



**City Council
Special Meeting
Monday, April 18, 2022
5:00 PM
Council Chambers & Virtual
*Supplemental Information Added***

Pursuant to [AB 361](#) Palo Alto City Council meetings will be held as “hybrid” meetings with the option to attend by teleconference/video conference or in person. To maximize public safety while still maintaining transparency and public access, members of the public can choose to participate from home or attend in person. Information on how the public may observe and participate in the meeting is located at the end of the agenda. Masks are strongly encouraged if attending in person.

HOW TO PARTICIPATE

VIRTUAL PARTICIPATION

[CLICK HERE TO JOIN](https://cityofpaloalto.zoom.us/j/362027238) (<https://cityofpaloalto.zoom.us/j/362027238>)
Meeting ID: 362 027 238 Phone:1(669)900-6833

The meeting will be broadcast on Cable TV Channel 26, live on YouTube at <https://www.youtube.com/c/cityofpaloalto>, and streamed to Midpen Media Center at <https://midpenmedia.org>.

TIME ESTIMATES

Time estimates are provided as part of the Council's effort to manage its time at Council meetings. **Listed times are estimates only and are subject to change at any time, including while the meeting is in progress.** The Council reserves the right to use more or less time on any item, to change the order of items and/or to continue items to another meeting. Particular items may be heard before or after the time estimated on the agenda. This may occur in order to best manage the time at a meeting or to adapt to the participation of the public.

PUBLIC COMMENTS

Public Comments will be accepted both in person and via Zoom meeting. All requests to speak will be taken until 5 minutes after the staff's presentation. Written public comments can be submitted in advance to city.council@cityofpaloalto.org and will be provided to the Council and available for inspection on the City's website. Please clearly indicate which agenda item you are referencing in your email subject line.

CALL TO ORDER

STUDY SESSION (5:00 - 6:00 PM)

1. Joint Study Session with Palo Alto Youth Council

Presentation

AGENDA CHANGES, ADDITIONS AND DELETIONS

PUBLIC COMMENT (6:00 - 6:20 PM)

Members of the public may speak to any item NOT on the agenda. Council reserves the right to limit the duration of Oral Communications period to 30 minutes.

CONSENT CALENDAR (6:20 - 6:25 PM)

Items will be voted on in one motion unless removed from the calendar by three Council Members.

2. Approve Minutes from the April 04, 2022 City Council Meeting
3. Adoption of an Ordinance Amending Existing Palo Alto Municipal Code Chapter 5.30, Disposable Foodware Items and Other Disposable Products, to Comply with California Assembly Bill 1276 (Single-Use Foodware Accessories and Standard Condiments) Requiring Additional Restrictions on the Use of Disposable Foodware and Condiments.
4. Approval of Amendment Number 1 to Contract Number C18169357 With Van Scoyoc Associates, Inc. for Federal Legislative Advocacy to Extend the Term for one Additional Year and add \$82,800 for a Total Not-to-Exceed Amount of \$414,000
5. Approval of the Appointment of Sandra Blanch as Human Resources Director

Public Letters

CITY MANAGER COMMENTS (6:25 - 6:45 PM)

Presentation

BREAK (6:45 - 7:00 PM)

ACTION ITEMS

Include: Reports of Committees/Commissions, Ordinances and Resolutions, Public Hearings, Reports of Officials, Unfinished Business and Council Matters.

6. Policy and Services Committee, City Auditor and Staff Recommend Approval of the Power Purchase Agreement Audit Report
(7:00 – 7:30 PM)

Presentation

7. Approval of Supplement Agreement No. 1 to the Master Funding Agreement Between the City of Palo Alto and the Metropolitan Transportation Commission for \$800,000 in Priority Development Area Planning Grant Funds to Prepare a Downtown Housing Plan; Approve Budget Amendments in the General Fund; and to Initiate the Plan Process for a Sub-Area of the Downtown Priority Development Area. Environmental Assessment: Exempt Under CEQA Guidelines Sections 15061(b)(3) and 15262. **(7:30 – 8:30 PM)**

Presentation

- Presentation**
8. Revenue-Generating Ballot Measures for Fall 2022: Discuss 2nd-Round Polling Results and Feedback from Community and Stakeholder Engagement Activities; Review and Provide Staff Direction on Finance Committee Recommended Refined Parameters for a Business License Tax and an Affirmation of the Gas General Fund Transfer; and Provide Direction to Staff on Next Steps Including Launch of Third Poll, and Council's Non-Binding Intentions for Allocation of Potential Proceeds **(8:30 to 10:30 PM) Supplemental Information Added**

COUNCIL MEMBER QUESTIONS, COMMENTS, ANNOUNCEMENTS

Members of the public may not speak to the item(s)

ADJOURNMENT

INFORMATION REPORTS

Information reports are provided for informational purposes only to the Council and the public but are not listed for action during this meeting's agenda.

OTHER INFORMATION

Standing Committee Meetings

Finance Committee Meeting April 19, 2022

Rail Committee April 20, 2022

Public Letters to Council

Schedule of Meetings

AMENDED AGEND ITEMS

Items that have been added/modified from the original publication of the agenda are listed below. Any corresponding materials are appended to the end of the initial packet. If full items have been added to the Agenda, they will be denoted with a number starting with AA, meaning Amended Agenda item.

8. Revenue-Generating Ballot Measures for Fall 2022: Discuss 2nd-Round Polling Results and Feedback from Community and Stakeholder Engagement Activities; Review and Provide Staff Direction on Finance Committee Recommended Refined Parameters for a Business License Tax and an Affirmation of the Gas General Fund Transfer; and Provide Direction to Staff on Next Steps Including Launch of Third Poll, and Council's Non-Binding Intentions for Allocation of Potential Proceeds **(8:30 to 10:30 PM) Supplemental Information Added**

PUBLIC COMMENT INSTRUCTIONS

Members of the Public may provide public comments to teleconference meetings via email, teleconference, or by phone.

- 1. Written public comments** may be submitted by email to city.council@cityofpaloalto.org.
- 2. Spoken public comments using a computer** will be accepted through the teleconference meeting. To address the Council, click on the link below to access a Zoom-based meeting. Please read the following instructions carefully.
 - A. You may download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
 - B. You may be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
 - C. When you wish to speak on an Agenda Item, click on "raise hand." The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
 - D. When called, please limit your remarks to the time limit allotted.
 - E. A timer will be shown on the computer to help keep track of your comments.
- 3. Spoken public comments using a smart phone** will be accepted through the teleconference meeting. To address the Council, download the Zoom application onto your phone from the Apple App Store or Google Play Store and enter the Meeting ID below. Please follow the instructions B-E above.
- 4. Spoken public comments using a phone** use the telephone number listed below. When you wish to speak on an agenda item hit *9 on your phone so we know that you wish to speak. You will be asked to provide your first and last name before addressing the Council. You will be advised how long you have to speak. When called please limit your remarks to the agenda item and time limit allotted.

[CLICK HERE TO JOIN](#) **Meeting ID: 362 027 238 Phone:1(669)900-6833**



City of Palo Alto

City Council Staff Report

(ID # 14135)

Meeting Date: 4/18/2022

Title: Joint Study Session with Palo Alto Youth Council

From: City Manager

Lead Department: Community Services

Topics for Discussion

- Introduction to the Palo Alto Youth Council (PAYC)
- Accomplishments from 2021/2022 school year
- Looking forward to the 2022/2023 school year
- Council Comments and Questions



City of Palo Alto
Office of the City Clerk
City Council CAO Report

(ID # 14264)

Meeting Date: 4/18/2022

Title: Approve Minutes from the April 04, 2022 City Council Meeting

From: Lesley Milton, City Clerk

Staff recommends Council to review and approve the minutes as presented.

ATTACHMENTS:

- **Attachment2.a:** Attachment A: 20220404amCCs (PDF)



CITY COUNCIL DRAFT ACTION MINUTES

Special Meeting
April 4, 2022

The City Council of the City of Palo Alto met on this date in virtual teleconference at 5:00 P.M.

Participating Remotely: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Absent: None

Closed Session

1. CONFERENCE WITH LABOR NEGOTIATORS City Designated Representatives: City Manager and his Designees Pursuant to Merit System Rules and Regulations (Ed Shikada, Kiely Nose, Rumi Portillo, Sandra Blanch, Nicholas Raisch, Molly Stump, and Terence Howzell) Employee Organization: Employee Organization: Service Employees International Union, (SEIU) Local 521, Utilities Management and Professional Association of Palo Alto (UMPAPA) Palo Alto Peace Officers' Association (PAPOA), Palo Alto Police Management Association (PMA), International Association of Fire Fighters (IAFF) local 1319, Palo Alto Fire Chiefs Association (FCA), Management and Professional Employees (MGMT) ; Authority: Government Code Section 54957.6 (a); Authority: Government Code Section 54957.6 (a).

MOTION: Council Member Filseth moved, seconded by Council Member Cormack to go into Closed Session. Kou Arrived 6-0

MOTION PASSED/FAILED: 6-0, Tanaka Absent

Council went into Closed Session at 5:03 P.M.

Council returned from Closed Session at 6:15 P.M.

Mayor Burt made no announcements for the public.

Special Orders of the Day

2. Adoption of Resolution for Gabriel Mora Upon His Retirement.

DRAFT ACTION MINUTES

MOTION: Vice Mayor Kou moved, seconded by Council Member Cormack to adopt the Resolution.

MOTION PASSED: 7-0

3. Proclamation Honoring National Public Safety Telecommunicator's Week - April 10-16, 2022.

NO ACTION TAKEN

Agenda Changes, Additions and Deletions

None.

Public Comment

Consent Calendar

Council Member DuBois registered a no vote on Agenda Item Number 8.

Council Member Kou registered a no vote on Agenda Item Number 5.

Council Member Tanaka registered a no vote on Agenda Items 5, 6, 10

MOTION: Council Member Cormack moved, seconded by Council Member Filseth to approve Agenda Item Numbers 4-14.

MOTION SPLIT FOR THE PURPOSE OF VOTING

MOTION TO APPROVE ITEM 7, 9, 11-14: PASSED 7-0

MOTION TO APPROVE ITEM 5 PASSED: 5-2, Kou, Tanaka No

MOTION TO APPROVE ITEM 6, 10 PASSED: 6-1, Tanaka No

DRAFT ACTION MINUTES

4. Approve Minutes from the March 11, 2022 City Council Meeting, March 14, 2022 City Council Meeting, and the March 21, 2022 City Council Meeting.
5. Utilities Advisory Commission and Staff Recommend the City Council Approve Two Resolutions: 1) **Resolution 10024** Approving an Amendment to the Amended and Restated Water Supply Agreement Between the City and County of San Francisco and Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County and Authorizing the City Manager to Execute the Amended Agreement; and 2) **Resolution 10025** Approving a Minimum Purchase Transfer from the City of Mountain View to the City of East Palo Alto.
6. Approve Finance Committee Recommendation for FY 2023 to (a) Return to the Customary Pre-Pandemic Business Registry Certificate Requirement and Fee, and (b) Pause for One Year the Downtown Business Improvement District Assessment Program.
7. Approve, as Recommended by Policy and Services Committee, the FY2022/2023 Risk Assessment & Audit Plan Reports.
8. Adoption of **Resolution 10026** Authorizing Use of Teleconferencing for Council Meetings During Covid-19 State of Emergency.
9. Approval of Amendment Number 2 to the Power Purchase Agreement for Landfill Gas-Generated Electricity With Ameresco Keller Canyon LLC., Reducing the Facility's Output in Exchange for an Annual \$250,000 Administrative Payment to the City.
10. Approval of Contract Amendment Number 1 to Contract Number S22183587 with Fairbanks, Maslin, Maullin, Metz, and Associates (FM3) in the Amount of \$28,500 for One Additional Poll (Three Polls, Total) for the Potential November 2022 Ballot Measure(s) for a Total Not to Exceed Amount of \$113,500 and Approve a Budget Amendment in the General Fund.
11. Adoption of **Resolution 10027** Authorizing the Submittal of a Financial Assistance Application to the United States Bureau of Reclamation for the WaterSMART: Title XVI Water Reclamation and Reuse Project.

DRAFT ACTION MINUTES

12. Approval of Pets in Need's Amended Termination Notice to Extend Termination Date Six Months for Continued Animal Shelter Operations.
13. Adoption of **Resolution 10020** Amending Public Hearing: Objections to Weed Abatement and Adoption of Resolution Ordering Weed Nuisance Abated to Correct an Administrative Error.
14. Approval of Construction Contract Number C22181213 with Stronger Building Services in the Amount of \$179,500 for the Mitchell Park Library Roof and Gutter Repair Project; Authorize the City Manager or their Designee to Negotiate and Execute one or more Change Orders for Related Additional but Unforeseen Work Not to Exceed \$17,950; and Approval of a Budget Amendment for the Roofing Replacement Capital Project (PF-00006) in the Capital Improvement Fund.

City Manager Comments

Ed Shikada, City Manager

Action Items

15. Review and Approval of Workplans Implementing 2022 City Council Priorities.

MOTION: Council member DuBois moved, seconded by Mayor Burt to accept the list of major projects associated with the 2022 City Council Priorities and have the Mayor and Vice Mayor to work with staff to refine the town hall meeting program details and enable all Council to attend as optional attendance.

MOTION PASSED: 7-0

16. Receive the Police Department's Annual Report and Discuss and Accept the Staff Update on Radio Encryption as a Follow-up from the Policy and Services Committee Recommendation on February 8, 2022.

ORIGINAL MOTION: Council Member Stone moved, seconded by Vice Mayor Kou to direct staff and PAPD to:

DRAFT ACTION MINUTES

- A. Contact State Department of Justice regarding CLETS and inform them of:
 - i. Operational deficiencies in our current digital system; and
 - ii. Inquire into whether PAPD can revert back to encryption only after policies are implemented that will fully protect personal identifying information (PII)
- B. Direct staff and PAPD to develop policies in order to protect PII on unencrypted radio transmission;
- C. Support Senator Becker's proposed SB-1000;
- D. Increase communications between PAPD senior staff and the media, as staffing permits; and
- E. Refer to Policy and Services Committee review and discussion of Use of Force (UOF) reports to evaluate current policies and effectiveness of the UOF reports and recommend modifications if necessary.

PROPOSED AMENDMENT: On motion by Mayor Burt seconded by Council Member Cormack to delete A and replace as B: Develop programs to pursue near real time streaming of Calls for Services and to narrow location of the calls. Registration will be required to access the platform. Staff shall confer with labor on implementation of this direction.

MOTION TO APPROVE AMENDMENT PASSED: 6-1, Stone No

REVISED MOTION: Council Member Stone moved, seconded by Vice Mayor Kou to direct staff and PAPD to:

- ~~A. Contact State Department of Justice regarding CLETS and inform them of:~~
 - ~~i. Operational deficiencies in our current digital system; and~~
 - ~~ii. Inquire into whether PAPD can revert back to encryption only after policies are implemented that will fully protect personal identifying information (PII)~~

DRAFT ACTION MINUTES

- B. Develop programs to pursue near real time streaming of Calls for Services and to narrow location of the calls. Registration will be required to access the platform. Staff shall confer with labor on implementation of this direction;
- C. Support Senator Becker's proposed SB-1000;
- D. Increase communications between PAPD senior staff and the media, as staffing permits; and
- E. Refer to Policy and Services Committee review and discussion of Use of Force (UOF) reports to evaluate current policies and effectiveness of the UOF reports and recommend modifications if necessary.

MOTION PASSED: 7-0

- 17. Clarification of In-Person Attendance Protocols for Council Committees and Boards and Commissions.

NO ACTION TAKEN - This Item was continued to a future meeting.

Council Member Questions, Comments and Announcements

Adjournment: The meeting was adjourned at 12:40 P.M.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Action minutes are prepared in accordance with Palo Alto Municipal Code (PAMC) 2.04.160(a) and (b). Summary minutes (sense) are prepared in accordance with PAMC Section 2.04.160(c). Beginning in January 2018, in accordance with [Ordinance No. 5423](#), the City Council found action minutes and the video/audio recordings of Council proceedings to be the official records of both Council and committee proceedings. These recordings are available on the City's website.

DRAFT ACTION MINUTES

DRAFT ACTION MINUTES



City of Palo Alto City Council Staff Report

(ID # 14050)

Meeting Date: 4/18/2022

Title: Adoption of an Ordinance Amending Existing Palo Alto Municipal Code Chapter 5.30, Disposable Foodware Items and Other Disposable Products, to Comply with California Assembly Bill 1276 (Single-Use Foodware Accessories and Standard Condiments) Requiring Additional Restrictions on the Use of Disposable Foodware and Condiments.

From: City Manager

Lead Department: Public Works

Recommendation

Staff recommends that Council:

1. Adopt an ordinance amending existing Palo Alto Municipal Code Chapter 5.30, Disposable Foodware Items and Other Disposable Products, to include additional restrictions on dispensing of disposable foodware and condiments required by Assembly Bill 1276 (Attachment A); and
2. Adopt a resolution amending the Administrative Penalty Schedule (Attachment B).

Background

On June 24, 2019, City Council adopted Ordinance No. 5473, which amended Palo Alto Municipal Code (PAMC) Chapter 5.30 and retitled it the “Disposable Foodware Items and Other Disposable Products” ([Staff Report #10148](#)). The ordinance banned the use of plastic straws and utensils in restaurants, with the objective of reducing the use of single-use disposable plastics, which often end up littering roads and waterways or being landfilled.

On October 5, 2021, the California Governor signed into law Assembly Bill 1276, Single-use Foodware Accessories and Standard Condiments, (AB 1276), which is related to PAMC Chapter 5.30, Single-Use Foodware Accessories and Condiments. This bill further prohibits food facilities (food service establishments) from providing single-use and disposable foodware accessories or standard condiments to a consumer unless requested by the consumer. Single-use is defined in PAMC Chapter 5.30 as “disposable”, meaning items designed to be used once or a limited number of times and then discarded, whether the item is non-recyclable, recyclable, or compostable. The State requires jurisdictions to implement and enforce the new requirements or authorize an enforcement agency by June 1, 2022. The proposed amendments to PAMC

Chapter 5.30 reflect requirements in AB 1276 and provide the ability for the City's Zero Waste staff to enforce its requirements.

