement bicycle and pedestrian improvements. These improvements include consistent 11-ft vehicle travel lanes (compared to the existing 15-ft lanes) to help encourage slower vehicle speeds, buffered bicycle lanes (3-ft buffer with 6-ft bicycle lanes), green bike lane enhancements, high-visibility crosswalk markings, and signage. Other signage and pavement marking treatments include “KEEP CLEAR” markings at key intersections for residents to safely turn in and out of streets that bisect Fremont Avenue.

Discussion/Analysis

To ensure thorough inspection services are provided during construction, it was determined that additional assistance would be needed to supplement City staff. On April 2, 2021, the City released a request for proposals for construction inspection services to the City’s on-call engineering services consultants, and received proposals from 4Leaf, Inc. and Bellecci & Associates. Bellecci & Associates provided the design services for this project; therefore, staff selected 4Leaf, Inc., a third party firm, to provide inspection services during construction. 4Leaf, Inc. has adequate qualifications and experiences, and had satisfactory results from previous City pavement resurfacing projects. Staff recommends execution of a new agreement with 4Leaf, Inc. for construction inspection services for an amount not to exceed \$185,193.



Subject: Professional Services Agreement with 4Leaf, Inc. for Construction Inspection Services for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Options

- 1) Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and 4Leaf, Inc. in an amount not to exceed \$185,193 for inspection services for the Fremont Avenue Pavement Rehabilitation Project.

Advantages: Inspection services for the Fremont Avenue Pavement Rehabilitation Project will be provided during construction.

Disadvantages: None

- 2) Do not authorize the execution of a professional services agreement for inspections services.

Advantages: None

Disadvantages: Staff does not have availability to provide enough quality assurance inspection services for the project. Adequate inspection services for the project would not be provided during construction. Construction should not proceed without inspection services.

Recommendation

The staff recommends Option 1.

**Estimated Fees to Perform
 Construction Inspection Services for the Fremont Ave. Pavement Rehabilitation Project
 (Grant Road to Stevens Creek, Project TS-01056)
 for the City of Los Altos**

Task	Sub Task	Task Description	PIC / Project Manager	Construction Inspector (RT Hours - Daytime)	Construction Inspector (Overtime - Daytime)	Public Works Inspector Apprentice	Total Hours Per Task	Cost Per Task	Notes
		Hourly Rate	\$185	\$147	\$198.45	\$92.15			See Notes (a), (b), & (c).
1		Pre-Construction Phase							
	1a	Attend Teleconference Kick-off Meeting with City.	1	1	0		2	\$332	
	1b	Perform and Document Visual Survey of Site Conditions.	0	20	0		20	\$2,940	
	1c	Review Conformed Set of Project Plans and Specifications.	1	12	0			\$1,949	See Note (d).
	1d	Attend Virtual Pre-Construction Meeting.	2	2	0			\$664	
	1e	Project Management.	3	0	0		3	\$555	See Note (e).
		Task 1 Subtotal:	7	35	0		25	\$6,440	
2		Construction Phase	Hours	Hours	Hours		Hours		
	2a	Perform Construction Inspections.	0	864	108		972	\$148,441	See Note (f).
	2b	Project Management.	22	0	0		22	\$4,070	See Note (g).
		Task 2 Subtotal:	22	864	108		994	\$152,511	
3		Post-Construction Phase	Hours	Hours	Hours		Hours		
	3a	Perform Final Inspections and Prepare As-Needed Documents as Requested by City.	0	60	0		60	\$8,820	
	3b	Project Management.	8	0	0		8	\$1,480	
		Task 3 Subtotal:	8	60	0		68	\$10,300	
		TOTAL TASKS 1, 2 AND 3	37	959	108		1,087	\$169,251	
4		Public Works Inspection Apprenticeship (If Required)	Hours	Hours	Hours	Hours	Hours		
	4a	Provide Public Works Inspection Apprentice	0	0	0	173	173	\$15,942	See Notes (a) and (b).
		Task 4 Subtotal (Apprentice Only):	0	0	0	173	173	\$15,942	
		TOTAL (4LEAF + Apprentice if required):	37	959	108	173	1,260	\$185,193	

Notes:

- (a) Assumes project will require compliance with California Prevailing Wage rate requirements, and that the City will be filing a PWC-100 Form to the California Department of Industrial Relations for the project.
- (b) Per the requirements being enforced under SB 854 and because it is assumed that a PWC-100 Form will be filed by the City to the CA DIR, 4LEAF is required to notify an authorized Apprenticeship Committee through submittal of a DAS-140 form. We are then required to make an official request to an authorized Apprenticeship Committee for an apprentice by submitting a DAS-142 form. We are not assured the apprenticeship committee will be able to provide a suitable / qualified apprentice for the project. Per the apprenticeship requirements, the hours worked by the apprentice must be in a ratio of 1:5 for apprentice to journeyman hours. Hours are included as a placeholder in the event that an apprenticeship for a public works inspector is required and dispatched by the apprenticeship committee. We have assumed the public works apprentice assigned to the project will be classified as a Period 1 Apprentice as defined by the DIR's Wage Determination dated August 2020. In the event that a higher classification apprentice is assigned to the project, we will contact the City to request a change order for this line item.
- (c) 4LEAF staff will be supplied with typical tools of the trade to perform their daily tasks (e.g. cell phone, laptop computer, and PPE).
- (d) Not intended as a Constructibility Review but for project staff to become familiar with the Conformed Set of Project Documents.
- (e) Includes budget setting up Project Folder in Microsoft Share Point for sharing documents and uploading daily reports and photos during project.
- (f) Per updated email dated 4/12/21 from Kathy Kim with the City to 4LEAF, it is assumed that construction will begin on June 14, 2021 and have an estimated construction duration of 150 calendar days (108 working days). We have assumed one, full-time Construction Inspector at 108 days at at 8 hours per day at regular time and 1 hour per day at OT rate to ensure contractor sets up and takes down traffic control at the start and end of each shift and for Inspector to prepare daily reports. **Does not include any allowance for additional overtime or any weekend or holiday work. If additional overtime or weekend or holiday work is necessary, or the construction duration exceeds 108 working days (22 weeks), 4LEAF will submit a Budget Amendment Request to the City and these hours will be billed in accordance with the rates shown above and per California Prevailing Wage Law.**
- (g) Assumes project management level of effort will be 1 hour per week for 22 weeks for 4LEAF's PIC / PM.



CONSENT CALENDAR

Agenda Item # 8

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute the Program Supplement No. F011 and the Master Agreement No.04-5309F15 for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Prepared by: Kathy Kim, Assistant Civil Engineer

Reviewed by: Jim Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachment(s):

1. Resolution 2021-20
2. Program Supplement Agreement No. F011 dated 03/19/2021
3. Master Agreement No.04-5309F15

Initiated by:

City Council CIP Project TS-01056

Previous Council Consideration:

July 11, 2017

Fiscal Impact:

The following is the summary of the funding sources and total budget for this project:

Fremont Avenue Pavement Rehabilitation, Project TS-01056

Funding Source	Total Fund
One Bay Area Grant (OBAG)	\$ 336,000
Capital Improvement Program (CIP)	\$ 1,750,000
Total Project Budget	\$ 2,086,000

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301(c) consisting of the operation, repair and maintenance of existing facilities such as streets and involves negligible or no expansion of existing or former use.

Policy Question(s) for Council Consideration:

None

Reviewed By:

Interim City Manager

BK

City Attorney

JH

Finance Director

JM



Subject: Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute the Program Supplement No. F011 and the Master Agreement No.04-5309F15 for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Staff Recommendation:

Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute the Program Supplement No. F011 and the Master Agreement No.04-5309F15 for Fremont Avenue Pavement Rehabilitation, Project TS-01056.

Background

On February 7, 2001, the City and the State of California signed the Master Agreement to cover the procedures and conditions for the design, construction and maintenance of federally funded projects. Master Agreement No. 04-5309R was revised on July 18, 2007.