The COVID-19 pandemic has increased takeout and food delivery, which has led to an increased use of disposable foodware. Currently, many food facilities and food delivery services provide single-use disposable foodware and beverage accessories regardless of whether they are needed or requested by the consumer. Amending PAMC Chapter 5.30 to conform with AB 1276 will build on existing efforts to combat waste from single-use disposable foodware items. Providing food and beverage accessories only upon request by consumers will significantly reduce unnecessary plastic waste and also help the City advance its [2018 Zero Waste Plan](#) initiatives.

Discussion

PAMC Chapter 5.30 already includes some of the AB 1276 requirements, but a few minor edits are required to fully comply with the State's new requirements. The most important changes are that AB 1276 prohibits disposable foodware accessories or standard condiments from being bundled or packaged in a way that prohibits the consumer from taking only the single item desired (e.g., a single fork) rather than a bundle that includes multiple foodware or other items that will be unused by the consumer. The bill also requires a food facility using a third-party food delivery platform (e.g., Grubhub, DoorDash, Uber Eats, etc.) to list on its online or app menu the availability of disposable foodware accessories and standard condiments and only provide those items when requested by the consumer. Table 1 below identifies and summarizes the requirements in AB 1276 and those that need to be added to PAMC Chapter 5.30 (Attachment A).

Table 1: Summary of AB 1276 Requirements and Proposed Amendments to PAMC 5.30

AB 1276 Requirements	Changes to PAMC 5.30
Definitions	Add the following definitions to 5.30.010: (d) Condiments (n) Third-Party Food Delivery Platforms
Provides food facilities the flexibility to offer single-use foodware accessories to drive-through consumers only.	None needed. Keep existing more restrictive requirements in 5.30.25 (c) that foodware must be requested by the consumer.
Prohibits food facilities from bundling single-use foodware accessories.	Add as new provision 5.30.025 (d)(1)(2) requiring single items to be provided through self-service dispensers.

Prohibits a food facility or third-party delivery platform from providing single-use foodware accessories unless requested by a consumer.	Update 5.30.025 (e) to include restrictions applicable to third party deliveries.
Allows exceptions to the following facilities: <ul style="list-style-type: none"> • Correctional Institutions • Health Care Facilities • Residential Care Facilities • Public and Private School Cafeterias 	Add 5.30.030 (vi) listing the following facilities as not being required to comply with the Chapter: (1) Health Care Facilities (patient rooms only) (2) Residential Care Facilities
Allows food facilities located within public airports to offer single-use foodware accessories to consumers.	None needed. Not applicable.

AB 1276 requires violations of its requirements to result in a notice of violation and any subsequent violation to be cited. PAMC Chapter 1.12, Administrative Penalties – Citations, and specifically PAMC 1.12.010, Applicability, provide the City with the sole discretion on the remedies and procedures that may be pursued. Therefore, since PAMC Chapter 5.30 already has specific administrative penalties in the City's Administrative Penalty Schedule, staff recommends consistency for the new requirements. Table 2 summarizes the new penalties to be added to the Administrative Penalty Schedule (Attachment B).

Table 2: Summary of Updates to Administrative Penalty Schedule

Section	Title	Proposed New Penalty
5.30.025 (a) to (d)	Limitation on the use of Disposable Foodware Items and other Disposable products.	\$100
5.30.025 (e)	Limitation to third party platforms on providing disposable foodware such utensils or condiments unless requested by consumer.	\$350

Prior to issuing a citation for violations, appropriate outreach and education would be conducted and warning notifications would be issued. Future enforcement of these additional requirements in PAMC Chapter 5.30 will be led by Zero Waste staff under its current Zero Waste enforcement program.

Timeline

The following is a summary of the timeline for implementing the updates to the Disposable Foodware Ordinance:

- Conduct outreach and education to stakeholders including food service providers and third party food delivery vendors – beginning March 2022
- First Reading/public hearing – April 2022
- Second Reading – May 2022
- New foodware requirements are in effect – June 1, 2022

Resource Impact

Palo Alto already meets many of the AB 1276 requirements through its existing PAMC Chapter 5.30, therefore the amended ordinance will only require minor updates to existing outreach and education resources and to the current Zero Waste enforcement program. These activities will be incorporated into the existing and planned Zero Waste staffing and outreach expenditures provided through the Fiscal Year 2022 Refuse Fund operating budget.

Policy Implications

The recommended changes to PAMC Chapter 5.30 adhere to the State of California's new single-use foodware and condiment requirements under AB 1276. These new requirements will also help the City advance the following [2018 Zero Waste Plan](#) initiatives:

- Initiative #13 - Foodware Packaging Reduction Plan;
- Initiative #26 - Foodware Packaging; and
- Initiative #38 - Reusable Filling Station at Stores and Zero Waste Supermarkets.

Stakeholder Engagement

Staff is conducting outreach and education to inform the community and food service providers, including restaurants and third-party food delivery vendors, about the new State and City requirements. The outreach includes direct mail to affected stakeholders, social media posts to the community, newsletter articles, and updating the existing webpage on the Zero Waste ordinances and requirements.

Environmental Review

This Ordinance is exempt from the requirements of CEQA under Section 15378(b)(1) of the CEQA Guidelines because it is a general policy making activity and therefore not a "project" within the meaning of CEQA.

Attachments:

- **Attachment3.a:** Attachment A - Updates to PAMC 5.30 Redline
- **Attachment3.b:** RESO - PAMC Penalty Schedule 5.30

ATTACHMENT A

Yet to be passed

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Chapter 5.30
(Disposable Foodware Items and Other Disposable Products) Title 5 (Health
and Sanitation) of the Palo Alto Municipal Code to Conform with Changes in
State Law Related to Single-Use Foodware accessories and Standard
Condiments

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. Disposable foodware items are intended to be used once then discarded. These items pose waste management challenges and can persist in the environment for many years, causing harm to wildlife and blight to waterways. The production, use and disposal of these items have significant environmental impacts, including environmental contamination; consumption of energy, water, and non-renewable polluting fossil fuels; emissions of greenhouse gases; release of air and water pollutants; depletion of natural resources; litter on streets and in waterways; plastic pollution; and increased litter clean-up and waste management costs.

B. Plastics in waterways and oceans break down into smaller pieces that are not biodegradable. Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood and salt that is eventually sold for human consumption.

C. The practice of freely giving consumers disposable foodware encourages consumers, retailers, and food vendors to pay little attention to the quantity of disposable packaging products they consume and the associated environmental impact.

D. The City of Palo Alto updated its Zero Waste Plan in 2018, with new provisions designed to help the City reach its goal of 95% diversion of materials from landfills by 2030, and 80% reduction of greenhouse gases by the same year. Disposable foodware poses difficulties for composting or recycling, and therefore hampers Palo Alto's goal of zero waste.

E. Policies that restrict the use of disposable foodware encourage reduction of pollutants and are crucial for conserving resources and protecting the environment, and integral to Palo Alto's goal of zero waste.

ATTACHMENT A

SECTION 2. Section 5.30.010 (Definitions) of Chapter 5.30 (Disposable Foodware Items and Other Disposable Products of Title 5 (Health and Sanitation) of the Palo Alto Municipal Code is amended as follows (new text underlined and deleted text struck through):

5.30.010 Definitions.

(a) "City Facilities" refers to any real property, building, structure or vehicle owned or operated by the City of Palo Alto, its agents, departments and franchises.

(b) "Compostable" means items deemed acceptable within the city's compost collection program as determined by the Director of Public Works and identified on the city's website.

(c) "Condiment" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes.

~~(d)~~ "Disposable" means items designed to be used once or a limited number of times and then discarded, whether the item is non-recyclable, Recyclable or Compostable.

~~(e)~~ "Food Service Container" means a product used by Food Service Establishments for serving or transporting prepared and ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, lids, trays and hinged or lidded containers.

~~(f)~~ "Food Service Establishment" means any establishment, located or providing food within the City of Palo Alto, which provides prepared and ready to consume food or beverages, for public consumption including but not limited to any Retail Service Establishment, eating and drinking service (as defined in Title 18), takeout service (as defined in Title 18), supermarket, delicatessen, restaurant, food vendor, sales outlet, shop, cafeteria, catering truck or vehicle, cart or other sidewalk or outdoor vendor or caterer which provides prepared and ready-to-consume food or beverages, for public consumption, whether open to the general public or limited to certain members of the public (i.e., company cafeteria for employees). For the purpose of this ordinance "Food Service Establishment" shall include all entities found in "Food Facility" as listed in CA HSC Ch.2 Section 113789(a).

~~(g)~~ "Foodware Item" means any item used or provided by Food Service Establishments to serve or consume food or beverages. Foodware Items include Food Service Containers, condiment cups and packets, straws, utensils (forks, spoons, sporks, knives, chopsticks), drink stirrers, beverage spill plugs, napkins, and other drink or food accoutrements.

~~(h)~~ "Plastic Foam" means blown expanded and extruded plastic foams made from polystyrene or other resins which are processed by any number of techniques including, but not limited to, fusion of monomer spheres (expanded bead plastic), injection molding, foam molding and extrusion-blown molding (extruded foam plastic). Expanded polystyrene and other plastic foam resins are generally used to make disposable cups, bowls, plates, trays, egg cartons, clamshell containers, ice chests, shipping boxes and packing materials.

~~(i)~~ "Plastic Foam Products" means Disposable Plastic Foam ice chests, cups, bowls, plates, clamshells, shipping boxes containers, egg cartons, packaging peanuts, packing blocks or other packaging materials that are not wholly encapsulated or encased by a more durable material.

ATTACHMENT A

Additional Plastic Foam Products may be added by administrative regulation promulgated by the Director of Public Works.

(j) "Prepared Food" means any food or beverage prepared for consumption using any cooking, packaging, or food preparation technique, including but not limited to cooking, chopping, slicing, mixing, freezing, squeezing, or brewing, and which requires no further preparation to be consumed. Prepared food includes uncooked fruits or vegetables, "take-out" food, or food prepared to be consumed off the Food Service Establishment premises. Prepared Food does not include any uncooked meat, fish or poultry.

(k) "Recyclable" means items deemed acceptable within the city's recycling collection program as determined by the Director of Public Works and identified on the city's website.

(l) "Retail Service Establishment" shall have the same meaning as Retail Service as defined in Title 18 of this Code.

(m) "Reusable Foodware" means a Foodware Item made of durable materials and designed to be used repeatedly with a useful life greater than one year.

(n) "Third-party food delivery platform" means a business engaged in the service of online food ordering and delivery from a food service establishment to a consumer.

Section 3. Section 5.30.025 (Limitation on the use of Disposable Foodware Items and other Disposable products) of Chapter 5.30 (Disposable Foodware Items and Other Disposable Products of Title 5 (Health and Sanitation) of the Palo Alto Municipal Code is amended as follows (new text underlined and deleted text struck through):

5.30.025 Limitation on the use of Disposable Foodware Items and other Disposable products.

Effective January 1, 2020:

(a) Food Service Establishments are prohibited from providing the following Disposable Foodware Items:

1. Plastic straws
2. Plastic utensils (e.g., forks, knives, spoons, sporks, chopsticks)
3. Plastic drink stirrers, drink plugs, and other drink accoutrements such as novelty cocktail accessories
4. Plastic food picks and toothpicks

(b) Food Service Establishments, City Facilities, and vendors at City-sponsored events shall provide the following Foodware Items only if they are Reusable or Compostable:

1. Straws
2. Utensils (e.g., forks, knives, spoons, sporks, chopsticks)
3. Drink stirrers, drink plugs, and other drink accoutrements such as novelty cocktail accessories
4. Food picks and toothpicks

(c) Food Service Establishments shall provide permitted Disposable Foodware Items, other than Food Service Containers, only upon ~~customer~~consumer request or at a self-serve station.

ATTACHMENT A

(d) Food Service Establishments are prohibited from providing consumers with wrapped bundled foodware and condiments.

1. Food Service Establishments may provide unwrapped disposable foodware accessories by a single serve dispenser to a consumer using refillable self-service dispensers that dispense one item at a time to allow for disposable foodware accessories to be obtained.

2. Food Service Establishments may provide condiments to a consumer using refillable self-service dispensers to allow for condiments to be obtained.

(e) Third-party food delivery platforms are prohibited from providing foodware and condiments unless the consumer selects or requests the items.

1. Consumers must have the option to opt-in to request disposable foodware and condiments including the number of each unit identified on the third-party food delivery platform application, food service establishment web site, or any vendor website or app when picking-up food from a food service establishment and delivering food to a consumer.

2. If a consumer does not select any disposable foodware accessories or condiments, no disposable foodware accessory or condiment shall be provided by the food service establishment or third-party vendor for delivery with ready-to-eat food.

Section 4. Section 5.30.030 (Exemptions) of Chapter 5.30 (Disposable Foodware Items and Other Disposable Products of Title 5 (Health and Sanitation) of the Palo Alto Municipal Code is amended as follows (new text underlined and deleted text struck through):

5.30.030 Exemptions.

(a) The following exemptions shall apply:

(i) Foods prepared or packaged outside the City of Palo Alto are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the City of Palo Alto are encouraged to follow the provisions of this Chapter.

(ii) The Director of Public Works may exempt a Food Service Establishment, Retail Service Establishment or City Facility/vendor from the requirements of this Chapter for a period of up to one year, if the applicant for such exemption can demonstrate that the conditions of this Chapter would cause an undue hardship. An "undue hardship" includes, but is not limited to situations unique to the applicant where there are no reasonable alternatives to Plastic Foam Products or non-recyclable plastic Disposable Food Service Containers and compliance with this Chapter would cause significant economic hardship to that applicant, or cause them to be deprived of a legally protected right.

(iii) A Food Service Establishment, Retail Service Establishment or City facility/vendor seeking an exemption application shall include all information necessary for the City to make its decision, including but not limited to documentation showing the factual support for the claimed exemption. The Director may require the applicant to provide additional information to permit the Director to determine facts regarding the exemption application. This exemption does not apply to the requirements found in California Public Resource Code Chapter 5.2 Single-Use Foodware Accessories and Condiments.

(iv) Emergency Supplies and Service Procurement. City facilities, Food Service Establishments, Retail Service Establishments, City contractors and vendors doing business with

ATTACHMENT A

the City shall be exempt from the provisions of this chapter, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety.

(v) Nothing in this Chapter shall restrict, or be construed to restrict, the availability of single-use plastic straws to individuals who may require and request the use of single-use plastic straws due to disability or other medical or physical conditions or circumstances.

It shall not be a violation of this Chapter for any Food Service Establishment, City Facility or City-sponsored event vendor to provide single-use plastic straws to such individuals who request plastic straws.

(vi) The following facilities are not required to comply with the provisions in this chapter.

(1) Health Care Facilities (patient rooms only)

(2) Residential Care Facilities

Section 5. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 6. This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because under Section 15378(b)(1) of CEQA Guidelines, it is a general policy making activity and therefore not a "Project" within the meaning of CEQA.

Section 7. This ordinance shall be effective on the thirty-first day after the date of its adoption.

NOT YET ADOPTED

Resolution No. _____

Resolution of the Council of the City of Palo Alto Amending and
Restating the Administrative Penalty Schedule and Civil Penalty
Schedules for Certain Violations of the Palo Alto Municipal Code
and the California Vehicle Code Established by Resolution
No. 10000

The Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. Administrative Penalties. The administrative penalty schedule for violations of the Palo Alto Municipal Code established by Resolution No. 10000 is hereby amended and restated to read as follows:

Standard penalty unless otherwise indicated below.	\$50
Second violation within 36 month period	150% of listed penalty (unless otherwise specified)
Third & subsequent violations within 36 month period.	200% of listed penalty (unless otherwise specified)
Delinquency penalty.	10% per month, simple interest, on delinquent amount
4.04.020 License or permit required.	300
4.04.100 Display of license or permit.	300
4.10.045 License fees for pushcart vendors.	300
4.10.050 Regulations for solicitors and peddlers.	350
4.10.055 Identification cards for solicitors.	250
4.10.057 Regulations for pushcart vendors.	300
4.10.070 License required - circus etc.	300
4.10.120 Arcade prohibited.	250
4.10.200 Pawn brokers prohibited.	250
4.10.230 Daily report of second hand dealers.	250
4.10.240 Maintaining reports - second hand dealers.	250
4.10.260 Failure to make report - second hand dealers.	250
4.10.270 Second hand goods held for inspection.	250
4.18.040 Unlawful dog or cat kennel.	250
4.30.010 Soliciting without a permit.	250
4.30.100 Conduct of solicitations.	250
4.32.020 Soliciting without a permit.	250
4.32.060 Investigation of records of solicitor.	250
4.32.090 Acts required during solicitation.	250
4.32.100 Restriction of solicitation.	250
4.32.110 Hours of solicitation.	250
4.34.020 Permit required - closing out sale.	250
4.39.030 Audible alarms.	250
4.39.040 Limitation on automatic dialing devices.	250