On July 11, 2017, the City Council approved a new capital improvement program (CIP) project for the Fremont Avenue Pavement Rehabilitation Project and adopted Resolution No. 2019-31 to utilize the One Bay Area Grant (OBAG) as a funding source.

A separate Program Supplement agreement is needed for each federally funded project as it occurs. On March 23, 2021, the City received the Program Supplement Agreement for the Fremont Avenue Pavement Rehabilitation Project. Also, the revised Master Agreement was received to incorporate the various changes in regulations and policies.

Discussion

A Program Supplement Agreement to the Master Agreement provides the administrative mechanism for the California Department of Transportation (Caltrans) to reimburse expenses for various stages of a project. The City must execute the Program Supplement Agreement before the City can invoice Caltrans for any reimbursement for construction of the project. This Program Supplement Agreement covers up to \$336,000 of OBAG funds for the construction phase of the Fremont Avenue Pavement Rehabilitation Project.

On February 25, 2021, the City received the Authorization to Proceed for the construction phase. On April 7, 2021, the City advertised the Fremont Avenue Pavement Rehabilitation Project for bidding. Then the City received and opened six (6) bids in a public virtual session on April 28, 2021. The lowest responsive and responsible bidder will be recommended to the City Council for construction contract award on May 25, 2021.

The City needs to execute Program Supplement No. F011 and the Master Agreement No.04-5309F15 for this project prior to any federal fund reimbursement request.



Subject: Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute the Program Supplement No. F011 and the Master Agreement No.04-5309F15 for Fremont Avenue Pavement Rehabilitation, Project TS-01056

Options

- 1) Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute the Program Supplement No. F011 to the Master Agreement No.04-5309F15 for the Fremont Avenue Pavement Rehabilitation Project.

Advantages: City will have OBAG funding to proceed with the Fremont Avenue Pavement Rehabilitation Project construction.

Disadvantages: None

- 2) Do not execute the program supplement agreement.

Advantages: None

Disadvantages: City will lose OBAG funding, and the project will not have enough funding to proceed.

Recommendation

Adopt Resolution No. 2021-20, authorizing the Interim City Manager to execute Program Supplement No. F011 to the Master Agreement No.04-5309F15 for Fremont Avenue Pavement Rehabilitation, Project TS-01056.

RESOLUTION NO. 2021-20

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE
PROGRAM SUPPLEMENT NO. F011 AND THE AGENCY-STATE MASTER
AGREEMENT NO. 04-5309F15 FOR FREMONT AVENUE PAVEMENT
REHABILITATION, PROJECT TS-01056**

WHEREAS, the Administering Agency-State Agreement No. 04-5309 between the City of Los Altos and the State of California, executed on February 7, 2001, covers the procedures, and conditions for the design, construction, and maintenance of federal aid projects; and

WHEREAS, the Agency-State Agreement No. 04-5309R was revised on July 18, 2007 to cover revised administration mechanisms to reimburse expenses for various stages of a particular project; and

WHEREAS, the City of Los Altos has been provided Agency-State Agreement No. 04-5309F15 to incorporate the various changes in regulation and policies; and

WHEREAS, execution of a separate Program Supplement No. F011 to the Master Agreement No.04-5309F15 is required for a project before federal funds can be released making it necessary to obtain a separate Council resolution for each additional project; and

WHEREAS, the City of Los Altos has been asked to execute Program Supplement No. F011 and the Agency-State Agreement No. 04-5309F15 for the Fremont Avenue Pavement Rehabilitation, Project TS-01056.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby authorizes the Interim City Manager to execute the Program Supplement No. F011 and the Agency-State Master Agreement No. 04-5309F15 with the State of California.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ____ day of ____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Neysa Fligor, MAYOR

Attest:

Andrea Chelemengos, MMC, CITY CLERK

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-

SPECIAL COVENANTS OR REMARKS

assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of

SPECIAL COVENANTS OR REMARKS

Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be

SPECIAL COVENANTS OR REMARKS

used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be

SPECIAL COVENANTS OR REMARKS

examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

3. Appendix E of the Title VI Assurances (US DOT Order 1050.2A)

During the performance of this agreement, the ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractor, (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

C. Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), (prohibits discrimination on the basis of sex);

D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);

F. Airport and Airway Improvement Act of 1982, (49 U.S.C. 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);

H. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation

SPECIAL COVENANTS OR REMARKS

systems, places of public accommodation, and certain testing entities (42 U.S.C. 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
FEDERAL-AID PROJECTS

ATTACHMENT 3

04 City of Los Altos

District Administering Agency

Agreement No. 04-5309F15

This AGREEMENT, is entered into effective this _____ day of _____, 20____, by and between City of Los Altos, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Congress of the United States has enacted the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and subsequent Transportation Authorization Bills to fund transportation programs; and
2. WHEREAS, the Legislature of the State of California has enacted legislation by which certain federal-aid funds may be made available for use on local transportation related projects of public entities qualified to act as recipients of these federal-aid funds in accordance with the intent of federal law; and
3. WHEREAS, before federal funds will be made available for a specific program project, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving federal funds for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:

ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project-specific "Authorization/Agreement Summary", herein referred to as "E-76" document, is approved by STATE and the Federal Highway Administration (FHWA).
2. The term "PROJECT", as used herein, means that authorized transportation related project and related activities financed in part with federal-aid funds as more fully-described in an "Authorization/ Agreement Summary" or "Amendment/Modification Summary", herein referred to as "E-76" or "E-76 (AMOD)" document authorized by STATE and the Federal Highway Administration (FHWA).
3. The E-76/E-76 (AMOD) shall designate the party responsible for implementing PROJECT, type of work and location of PROJECT.
4. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive federal-aid funds from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these federal funds that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all of the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.
5. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT within ninety (90) days of receipt. The PARTIES agree that STATE may suspend future authorizations/obligations and invoice payments for any on-going or future federal-aid project performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned within that ninety (90) day period unless otherwise agreed by STATE in writing.
6. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of federal funds encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all of the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.
7. Federal, state and matching funds will not participate in PROJECT work performed in advance of the approval of the E-76 or E-76 (AMOD), unless otherwise stated in the executed project-specific PROGRAM SUPPLEMENT. ADMINISTERING AGENCY agrees that it will only proceed with the work authorized for that specific phase(s) on the project-specific E-76 or E-76 (AMOD). ADMINISTERING AGENCY further agrees to not proceed with future phases of PROJECT prior to receiving an E-76 (AMOD) from STATE for that phase(s) unless no further federal funds are needed or for those future phase(s).

8. That PROJECT or portions thereof, must be included in a federally approved Federal Statewide Transportation Improvement Program (FSTIP) prior to ADMINISTERING AGENCY submitting the "Request for Authorization".

9. ADMINISTERING AGENCY shall conform to all state statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

10. If PROJECT is not on STATE-owned right of way, PROJECT shall be constructed in accordance with LOCAL ASSISTANCE PROCEDURES that describes minimum statewide design standards for local agency streets and roads. LOCAL ASSISTANCE PROCEDURES for projects off the National Highway System (NHS) allow STATE to accept either the STATE's minimum statewide design standards or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current LOCAL ASSISTANCE PROCEDURES.

11. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and, where appropriate, an executed Cooperative Agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights of way or work which affects STATE facilities.

12. When PROJECT is not on the State Highway System but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.

13. If PROJECT is using STATE funds, the Department of General Services, Division of the State Architect, or its designee, shall review the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. ADMINISTERING AGENCY shall not award a PROJECT construction contract for these types of improvements until the State Architect has issued written approval stating that the PROJECT plans and specifications comply with the provisions of sections 4450 and 4454 of the California Government Code, if applicable. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

14. ADMINISTERING AGENCY will advertise, award and administer PROJECT in accordance with the current LOCAL ASSISTANCE PROCEDURES unless otherwise stated in the executed project-specific PROGRAM SUPPLEMENT.

15. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. While consultants may perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer, ADMINISTERING AGENCY shall provide a full-time employee to be in responsible charge of each PROJECT who is not a consultant.

16. ADMINISTERING AGENCY shall submit PROJECT-specific contract award documents to STATE's District Local Assistance Engineer within sixty (60) days after contract award. A copy of the award documents shall also be included with the submittal of the first invoice for a construction contract by ADMINISTERING AGENCY.

17. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Report of Expenditures" within one hundred eighty (180) days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LOCAL ASSISTANCE PROCEDURES.

18. ADMINISTERING AGENCY shall comply with: (i) section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in federally assisted programs; (ii) the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination on the basis of disability irrespective of funding; and (iii) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

19. The Congress of the United States, the Legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM (Exhibit A attached hereto) and the NONDISCRIMINATION ASSURANCES (Exhibit B attached hereto). ADMINISTERING AGENCY further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of PROJECT-related work shall incorporate Exhibits A and B (with third party's name replacing ADMINISTERING AGENCY) as essential parts of such agreement to be enforced by that third party as verified by ADMINISTERING AGENCY.

1. No contract for the construction of a federal-aid PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights of way are available for construction purposes or will be available by the time of award of the construction contract.
2. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right of way for a PROJECT, including, but not limited to, being clear as certified or if said right of way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. The furnishing of right of way as provided for herein includes, in addition to all real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of relocation costs and damages to remainder real property not actually taken but injuriously affected by PROJECT. ADMINISTERING AGENCY shall pay, from its own non-matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights of way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.
3. Subject to STATE approval and such supervision as is required by LOCAL ASSISTANCE PROCEDURES over ADMINISTERING AGENCY's right of way acquisition procedures, ADMINISTERING AGENCY may claim reimbursement from federal funds for expenditures incurred in purchasing only the necessary rights of way needed for the PROJECT after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.
4. When real property rights are to be acquired by ADMINISTERING AGENCY for a PROJECT, said ADMINISTERING AGENCY must carry out that acquisition in compliance with all applicable State and Federal laws and regulations, in accordance with State procedures as published in State's current LOCAL ASSISTANCE PROCEDURES and STATE's Right-of-Way Manual, subject to STATE oversight to ensure that the completed work is acceptable under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
5. Whether or not federal-aid is to be requested for right of way, should ADMINISTERING AGENCY, in acquiring right of way for PROJECT, displace an individual, family, business, farm operation, or non-profit organization, relocation payments and services will be provided as set forth in 49 CFR, Part 24. The public will be adequately informed of the relocation payments and services which will be available, and, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from his/her dwelling or to move his/her business or farm operation without at least ninety (90) days written notice from ADMINISTERING AGENCY. ADMINISTERING AGENCY will provide STATE with specific assurances, on each portion of the PROJECT, that no person will be displaced until comparable decent, safe and sanitary replacement housing is available within a reasonable period of time prior to displacement, and that ADMINISTERING AGENCY's relocation program is realistic and adequate to provide orderly, timely and efficient relocation of PROJECT-displaced persons as provided in 49 CFR, Part 24.

6. ADMINISTERING AGENCY shall, along with recording the deed or instrument evidencing title in the name of the ADMINISTERING AGENCY or their assignee, also record an Agreement Declaring Restrictive Covenants (ADRC) as a separate document incorporating the assurances included within Exhibits A and B and Appendices A, B, C and D of this AGREEMENT, as appropriate.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed federal-aid construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and FHWA and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE and FHWA. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future federal-aid projects of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE and FHWA. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the California Transportation Commission (CTC).
2. STATE'S financial commitment of federal funds will occur only upon the execution of this AGREEMENT, the authorization of the project-specific E-76 or E-76 (AMOD), the execution of each project-specific PROGRAM SUPPLEMENT, and STATE's approved finance letter.
3. ADMINISTERING AGENCY may submit signed invoices in arrears for reimbursement of participating PROJECT costs on a regular basis once the project-specific PROGRAM SUPPLEMENT has been executed by STATE.
4. ADMINISTERING AGENCY agrees, at a minimum, to submit invoices at least once every six (6) months commencing after the funds are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future authorizations/obligations, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six (6) month period.
5. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.
6. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
7. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursement of actual allowable PROJECT costs already incurred and paid for by ADMINISTERING AGENCY.
8. Indirect Cost Allocation Plans/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.
9. Once PROJECT has been awarded, STATE reserves the right to de-obligate any excess federal funds from the construction phase of PROJECT if the contract award amount is less than the obligated amount, as shown on the PROJECT E-76 or E-76 (AMOD).
10. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

11. The estimated total cost of PROJECT, the amount of federal funds obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES hereto with a finance letter, a detailed estimate, if required, and approved E-76 (AMOD). Federal-aid funding may be increased to cover PROJECT cost increases only if such funds are available and FHWA concurs with that increase.

12. When additional federal-aid funds are not available, ADMINISTERING AGENCY agrees that the payment of federal funds will be limited to the amounts authorized on the PROJECT specific E-76 / E-76 (AMOD) and agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

13. ADMINISTERING AGENCY shall use its own non-federal funds to finance the local share of eligible costs and all expenditures or contract items ruled ineligible for financing with federal funds. STATE shall make the determination of ADMINISTERING AGENCY's cost eligibility for federal fund financing of PROJECT costs.

14. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

15. Federal and state funds allocated from the State Transportation Improvement Program (STIP) are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and STATE.

16. Federal funds encumbered for PROJECT are available for liquidation for a period of six (6) years from the beginning of the State fiscal year the funds were appropriated in the State Budget. State funds encumbered for PROJECT are available for liquidation only for six (6) years from the beginning of the State fiscal year the funds were appropriated in the State Budget. Federal or state funds not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance (per Government Code section 16304). The exact date of fund reversion will be reflected in the STATE signed finance letter for PROJECT.

17. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

18. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

19. ADMINISTERING AGENCY agrees, and will ensure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

20. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

21. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

22. Should ADMINISTERING AGENCY fail to refund any moneys due upon written demand by STATE as provided hereunder or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty 30 days of demand, or within such other period as may be agreed to in writing between the PARTIES, STATE, acting through the State Controller, the State Treasurer, or any other public entity or agency, may withhold or demand a transfer of an amount equal to the amount paid by or owed to STATE from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may withhold approval of future ADMINISTERING AGENCY federal-aid projects.

23. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article IV - 22, from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

24. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover State funds improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V

AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of ARTICLE V.
2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.
3. ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.
4. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year. The Federal Funds received under a PROGRAM SUPPLEMENT are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205.
5. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.
6. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contract over \$10,000, or other contracts over \$25,000 (excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)) on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions 5, 6, 17, 19 and 20 of ARTICLE IV, FISCAL PROVISIONS, and provisions 1, 2, and 3 of this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING RECORDS RETENTION AND REPORTS.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner as required of all other PROJECT expenditures.

9. In addition to the above, the pre-award requirements of third-party contractor/consultants with ADMINISTERING AGENCY should be consistent with the LOCAL ASSISTANCE PROCEDURES.

1. By execution of this AGREEMENT, ADMINISTERING AGENCY certifies, to the best of the signatory officer's knowledge and belief, that:

A. No federal or state appropriated funds have been paid or will be paid, by or on behalf of ADMINISTERING AGENCY, to any person for influencing or attempting to influence an officer or employee of any STATE or federal agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any STATE or federal contract, including this AGREEMENT, the making of any STATE or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any STATE or federal contract, grant, loan, or cooperative contract.

B. If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this AGREEMENT, grant, local, or cooperative contract, ADMINISTERING AGENCY shall complete and submit Standard Form-LLL, "Disclosure Form to Rep Lobbying," in accordance with the form instructions.