NOT YET ADOPTED

4.39.060	Registration of alarm.	250
4.39.110	Alarm violations.	100
4.42.020	Certificate of public convenience.	1000
4.42.085	Controlled substance and alcohol testing.	500
4.42.090	Taxi owners permit.	5000
4.42.100	Taxi drivers permit expired.	250
4.42.130(b)	Taxi drivers permit not displayed.	250
4.42.190	Taximeters.	500
4.42.200	Taxi cab operating regulations.	250
4.42.210(a)	Interference with inspection.	500
4.42.210(b)	Inspection of vehicles.	500
4.42.220	Operating regulations.	500
4.42.230	Maintenance of vehicles.	500
4.51.030	License required - bingo.	250
4.51.050	Minors restricted - bingo.	50
4.51.080	Staffing and operations - bingo.	250
4.51.110	Physical presence required - bingo.	250
4.52.020	License required - billiards and bowling.	1000
4.52.040	Minors restricted - billiards and bowling.	250
4.52.060	Offensive conduct - billiards and bowling.	250
4.52.070	Interference w/emerg. Access -billiards/bowling.	250
4.54.030(a)	Permit required - massage establishment.	1000
4.54.060(a)	Permit required - massage tech.	250
4.54.110	Massage establishment facilities.	250
4.54.130	Business name - massage.	250
4.55.030	License required - adult entertainment.	1000
4.56.030	License required - hot tub and sauna.	1000
4.56.060	Employee permit required - hot tub and sauna.	250
4.56.100	Hot tub/sauna establishment and operations.	250
4.56.120	Business name - hot tub and sauna.	250
4.56.150	Display of permit - hot tub and sauna.	250
4.56.200	Employment of persons < 18 - hot tub and sauna.	250
4.57.020	Permit required - firearms sales.	1000
4.57.095	Firearms dealers – business and security.	500
4.58.020	Minors restricted - narcotics paraphernalia shop.	750
4.58.030	Regulations - narcotics paraphernalia shop.	750
4.59.010	Pet shop requirements.	250
4.59.020	Pet shop sanitation.	250
4.59.030	Pet shop food.	250
4.59.040	Pet shop notification.	250
4.59.050	Pet shop - sale of dangerous or wild animals.	250
4.59.070	Dead animals.	250
4.59.080	Permit required - pet shop and kennel.	250
4.59.090	Permit required - grooming shop.	250
4.59.095	Sales of kittens and puppies.	250
4.59.100	Sales of raccoons.	250
4.59.105	Sales of rabbits, chicks, ducklings.	250
4.60.030	Business registration required	250
4.60.060	Business registry application required	250
4.60.120(a)	Business registry fee delinquency	50% of registry fee if 1-30 days late 100% of fee or 31+ days late
5.12.010	Permit required - refreshment stand.	250
5.20.030	Discarding solid waste.	250

NOT YET ADOPTED

5.20.040	Accumulation of garbage.	250
5.20.050	Unauthorized bins, boxes, containers-first violation.	500
	Second and subsequent violations.	1000
5.20.080	Number of containers required.	250
5.20.090	Collection of recyclable materials.	250 for Commercial Premises
		50 for Residential Premises
5.20.100	Collection of compostable materials.	250 for Commercial Premises
		50 for Residential Premises
5.20.105	Contamination of containers.	250 for Commercial Premises
		50 for Residential Premises
5.20.108	Multifamily properties/Commercial premises.	250
5.20.109	Requirements for special events.	100
5.20.111	Self-haul in violation of code	100
5.20.120	Improper container condition.	250
5.20.130	Maintenance of bins and boxes- first violation.	250
	Second and subsequent violations.	500
5.20.160	Spillage or leakage of solid waste.	250
5.20.180	No accumulation of solid waste.	250
5.20.190	No burning, burial, or dumping of solid waste.	250
5.20.200	Hazardous waste.	500
5.20.220	Scavenging prohibited.	100
5.30.020	Polystyrene & Non-Recyclable Plastic.	500
<u>5.30.025(a)-(d) Limitation on use of Disposable Foodware items</u>	<u>and other Disposable products.</u>	<u>100</u>
<u>5.30.025(e) Prohibition of third-party vendors providing utensils</u>	<u>or condiments unless requested by customer.</u>	<u>350</u>
5.35.020	Bags at retail establishments.	500
5.35.030	Bags at supermarkets.	500
6.08.020(b)	Interference with animal control officer.	250
6.16.010	No dog license.	50
6.16.080	Number of dogs allowed.	100
6.16.100	Leash Law.	100
6.20.010	Animals at large.	100
6.20.020	Animals on unenclosed premises.	100
6.20.030	Animals kept in enclosures.	100
6.20.035	Tying animals to bicycle racks or trees.	100
6.20.040	Nuisance on sidewalk.	100
6.20.045	Animal waste removal - first offense.	25
6.20.045	Animal waste removal - second offense.	50
6.20.045	Animal waste removal - third offense.	125
6.20.055	Animals in vehicles.	250
6.20.060	Bees close to property line.	100
6.20.080	Permit required - livestock.	100
6.20.090	Maintaining birds, goats, pigs and rabbits.	100
6.20.110	Number of cats kept.	100
6.20.120	Permit required - breeding animals.	100
6.20.130	Cat or dog in heat.	100
6.20.140	Barking dogs.	100
6.20.150	Vaccination required - animals.	100
6.20.160	Sanitary enclosures.	100
6.20.170	Slaughter of animals.	500
6.24.020	Permit required - construction of stable.	250
6.24.050	Maintenance of stable.	250

NOT YET ADOPTED

6.28.040	Possession of dangerous or wild animals.	500
6.32.010	Keeping diseased animals.	500
6.32.020	Confining animals with rabies.	500
6.32.050	Dead animals in public.	500
6.36.010	Sales of certain animals.	250
8.04.020	Permit required - tree work.	500
8.04.080	Interference with tree enforcement.	500
8.08.010	Weeds as public nuisance.	250
8.10.050	Protected trees.	500
8.10.070	Care of protected trees.	500
8.10.080(b)	Development conditions.	500
9.04.010	Open container in business district.	100
9.04.020	Open container in City parking lot.	100
9.04.030	Open container near liquor store.	100
9.04.040	Social host.	First violation 250
		Second violation 500
		Third & subsequent violation 1000
9.07.020	Safe Storage of Firearms	1000
9.08.010	Discharge of firearms/fireworks.	1000
9.09.010(a)	Urinating/defecating on street or public place.	250
9.09.010(b)	Igniting or maintaining outdoor fire.	250
9.10.030	Residential property noise limits.	100
9.10.040	Commercial property noise limits.	100
9.10.050	Public property noise limits.	100
9.10.060(b)	Construction noise signs.	250
9.10.060(c)	Construction noise.	250
9.10.060(d)	Construction equipment noise.	100
9.10.060(e)	Residential power equipment noise.	100
9.10.060(f)	Leaf blower noise- first violation.	100
	Leaf blower noise- second violation	150
	Leaf blower noise- third and subsequent violation	300
9.10.060(g)	Street sweeping noise.	100
9.10.060(h)	Refuse collection noise.	100
9.10.060(i)	Safety device noise.	100
9.10.060(k)	Public parking lot cleaning noise.	100
9.10.060(l)	Business district street cleaning noise.	100
9.12.010	Loudspeakers.	150
9.14.020	Smoking prohibited - enclosed places.	250 (2nd violation in 1 year: \$300; 3rd and subsequent violations in 1 year: \$500)
9.14.025	Smoking prohibited – unenclosed areas.	250 (2nd violation in 1 year: \$300; 3rd and subsequent violations in 1 year: \$500)
9.14.030	Smoking prohibited - city cars.	250 (2nd violation in 1 year: \$300; 3rd and subsequent violations in 1 year: \$500)
9.14.035	Smoking prohibited – public parks and public events	250 (2nd violation in 1 year: \$300; 3rd and subsequent violations in 1 year: \$500)
9.14.040	Smoking prohibited - child care facilities.	250 (2nd violation in 1 year: \$300; 3rd and subsequent violations in 1 year: \$500)
9.14.050	Smoking prohibited – commercial areas	

NOT YET ADOPTED

	and public events.	250 (2nd violation in 1 year: \$300; 3rd and subsequent violations in 1 year: \$500)
9.14.080	Location of tobacco vending machines.	1000
9.14.090	Display of tobacco products.	500
9.14.100	Failure to post "No Smoking" signs.	50
9.22.010	Impersonating public officials.	500
9.26.020	False representation as police officer.	250
9.28.010	Hotel guest register required.	250
9.28.020	Use of false name by hotel guest.	50
9.40.020	Landing aircraft at other than airport.	1000
9.44.010	Solicitation prohibited - public parking lot.	100
9.48.010	Displaying goods on sidewalk.	50
9.48.025	Sitting or lying on University Avenue sidewalks.	100
9.48.030	Operation of sidewalk elevator.	500
9.48.040	Throwing rubbish on streets.	250
9.48.050	Obligation to clean sidewalk.	200
9.50.010	Graffiti prohibited on public property.	500
9.56.030	Abatement of public nuisance.	500 unless otherwise specified
9.56.030(a)(5)	Thirty-five foot site triangle.	200
9.56.030(a)(8)	Foliage/branch obstruction.	200
9.56.030(a)(10)	Excessive planting strip vegetation height.	150
9.60.030	Blocking entrances to City Hall.	500
9.60.050	Placing signs or climbing on City Hall.	500
9.60.060	Bicycles and skateboards at City Hall.	50
9.60.070	Alcoholic beverages prohibited - City Hall.	100
9.64.010	Overnight use of community facilities	250
9.74.030	Discrimination in housing.	250
9.78.020	Mosquito breeding places.	500
9.79.100	News rack violations.	100
12.08.010	Permit required - public right of way.	500
12.08.100	Removal of City Engineer monuments.	500
12.12.010	Building on public easement without or in violation of encroachment permit	1000
12.12.020	Failure to obtain or violation of commercial sidewalk encroachment permit	500
12.16.030	Overhead wires in underground districts.	500
12.16.090	Property owner responsibility.	500
12.20.010	Utility rules and regulations	500 unless otherwise specified
12.20.010	Emergency water conservation regulations (Reso. Nos. 9509, 9460, 9449)	100 (2nd violation in 1 year: \$250; 3rd and subsequent violations in 1 year: \$500)
12.20.020	Providing false information to City Utilities.	500
12.32.010	Water use regulation.	100
15.04.070	Violations of Uniform Fire Code.	500 unless otherwise specified
16.04.050	Violations of California Building Code as amended.	500 unless otherwise specified
16.05.040	Violations of California Mechanical Code as amended	500
16.06.050	Violations of California Residential Code as amended.	500
16.08.040	Violations of California Plumbing Code as amended.	500
16.09.260	Violations of Sewer Use Ordinance	1000
16.10.020	Construction of private sewer system.	750
16.10.050	Permit required - private sewage system.	500
16.14.040	Violations of California Green Building	500

NOT YET ADOPTED

Standards Code as amended		
16.14.260	Failure to meet diversion requirements.	\$150 per ton of waste not diverted or \$3000, whichever is greater
16.14.370	Failure to meet diversion requirements.	\$150 per ton of waste not diverted or \$3000, whichever is greater
16.16.060	Violations of California Electrical Code as amended.	500
16.17.020	Violations of California Energy Code as amended.	500
16.18.020	Violations of International Pool and Spa Code as amended	500
16.20.020	Design review required - signs.	500
16.20.090	Prohibited signs.	250
16.20.100	Prohibited locations - signs.	250
16.20.110	Fuel price signs required.	250
16.20.210	Non-compliance with sign ordinance.	250
16.20.230	Abandoned signs.	250
16.20.250	Parking of advertising vehicles.	250
16.24.080	Fence violation.	250
16.28.060	Permit required - excavation and grading.	500
16.28.330	Protection of adjacent property.	500
16.28.340	Deposits of earth, rock, etc.	500
16.32.010	Permit required - moving a building.	250
16.36.050	Curb painting without a permit.	100
16.36.060	House numbering required.	100
16.38.020	Certificate of occupancy – community housing.	500
16.40.040	Dangerous and substandard buildings.	500
16.40.090	Non-compliance with order of building official.	500
16.40.180	Interference with repair or demolition work.	500
16.42.090	Failure to submit seismic report.	250
16.45.070	Failure to pay fee - Stanford Research Park.	250
16.46.060	Failure to pay fee - San Antonio - West Bayshore.	250
16.47.050	Failure to pay housing impact fee.	250
16.49.050	Exterior alteration of downtown historic structures or a significant structure outside the downtown without or in violation of permit	10000
16.49.060	Demolition of a significant downtown building without or in violation of permit	10000
16.49.070	Demolition of a contributing downtown structure or significant structure outside the downtown without or in violation of permit	10000
16.49.080	Maintenance of downtown historic structure.	10000
16.49.090	Demolition of downtown historic structure.	10000
16.52.070	Construction - flood hazards.	500
16.59.090	Failure to pay fee- Citywide Transportation Impact.	250
16.60.090	Failure to pay fee- Charleston/Arastradero.	250
16.62.020	Maintenance of expired building permit	200 for 31st through 60th day 400 for 61st through 120th day 800 for 121st day and thereafter
17.04.020	Violations of hazardous materials storage.	500, unless otherwise specified
17.04.030	Specific obligation - hazardous materials.	500
17.10.010	General obligation - underground storage tanks.	750 unless otherwise specified
17.10.040	Permit required - underground storage.	500

NOT YET ADOPTED

17.10.140	Financial responsibility - underground storage.	500
17.10.150	Monitoring underground storage tanks.	1000
17.10.170	Unlawful abandonment - underground storage tanks.	1000
17.12.010	Permit required - hazardous materials storage.	750
17.12.020	New hazardous materials storage facilities.	750
17.12.060	Hazardous materials storage facilities.	750
17.16.010	Hazardous materials management plan.	250
17.20.010	Hazardous materials inventory statement.	250
17.24.010	Hazardous materials discharge report.	750
17.32.010	Permit required - storage of hazardous materials.	1000
18.01.080	Violation of zoning laws.	500
18.16.060(d)	Hotel stay in excess of 30 days.	200
18.38.020	Planned Community zoning (unless otherwise specified in PC ordinance)	500 2500 beginning the 181st day following notice of violation

Violations of Ordinance 5069 shall be subject to the penalties listed above except that the penalty for violations of Sections 4(b)(1), (2), (6), and (7) of Ordinance 5069 shall not be subject to the penalties above or to the escalators for second, third and subsequent violations, but shall be \$2157 per day, for each and every day that a grocery store is not in operation within College Terrace Centre in accordance with the terms of Ordinance 5069. (The City Council intends to adjust this penalty amount periodically in future updates to this administrative penalty schedule to account for periodic increases in the Consumer Price Index for All Urban Consumers.) In calculating the penalties for such violations, the City will allow for a grace period for any daily violations that do not exceed six (6) cumulative months in any five (5) year period. However, this grace period was previously applied to violations from 1/10/18 through 7/10/18, so there is no entitlement to any further grace period prior to 1/10/23.

18.42.060(a)	Incompatibility of home occupations.	200
18.42.060(b)	Employees of home occupation.	200
18.42.060(c)	On site advertising of home occupation.	200
18.42.060(d)	Floor area of home occupation.	200
18.42.060(e)	Traffic related to home occupation.	200
18.42.060(f)	Home occupation as nuisance.	200

NOT YET ADOPTED

18.42.060(g) Outdoor storage related to home occupation.	200
18.42.070 Servicing vehicles in residential zone.	250
18.52.050 Transportation demand management conditions	1000
	4000 beginning the 181st day following notice of violation
18.84.200 Temporary uses.	250
22.04.030 Compliance with park regulations.	46 for violation of regulation R1-6 requiring payment of Foothills Park entry fee; 250 for violation of all other Park & Open Space Regulations.
22.04.040 Failure to obtain use permit.	300
22.04.150(b) Entry at unapproved location - Foothills Park	50
22.04.150(c) Person in park after hours - Foothills Park.	250
22.04.150(d) Speed limit 20MPH - Foothills Park.	250
22.04.150(e) Vehicles in Foothills Park after hours.	100
22.04.150(f) Skateboards and motorcycles - Foothills Park.	250
22.04.150(g) Smoking on trails - Foothills Park.	1000
22.04.150(h) Fires in Foothills Park.	1000
22.04.150(i) Use of trails - Foothills Park.	100
22.04.150(l) Unleashed dog - Foothills Park.	250
22.04.155 Restraint of dogs in City parks.	250
22.04.160 Permit required - sales in parks.	250
22.04.170 Violation of park use permit.	250
22.04.180 Sound in parks.	250
22.04.190 Unauthorized golf and other games in parks.	250
22.04.200 Unauthorized models and kites in parks.	100
22.04.210 Parking in parks.	100
22.04.215 Launch and takeout from ramp or dock.	250
22.04.220 Bicycle not permitted on trails.	250
22.04.230 Dumping in park.	1000
22.04.240 Interference with park use permit.	250
22.04.250 Park regulations	250 unless otherwise specified
22.04.260 Discharge of weapons in park.	500
22.04.270 Removal of flora or fauna.	500
22.04.280 Removal of turf or soil.	500
22.04.290(a) Damaging, defacing, etc., property.	1000
22.04.290(b) Marking, writing or printing on property.	1000
22.04.290(c) Attaching sign, etc., without permit.	500
22.04.290(d) Entering, etc., structure after posted hours.	250
22.04.290(e) Bringing portable tables without a permit.	100
22.04.300 Unlawful fire in city park.	1000
22.04.310 Enid Pearson Arastradero, Esther Park closure.	250
22.04.315 Byxbee Park and Baylands closed.	250
22.04.320 Parks closed.	250
22.04.321(a) Skateboarding in park after hours.	50
22.04.322 Trespass at Rinconada Park pool.	50
22.04.330 Alcohol in Cogswell Park.	250
22.04.331 Alcohol in Lytton Plaza.	250
22.04.332 Alcohol in Johnson Park.	250
22.04.333 Alcohol in Boulware Park.	250
22.04.334 Alcohol in Scott St. Minipark.	250

NOT YET ADOPTED

22.04.335	Alcohol in Greer Park.	250
22.04.336(a)	Alcohol in Rinconada Park.	250
22.04.337	Alcohol in Mitchell Park.	250
22.04.338	Alcohol in Robles Park.	250
22.04.339	Alcohol in Hopkins Park.	250
22.04.340	Vehicles in park.	250
22.04.341	Alcohol in El Palo Alto Park.	250
22.04.342	Alcohol in Heritage Park.	250
22.04.343	Alcohol in Pardee Park.	250
22.04.350	Consumption of alcoholic beverage in vehicles.	250
22.04.360	Open container in park - alcoholic beverage.	250
22.04.370	Reckless driving in park.	250
22.04.380	Unlawful riding and towing in parks.	250
22.04.390	Duck pond.	100

SECTION 2. Municipal Code Civil Penalties. The civil penalty schedule for violations of the Palo Alto Municipal Code established by Resolution No. 10000 is hereby restated to read as follows*:

Standard penalty unless otherwise indicated below.	\$46
10.36.020 No parking in parkways.	46
10.36.030(a)Storage on the street (72 hours).	86
10.36.040(a)(1)Vehicle for sale on street.	46
10.36.040(a)(2)Repairing vehicle on street.	46
10.36.050 Not w/in 18" of left curb--One-way street.	46
10.36.090 Removal of chalk markings.	111
10.40.020(a)(1)Parking violation – red curb.	46
10.40.020(a)(4)Parking violation – green curb.	46
10.40.020(a)(5)Parking violation – blue curb.	308
10.40.020(b)Parking in violation of sign (except blue curb).	46
10.40.020(b)Unlawful disabled parking - signs (blue curb).	308
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10.50.100(a)Violation of posted RPP permit sign	53
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NOT YET ADOPTED

22.04.150(e)	In Foothills Park after hours.	111
22.04.210	Parking in parks.	111
	Late payment penalty.	35
	Collection cost penalty.	35% of listed penalty

*All penalties include state-mandated assessments pursuant to Gov't. Code 76000, S.B 1407(2008), and Government Code 76000.3 (S.B. 857, 2008) totaling \$12.50.