C. This certification is a material representation of fact upon which reliance was placed when this AGREEMENT and each PROGRAM SUPPLEMENT was or will be made or entered into. Submission of this certification is a prerequisite for making or entering into this AGREEMENT imposed by Section 1352, Title 31, United States Code. Any party who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. ADMINISTERING AGENCY also agrees by signing this AGREEMENT that the language of this certification will be included in all lower tier sub-agreements which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

1. ADMINISTERING AGENCY agrees to use all state funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and the relevant Federal Regulations.
2. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
3. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE or the federal government.
4. Each project-specific E-76 or E-76 (AMOD), PROGRAM SUPPLEMENT and Finance Letter shall separately establish the terms and funding limits for each described PROJECT funded under the AGREEMENT. No federal or state funds are obligated against this AGREEMENT.
5. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT. ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.
6. ADMINISTERING AGENCY warrants, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the work actually performed, or in STATE's discretion, to deduct from the price of consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
7. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.
8. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE, FHWA or Federal Transit Administration (FTA) that may have an impact upon the outcome of this AGREEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of this AGREEMENT.
9. ADMINISTERING AGENCY hereby certifies that it does not have nor shall it acquire any financial or business interest that would conflict with the performance of PROJECT under this AGREEMENT.

10. ADMINISTERING AGENCY warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the work actually performed, or to deduct from the PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Officer who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Officer.

12. Neither the pending of a dispute nor its consideration by the Contract Officer will excuse ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT.

13. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

14. Neither STATE nor any officer or employee thereof shall be responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under, or in connection with, any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. STATE reserves the right to terminate funding for any PROJECT upon written notice to ADMINISTERING AGENCY in the event that ADMINISTERING AGENCY fails to proceed with PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT, the bonding requirements if applicable, or otherwise violates the conditions of this AGREEMENT and/or PROGRAM SUPPLEMENT, or the funding allocation such that substantial performance is significantly endangered.

16. No termination shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if not reasonably susceptible of cure within said thirty (30) day period, ADMINISTERING AGENCY proceeds thereafter to complete the cure in a manner and time line acceptable to STATE. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

17. In case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT, the terms stated in that PROGRAM SUPPLEMENT shall prevail over those in this AGREEMENT.

18. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

19. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT by their duly authorized officers.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

City of Los Altos

By _____

By _____

Chief, Office of Project Implementation
Division of Local Assistance

City of Los Altos
Representative Name & Title
(Authorized Governing Body Representative)

Date _____

Date _____

EXHIBIT A

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, ADMINISTERING AGENCY will not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ADMINISTERING AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. ADMINISTERING AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 1290-0 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of the ADMINISTERING AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. ADMINISTERING AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. ADMINISTERING AGENCY will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which ADMINISTERING AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that ADMINISTERING AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by ADMINISTERING AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to ADMINISTERING AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure ADMINISTERING AGENCY's breach of this Agreement.

EXHIBIT B

NONDISCRIMINATION ASSURANCES

ADMINISTERING AGENCY HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which ADMINISTERING AGENCY receives federal financial assistance from the Federal Department of Transportation. ADMINISTERING AGENCY HEREBY GIVES ASSURANCE THAT ADMINISTERING AGENCY will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, ADMINISTERING AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That ADMINISTERING AGENCY agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.

2. That ADMINISTERING AGENCY shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements:

ADMINISTERING AGENCY hereby notifies all bidders that it will affirmatively ensure that in any agreement entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That ADMINISTERING AGENCY shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where ADMINISTERING AGENCY receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where ADMINISTERING AGENCY receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.
7. That ADMINISTERING AGENCY shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the ADMINISTERING AGENCY with other parties:
- Appendix C;
- (a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and
- Appendix D;
- (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.
8. That this assurance obligates ADMINISTERING AGENCY for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates ADMINISTERING AGENCY or any transferee for the longer of the following periods:
- (a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- (b) the period during which ADMINISTERING AGENCY retains ownership or possession of the property.
9. That ADMINISTERING AGENCY shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that ADMINISTERING AGENCY, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.
10. That ADMINISTERING AGENCY agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. ADMINISTERING AGENCY shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. ADMINISTERING AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of STATE assisted contracts. ADMINISTERING AGENCY'S DBE Implementation Agreement is incorporated by reference in this AGREEMENT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved DBE Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to ADMINISTERING AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on ADMINISTERING AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO EXHIBIT B

During the performance of this Agreement, ADMINISTERING AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as ADMINISTERING AGENCY) agrees as follows:

(1) Compliance with Regulations: ADMINISTERING AGENCY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: ADMINISTERING AGENCY, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. ADMINISTERING AGENCY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by ADMINISTERING AGENCY for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by ADMINISTERING AGENCY of the ADMINISTERING AGENCY's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: ADMINISTERING AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to ADMINISTERING AGENCY's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of ADMINISTERING AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, ADMINISTERING AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts ADMINISTERING AGENCY has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of ADMINISTERING AGENCY's noncompliance with the nondiscrimination provisions of this agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to ADMINISTERING AGENCY under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: ADMINISTERING AGENCY shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. ADMINISTERING AGENCY shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event ADMINISTERING AGENCY becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, ADMINISTERING AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, ADMINISTERING AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that ADMINISTERING AGENCY will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the ADMINISTERING AGENCY all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto ADMINISTERING AGENCY and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on ADMINISTERING AGENCY, its successors and assigns.

ADMINISTERING AGENCY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that ADMINISTERING AGENCY shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO EXHIBIT B

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by ADMINISTERING AGENCY, pursuant to the provisions of Assurance 7(a) of Exhibit B.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of ADMINISTERING AGENCY and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO EXHIBIT B

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the ADMINISTERING AGENCY, pursuant to the provisions of Assurance 7 (b) of Exhibit B.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of ADMINISTERING AGENCY, and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.



CONSENT CALENDAR

Agenda Item # 9

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Construction Contract Award: Annual Street Resurfacing and City Alley Resurfacing Project (TS-01001, TS-01003, TS-01004, and TS-01009)

Prepared by: Kathy Kim, Assistant Civil Engineer

Reviewed by: Jim Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachment(s):

1. Bid Summary dated April 28, 2021
2. Project Map

Initiated by:

City Council CIP Projects TS-01001, TS-01003, TS-01004, and TS-01009

Previous Council Consideration:

None

Fiscal Impact:

The construction project will cost \$2,453,634.96 and there are sufficient funds in the adopted budget for the project. Additional budget is not requested. Based on the lowest responsive and responsible bidder, the estimated project costs are:

**Annual Street Resurfacing and City Alley Resurfacing Project
(TS-01001, TS-01003, TS-01004, TS-01009)**

Project Item	Project Budget
Construction	\$ 2,068,666.92
Construction Contingency (15%)	\$ 310,300.04
Inspection	\$ 64,688
Printing/Advertising/Mailing/Misc.	\$ 10,000
Estimated Total Cost	\$ 2,453,634.96
Breakdown of Funds to be used	
Approved Project Budget for TS-01001*	\$ 2,083,236.53
Approved Project Budget for TS-01004*	\$ 308,012.80
Approved Project Budget for TS-01009*	\$ 100,000.00
Approved Project Budget for TS-01003*	\$ 104,832.57
Total Project Budget	\$ 2,596,081.90

**Approved project budgets include the Fiscal Year 20/21 budgets and rollover funds from previous years.*

Reviewed By:

Interim City Manager

City Attorney

Finance Director

BK

JH

JM



Subject: Construction Contract Award: Annual Street Resurfacing and City Alley Resurfacing Project (TS-01001, TS-01003, TS-01004, and TS-01009)

-
- Amount already included in approved budget: Y
 - Amount above budget requested: 0

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301(c) consisting of the operation, repair and maintenance of existing facilities such as streets and involves negligible or no expansion of existing or former use.

Policy Question(s) for Council Consideration:

None

Summary:

- The Annual Street Resurfacing and City Alley Resurfacing Project combines four of the City’s annual pavement projects intended for preventative maintenance and repairing of City-maintained streets and alleyways. These annual pavement projects are listed below:
 - Annual Street Resurfacing Project, TS-01001
 - Annual Street Striping Project, TS-01003
 - Annual Street Slurry Seal Project, TS-01004
 - Annual City Alley Resurfacing Project, TS-01009
- On April 07, 2021, the City advertised the Annual Street Resurfacing and City Alley Resurfacing Project for bidding.
- On April 28, 2021, the City received and opened four (4) bids in a public virtual session.

Staff Recommendation:

Award the Base Bid for the Annual Street Resurfacing and City Alley Resurfacing Project to G. Bortolotto & Co., Inc. and authorize the Interim City Manager to execute a contract in the amount of \$2,068,666.92 and up to 15% contingency on behalf of the City.

Purpose

Award the Base Bid for the Annual Street Resurfacing and City Alley Resurfacing to G. Bortolotto & Co., Inc. and authorize the Interim City Manager to execute a contract in the amount of \$2,068,666.92 and up to 15% contingency on behalf of the City.

Background

Annual Street Resurfacing Project (TS-01001), Annual Street Slurry Seal Project (TS-01004), and Annual City Alley Resurfacing Project (TS-01009) are dedicated to repairing and maintaining asphalt concrete (AC) roadways and alleyways in the City. The Annual Street Striping Project (TS-01003) is also part of the pavement management program dedicated to maintaining street striping and markings on City streets. This year, these four projects are combined into one large project named “Annual Street Resurfacing and City Alley Resurfacing”. This project will complete various street segments and



Subject: Construction Contract Award: Annual Street Resurfacing and City Alley Resurfacing Project (TS-01001, TS-01003, TS-01004, and TS-01009)

alleyways selected for resurfacing in coordination with the City’s pavement management program by performing localized pavement damage repairs (digouts), overlaying the entire roadway segments with asphalt-concrete or a protective seal coat called “microsurfacing”. This project also includes signage and striping improvements on Eastwood Drive, Campbell Avenue, and Fremont Avenue.

Discussion/Analysis

On April 7, 2021, the City advertised the Annual Street Resurfacing and City Alley Resurfacing project. On April 28, 2021, four (4) bids were received and opened in a virtual public bid opening via RingCentral. The bid result summary is provided in Attachment 1. The lowest responsive and responsible bidder is G. Bortolotto & Co., Inc. for \$2,068,666.92.

This project was advertised with a Base Bid and two (2) Additive Alternates. Base Bid items include all pavement work for street segments and alleyways that will receive digout repairs, AC overlaying, microsurfacing, and thermoplastic striping markings. Additive Alternate No. 1 would complete these treatments on one additional street, and Additive Alternate No. 2 would complete treatments on two additional street segments. The current project budget is sufficient to award all three of Base Bid, Additive Alternative 1, and Additive Alternative 2.

Public notices will be sent to residents as soon as the project is awarded by the Council. Residents will be provided with information to follow the project details, schedule and updates on the City website. The Contractor will also be required to distribute notification letters to affected residents and post street signages at least 48-hours prior to start of work.

Options

- 1) Award the Base Bid, Additive Alternative No. 1, and Additive Alternate No. 2 for the Annual Street Resurfacing and City Alley Resurfacing Project to G. Bortolotto & Co., Inc. and authorize the Interim City Manager to execute a contract in the amount of \$2,068,666.92 and authorize the Interim City Manager or his designee to execute change orders up to 15% contingency on behalf of the City.

Advantages: Contractor is the lowest responsive and responsible bidder. Project will provide preventative maintenance and improve street and alley conditions in an effort to achieve the City Council’s citywide Pavement Condition Index goal of 75 by 2026.

Disadvantages: None



Subject: Construction Contract Award: Annual Street Resurfacing and City Alley Resurfacing Project (TS-01001, TS-01003, TS-01004, and TS-01009)

2) Reject all bids and re-advertise the project.

Advantages: None

Disadvantages: It is not anticipated that re-advertising the bid will result in lower bids. Repairs and preventative maintenance for street and alley resurfacing will be delayed.

Recommendation

1) The staff recommends Option 1. Award the Base Bid, Additive Alternative No. 1, and Additive Alternate No. 2 for the Annual Street Resurfacing and City Alley Resurfacing Project to G. Bortolotto & Co., Inc. and authorize the Interim City Manager to execute a contract in the amount of \$2,068,666.92 and authorize the Interim City Manager or his designee to execute change orders up to 15% contingency on behalf of the City.

CITY OF LOS ALTOS
ANNUAL STREET RESURFACING PROJECT TS0100121 & TS0100421
AND CITY ALLEY RESURFACING PROJECT TS0100921
BID OPENING

April 28, 2021 2:00 PM

Virtual Bid Opening via Ring Central Conference Call

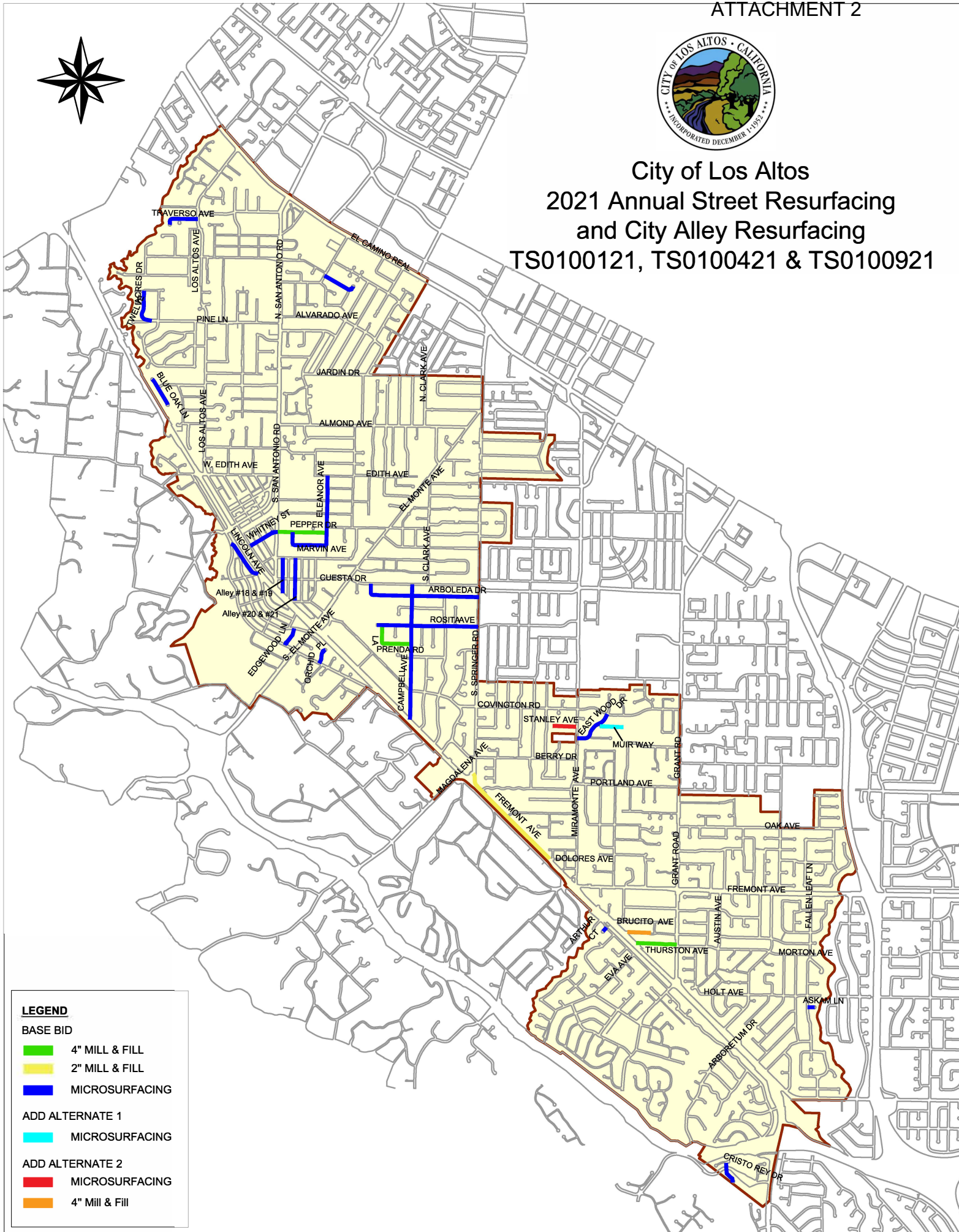
CONTRACTOR	TOTAL BASE BID*	TOTAL ADD ALT 1	TOTAL ADD ALT 2	TOTAL BID
G. Bortolotto & Co	\$ 1,882,700.92	\$ 59,809.00	\$ 126,157.00	\$ 2,068,666.92
Teichert & Son	\$ 1,919,923.00	\$ 61,936.00	\$ 156,295.00	\$ 2,138,154.00
O'Grady Paving	\$ 2,034,855.78	\$ 51,584.50	\$ 108,336.75	\$ 2,194,777.03
Interstate Grading & Paving	\$ 2,221,358.65	\$ 40,071.20	\$ 135,968.30	\$ 2,397,398.15