SECTION 3. Vehicle Code Civil Penalties. The civil penalty schedule for violations of the California Vehicle Code established by Resolution No. 10000 is hereby restated to read as follows*:

5200	No front license plate.	\$78
	(If corrected within 31 days)	10 (state mandated)
5204(a)	No registration tabs on license plate.	78
	(If corrected within 31 days)	10 (state mandated)
21113(a)	Parking on public grounds.	46
22500(a)	Parking in an intersection.	46
22500(b)	Parking in a crosswalk.	46
22500(d)	Parking w/in 15 feet--fire station driveway.	46
22500(e)	Blocking driveway.	46
22500(f)	Parking on sidewalk.	46
22500(g)	Parking or stopping--excavation site, etc.	46
22500(h)	Double parking on roadway.	46
22500(i)	Parking in a bus zone.	261
22500(l)	Parking in front of accessible curb.	303
22500.1	Parking in a fire lane (public or private).	46
22502	Right hand wheels not w/in 18" of rt. curb.	46
22505(b)	Parking on state highway violation.	46
22507.8(a-b)	Unlawful parking in handicapped space.	303
22507.8(c)(1-2)	Straddling Lines/Cross hatched, disabled.	303
22511.57(a)	Parking/standing of vehicle in disabled parking stall or space with invalid license/placard.	\$753
22511.57(b)	Unauthorized use of license/placard for vehicle parking/standing in disabled parking stall or space.	\$753
22511.57(c)	Parking/standing of vehicle in disabled parking stall or space with counterfeit, forged, altered or mutilated license/placard for disabled.	\$753
22514	Parking within 15 feet of fire hydrant.	46
22515	Unattended vehicle, engine running.	111
22516	Person locked in vehicle.	111
22521	Parking within 7 1/2 feet of railroad tracks.	46
22522	Parking near sidewalk access ramp.	303
22523(a)	Unlawful abandonment of vehicle on highway.	131
22523(b)	Abandoned vehicle--public/private property.	131
22526	Entering/blocking intersection – anti-gridlock.	131
22951	No street, alley parking--patron vehicles.	46

*All penalties include state-mandated assessments pursuant to Gov't. Code 76000, S.B 1407(2008), and Government Code 76000.3 (S.B. 857, 2008) totaling \$12.50.

NOT YET ADOPTED

SECTION 4. The Council finds that the adoption of this resolution does not meet the definition of a project under Public Resources Code Section 21065, thus, no environmental assessment under the California Environmental Quality Act is required.

SECTION 5. This resolution shall be effective upon adoption.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

Assistant City Attorney

City Manager

Director of Public Works



City of Palo Alto City Council Staff Report

(ID # 14225)

Meeting Date: 4/18/2022

**Title: Approval of Amendment Number 1 to Contract Number C18169357
With Van Scoyoc Associates, Inc. for Federal Legislative Advocacy to Extend
the Term for one Additional Year and add \$82,800 for a Total Not-to-Exceed
Amount of \$414,000**

From: City Manager

Lead Department: City Manager

Recommended Motion

Staff recommends that City Council approve the first amendment (attached) to the current agreement with Van Scoyoc Associates, Inc., for federal legislative advocacy services to (1) increase the term length by twelve months from December 31, 2021 to December 31, 2022; and, (2) increase the not-to-exceed amount by \$82,800 from \$331,200 to \$414,000.

Background

For many years, the City has contracted for federal legislative advocacy services. This Washington, D.C.-based representation allows Palo Alto to have a presence and voice with federal representatives, regulators, and their Washington, D.C. staff. Since 2018, the City has contracted with Van Scoyoc Associates, Inc. (Van Scoyoc), to provide this federal representation ([CMR #8562](#); [Minutes](#); 11/6/2017). Staff is in the process of developing a new request for proposals (RFP) for these services and this contract extension will allow the City to continue the services while the RFP is conducted in 2022.

Discussion

Federal legislative advocacy generally, and through Van Scoyoc specifically, has been instrumental to the City of Palo Alto's sustained presence and voice in Washington, D.C. For example, in 2021, Van Scoyoc assisted the City in preparing for the Community Project Funding application process and best situated the City for a successful application to Representative Anna Eshoo.

Staff is currently drafting the RFP for release in spring 2022. This will allow for enough time to solicit and evaluate bids for a start date of January 1, 2023 of any new federal advocacy contract.

Staff recommends this contract amendment with Van Scoyoc to provide comprehensive federal

legislative advocacy services. The relationship between the City and Van Scoyoc is effective and highly collaborative, with staff of each entity communicating frequently and working to stay ahead with information at the federal level. As Van Scoyoc has worked with the City over the years, the firm's knowledge of what makes Palo Alto unique has deepened. Leveraging this knowledge and relationship is an important benefit to the City.

Van Scoyoc has agreed to continue their existing rates into this next extension, with no increase during this extension. Attachment A sets out Amendment number one, extending the original agreement to December 31, 2022, and noting the flat rates.

Resource Impact

Funding for extending the current contract by twelve months increases the total not-to-exceed amount by \$82,800. Funding for federal legislative services is included in the annual budget appropriation for the City Manager's Office reviewed with City Council during the annual budget. Current annual funding for federal legislative services in the City Manager's Office is sufficient to fund this contract extension.

Environmental Review

These services do not constitute a project under the California Environmental Quality Act.



City of Palo Alto City Council Staff Report

(ID # 14265)

Meeting Date: 4/18/2022

Title: Approval of the Appointment of Sandra Blanch as Human Resources Director

From: City Manager

Lead Department: Human Resources

RECOMMENDATION

The City Manager recommends that the City Council confirm the City Manager's appointment of Sandra Blanch as Human Resources Director.

BACKGROUND

The Palo Alto Charter and Municipal Code establish the City Manager as the appointing authority for all officers, department directors, and employees under the City Manager's areas of responsibility. The Charter and Municipal Code (2.08.020) additionally specify that appointments of department heads are subject to approval of the Council.

The Municipal Code (2.08.040) establishes the general responsibilities of the City's Department Directors, including:

- Formulating and recommending policies and procedures for the operation of their department;
- Awareness of the latest practices in their particular fields that are of benefit to the municipal service and to the public;
- Providing advice and assistance to other department heads and council-appointed officers; and cooperating with each other on matters of mutual concern.

Specific to the role of Human Resources Director, the Municipal Code identifies that the Director is responsible for HR matters such as:

- Administration of the merit system;
- Recruitment, employment and promotion of City personnel;
- Salary schedules and job classifications;
- Training, safety programs, and workers' compensation;
- City insurance programs, loss control and risk;
- Union meet and confer negotiations.

According to the fiscal year 2022 budget, the Human Resources Department consists of 16 full-time staff positions and \$16.2 million in authorized annual expenditures for the performance of its responsibilities.

DISCUSSION

Palo Alto's current Human Resources (HR) Director, Rumi Portillo, plans to retire at the end of May, creating a vacancy in the HR Director role. The City Manager has selected Sandra Blanch to serve as the City's next Human Resources Director and recommends that Council approve the appointment.

Ms. Blanch currently serves as the Department's Assistant Director, and has served the Palo Alto community for the past 28 years including service as interim HR director in 2011-12. Ms. Blanch is an expert in all areas of human resources, with focused expertise in workplace health and safety. In addition to experience and skills, Sandra Blanch has excellent working relationships throughout the City, support of the Human Resources staff, and has demonstrated her ability to operate with a steady and caring demeanor.

Over the past six years, HR Director Portillo and Assistant HR Director Sandra Blanch have worked in close collaboration to lead the City through many difficult personnel and policy issues. Most recently, their strong management, effective leadership and around-the-clock support helped the organization navigate the ongoing challenges of the pandemic. Palo Alto is fortunate that Ms. Blanch has the qualifications, leadership, and skills to fill the position of Director. Ms. Blanch has a Bachelor of Science in Public Relations from San Jose State University, with a minor in Business. Assistant Director Blanch also serves as the City of Palo Alto's Board Member representative and the Secretary for the California Cities Excess Liability Risk Pool.

Sandra Blanch will be an "at-will" employee, which means she will serve at the pleasure of the City Manager and can be terminated or asked to resign at any time. Her annual salary will be \$238,450, which is within the Council-approved salary range for the Human Resources Director position which has a maximum salary of \$251,410. The benefits and terms of employment for the appointment of Sandra Blanch to HR Director are those found in the City's Management and Professional Compensation Plan as adopted by Council. There are no special or additional provisions included in this appointment.

The City Manager will coordinate the appointment of Sandra Blanch to HR Director to coincide with Director Portillo's retirement near the end of May. This internal promotion is a continued testament to the strong culture of professional development and succession planning in the Palo Alto workforce.

RESOURCE IMPLICATIONS

The Human Resources Director position is included in the FY 2022 Adopted Budgets. Therefore, no budget modifications or additional funding are necessary.



City of Palo Alto City Council Staff Report

(ID # 13889)

Meeting Date: 4/18/2022

Title: Policy and Services Committee, City Auditor and Staff Recommend Approval of the Power Purchase Agreement Audit Report

From: City Manager

Lead Department: City Auditor

Recommended Motion

The Policy and Services Committee, City Auditor, and City staff recommend that City Council approve the Power Purchase Agreement Audit report.

Executive Summary

Baker Tilly, in its capacity serving as the Office of the City Auditor, performed an assessment of the City's process for evaluating, entering into, and managing power purchase agreements (PPA) focusing on the effectiveness of internal controls and validating the accuracy and compliance of PPA billing. This assessment was conducted in accordance with the [FY2021 Audit Plan approved by City Council](#).

Through the audit activity, the Office of the City Auditor identified three (3) recommendations. The City of Palo Alto Utilities (CPAU) concurred with each finding and has drafted action plans for each item.

The Policy & Services Committee approved the report on a two out of three majority vote at the November 9, 2021 meeting ([ID #13681](#); [Minutes](#); [Video](#)). In accordance with the City Council Policies and Procedures, this item is scheduled as an action item, due to the lack of a unanimous vote of approval from the Committee.

The Office of City Auditor will perform periodic follow up procedures to validate that corrective actions have been implemented.

Background

The City of Palo Alto offers its residents and businesses a suite of utility services, including electricity, natural gas, water, sanitary sewer and commercial fiber optics. To continue to provide reliable and affordable services, specifically electricity, the CPAU has entered into multiple PPAs. To ensure CPAU continues to meet its mission, power needs and mitigate risks, the Office of the City Auditor conducted an assessment focused on

current PPA management practices.

The Office of the City Auditor included an audit activity related to the adjustment in the [FY2021 Audit Plan approved by City Council](#). The objectives of this review were to:

- 1) Gain an understanding of the City's process for evaluating and entering into Power Purchase Agreements;
- 2) Evaluate the effectiveness of internal controls in the management of agreements and;
- 3) Validate the accuracy of and compliance of billing.

Discussion

The attached report summarizes the analysis, audit findings, and recommendations.

Timeline, Resource Impact, Policy Implications

The timeline as well as resource impacts on staff for implementation of corrective action plans is identified within the attached report. All corrective actions are scheduled to be implemented by FY 2023.

Stakeholder Engagement

The Office of the City Auditor worked primarily with CPAU and engaged with additional stakeholders, including the City Manager's Office and City Attorney's Office, as necessary.

Environmental Review

The Council's approval of the Power Purchase Agreement Audit report does not meet the definition of a "project" under Public Resources Code 21065, therefore California Environmental Quality Act review is not required.

Attachments:

- **Attachment6.a:** OCA - PPA Assessment Report (Final Draft - City Council)



City of Palo Alto

Office of the City Auditor
Power Purchase Agreement
Assessment

April 4, 2022

Executive Summary

Purpose of the Audit

The purpose of the audit was to gain an understanding of the City's process for evaluating and entering into power purchase agreements (PPA), evaluate the effectiveness of internal controls and the management of agreements and validate the accuracy of and compliance of billing.

Report Highlights

Finding	Page #	Description of Finding
There is no formal documentation of staff review of vendor compliance with PPAs	15	Palo Alto's PPA procurement process identified that while energy delivery is closely monitored, other PPA terms are informally monitored through meetings and status updates. There is no formal process that documents vendor compliance with PPAs. Vendor compliance or performance issues may not be documented appropriately, resulting in delayed or inadequate communication throughout the City about PPA non-compliance.
There is no formal review or approvals of changes to front office models.	16	Review of front office models identified that changes made to the front office model do not require approvals. Figures are vetted periodically by senior management as the figures are often reported to City Council and other senior stakeholders. If changes are not reviewed and approved by a second user/reviewer, there is an increased likelihood of inaccurate reporting.
CPAU staff does not audit NCPA's validation of vendors' invoices, contract rates and payments	17	The City of Palo Alto Utilities (CPAU) delegates its PPA settlements processes to Northern California Power Agency (NCPA), but does not have a process in place to validate NCPA settlement processes that include the verification of invoice calculations, contract rates, and matching All Resources Bill (ARB) amounts on behalf of the City.

Key Recommendations to the City Manager:

- The City should work towards documenting vendor performance monitoring via a formal procedure by which vendors are periodically assessed for PPA compliance and general performance.
- The front office model file should be altered to allow for a second reviewer and approver to document a second review and approval of any changes.
- The City should implement a formalized process that would allow CPAU to validate vendor invoices and rate calculations completed by NCPA. This process should be incorporated before payment, allowing the CPAU to validate rates to contractual requirements and confirm accuracy before payment.

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Introduction

Objective

The purpose of the audit was to gain an understanding of the City's process for evaluating and entering into power purchase agreements (PPA), evaluate the effectiveness of internal controls in the management of agreements and validate the accuracy of and compliance of billing.

Background

The City of Palo Alto Utilities (CPAU) offers its residents and businesses a suite of utility services, including electricity, natural gas, water, sanitary sewer, and commercial fiber optics. The CPAU's mission statement is to "provide safe, reliable, environmentally sustainable and cost-effective services." To continue to provide reliable and affordable services, specifically power, CPAU has entered into multiple PPAs. These agreements support the City's power needs. However, disruption in power supply and unmitigated risk can result in the CPAU's inability to meet its customer's needs and impact the reliability of its services.

In 2013 the City of Palo Alto set out on a mission to cut carbon emissions 80% below their 1990 levels by 2030. In order to achieve their goal, the City shifted away from buying market energy, which contains fossil energy sources and entered into PPAs for energy produced from renewable sources like wind, solar and biogas. The City currently has fifteen (15) large scale PPAs in place where they purchase power generated from a renewable or carbon neutral source. The City also started a CLEAN Program for community members/organizations to install solar panels and sell the energy back to the City.

The fifteen (15) large scale PPA contracts are made up of five (5) biogas contracts (natural gas produced from landfills), six (6) solar contracts, two (2) wind contracts, and two (2) hydroelectric contracts. For more information on each contract such as term length, rate, generation type, annual production, annual spend, and Palo Alto's percentage share please see Appendix B.

To ensure CPAU continues to meet its mission, power needs and mitigate risks, the Office of the City Auditor (OCA) conducted an assessment that would focus on current PPA management processes. This decision was in conjunction with a broader, Citywide audit plan detailing the potential risks facing each department. The purpose of the assessment was to identify and prioritize risks to develop the annual audit plan.

During the FY2021 risk assessment, the OCA identified a risk related to the contract management of purchased power. With the CPAU entering into multiple agreements representing a significant expenditure for the City, it is important to monitor PPAs to ensure both parties comply with contractual requirements, meet state and local regulations, and are financially sound, ensuring reasonable and adequately billed costs.

In order to properly assess the CPAU's PPA management process, the OCA reviewed three (3) operational areas of PPAs that included procurement and contracting, contract management, and invoicing/payments. For additional details, please review the [Detailed Testing & Analysis](#) section.

Scope

The scope of this engagement includes the City's active PPAs and related processes.

Compliance Statement

This audit activity was conducted in accordance with the Annual Audit Plan.

The audit activity was not performed in compliance with the generally accepted government auditing standards (GAGAS). The audit activity was not performed in compliance with GAGAS for one primary reason:

- The City of Palo Alto Office of the City Auditor has not undergone an External Peer Review in the required 3 year cycle as required by Standards.
 - o Note – the Office of the City Auditor will undergo a peer review at the conclusion of FY22.

We planned and performed the activity to obtain sufficient, appropriate evidence to provide a reasonable basis for our recommendations based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit the objectives.

Organizational Strengths

During this audit activity, we observed certain strengths of the City. Key strengths include the following:

- The City Attorney's Office is thoroughly involved in the drafting and finalization of the PPA agreements, as well as with the Commercial Operation Deadline (COD) process to ensure that all legal requirements are met prior to and during project start up.
- The CPAU is highly knowledgeable and experts in their field. Individuals that engaged with the OCA displayed a thorough understanding of processes and practices associated with their roles. In addition to developing and managing key processes, they exhibited expertise and knowledge of the power industry, current trends, and best practices.
- The City has a energy risk management structure that includes policies, guidelines, and procedures first developed in the wake of the City's issues with Enron. A component of the energy risk management structure is the City's Utilities Risk Oversight and Control Committee, a cross-departmental body comprised of staff from Utilities, ASD, Public Works, the City Manager's Office, and the City Attorney's Office that meets regularly to oversee the City's risk management program.
- The City employs a structured Front Office / Back Office / Middle Office structure for all of its energy transactions intended to ensure that the different aspects of the transaction process are carried out by independent parts of the organization, and that there are internal controls and oversight in place.
- The City has been actively procuring renewable power for roughly 20 years, and over that time City staff (Utilities, ASD, and the Attorney's Office) has developed expertise with the PPA solicitation, negotiation, and management process.