**Lowest bid based on TOTAL BASE BID*

BIDS HAVE NOT BEEN VERIFIED



City of Los Altos
 2021 Annual Street Resurfacing
 and City Alley Resurfacing
 TS0100121, TS0100421 & TS0100921



LEGEND	
BASE BID	
■	4" MILL & FILL
■	2" MILL & FILL
■	MICROSURFACING
ADD ALTERNATE 1	
■	MICROSURFACING
ADD ALTERNATE 2	
■	MICROSURFACING
■	4" Mill & Fill



CONSENT CALENDAR

Agenda Item # 10

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Professional Services Agreement with Bellecci & Associates for Construction Inspection Services for CIP Projects TS-01001, TS-01003, TS-01004, and TS-01009

Prepared by: Kathy Kim, Assistant Civil Engineer

Reviewed by: Jim Sandoval, Engineering Services Director

Approved by: Brad Kilger, Interim City Manager

Attachment:

1. Proposed Fee Schedule

Initiated by:

City Council – CIP Projects TS-01001, TS-01003, TS-01004, and TS-01009

Previous Council Consideration:

None

Fiscal Impact:

The following action will cost \$64,688 from Street Resurfacing Project (TS-01001), Street Striping Project (TS-01003), Street Slurry Seal Project (TS-01004), and City Alley Resurfacing Project (TS-01009). These CIP funds have enough funding to cover the resurfacing construction job and the inspection agreement with Bellecci & Associates. Additional fund is not requested.

- Breakdown of funds to be used:
 - o \$2,083,000 CIP Fund, TS-01001*
 - o \$308,000 CIP Fund, TS-01004*
 - o \$100,000 CIP Fund, TS-01009*
 - o \$105,000 CIP Fund, TS-01003*

**Approved project budgets include the Fiscal Year 20/21 budgets and rollover funds from previous years.*

- Amount already included in approved budget: Y
- Amount above budget requested: 0

Environmental Review:

Categorically Exempt pursuant to CEQA Section 15301(c) consisting of the operation, repair and maintenance of existing facilities such as streets and involves negligible or no expansion of existing or former use.

Reviewed By:

Interim City Manager

BK

City Attorney

JH

Finance Director

JM



Subject: Professional Services Agreement with Bellecci & Associates for Construction Inspection Services for CIP Projects TS-01001, TS-01003, TS-01004, and TS-01009

Policy Question(s) for Council Consideration:

- None

Summary:

- Upon evaluation of the project needs, it has been determined that there are not enough staff resources to provide adequate inspection services for the project.
- City requested on-call consultants to submit proposals for inspection services.
- Upon review of the proposals, staff recommends award of agreement to Bellecci & Associates for inspection services.

Staff Recommendation:

Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and Bellecci & Associates in an amount not to exceed \$64,688 for inspection services for the Annual Street Resurfacing and City Alley Resurfacing Project.

Purpose

Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and Bellecci & Associates in an amount not to exceed \$64,688 for inspection services for the Annual Street Resurfacing and City Alley Resurfacing Project.

Background

The Annual Street Resurfacing and City Alley Resurfacing Project combines four of the City Council approved annual pavement projects, TS-01001, TS-01003, TS-01004, and TS-01009. These annual pavement projects are dedicated to repairing and maintaining asphalt concrete (AC) and striping on streets and alleyways in the City.

The Annual Street Resurfacing and City Alley Resurfacing Project will complete various street segments and alleyways selected for resurfacing treatments in coordination with the City's pavement management program. A few examples of the City's preventative maintenance include AC patch repairs, overlays and slurry sealing or microsurfacing. Street striping will also be completed as a part of this project to restore thermoplastic pavement striping and markings on these segments.

Discussion/Analysis

To ensure thorough inspection services are provided on City capital improvement projects, it was determined that additional assistance would be needed to supplement City staff. On April 2, 2021, the City released a request for proposal for construction inspection services to the City's on-call engineering services consultants and received two proposals. City staff evaluated each consultant and concluded that both consultants have similar qualifications, experiences, and had satisfactory results



Subject: Professional Services Agreement with Bellecci & Associates for Construction Inspection Services for CIP Projects TS-01001, TS-01003, TS-01004, and TS-01009

from past City projects. However, Bellecci & Associates has lower proposed cost. Staff recommends execution of a new agreement with Bellecci & Associates for construction inspection services for an amount not to exceed \$64,688.

Options

- 1) Authorize the Interim City Manager to execute a professional services agreement between the City of Los Altos and Bellecci & Associates in an amount not to exceed \$64,688 for inspection services for the Annual Street Resurfacing and City Alley Resurfacing Project.

Advantages: Inspection services for the Annual Street Resurfacing and City Alley Resurfacing Project will be provided during construction.

Disadvantages: None

- 2) Do not authorize the execution of a professional services agreement for inspections services.

Advantages: None

Disadvantages: Staff does not have availability to provide good quality assurance through inspection services for the project. Adequate inspection services for the project would not be provided during construction. Construction should not proceed without inspection services.

Recommendation

The staff recommends Option 1.

EHXIBIT 2

BUDGET/COST PROPOSAL

*City of Los Altos
Inspection Services for the Annual Street Resurfacing Project
Construction Contract Time 75 Calendar Days*

PROJECT BUDGET ESTIMATE		206	174	138	185	174	156	146	74			
TASK #	RATE (\$/HR)	CONST. MNGR.	RESIDENT ENGR.	PW INSPECTO	PW INSPECTOR OVERTIME	SENIOR ENGR.	ASSOC. ENGR.	ASSNT. ENGR.	CONST. ADMIN.	HRS./ TASK	DIRECT COST	TOTAL COST
A	Construction Site Inspection (Assumes 54 Working Days of Inspection)											
1.0	Construction Site Inspection	16	0	432	0	0	0	0	24	472		\$64,688
	Construction Site Inspection Total	16	0	432	0	0	0	0	24	472	\$0	\$64,688

NOTE: Construction Manager will Only Charge on an As-Needed Basis.





DISCUSSION ITEM
AGENDA ITEM #11

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Emergency Measures for Addressing COVID-19: Receive an update from the Acting City Manager and provide direction on additional potential measures to address COVID-19 (J. Maginot)

PRESENTATION TO BE MADE AT MEETING

City Manager

CJ

Reviewed By:

City Attorney

JH

Finance Director

SE



DISCUSSION ITEM
AGENDA ITEM #12

AGENDA REPORT SUMMARY

Meeting Date: May 11, 2021

Subject: Council Legislative Subcommittee Update and Potential Council Action:

Meeting materials, following.

Status of Bills Tracked
April 22, 2019

- AB 14** – Passed Commun/Conveyance; passed Local Govt; Approp. Hearing May 12
(Aguiar-Curry) Communications: broadband services: California Advanced Services Fund.
[expands access to CASF fund to improve broadband infrastructure and service in unserved
and underserved communities]
Positions: CalCities Support CASCC Support
- AB17** – Public Safety; made 2-year bill
(Cooper) Peace officers: disqualification from employment [disqualifies certain former
military and peace officers who have had Peace Officer Standards and Training Certification
revoked]
Positions: CalCities Watch CASCC Support in concept
- AB 34** – Passed Commun/Conveyance and Privacy/Consumer Protect; to Approp, not scheduled
(Muratsuchi) Broadband for All Act of 2022 [\$10 billion general obligation bonds on Nov.
'22 ballot to support projects that expand broadband]
Positions: CalCities Support in concept CASCC Support in concept
- AB 68** – Passed Housing 4/15; to Approp
(Salas) Department of Housing and Community Development: California Statewide Housing
Plan: annual reports [increases reporting; adds affordability and homelessness-related
requirements]
Positions: CalCities Watch CASCC Watch
- AB 115** – Passed Housing 4/15; to Local Govt. ; on hold
(Bloom) Planning and zoning: commercial zoning: housing development [requires by-right
housing on commercial-zoned lots with certain affordability requirement]
Positions: CalCities Watch
- AB 215** – Passed Housing 4/15; passed Local Govt; to Approp, not scheduled
(Chiu) Housing element: regional housing need: relative progress determination [required
HCD to determine mid-cycle progress on 6th cycle; other requirements and limitations]
Positions: CalCities Oppose
- AB 339*** – Passed Local Govt; to Approp, not scheduled
(Lee) Local government: open and public meetings [requires simultaneous electronic and in-
person meetings and translation services]
Positions: CalCities Oppose Los Altos Oppose
- AB 415*** – Insurance Committee, no schedule
(Rivas, Robert) Employment: workers' compensation
Positions: CalCities Oppose Los Altos Oppose
- AB 473** –PRA related; to Appropriations 4/21; suspense file [Watch at request of City Attorney]
(Chau) Reorganize and modify public Records Act
Positions: CalCities Watch

- AB 602** – to Approp. hearing May 12 [Added per CalCities]
(Grayson) Increases requirements for nexus studies and limits use of fees.
Positions: CalCities Oppose unless amended.
- AB 617** – Housing, no schedule
(Davies) Planning and zoning: regional housing needs: exchange of allocation [allows cities/counties to shift RHNA]
Positions: CalCities Watch
- AB 678** – to Local Govt 3/28; made 2-year bill
(Grayson) Housing development projects: fees and exactions cap [caps fees on housing developments at 12% of county median housing price; allows waivers]
Positions: CalCities Watch
- AB 989** – to Approp. hearing May 12 [Added per CalCities]
Establish Housing Accountability Committee to hear appeals of locally denied housing projects
Positions: CalCities oppose
- AB 1091** – on Assembly floor for third reading
(Berman) Santa Clara Valley Transportation Authority: board of directors [replace current VTA board of elected officials with 9 appointed residents]
Positions: CalCities Watch
- AB 1258** – to Housing, 3/23; made 2-year bill
(Nguyen) Housing element: regional housing need plan: judicial review [restores opportunity for judicial review of HCD and COG determinations]
Positions: CalCities Watch
- AB 1322** – Passed Local Govt 4/14 and Housing 4/29; passed Assembly – to Senate May 10
(Rivas, Robert) Land use: local measures: conflicts [allows local jurisdictions to review and take procedure action on resident-passed actions that affect housing and that may conflict with state law]
Positions: CalCities Watch
- AB 1401** – Passed Local Govt 4/14, passed Housing April 29; to Approp.
(Friedman) Residential and commercial development: parking requirements [prohibits requiring parking if within ½ mile of transit; exceptions for EV/disability spaces]
Positions: CalCities Oppose
- SB 4** – Passed Energy 4/12; to Approp, placed on suspense May 3
(Gonzalez) Communications: California Advanced Services Fund: deaf and disabled telecommunications program: surcharges [similar to AB 14]
Positions: CalCities Support CASCC Support
- SB 5** – Housing, no schedule
(Atkins) Affordable Housing Bond Act of 2022 [would place \$6.5 billion bond measure for affordable rental housing and homeownership on Nov. '22 ballot]
Positions: CalCities Watch CASCC Watch
- SB 6** – passed Housing; to Approp. – placed on suspense May 10

(Caballero) Local planning: housing: commercial zones [allows housing development on commercial parcels not adjacent to industrial use, with affordability requirements]

Positions: CalCities Watch CASCC Watch

SB 7 – Passed Senate (urgency); to Assembly Natural Resources, no schedule
(Atkins) Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2021 [provides streamline CEQA for certain housing projects and changes labor-related requirements for some public projects.]

Positions: CalCities Watch CASCC Watch

SB 8 – Passed Govt/Finance 3/25; passed Housing 4/ 29. To Approp. placed on suspense 5/10
(Skinner) Housing Crisis Act of 2019 [amends SB 330 to include single house and makes other clarifications]

Positions: CalCities Watch

SB 9* – Passed Housing 4/15; passed Govt/Finance 4/22; to Approp. placed on suspense 5/10
(Atkins) Housing development: approval [by-right lot split and/or additional units in single-family zones]

Positions: CalCities Oppose unless Amended CASCC Oppose unless Amended

Los Altos Oppose unless Amended

SB 10 – Passed Housing 3/18; passed Govt/Finance 4/22; to Approp. placed on suspense 5/10
(Wiener) Planning and zoning: housing development: density [allows local governing body to zone any parcel in jobs- and-transit-rich or in-fill sites for up to 10 units per acre]

Positions: CalCities Watch CASCC Watch

SB 15 – Passed Housing 3/18: to Approp., placed on suspense April 5
(Portantino) Housing development: incentives: rezoning of idle retail sites [provides financial assistance to local governments that zone idle retail sites for affordable housing]

Positions: CalCities Watch CASCC Watch

SB 16 – Passed Public Safety 3/9 and Judiciary 4/13; to Approp. placed on suspense May 3
(Skinner) Peace officers: release of records [disclosure of use of force incident information, including those within policy]

Positions: CalCities Oppose

SB 55 – Govt/Finance - heard April 15; made 2-year bill
(Stern) Very high fire hazard severity zone: state responsibility area: development prohibition: supplemental height and density bonuses [limits development in high-fire hazard zones and increases density and height in other areas]

Positions: CalCities Watch CASCC Watch

SB 210 – Passed Judiciary 3/23: Approp placed on suspense April 5
(Wiener) Automated license plate recognition systems: use of data [requires data not matched to a hot list within 24 hours to be destroyed]

Positions: CalCities Oppose

SB 278* – Passed Labor 3/8 and Judiciary 4/6; Approp placed on suspense April 19
(Leyva) Public Employees' Retirement System: disallowed compensation: benefit adjustments [imposes requirements on local government regarding disallowed compensation]

Positions: CalCities Oppose CASC Oppose Los Altos Oppose

SB 477 – Passed Housing 3/18; Approp (placed on suspense April 5)
(Wiener) General plan: annual report [adds significant requirements to annual report to HCD on housing]

Positions: CalCities Watch CASC Watch

SB 478 – Passed Govt/Finance 4/8; passed Housing 4/ 29; to Approp. placed on suspense 5/10
(Wiener) Planning and Zoning Law: housing development projects [requires HCD to report to Attorney General on jurisdictions that may not comply with or has violated certain state laws; sets minimum FARs and lot coverage requirements]