The team at CPAU was very proactive and involved in the engagement that allowed for clear communication and support for audit team. CPAU was always available to provide additional support and hands on explanations on the billing/invoice processes.

The Office of the City Auditor greatly appreciates the support of the CPAU in conducting this audit activity.

Thank you!

Detailed Testing & Analysis

Methodology & Approach

The objective is to assess the current PPA processes, evaluate the effectiveness of current controls and validate billings.

To evaluate controls and billing accuracy, audit testing was conducted on a sample of active PPAs. Testing areas were identified based on results of the risk assessment documented within the Risk and Controls Matrix (RCM). Additional information regarding the testing approach and methodology can be found in the [Audit Testing](#) section.

In addition, a contract analysis was conducted that reviewed all the current agreements against best practices and other peer contracts. Additional information regarding the contract analysis can be found in the [Contract Analysis and Review](#) section.

In order to properly evaluate PPAs and CPAUs operational areas that covered procurement and contracting, contract management, and invoicing/billing, the specific approach included the steps noted below.

Audit Planning

- Conduct research and gather information to understand the current environment
- Assess audit risk
- Develop an audit planning memo and program
- Conduct kick-off meeting with key stakeholders

Control Review and Testing

- Gather information to understand the environment under review
- Conduct interviews with key process owners and management
- Assess risks and identify controls in place
- Quantify and analyze PPA spend by contract
- Perform testing of key controls around energy procurement/contracting, contract management, and invoice processing
- Benchmark active PPA terms and conditions against other Baker Tilly client PPAs and industry best practices

Reporting

- Develop findings and recommendations based on supporting evidence
- Validate documented findings
- Develop and validate a draft audit report
- Finalize report with management responses
- Review and finalize report with the City Council and/or appropriate Council Committee

Audit Testing

Introduction

In order to achieve the objectives of the engagement, the OCA developed an audit testing approach and methodology that would test the design and operational effectiveness of controls and identify control gaps and unmitigated risks around PPA procurement and contracting, contract management, and invoicing/billing.

Approach & Methodology

In order to evaluate CPAU's control environment, the OCA developed a Risk and Controls Matrix (RCM) based on documentation and stakeholder interviews. The RCM was developed to document known risk, and mitigation practices based on CPAU's information and identify opportunities and improvement areas. The RCM was developed with the emphasis on the three focus areas that include procurement, contract management, and billing/invoices. The matrix documents 33 risks that cover each of the focused operational areas. In addition, the RCM was used to facilitate the risk assessment and note the risks for the current PPA processes, identify control gaps, and determine key risk and control areas for audit testing. The detailed RCM can be found in [Appendix A](#).

The OCA evaluated the RCM and, based on an understanding of the current state, key risks were identified for testing. In addition to prioritizing high risks, gaps were identified and noted for further observation during testing. As a result of the RCM, ten (10) work papers were created to test controls in CPAU's current PPA management processes. Below is a description of each of the work papers that were developed for testing.

T1- Invoices

Work paper T1 tested various controls associated with risks related to invoicing. The work paper evaluated the potential risk of duplicate payments, overpayment, incorrect charge amounts, unapproved payments, and applications for Renewable Energy Credits (REC). In order to test the controls, the work paper verified the following items:

- Generation data is tracked, and REC quantities are reconciled to generation totals from invoices.
- Invoiced rates correspond to approved rates
- The payment amount matches the invoice amount demonstrating payment accuracy
- Payments can be traced to and match entries in the GL
- There are no duplicate payments.
- Payment amounts are traceable to approved All Resources Bills (ARB)

T2- Payment Packages

Work paper T2 tested the risk and control associated with the processing of the ARB. The ARB was identified as the detailed bill package that includes details utilized to develop the Payment Claim Voucher (PCV) which is utilized for the approval and processing of payments. In order to test the controls, each approved package was reviewed for documented approval, and amounts were reconciled to ensure they matched.

T3- PPA Contract Assurance

Work paper T3 reviewed contracts to ensure they contained contracts assurance language related to energy provisions and contract performance.

T4- Purchasing

Work paper T4 tested controls associated with the procurement of PPAs. The work papers evaluated the potential risk of outdated vendor evaluation criteria and weights, selection of vendors without proper evaluation, and unsatisfied Commercial Operations Deadline (COD). In order to test the controls, the work paper verified the following items:

- A completed Commercial Operation Deadline (COD) was approved as part of the PPA procurement process by requesting a complete COD and reviewing the documents provided.
- A Resource Integration Checklist was used as part of the procurement process by requesting the checklist and reviewing the provided documents.
- The RFP was evaluated based on assigned weights and shortlist by requesting documentary support and evaluating the documents provided in response.

T5- Annual Reporting

Work paper T5 addressed the CPAU's annual reporting requirements. The work paper examined the potential risk of non-compliance to State RPS requirements and environmental impacts/changes. In order to test the controls, the work paper verified the following items:

- RPS requirements are addressed within the report.
- Report review and approval is documented.
- Vendor compliance is addressed within the report.

T6- Front Office Models

Work paper T6 evaluated front office models to validate if they are current, updated, and relevant. Front office models are developed for new contracts and extend out to the full length of the contract. Models include costs and are updated to track and manage budgets and needs. In order to test the controls, the work paper reviewed models to ensure they were updated and changes were approved. In addition, the model amounts were compared to the invoice amounts for reasonableness.

T7- Staff Reports

Work paper T7 evaluated staff reports to determine if the appropriate approvals were obtained for entering into a new or updated contract with a vendor. Reports were validated to ensure resolutions were included with approval from the Utility Risk Oversight and Coordinating Committee, Utilities Advisory Committee, City Council Finance Committee, and City Council.

T8- Vendor Evaluation

The purpose of work paper T8 is to determine if vendor reliability and/or viability has been evaluated. The work paper addressed the potential risk of financially unstable vendors, unreliable vendors, and maintaining high-risk vendors. In order to validate vendors, the work paper reviewed evaluation documentation.

T9- Other Reports

Work paper T9 validated the Integrated Resource Plan, annual RPS, and Carbon Neutral Plan status report. The work paper ensured that the Utilities Director approved the report and provided to the City Council.

T10- Billing and Adjustments

Work paper T10 evaluated controls related to the billing and adjustments. The risks addressed in the work paper include inaccurate adjustments, unapproved payments, inaccurate ARB amounts, and invoice amounts that do not match. In order to test the controls, the work paper verified the following items:

- The ARB estimated amount and approved PCV amount match.
- Adjustment amounts are appropriate and accurately applied to the estimated amount.
- The amount from the summary report matches the recalculated amount based on the application of adjustments.
- If the payment amount matches the ARB amount demonstrating payment accuracy.
- If payment amounts are traceable to approved All Resources Bills.

Sampling Methodology

CPAU provided a list of all active PPAs managed by the City. Understanding the generation type, dollar amount, and perceived risk/complexity, five (5) of twenty-one (21) contracts were judgmentally selected for the assessment. The contracts selected include Shiloh, San Joaquin, Elevation Solar, Calaveras, and Western. Refer to [Appendix B](#) for a summary of the active PPAs.

Based on the contract selection, a list of the volumes and settlement months was provided to conduct transactional sample selection for invoicing and payment testing. The OCA focused testing on transactions covering the period 01/01/2020 to 12/31/2020, and selected three (3) transactions from each contract. The selected samples can be found in [Appendix D](#).

Contract Analysis & Review

Introduction As part of this audit, an overall contract analysis was performed to review the PPAs entered into by CPAU and ensure they are in alignment with industry standards. The PPAs were reviewed for standard contract language and structure compared to others in the industry.

PPA Overview

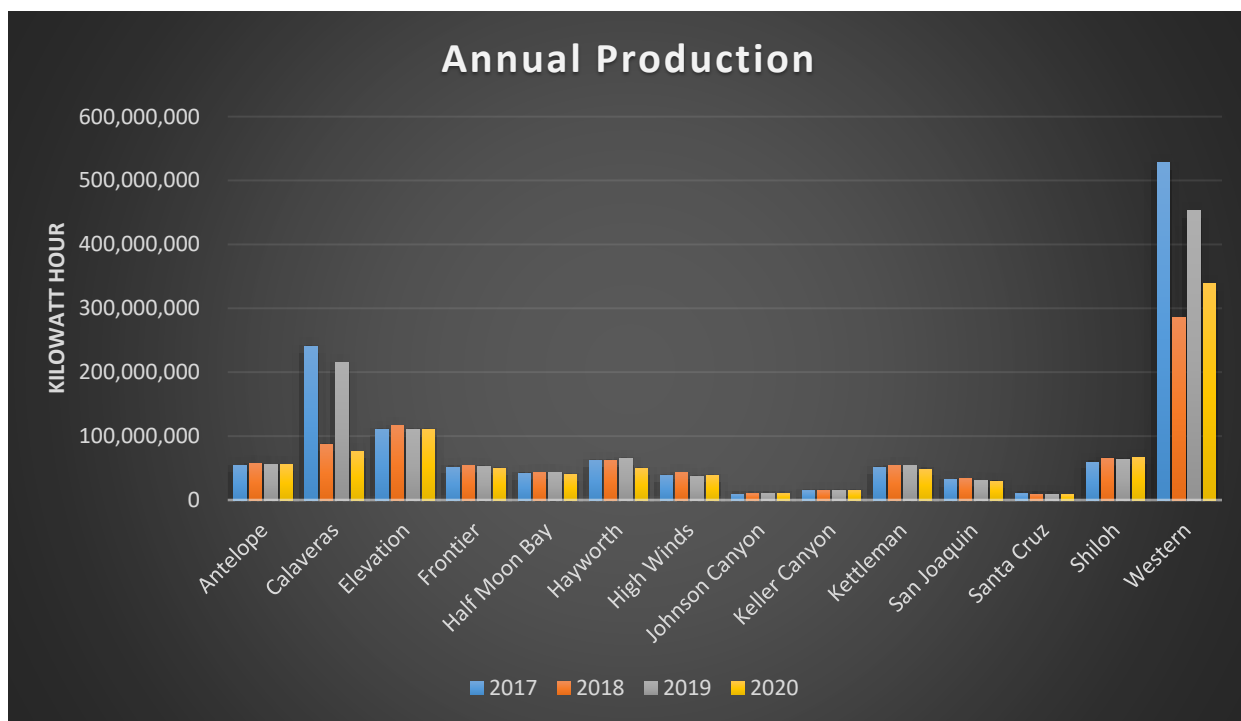
The PPA contracts entered into by CPAU are all physical PPAs. A physical PPA is where the customer (Palo Alto) and the developer agree on a set price per kWh or MWh, and the customer purchases the energy for use in the same power grid. CPAU's physical PPAs are set up in two different ways: 1) CPAU is an off-taker 2) CPAU acts as a joint owner. Fourteen of CPAU's contracts are those in which they act as an off-taker. The developer or seller develops the facility, maintains, operates, and provides the City with an agreed-upon percentage of the energy produced. The City then pays for the energy supplied at the agreed-upon rate. This structure has several benefits, including locking in a fixed rate over the contract's life, performance guarantees, only pay for energy provided, dependable budgeting, etc.

The Calaveras PPA is set up where the City and other project participants act as owners instead of simply being off-takers. This contract dates back to 1982 and is a "Third Phase" agreement between Northern California Power Agency (NCPA) member parties for the construction operation and financing of the North Fork Stanislaus River Hydroelectric Development Project. Since some NCPA members act as owners, it was set up as a take-or-pay agreement described below.

Section 6.3.3 of the City's Facilities Agreement with NCPA states, "Third Phase Agreements shall be written as "take-or-pay" ("hell-or-high-water") agreements to the greatest extent possible, so as to insulate NCPA and all Members who are not Project Participants from liability arising from the NCPA Project. Third Phase Agreements shall obligate Project Participants to treat all Project Costs as operation and maintenance expenses of their respective Electric Systems, and shall pledge the Project Participant's obligation to raise electric rates and/or increase Revenues upon demand of NCPA so as to pay such Project Costs."

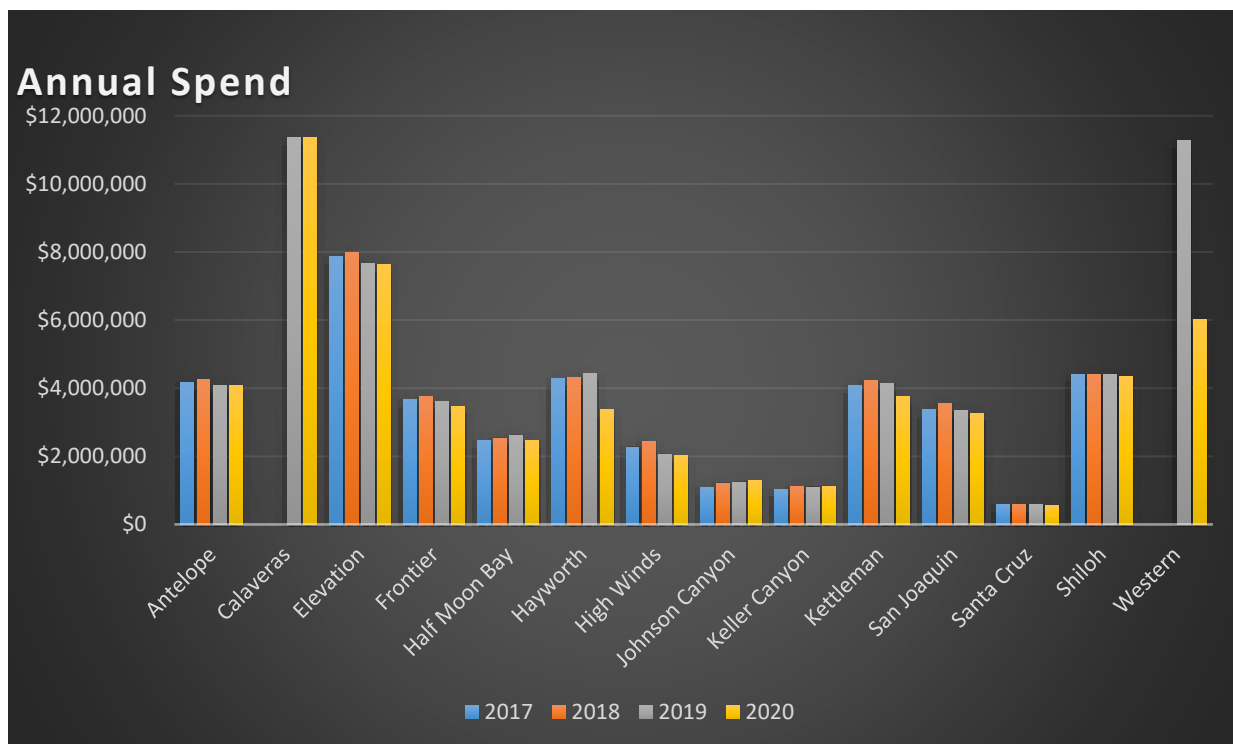
This development provided roughly 8% of the power CPAU used in 2020 and 18% in 2019. Since the Project Participants are acting as owners, there is a different risk environment. The take or pay structure adds the risk of incurring project costs but not receiving energy, which is similar to the risk incurred by any utility that owns a generating resource. In addition, since party members are responsible for the project's operational costs, there is the risk of physical damage, maintenance costs, and unexpected issues.

Both PPA structures used by CPAU have their own risks. Each agreement needs to align with the community's overall goals, risk tolerance, and available resources. All of these contracts align with the City's goals of reducing carbon emissions and promoting clean energy. Information on the annual spend and production is shown in the graphs below. Both graphs show the historical time frame of 2017-2020 and the information was taken from files provided by CPAU. Additionally, a summarized list the PPAs and related details can be found in [Appendix B](#).



Graph 1 – Annual kWh supplied by each contract from 2017-2020.

This information was pulled from the "Supplier Invoices and REC Tracking" document provided by CPAU.



Graph 2 – Annual spending associated with each contract from 2017-2020.

This information was taken from the "Supplier Invoices and REC Tracking" document provided by CPAU. The annual cost information for Calaveras and Western (WAPA) was not included in the "Supplier Invoices and REC Tracking" document and was therefore taken from the "PPA Invoice Payments 1-19 to 4-21" file provided. This document did not include the annual spend for 2017 or 2018, so there are no values on the graph for Calaveras or Western for that time frame.

Approach & Analysis

Our benchmarking approach focused on the terms and conditions within each contract to ensure the City is not leaving itself open to unnecessary risks. Some of the significant risks associated with PPA contracts relate to development, price, liquidity, volume, profile, and balancing. Our research of industry standards led us to the following list of risk-reducing clauses typically included in a PPA contract to reduce the previously mentioned risks.

- Development Guarantees
- Performance/Production Guarantees
- Force Majeure Clause
- Audit Clause
- Insurance Clause
- Operation and Maintenance

During our analysis, it was determined that the agreements entered into by the City contain many of the risk mitigation clauses found in other contracts around the industry. The contracts lay out development guarantees and repercussions for the developer if specific project goals/deadlines are unmet. Performance/Production Guarantees are established within each contract and are nuanced toward the specific energy or project type. The contracts contain force majeure language and lay out the events if necessary. Insurance clauses are in place to ensure the production facility contains a large policy to cover major physical damages that would affect the production. The City's contracts put the operations and maintenance responsibilities on the seller, except for Calaveras.

It is important for a community to vet the other partner on the agreement along with these standard contract clauses. Having a financially sound and experienced production partner helps ensure that the partner can remedy an issue with little risk of bankruptcy if any unforeseen problems occur. The City does this by putting restrictions on who a project can be transferred to, who can lend money for the project, and through questioning during the RFP process. Overall, the contracts appear to contain similar clauses used across the industry.

Audit Results

Finding #1 - No formal documentation of staff review of vendor compliance with PPAs

The OCA's review of the Palo Alto PPA procurement process identified that vendors are informally monitored through meetings and status updates. For Western, the project's performance is monitored via weekly email updates from the supplier (Western Area Power Administration) and via monthly meetings with NCPA. Calaveras operations and performance are also discussed with NCPA staff and other member agencies at the monthly meeting. For the City's solar, wind, and landfill gas PPAs, the performance of these resources is monitored on a quarterly basis, when staff compare each resource's actual output to its projected level.

However, there is no formal process that documents vendor compliance with PPAs. Although documenting PPA compliance can be difficult given the nuances and complexity of PPAs, documented PPA compliance reviews should be performed periodically. Otherwise, vendor compliance or performance issues may not be documented appropriately, resulting in delayed or inadequate communication throughout the City which poses a greater risk of maintaining a relationship with the vendor for a longer than ideal period of time.

We recommend the City implement a formal vendor performance monitoring procedure by which vendors are periodically assessed for PPA compliance and general performance.

Detailed reviews of specific PPAs, vendors, or issues should be conducted on a as needed basis. Each PPA should be reviewed in detail once every five years.

Finding #2 - No formal review or approvals of changes to front office models.

The OCA's review of front office models identified that changes made to the front office model do not require approvals. There is version control on the document used to track front office models, and few people are allowed to change the document. Also, the figures are vetted periodically by senior management as the figures are often reported to City Council and other senior stakeholders.

However, if changes are not reviewed and approved by a second user/reviewer, there is an increased likelihood of inaccurate reporting.

Changes to front office models that significantly affect planning should be reviewed and approved, and the review and approval should be documented. We recommend the front office model file be altered to allow for a second reviewer and approver to document a second review and approval of any changes.

Finding #3 – No CPAU audit of NCPA's validation of vendors' invoices, contract rates and payments

The OCA identified during process interviews that CPAU does not have a process in place to validate NCPA settlement processes that include the verification of invoice calculations, contract rates, and matching ARB amounts on behalf of the City.

NCPA owns processes that include rate calculation and proper invoicing, but the City does not conduct a periodic check to monitor NCPA's processes for accuracy. Without proper rate review processes, payments for amounts charged at incorrect rates could be processed, and inaccurate financial reporting may occur.

We recommend a formalized process that would allow CPAU to validate vendor invoices and rate calculations completed by NCPA. This process should be incorporated before payment, allowing the CPAU to validate rates to contractual requirements and confirm accuracy before payment

Appendices

Appendix A: Risk and Control Matrix

Below is the RCM that was developed and utilized to identify gaps and developing testing criteria.

Risk Ref.	Process	Sub-Process	Risk	Risk Description	Control #	Control Description
1	RFP	Needs Assessment	Over purchase of renewable energy	An inaccurate needs assessment can result in the overstatement or understatement of needs resulting in either an over-commitment or under-commitment outlined in contracts. This can result in the City being placed in the position to fill gaps.	C1	Development of the Integrated Resources Plan (every 5 years) and/or the annual RPS and Carbon Neutral Plan status report to the City Council and approval from the Utilities Director.
2	RFP	Needs Assessment	Inadequate budget	An inaccurate needs assessment can result in the overstatement or understatement of budget needs.	C1	Development of the Integrated Resources Plan (every 5 years) and/or the annual RPS and Carbon Neutral Plan status report to the City Council and approval from the Utilities Director.
3	RFP	RFP Development	Weak/Inaccurate RFP	An RFP is issued that is not adequately vetted and developed with the review and validation of specifications the City needs to be achieved.	C2	Content is developed with coordination with the City Attorney that drafts the pro forma PPA to send with the RFP.
4	RFP	RFP Development	Unapproved RFP	An Unapproved RFP is distributed without validation of legal and performance specifications.	C2	Content is developed with coordination with the City Attorney that drafts the pro forma PPA to send with the RFP.
5	RFP	Vendor Management	Unreliable Vendor	The city is partly dependent on unreliable energy providers.	Gap	There is not currently a process by which PPA vendors are periodically vetted for reliability
6	RFP	Vendor Management	Fraudulent vendor	High risk vendors are maintained in the RFP distribution list and receive opportunities to bid on City projects.	Gap	There is not currently a process to document review of PPA vendor reliability or compliance with relevant laws and PPA terms.
7	RFP	Evaluation	Improper evaluation of vendors	Outdated vendor evaluation criteria and weights are used leading to the selection of an unqualified vendor.	C3	Evaluation criteria and weights are developed/decided based on each RFP.
8	RFP	Evaluation	Unqualified vendor selection	Vendor selected from outdated criteria or not properly evaluated.	C4	Proposals are ranked based on criteria by the RFP evaluation team that results in a short list.
9	RFP	Evaluation	Financially unqualified vendor	Vendor financial and credit clearance not completed and financially unviable vendor is chosen to provide services.	C5	Energy Risk Manager completes financial/credit evaluation.

Risk Ref.	Process	Sub-Process	Risk	Risk Description	Control #	Control Description
10	RFP	Selection	Unapproved PPA executed	Vendor PPA executed without proper review and approval(s).	C6	Staff report and resolution seeking approval of PPA(s) from the Utilities Risk Oversight and Coordinating Committee (UROCC), Utilities Advisory Committee, City Council Finance Committee, and City Council. City Council approval is required for PPA execution.
11	Contract Management	Forecasting	Inaccurate forecasting	Inaccurate forecasting of generation supplies, requirements and costs leading to inadequate budgeting and other related planning.	C7	Front office models are developed for new contracts that extend out to contract length and include associated costs. Models are updated based on any changes.
12	Contract Management	Forecasting	Inaccurate forecasting	Inaccurate and unapproved updates to the front office models.	Gap	Changes made to the front office model do not require approvals.
13	Contract Management	Consents	Unapproved consents	Unapproved vendor financing consents are signed adding unapproved City liabilities.	C8	Standard consent form developed by City is utilized with a legal redline process.
14	Contract Management	Contractual Guarantees	Non-compliance to contractual development timelines	Projects are delayed due to non-compliance with contractual development timelines.	C9	Quarterly/monthly project development reports are provided by the developers/suppliers. The Senior Resource Planner validates if they are meeting contractual deadlines and criteria.
15	Contract Management	Contractual Guarantees	Unsatisfied Commercial Operations Deadline (COD) criteria	Commercial Operations Deadline criteria are not met prior to Commercial Operations commencement.	C10	Senior Resource Planner works with the City Attorney's Office to ensure checklist is met.
16	Contract Management	Contractual Generation Guarantees	Vendor non-compliance with generation requirements	Vendors do not meet generation requirements.	C11	The Senior Resource Planner reviews generation data to ensure contractual requirements are met. Performance assurances are placed in contracts.
17	Contract Management	REC-Renewable Energy Credit	Generation totals do not match REC quantities	Invoice totals do not match REC quantities transferred by suppliers.	C12	Generation data is tracked from supplier invoices. REC quantities are reconciled to generation totals from invoices.

Risk Ref.	Process	Sub-Process	Risk	Risk Description	Control #	Control Description
18	Contract Management	RPS	Non-compliance to RPS requirements	RPS requirements are not met annually.	C13	Annual report provided to CA Energy Commission. The Resource Planner tracks the requirements and compiles the report. The report is reviewed by the Senior Resource Planner and NCPA.
19	Contract Management	RPS Reporting	Non-compliance to RPS reporting requirements	Annual reporting requirements are not met.	C13	Annual report provided to CA Energy Commission. The Resource Planner tracks the requirements and compiles the report. The report is reviewed by the Senior Resource Planner and NCPA.
20	Contract Management	General	Unacceptable environmental impacts/changes in law and regulations	Suppliers are unable to meet legal and/or environmental requirements.	C14	The City Attorney's Office is responsible for incorporating environmental laws into new and amended PPA's. The CPAU monitors compliance and brings compliance issues to the City Attorney's Office for assistance.
21	Contract Management	General	Enforceability of contracts	Weak legal constraints do not allow for feasible contract enforcement.	C15	Use and application of appropriate legal clause and constraints to support City objectives.
22	Contract Management	General	Price volatility	Adverse market price fluctuations leading to unforeseen increased energy costs.	C16	Fixed price contracts address market fluctuation risks.
23	Contract Management	General	Production volume	Sufficient volume is not produced and needs to be procured at additional unforeseen costs to the City.	C17	Forecasting and estimates for potential needs.
24	Contract Management	General	Balancing market changes	Market price changes from execution to agreement close changing cost expectations from those originally procured.	C16	Fixed price contracts address market fluctuation risks.
25	Invoicing	All Resources Bill (ARB)	Inaccurate ARB	The All Resources Bill (ARB) is not accurate leading to inaccurate billings and payments.	C17	The Resource Planner validates the ARB through review and development of the Payment Claim Voucher.
26	Invoicing	All Resources Bill (ARB)	Totals do not match invoices	Vendor invoices do not match the relevant ARB(s) causing an inadequate audit trail of services provided versus related payments.	C18	The Business Analyst conducts review to ensure totals match invoices from the G/L entries.
27	Invoicing	All Resources Bill (ARB)	Inaccurate rates are charged	Rates that are not in accordance with the contract rates are charged and paid.	Gap	NCPA reviews contract rates upon invoice payment, but CPAU staff does not audit NCPA's review.

Risk Ref.	Process	Sub-Process	Risk	Risk Description	Control #	Control Description
28	Invoicing	All Resources Bill (ARB)	Duplicate payments	Duplicate payments are made	Gap	NCPA checks for duplicate payments, but CPAU staff does not audit NCPA's review.
29	Invoicing	All Resources Bill (ARB)	Overpayments	Vendor overpayment.	Gap	NCPA checks for overpayments to vendors, but CPAU staff does not audit NCPA's review.
30	Invoicing	Verification of Charges	Unapproved payments	Unapproved payments are made.	C19	Payment packages are sent to management for review and approval before processing.
31	General	General	Severe weather event	The potential risk of severe weather events causing disruption in service and meeting contractual obligations.	C20	There are related contract assurances in place in most modern PPAs.
32	Solar	General	Equipment delivery delays	Delay in completion of project.	C21	There are financial penalties and assurances language in most modern PPAs.
33	Solar	General	Completion delay / No completion	Project startup delays in development resulting in the City not obtaining the power needed based on projected timeline.	C21	There are financial penalties and assurances language in most modern PPAs.

Appendix B: Contract Listing

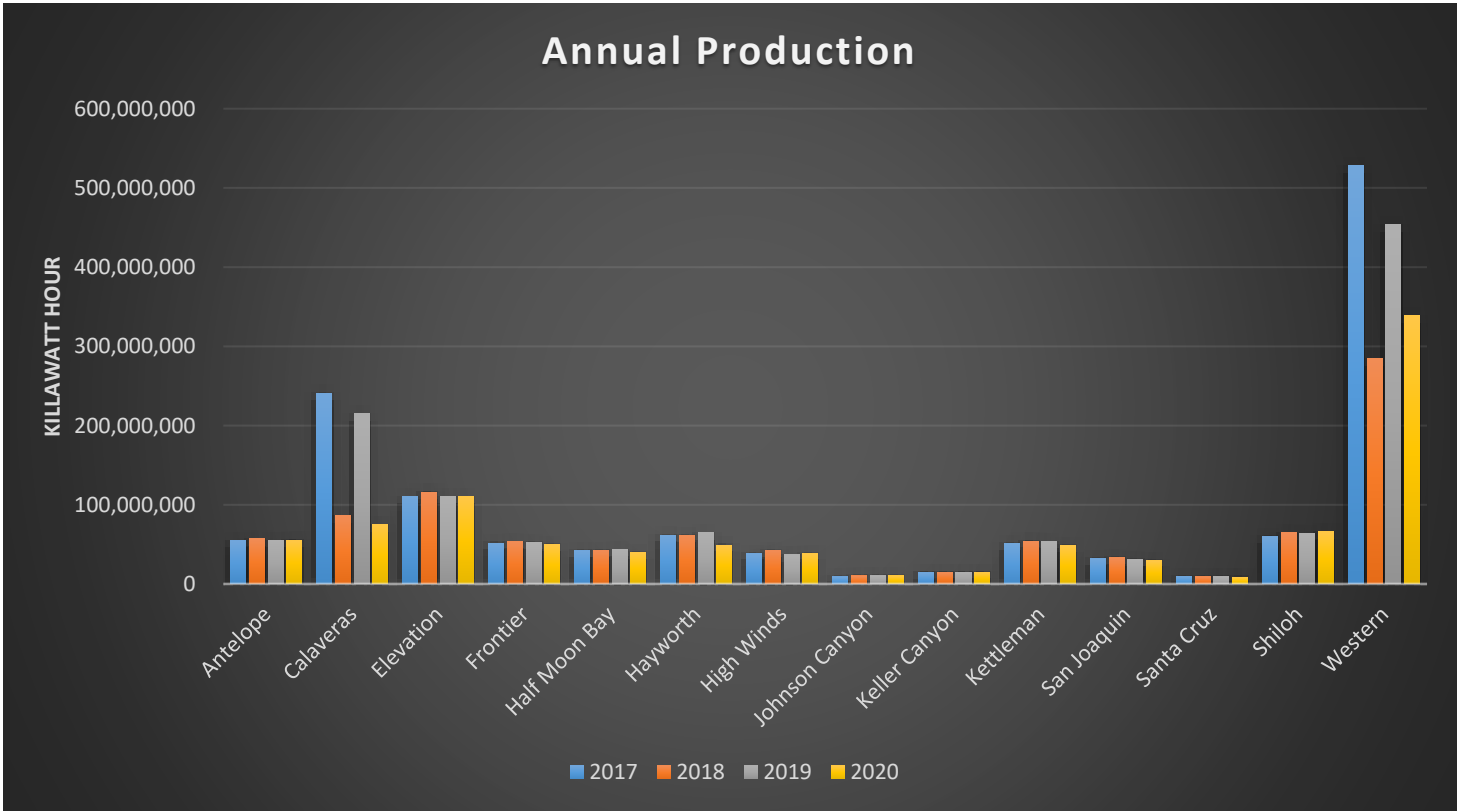
Below is summary content of the current PPAs in place with the City.

Contract Number	Agreement Name	Execution Date	Commercial Operation Date	Contract Length	Generation Type	Contract Rate	Palo Alto's Percentage Share	Overall Category
C04-075	Santa Cruz	11/9/2004	2/2/2006	20th Anniversary of COD	Gas	\$51/MWh 1.5% annual escalation	50%	RPS
C04-076	High Winds	11/9/2004	12/1/2004	23 and a half years (July 1, 2028)	Wind	\$57.60/MWh	12.35%	RPS
C05-003	Ox Mountain (Half Moon)	1/19/2005	4/1/2009	20 years after COD	Gas	\$52/MWh 1.5% annual escalation	50%	RPS
C05-068	Keller Canyon	8/8/2005	8/1/2009	20 years after COD	Gas	\$59/MWh	50%	RPS
C05-110	Shiloh	10/11/2005	6/1/2006	15 years after initial delivery date	Wind	\$62.95/MWh	16.66%	RPS
C10-027	San Joaquin	5/3/2010	4/20/2014	20 years after COD	Gas	\$91.33/MWh 1.5% annual escalation also contains increases for emission controls	100%	RPS
C12A-087	EE Kettleman Land	6/27/2014	8/11/2015	25th anniversary of COD option for 5 year extension	Solar	\$77.00/MWh	100%	RPS
C13A-061	Frontier Solar	7/10/2013	6/7/2016	30 years after COD	Solar	\$69.00/MWh	100%	RPS
C13A-062	Western Antelope	7/10/2013	12/31/2016	25th anniversary of COD option for 5 year extension	Solar	\$68.77/MWh	100%	RPS
C13A-063	Elevation Solar	7/10/2013	12/31/2016	25th anniversary of COD option for 5 year extension	Solar	\$68.77/MWh	100%	RPS
C14A-028	Hayworth	6/14/2014	12/22/2015	27th anniversary of the COD extension options	Solar	\$68.72/MWh yrs 1-13 \$68.22/MWh yrs 14-27	100%	RPS

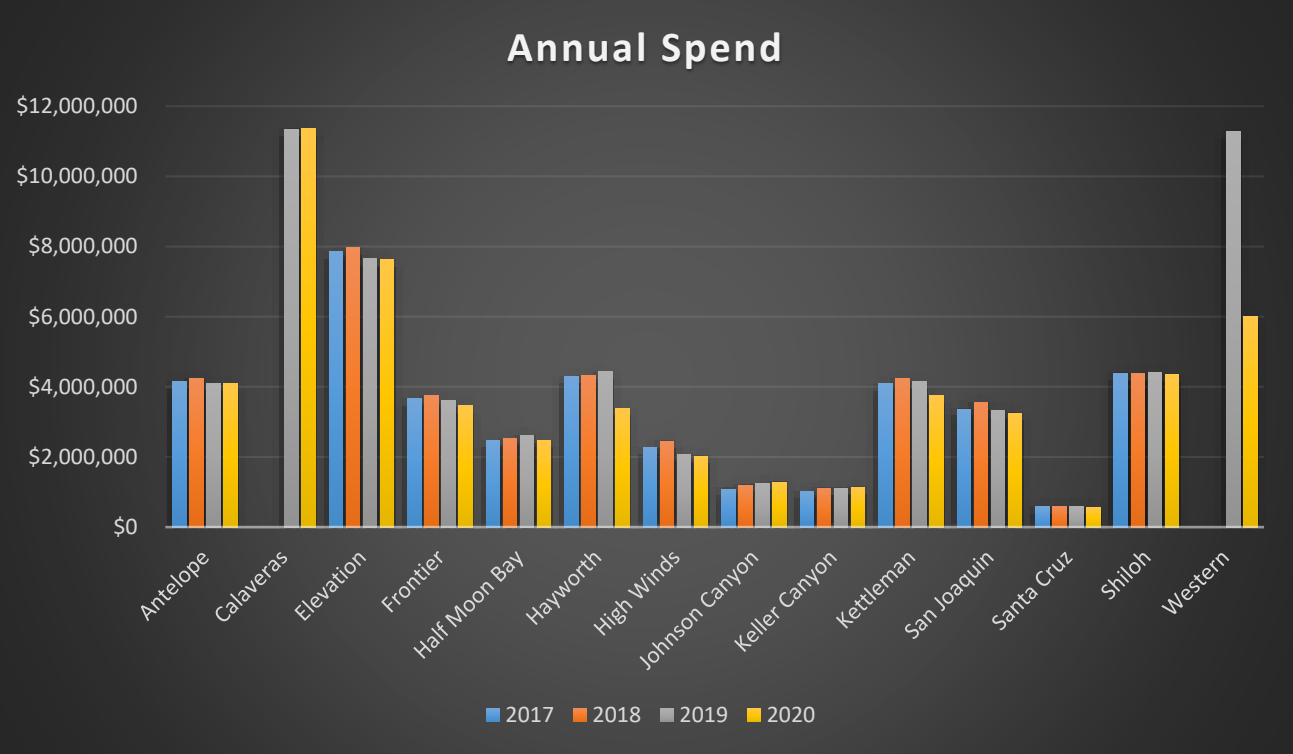
Contract Number	Agreement Name	Execution Date	Commercial Operation Date	Contract Length	Generation Type	Contract Rate	Palo Alto's Percentage Share	Overall Category
						increases for extension terms		
SF81-003	Calaveras	7/21/1982	N/A	Until Bonds mature or are redeemed	Hydro	Varies depending on annual budget put together by NCPA	22.92%	Carbon Neutral/RPS
N/A	Johnson Canyon	10/19/2009	5/12/2013	20 years after COD	Gas	\$109/MWh 1.5% annual escalation	100%	RPS
N/A	Western	10/26/2000	N/A	20 years (initial service date is 1/1/2005)	Hydro	Fluctuates based on market rate	12.31%	Carbon Neutral (WAPA)
N/A	Rosamond Solar	5/28/2019	Not operational	25th anniversary of COD	Solar	\$34.02/MWh	100%	RPS

Appendix C: Contract Analysis Graphs

Below are graphs developed from the contract analysis.