Positions: CalCities Watch CASC Watch

SB 556* – Passed Energy 4/19, passed Govt/Finance 4/22; to Approp. second reading May 10
(Dodd) Street light poles, traffic signal poles: small wireless facilities attachments [reduces local jurisdiction control on poles in ROW for small wireless facilities]

Positions: CalCities Oppose Los Altos Oppose

SB 612 – to Approp. hearing May 17 [Added per Mayor request ref: SVCE]
(Portantino) Electricity rate/ resource allocation

Positions: CalCities Support

SB 640 – Passed Transp. 4/19, to Approp. placed on suspense 5/3
(Becker) Transportation financing: jointly proposed projects [allows cities and counties to propose joint projects that draw on their respective portion of certain state transportation funds]

Positions: CalCities Support

SB 695 – Govt./Finance, no schedule
(Ochoa Bogh) Mitigation Fee Act: housing developments [increases nexus study requirements for mitigation fees imposed on housing; prohibits such from exceeding the amount necessary to maintain the existing level of service for the relevant fee]

Positions: CalCities Watch

SB 765 – Housing, heard 4/15; made 2-year bill
(Stern) Accessory dwelling units: setbacks [would allow jurisdictions to return to minimum ADU setbacks as of Jan. 1, 2020 if set to encourage development of ADUs]

Positions: CalCities Support CASC Watch

SB 785 – Passed Education 3/24; to Approp. Placed on suspense 4/19
(Glazer) Public postsecondary education: California Promise program: California State University students



City of Los Altos Tentative Council Agenda Calendar
As of May 7, 2021

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing. Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda eight days prior to the next Council meeting.

Date	Agenda Item (Date identified by Council)	Agenda Section (Consent, Discussion Item - note in red if Public Hearing)	Dept.
May 14, 2021	CLOSED SESSION		
May 18, 2021	CLOSED SESSION CM RECRUIT		
	STUDY SESSION – BUDGET- 5:00 p.m.		
May 20, 2021	Youth Commission Interviews 4-9 (Subcommittee)		
May 25, 2021	CLOSED SESSION ATT-VERIZON- 1. Labor Neg. x4 5:00 p.m.		
	REGULAR COUNCIL MEETING		
	Presentation on Ending Homelessness		
	Historic Preservation Award Proclamation (tentative)	Special Item	
	Contract Amendment Approval -Contract Plan Checking Services	CC	
	Construction Contract Award - Fremont Avenue Pavement Rehabilitation Project, TS-Award the Base Bid for the Fremont Avenue Pavement Rehabilitation Project, TS-01056 to CONTRACTOR. and authorize the Interim City Manager to execute a contract in the amount of \$X and authorize the Interim City Manager or his designee to execute change orders up to 15% contingency on behalf of the City.	CC	
	Contract Amendment: Consider Approval Of Contract Amendment: Approval of the ARG contract amendment (D. Brees) Halsey House (I?)	Disc. Item	
	Quarterly Investment Report 3/31/2021	CC	
Community Center Construction Monthly Update	Info Item		

	Housing Element Update Consultant Recommendation: Authorize the City Manager to execute an agreement with Lisa Wise Consulting (LWC) in an amount not to exceed \$700,000 for the Housing Element Update and amend the budget for the Community Development Department as needed. (G. Persicone)	Disc. Item/CC	
	Updated Debt Policy	CC	
June 8, 2021	REGULAR COUNCIL MEETING		
	Presentation - Board President from the Midpeninsula Regional Open Space District, Curt Riffle		
	Adopt Resolution No. 2021-XX approving the Report of Sewer Service Charges and directing the Filing of Charges for Collection by the Tax Collector	Public Hearing	
	JKA Contract Amendment. For EOC Option C.		
	AVASA program continuance	CC	PD
June 22, 2021	REGULAR COUNCIL MEETING		
	Parks Make Life Better - Month July - Proclamation		
	Budget Adoption		
	Commercial Park Ordinance		
	Proposed City policy that modifies the environmental analysis standard for circulation impacts from a Level of Service (LOS) analysis to a Vehicle Miles Traveled (VMT) analysis.	Public Hearing*	
	Project Acceptance for Cuesta Drive Traffic Calming Project TS01022	CC	
July 13, 2021	REGULAR COUNCIL MEETING		
	Resolution No. 2021-XX: Adopt Resolution No. 2021-XX Accepting Completion of the El Monte Sidewalk Gap Closure Project, TS-01038, and authorize the Engineering Services Director to record a Notice of Completion as required by law	CC	ES
	City of Los Altos – Title 14, Zoning Amendment – Public Land Protection Ordinance First Reading Proposed ordinance adding a Public Land Protection (PLP) overlay district to Title 14, Zoning, of the Los Altos Municipal Code that will provide for the protection of City owned property by requiring voter approval of the sale or transfer of title of any City-owned land to which the PLP overlay designation is applied and voter approval to remove the PLP designation once it has been applied. The proposed Ordinance relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is exempt from	Public Hearing	

	California Environmental Quality Act (“CEQA”) CEQA Guidelines Section 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the Ordinance has no potential to result in a direct, or reasonably foreseeable, indirect impact on the environment. <i>Project Manager: Community Development Director Biggs</i>		
	Community Center Staffing Plan and Cost Recovery		
August 24, 2021	REGULAR COUNCIL MEETING		
September 14, 2021	REGULAR COUNCIL MEETING		
	Construction Contract Award: Fremont Avenue Pedestrian Bridge Rehabilitation Project, TS-01055	CC	ES
September 21, 2021	REGULAR COUNCIL MEETING – in place of 9/28 mtg which falls on holiday		
	Year End tentative report – September (if needed)		
October 12, 2021	REGULAR COUNCIL MEETING		
October 26, 2021	REGULAR COUNCIL MEETING		
November 2, 2021	JOINT WITH COMMISSION		
November 9, 2021	REGULAR COUNCIL MEETING		
	1st Quarter report FY 2021/2022		
November 30, 2021	REGULAR COUNCIL MEETING – in place of 11/23 mtg the week of Thanksgiving		
DECEMBER 7, 2021	COUNCIL REORGANIZATION		
December 14, 2021	REGULAR COUNCIL MEETING		
	CAFR and Year End – 1st meeting December		

Future Agenda Topics – Yet to be scheduled

Agenda Item	Agenda Section (Consent, Discussion/Action - note in red if Public Hearing)	Department
Presentation of Proclamation to Michael Handel Proclamation, Retired Los Altos Firefighter	Special Item	
Council Financial Subcommittee Recommendations: Discuss recommendations of the Council Financial Subcommittee regarding reporting of City financial information (Vice Mayor Enander)		
Museum's plans for a new main exhibition in our permanent 2nd floor gallery		
BMR waitlist process proposal by Alta Housing		
5150 El Camino Road - Modification	Public Hearing?	
League of California Cities – Role and Representation	Presentation/ Discussion	Council Initiated
See Me Flags		Engineering
Pavement Management Program Update – 2019 Pavement Condition Index - The staff recommends Scenario 5 – Increase Current PCI to 75 by 2026	Discussion Item	Engineering Services Director
440 First Street Design Review		Community Development
4350 El Camino Real Design Review		Community Development
Climate Action Plan update		Community Development
Healthy Cities Initiative		Recreation & Community Services
Housing Impact vs. Housing in-Lieu Discussion		Community Development
BAT/Neighborhood Watch program expansion		PD/CMO
Complete Streets Master Plan		Engineering Services
Community Engagement program		CMO
Comprehensive multi-modal traffic study (analysis of recent projects projected parking, trip generation, & traffic impacts to actuals; ECR impacts should include adjacent streets)		Engr. Svcs/Planning

Off-street EV charging stations in front of homes – include in Reach Codes; refer to Environmental Commission?		Planning
Schedule Joint Los Altos/Los Altos Hills Council meeting (6-9 months: August – October)		
San Francisco PUC permit		Engineering Services