Note: The graph shown above represents the annual kWh supplied by each contract from 2017-2020. This information was pulled from the "Supplier Invoices and REC Tracking" document provided by CPAU.



Note: The graph above represents the annual spending associated with each contract from 2017-2020. This information was taken from the "Supplier Invoices and REC Tracking" document provided by CPAU. The annual cost information for Calaveras and Western (WAPA) was not included in the "Supplier Invoices and REC Tracking" document and was therefore taken from the "PPA Invoice Payments 1-19 to 4-21" file provided. This document did not include the annual spend for 2017 or 2018, so there are no values on the graph for Calaveras or Western for that time frame.

Appendix D: Agreement List and Samples

Below are tables outlining the current agreements by power source and the sample selected for testing.

Table 1 – Power Purchase Agreements

Type	Name/Location	Contract Date	Amount
Hydroelectric	Western Area Power Administration	1/1/2004 – 12/31/2024	Take or Pay-Hst. \$10 million/year
	Calaveras	7/2/1982- Bonds Mature	Varies
Wind	High Winds	12/1/2004 – 6/30/2028	Up to \$78.4 million
	Shiloh I	6/1/2006 – 12/31/2021	Up to \$75 million
Landfill Gas	Santa Cruz	2/2/2006 – 2/1/2026	Up to \$13.9 million
	Ox Mountain	4/1/2009 – 3/31/2029	Up to \$61.8 million
	Keller Canyon	8/1/2009 – 7/31/2029	Up to \$21.7 million
	Johnson Canyon	5/14/2013 – 5/13/2033	Up to \$30 million
	San Joaquin	4/24/2014 – 4/23/2034	Up to \$122.4 million
Solar (Large Scale)	EE Kettleman Land	8/17/2015 – 8/16/2040	Up to \$116 million
	Hayworth Solar	12/22/2015 – 12/21/2042	Up to \$130 million
	Frontier Solar	7/20/2016 – 7/19/2046	Up to \$99 million
	Elevation Solar C	12/2/2016 – 12/1/2041	Up to \$226 million
	Western Antelope Blue Sky Ranch B	12/2/2016 – 12/1/2041	Up to \$125 million
	Rosamond Solar	1/1/2023 – 12/31/2047	Up to \$101 million
Solar (CLEAN Feed-in Tariff)	Unitarian Universalist Church of Palo Alto (UUCPA)	7/3/2018 – 7/2/2043	Up to \$20 million
	275 Cambridge Parking Garage	3/19/2018 – 3/18/2043	
	445 Bryant Parking Garage	7/19/2017 – 7/18/2042	
	475 Cambridge Parking Garage	3/19/2018 – 3/18/2043	
	520 Webster Parking Garage	8/2/2017 – 8/1/2042	
	Solar Star Palo Alto I (HP Headquarters)	8/23/2019 – 5/31/2033	

Table 2 – Selected Sample

Contract Number	Partner	Date	Generation (MWh)	Charges
SF81-003	Calaveras	2020-03-01	4,182.616	\$965,391
SF81-003	Calaveras	2020-07-01	5,524.528	\$964,159
SF81-003	Calaveras	2020-10-01	4,299.668	\$924,196
C13A-063	Elevation Solar	2020-03-01	7,578.482	\$521,172
C13A-063	Elevation Solar	2020-09-01	8,958.425	\$616,071
C13A-063	Elevation Solar	2020-12-01	5,538.420	\$380,911
C10-027	San Joaquin	2020-01-01	2,558.688	\$279,337
C10-027	San Joaquin	2020-04-01	2,629.826	\$287,103
C10-027	San Joaquin	2020-09-01	2,314.246	\$256,441
C05-110	Shiloh	2020-04-01	5,040.000	\$364,147
C05-110	Shiloh	2020-08-01	10,176.000	\$652,675
C05-110	Shiloh	2020-11-01	2,163.000	\$158,961
NA	Western	2020-04-01	42,830.887	\$1,348,036
NA	Western	2020-07-01	48,779.731	\$999,732
NA	Western	2020-10-01	14,536.857	\$573,955

Appendix E: Management Response

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan
Finding 1: There is no formal documentation of staff review of vendor compliance with PPAs		
<p>The OCA recommends that the City implement a formal vendor performance monitoring procedure by which vendors are periodically assessed for PPA compliance and general performance.</p> <p>Detailed reviews of specific PPAs, vendors, or issues should be conducted on a as needed basis. Each PPA should be reviewed in detail once every five years.</p>	Resource Management Division	<p>Concurrence: Agree</p> <p>Extensive risk management practices are in place for PPA management. The Utilities Risk Oversight Coordinating Committee. (UROCC), which includes City Manager, Utilities, Attorney's Office, and Public Works representation, establishes risk management practices for entering into and managing PPAs. An ASD risk manager has a role in monitoring risk. The City's Attorney's Office and Utilities staff have built up extensive experience with PPA terms, which has been recognized by vendors and other agencies. CPAU along with experienced NCPA partner staff monitor its vendors' compliance with PPA energy delivery terms daily (the most important item to monitor). Other periodic reviews include: CPAU Front Office staff also review monthly performance reports from the vendor of its landfill gas projects. CPAU Back Office staff also produce monthly reports tracking the output of renewables projects relative to staff's expectations. And CPAU Front Office staff actively participate in quarterly stakeholder meetings held by WAPA for Western customers. CPAU staff agrees that it would be worthwhile to more formally document these ongoing reviews of vendor compliance with PPA terms periodically.</p> <p>Target Date: December 31, 2021</p> <p>Action Plan: CPAU staff intends to develop a checklist all vendor PPA obligations. The renewable energy contract managers will use this checklist to document compliance reviews. The contract managers will also review this list and discuss any non-compliance issues with the Electric Front Office team (which includes utility management) on at least a quarterly basis and share reports with the UROCC.</p>

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan
Finding 2: There is no formal review or approvals of changes to front office models		
<p>Changes to front office models that significantly affect planning should be reviewed and approved, and the review and approval should be documented. We recommend the front office model file be altered to allow for a second reviewer and approver to document a second review and approval of any changes.</p>	<p>Resource Management Division</p>	<p>Concurrence: Agree</p> <p>CPAU staff agree that, while the likelihood is very low, there is a slight possibility that errors made in updating the Front Office models could lead to planning/budgeting errors that could impact electric rates. Although CPAU staff would note that such errors would most likely be caught long before they have an impact on the budget or rates. The Electric Front Office team currently sends out a "Monthly Electric Front Office Report" to over a dozen individuals across multiple City departments that details the supply cost impacts of any significant changes to the Front Office models. And the annual electric supply budget, after being developed by the Electric Front Office team, is reviewed by Back Office staff, ASD staff, and management before being considered for adoption by the City Council.</p> <p>Target Date: August 31, 2021</p> <p>Action Plan: In the future, whenever a Resource Planner makes a change to any of the supply contracts in the electric Front Office models that has a materially significant impact (at least \$1M over the prompt 36-month period, approximately 0.2% to 0.3% of total utility costs), a Senior Resource Planner must review and complete a documented approval of the change before it is accepted.</p>

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan
Finding 3: CPAU staff does not audit NCPA's validation of vendors' invoices, contract rates and payments		
<p>The OCA recommends a formalized process that would allow CPAU to validate vendor invoices and rate calculations completed by NCPA. This process should be incorporated before payment, allowing the CPAU to validate rates to contractual requirements and confirm accuracy before payment.</p>	<p>Resource Management Division</p>	<p>Concurrence: Agree</p> <p>Target Date: Completed*</p> <p>Action Plan: Invoice/contract rates are now being checked internally prior to monthly payment approval and these checks are being documented. Staff will also perform a documented annual audit on a sample of PPA invoices received during the year to verify the accuracy of NCPA's billing.</p> <p>*The OCA will perform procedures to verify that this is complete.</p>



City of Palo Alto City Council Staff Report

(ID # 14119)

Report Type: Action Items

Meeting Date: 4/18/2022

Summary Title: Downtown Housing Plan: Initiation and MTC Supplement Agreement & Budget Amendment

Title: Approval of Supplement Agreement No. 1 to the Master Funding Agreement Between the City of Palo Alto and the Metropolitan Transportation Commission for \$800,000 in Priority Development Area Planning Grant Funds to Prepare a Downtown Housing Plan; Approve Budget Amendments in the General Fund; and to Initiate the Plan Process for a Sub-Area of the Downtown Priority Development Area. Environmental Assessment: Exempt Under CEQA Guidelines Sections 15061(b)(3) and 15262.

From: City Manager

Lead Department: Planning and Development Services

Recommendation:

Staff recommends that the City Council either:

A. Proceed with acceptance of the grant with the following actions:

1. Approve and authorize the City Manager to execute Supplement Agreement No. 1 to the Master Funding Agreement between the City of Palo Alto and the Metropolitan Transportation Commission (Attachment A) for \$800,000 in Priority Development Area Planning Grant funds to prepare a Downtown Housing Plan;
2. Amend the Fiscal Year 2022 Budget Appropriation for the General Fund budget by: (approval by a two-thirds vote required)
 - a. Increasing the Planning and Development Services grants revenues by \$800,000;
 - b. Increasing the Planning and Development Services appropriation for contract services by \$800,000 to recognize the Priority Development Area Planning Grant Funds;
 - c. Increasing the Planning and Development Services appropriation for contract services in the amount of \$150,000; and
 - d. Decreasing the General Fund Budget Stabilization Reserve in the amount of \$150,000;

3. Initiate the local planning process for a Downtown Housing Plan; and
 4. Direct staff to return to Council for identification of goals for preparation of the Downtown Housing Plan; or,
- B. Decline to accept the grant.

Executive Summary:

The University Avenue/downtown area is a local activity center, regional job center, and an international destination due to its proximity to Stanford University and global companies. In January 2020, the City Council designated the University Avenue/downtown area as a Priority Development Area (PDA) to seek grant funding for planning or implementation activities. The Metropolitan Transportation Commission (MTC) has since authorized the award of an \$800,000 grant to the City to prepare a Downtown Housing Plan.

The Housing Plan will focus on housing production in the Downtown, including affordable housing, and will implement policies from the City's Comprehensive Plan. Community engagement will be key to the success of the planning effort, as will technical, design, and planning work by qualified consultants funded by the grant.

The grant does not have a matching fund requirement. The City would pay upfront costs for the work and submit reimbursement requests to the grant funding agency upon the completion of certain tasks. The work must be completed within three (3) years from April 30, 2022; though there is the opportunity for a one-year extension. The grant funding agency will not reimburse City expenses for incomplete milestones after the three (or four) year project timeline.

While no matching funds are required, from staff's recent experience with the North Ventura Coordinated Area Plan (NVCAP) and housing element, it is anticipated the \$800,000 grant will not cover all project-related costs. Specifically, the level of community engagement and data analysis in Palo Alto typically requires more consultant funding than may be initially anticipated. Moreover, due to staff resources already committed to other Council-directed policy efforts, including the NVCAP, Housing Element, renter protection and other work, staff requests \$150,000 annually to provide consultant project management support for this project.

Staff recommends the Council consider the additional resources that would be necessary to support this effort. The decision to provide additional consultant resources could be deferred to the Council's deliberation on the annual budget if Council is not prepared to allocate funds from the budget stabilization reserve. Staff expects it would also have a clearer indication during the budget process as to the overall cost to prepare the Downtown Housing Plan from consultants responding to the City's request for proposals.

To preserve the City's interest in preparing the Downtown Housing Plan using the available grant funds, however, the City must execute Supplement Agreement No. 1 to the Master Funding Agreement before April 30, 2022. Should the additional resources necessary to support acceptance of this grant and project not be prioritized and approved through the budget process, staff would release the grant funds back to MTC.

Background:

PDA Designation

On January 13, 2020, the City Council adopted by resolution¹ the PDA designation for the Downtown/University Avenue area.² The Downtown/University Avenue PDA was subsequently approved by the Association of Bay Area Governments (ABAG). The Downtown/University Avenue PDA includes approximately 206 acres and all within a half-mile of the University Avenue Caltrain Station. See Attachment B for a map of the entire Downtown/University Avenue PDA. The purpose of the PDA is to help guide growth that aligns with transportation and housing policies. In particular, the PDA strives to support growth around transit facilities and provide opportunities to connect housing and jobs. Funding to support these objectives is available through competitive grants to conduct planning or implementation activities within the boundaries of the PDA.

PDA Planning Grant

In December 2020, the MTC issued a call for letters of interest for PDA Planning Grants for projects implementing the PDA—linking regional and local planning and for integrating land use and transportation planning. This PDA Planning Grant program provides funding for specific plans³ that result in intensified land uses around public transit hubs and bus and rail corridors in the Bay Area. The City submitted a letter of interest requesting the maximum fund limit of \$800,000 on February 12, 2021 in response to the MTC call. The City applied with the intent to use grant money to fund the preparation of a Housing Plan for Downtown (University Avenue).

On May 14, 2021, the MTC adopted a resolution awarding \$800,000 to the City for the preparation of a Housing Plan for the downtown. In awarding this funding to the City, the MTC noted that preference was given to proposals that would implement Plan Bay Area 2050 and support housing production at all income levels. There is no matching funding requirement for

¹ PDA Resolution #9876: <https://www.cityofpaloalto.org/files/assets/public/city-clerk/resolutions/reso-9876.pdf?t=43662.63>

² January 13, 2020 City Council Staff Report for designating the Downtown PDA: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=74728>

³ Specific Plans are policy planning documents defined and regulated by the State of California: https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=3.&article=8.

the grant. Since the award, City staff has been communicating with MTC to refine the scope of work for the Housing Plan, which is contained within Attachment A as part of the Supplement Agreement No. 1 to the Master Funding Agreement. MTC has informed staff that this agreement must be signed and executed by all parties before the April 30, 2022 deadline to preserve this allocation for Palo Alto.

Master Funding Agreement and Supplement Agreements

One of the technical steps in formally accepting any grant award from MTC is the execution of a Master Funding Agreement between the MTC and the City; this was accomplished administratively on March 2, 2022 (Attachment C). The Master Funding Agreement enables the City to accept grant funding from the MTC for a period of 10-years. This Master Funding Agreement shall have no force and effect with respect to a project (such as the Downtown Housing Plan) until a Supplement Agreement has been fully executed by both MTC and the City. This Master Funding agreement does not obligate the City to any action. The City can voluntarily apply for competitive grants that the MTC issues or decline to apply.

Each subsequent grant award from the MTC is known as a Supplement Agreement to the Master Funding Agreement. The first Supplement Agreement is known as Supplement Agreement No. 1 and is for the Housing Plan project. The Supplement Agreement No. 1 includes the scope of work and budget for the Housing Plan that would necessitate procuring a consultant to assist the City to prepare it.

Discussion:

The City of Palo Alto will prepare a Downtown Housing Plan (Housing Plan) to realize opportunities to add housing units to downtown Palo Alto. Downtown is a local activity center, a regional job center, and, due to proximity to Stanford University and global companies, an international destination.

The Housing Plan covers approximately 76 acres and is a sub-area of the University Avenue/ Downtown PDA. The Housing Plan area will include the following as its geographic focus:

- From east of the Caltrain tracks and Alma Street east to Cowper Street,
- From Hamilton Avenue north to Lytton Avenue, and
- City parking lots, Peninsula Corridor Joint Powers Board (Caltrain) parking lots, and public rights of way.



Figure 1: Downtown Housing Plan Boundary

Downtown faces several challenges that limit housing production. Challenges include high land costs; office development being more profitable than housing; appropriate bicycle and pedestrian infrastructure can decrease car use and reduce greenhouse gas emissions; public parking is a high value and uses significant amounts of public land; and reliance on external consumer base. Through a focused and thoughtful Housing Plan, the City can identify ways to help overcome these challenges and find opportunities to promote greater housing production.

Downtown Housing Plan Goals and Objectives

Consistent with the requirements of the PDA Planning Grant, the Housing Plan will need to evaluate key elements. In concert with the City's Housing Element update process, the Housing Plan will identify the development standards, design standards, and public infrastructure necessary to produce significant housing downtown. The Housing Plan will also help realize racial and economic equity by affirmatively furthering fair housing, which is a requirement of the grant.

Housing Plan preparation requires extensive community and business outreach and participation, including facilitation of a Community Working Group. Housing Plan preparation also involves coordination with regional and local stakeholders, such as housing advocates, business leaders, the County, Stanford University, Caltrans, Santa Clara Valley Transportation Authority (VTA), Palo Alto Unified School District, and the Santa Clara Valley Water District.

Downtown Housing Plan Elements

The MTC grant requires the Housing Plan to include the following sections, at a minimum:

Project Management and Coordination. This element outlines the primary project management and coordination tasks necessary for the Downtown Housing Plan.

Community Outreach and Engagement. This element outlines the primary community outreach and engagement for the Housing Plan.

Community Assessment and Policy Development. This element focuses on identifying and analyzing challenges and opportunities to increase housing development downtown.

Downtown Housing Plan Preparation. This element outlines the steps necessary to prepare the Downtown Housing Plan. Activities and deliverables for the Housing Plan include:

- Community outreach and participation
- Basic economic and real estate modeling to understand development feasibility, opportunities, and constraints
- Fiscal impact analysis of development on City infrastructure and services
- Incorporation of state and local VMT and mobility requirements
- Incorporation of the Sustainability and Climate Action Plan goals and policies
- Inclusion of equity assessment results and affordable housing protection, preservation, and production assessment results from the Housing Element update process
- Draft and Final Housing Plan with land use designations and proposed Capital Improvement Projects
- Proposed Comprehensive Plan amendments and zoning updates
- A California Environmental Quality Act (CEQA) environmental document

Throughout the process there will be check ins with the Architectural Review Board (ARB), the Planning & Transportation Commission (PTC), and City Council to ensure that the Housing Plan is on track and consistent with expectations and goals. Finally, with a recommendation from the PTC, the City Council will consider adoption of the Housing Plan. For more information and detail regarding the proposed scope of work for the Housing Plan, see Attachment A.

Consultant Selection

The City will retain a consultant to assist with the completion of the necessary elements of the Housing Plan. On March 29, 2022, the City released Request for Proposals (RFP) 184761 seeking proposals from qualified vendors that were pre-screened by MTC with demonstrated experience in municipal planning services to assist the City with the preparation of the Housing Plan. The RFP was conducted pursuant to the City's requirements. The responses for the RFP

are due by April 12, 2022 (after the publication of this staff report). Consultant proposals will need to be vetted prior to any recommendations to the City Council. The selection of the consultant will require approval by the City Council, which staff anticipates will occur before the Council's summer break.

In addition to engaging a consultant to conduct the outreach and prepare the plan, staff will need to contract with an individual or firm for project management and oversight. More information is provided in the Resource Impact section below.

Supplement Agreement Revision

Supplement Agreement No. 1 attached to this staff report represents the agreement between the City and MTC for reimbursement of funding consistent with the completion of the tasks described in the scope of work detailed in the agreement. As milestones and deliverables are completed, the City will pay the consultant for their work. In turn, the City will submit invoices to MTC for reimbursement.

Once the City selects the preferred consultant to complete the Housing Plan, a revised scope of work and budget will be presented to the City Council for consideration. This will result in a revision to the Supplement Agreement No. 1 with MTC. MTC will need to agree to the revisions. MTC's expectation is that the deliverables will remain in line with the original funding agreement. Changes to details such as sequencing of tasks (or the potential bundling of multiple deliverables into a single deliverable) are generally permitted without triggering a need to formally amend the agreement. The completion of the planning elements, as described above, are non-negotiable. These elements are requirements of accepting the PDA Planning Grant.

The grant does not have any matching fund requirement though from prior experience and as referenced above, staff anticipates general fund dollars will be needed to supplement the project and for project management consultant services.

The grant has a three-year timeline for completion that begins on April 30, 2022. The grant allows for the possibility of a one-year extension. If the City fails to complete the project within the authorized timeline it will not be reimbursed for incomplete tasks or tasks completed that have not been submitted for reimbursement. MTC staff have confirmed there is no 'clawback' provision in the grant, meaning the City does not need to reimburse the grant funding agency for reimbursements received, even if the project is incomplete by the deadline. However, the City would need to use its own funds to complete the project if that is the desired outcome at that time.

Other Ongoing Initiatives

Concurrently, during the development of the Housing Plan, the following other initiatives will unfold, and may interact with and require coordination with the Housing Plan:

- Housing Element Update
- University Avenue corridor streetscape design
- Palo Alto Avenue grade separation planning
- Downtown surface parking lot (housing/parking) partnership including parking in-lieu fees
- Parklets & potential street closures
- Retail and retail-like & other land use policy direction
- Sustainability and Climate Action Plan
- Sea level rise vulnerability assessment
- Downtown parking management strategies
- Citywide Bicycle and Pedestrian Plan update
- Objective housing standards development
- Green infrastructure policy initiatives
- Consistency with city plans and policy documents

In addition, it should be noted that the proposed study area does not include the Transit Center and therefore would not address the potential for residential development at that site. Should Council proceed with the housing plan, a corollary decision is whether to engage Stanford University in determining whether to modify the study area to include the Transit Center.

Project Initiation

As part of the recommendation, staff requests the City Council consider and initiate the Housing Plan. As mentioned previously, the Housing Plan implements Comprehensive Plan policy for the Downtown area. Early in the process, staff would identify goals and objectives for the Housing Plan. Staff will return to the Council with more focused discussion on goals and objectives prior to the kick-off of the process.

Comprehensive Plan Policy Implications:

The Comprehensive Plan includes policies that are specific to the downtown area. The following Land Use and Community Design Element policies and programs help guide the development of the Housing Plan and its goals.

- Policy L-2.4: Use a variety of strategies to stimulate housing, near retail, employment, and transit, in a way that connects to and enhances existing neighborhoods.
- Policy L-4.7: Maintain and enhance the University Avenue/Downtown area as a major commercial center of the City, with a mix of commercial, civic, cultural, recreational and

residential uses. Promote quality design that recognizes the regional and historical importance of the area and reinforces its pedestrian character.

- Policy L-4.8: Ensure that University Avenue/Downtown is pedestrian-friendly and supports bicycle use. Use public art, trees, bicycle racks and other amenities to create an environment that is inviting to pedestrians and bicyclists.
 - Program L4.8.1: Prepare a Coordinated Area Plan for Downtown.
 - Program L4.8.2: Study the feasibility of converting parts of University Avenue to a pedestrian zone.

At the end of the process, the adopted Housing Plan would be a focused policy document with sections including introduction, vision, development standards, open space, mobility, community assets and infrastructure, and implementation and financing. The adopted Housing Plan would be substantially consistent with the Comprehensive Plan policies and is sufficient to guide future development in the downtown.

Resource Impact:

MTC awarded Palo Alto the maximum grant amount of \$800,000. Staff recommends Council amend the Fiscal Year 2022 Budget Appropriation for the General Fund budget by increasing the Planning & Development Services Department (PDS) revenue by \$800,000 for the project, as well as equivalent expenditures for consultant services and increasing the PDS appropriation by \$800,000. This portion of the recommended action is a net zero impact to the general fund.

Supplement Agreement No. 1 attached to this staff report represents the agreement between the City and MTC for reimbursement of funding consistent with the completion of the tasks described in the scope of work detailed in the agreement. As milestones and deliverables are completed, the City will pay the consultant for their work. In turn, the City will submit invoices to MTC for reimbursement. According to MTC, there is no “clawback” or repayment of the funds if the Housing Plan is not completed within the three-year period. If the project is not completed on time, the City may lose the opportunity to receive reimbursement for incomplete work.

In addition, to advance this project now, staff requires a consultant to project manage this work effort. Existing staff resources are currently dedicated toward the Housing Element, NVCAP, renter protection policies and other Council-initiated assignments. Staff anticipates it would need \$150,000 annually for the duration of the project at an estimated cost of \$450,000 - \$600,000 over a three to four year period. This figure may be lower if upon completion of existing assignments staff takes over the project management role. However, this would delay implementation on other currently un-resourced assignments.

The budget adjustment for the \$800,000 grant has no material effect on the budget and can take place now; though, this action requires two-thirds support because it represents an additional appropriation more than the total appropriation provided for in the adopted budget.

The request for consultant project management staff support could be allocated now and requires two-thirds majority support and would allocate funds from the City's budget stabilization reserve (BSR). The BSR is projected to remain at or above the City Council target of 18.5% of General Fund expenses by the close of FY 2022. Alternatively, the City Council could defer this allocation of \$150,000 for fiscal year 2022 to the broader City budget process for FY 2023 to understand what tradeoffs may be required to support this effort relative to other City Council interests. This deferral would not significantly impact the timeline as it is unlikely staff would be prepared to initiate the project before the Council's summer break.

However, if the City Council defers allocation of the \$150,000 and ultimately declines to support this effort during the budget process, the City would likely need to forfeit the \$800,000 grant and suspend the Housing Plan project.

General Impacts to Planning & Development Services Workplan

The Long-Range Planning team of PDS continues to address the priorities of the City Council. Current major workplan projects include the Housing Element Update, North Ventura Coordinated Area Plan (NVCAP), and implementation of Renter Protection objectives by the City Council. In addition, the team is responsible for many ongoing activities such as ordinance updates and annual reporting associated with implementation of the City's Comprehensive Plan and housing programs. The facilitation and coordination of efforts for the Housing Plan will be especially challenging during the first year when efforts are expected to overlap with the other priority PDS workplan efforts. The City Council recently reviewed and endorsed a workplan that aligns staff work efforts to Council-approved priorities; a summary of the workplan is available online: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20220404/20220404pccsmamendedlinked1.pdf#page=195>. The Long-Range Planning program has responsibility for tasks listed in each priority and especially the Council's Housing for Social and Economic Balance priority.

Summary of Key Issues:

The Council is being asked to contemplate the grant with the following possible considerations:

1. The \$800,000 grant is available to the City due to its designation of the University Avenue Downtown area as a Priority Development Area.

2. The grant provides substantial funding with limited constraints to explore opportunities to advance the City's housing priorities.
3. Grant funding is likely insufficient to complete the project, which is expected to require additional funding to support a more robust public engagement strategy, provide a greater depth of data analysis, economic feasibility and pro-forma analyzes.
4. There is insufficient staff resources to project manage this planning effort given the high volume of work currently being absorbed by the City's Long Range Planning Program.
5. An estimated ongoing allocation of \$150,000 for three or four years is needed to supplement project management support (approximately \$450,000 - \$600,000 over the duration of the project).
6. If the project is not completed within the allocated timeframe, the City will not be able to claim reimbursement for incomplete tasks and may forfeit unclaimed grant money potentially burdening the general fund to complete the project.

Timeline:

Following the Council's initiation of the Housing Plan, staff will work towards retaining a consultant and coordinating with MTC on a revised scope of work. The project would have a three-year timeline that coincides with the PDA Planning Grant. The timeline included in Attachment A would be revised to reflect the input from the selected consultant in the future.

Some of the key initial project milestones are summarized below:

- Plan initiation (April 18, 2022)
 - Action by the Council to initiate the Downtown Housing Plan project.
- Consultant award (June 2022)
 - After completing the RFP process, staff will seek approval of the contract and the revision to the Supplement Agreement No. 1 from the Council.
- Solicit applications for the working group (Summer 2022)
 - Staff will seek applications from stakeholders and propose working group to the Council for approval.
- Project kickoff (Fall 2022)
 - The Housing Plan project will formally kick off with outreach, meetings, and other supporting activities.
- Downtown Housing Plan adoption (By April 2025)

If for some reason, the Housing Plan cannot be completed within the three-year period, the MTC may grant a one-year extension. However, any extension beyond that is unlikely because of approvals necessary from State and Federal agencies that allocated the funds.

Environmental Review

The actions recommended in this report are exempt from review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Sections 15061(b)(3) and Section 15262 (Feasibility and Planning Studies). The actions would initiate a planning process and are not determinative of any specific outcome. The Housing Plan that will result from this effort will be a project subject to CEQA review prior to adoption. The review may be able to “tier” or rely upon analysis contained in the certified Comprehensive Plan Environmental Impact Report (EIR).

Attachments:

Attachment7.a:	Attachment A - Supplement No. 1 Agreement_April22	(PDF)
Attachment7.b:	Attachment B - Downtown PDA Map	(PDF)
Attachment7.c:	Attachment C - Executed Master Funding Agreement	(PDF)

SUPPLEMENT NO. 1 TO MASTER FUNDING AGREEMENT
Between the METROPOLITAN TRANSPORTATION COMMISSION
And CITY OF PALO ALTO
For UNIVERSITY AVE/DOWNTOWN PDA PLAN

This Supplement No. 1 to the Master Funding Agreement (“Supplement” or “Agreement”) is entered into this April 30, 2022, by and between the Metropolitan Transportation Commission (“MTC”) and CITY OF PALO ALTO (“AGENCY”) and supplements the Master Funding Agreement, dated February 17, 2022, by and between MTC and AGENCY.

Pursuant to this Supplement, MTC agrees to reimburse an amount not to exceed eight hundred thousand dollars (\$800,000) in federal Federal Highway Administration (FHWA) funds to AGENCY to fund the University Ave/Downtown PDA Plan (as more fully described in Annex I hereto, the “Supplement Project”). The estimated budget and payment milestones for the Supplement Project scope of work is attached as Annex II hereto.

The Supplement Project work will commence on April 30, 2022 and be completed no later than April 30, 2025.

The clauses selected below and attached as exhibits to the Master Funding Agreement shall apply to AGENCY’s performance of the applicable Supplement Project scope of work hereunder:

- ☒ Exhibit B-1, Additional Terms and Conditions (General), Paragraph A
- ☒ Exhibit B-1, Additional Terms and Conditions (General), Paragraph B
- ☒ Exhibit B-2, Additional Terms and Conditions (Federally Required Clauses)
- ☐ Exhibit B-3, Additional Terms and Conditions (State Required Clauses)
- ☐ Exhibit B-4, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Non-Federally-Funded Agreements)
- ☐ Exhibit B-5, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Federally-Funded Agreements)
- ☐ Exhibit B-6, Additional Terms and Conditions (Regional Toll Funds including RM1, RM2, and AB1171)
- ☒ Exhibit B-7, Additional Terms and Conditions (Regional Discretionary Federal Funds including STP and CMAQ)

Funding for this project was authorized by the Metropolitan Transportation Commission at its May 26, 2021 through Resolution 4202, Revised (see p. 1 of Attachment B-1), attached to this document as Attachment A.

The MTC Project Manager for the Supplement Project is Somaya Abdelgany, (415) 778-5217, sabdelgany@bayareametro.gov. The AGENCY Project Manager for the Supplement Project is Sheldon Ah Sing, (650) 838-2821, sheldon.ahsing@cityofpaloalto.org.

This Supplement is supplemental to the Master Funding Agreement; all terms and conditions of the Master Funding Agreement, as may be amended, remain unchanged hereby.

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Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Master Funding Agreement.

**METROPOLITAN TRANSPORTATION
COMMISSION**

CITY OF PALO ALTO

Therese W. McMillan, Executive Director

Ed Shikada, City Manager

Approved as to form:

Albert S. Yang, Assistant City Attorney

Annex I Project Description and Scope of Work

City of Palo Alto University Ave/Downtown PDA Plan

Project Description:

In May 2021, MTC awarded the City of Palo Alto (“City”) with a Priority Development Area (PDA) Planning Grant to complete their proposed University Ave/Downtown PDA Plan. Renamed to the Downtown Housing Master Plan (Master Plan), the plan will realize opportunities to add housing units to downtown Palo Alto. The area is a local activity center, a regional job center, and, due to proximity to Stanford University and global companies, an international destination.

Despite these strengths, Palo Alto faces challenges to realizing housing in the downtown.

- **Land costs are high and office is more profitable than housing.** Creating housing near transportation hubs that is affordable in one of our highest land value areas in the city—and highest value in the nation—is an incredible challenge. The area is attractive as an employment center due to proximity to Stanford, Caltrain, and the cloud companies seek by having a Palo Alto address. These factors drive up land values in this mixed-use area and offices provide a greater return on investment than housing, leading to more office development than housing.
- **Insufficient bike and pedestrian infrastructure can lead to greater car use.** Improving bike and pedestrian mobility to and through downtown can decrease car use. Though located near the busiest Caltrain station, it can be challenging for visitors to find their way on foot to key destinations in the downtown. Likewise, the bike infrastructure does not maximize safety and comfort of cyclists. These connections are critical to building new homes without creating the need for more individual car ownership.
- **Public parking is a high value and uses significant amounts of public land.** Significant public landholdings in downtown include a series of surface parking lots and parking garages. The parking spaces support local retailers, employers, and others who park in the facilities to enjoy downtown. Figuring out how to ensure the public land provides co-benefits such as parking and housing is critical to ensuring housing does not come at the expense of economic vitality.
- **Reliance on external consumer base.** The pandemic illustrated the challenges of relying on an external work force and student population to support downtown retailers. Through increasing the downtown population, Palo Alto can build greater resiliency by decreasing reliance on out-of-towners to support local retailers.

Through a focused and thoughtful Downtown Housing Master Plan, the City can overcome these challenges, accentuate its strengths, and meet the changing needs of downtown stakeholders.

In concert with and building upon the City’s Housing Element update process, the Downtown Housing Master Plan will identify the development standards, design standards, and public infrastructure necessary to produce significant housing downtown. The Master Plan will also help realize racial and economic equity by affirmatively furthering fair housing.

The Downtown Housing Master Plan will build on City initiatives underway, including:

- A. Housing Element Update, led by *Planning and Development Services*
- B. University Avenue Corridor Streetscape Design initiative led by the *Public Works Department*
- C. Sustainability and Climate Action Plan update process led by the *Office of Sustainability*
- D. Sea Level Rise Vulnerability Assessment process led by the *Public Works Department*
- E. Parking management and Vehicle Miles Traveled (VMT) studies led by the *Office of Transportation*
- F. Citywide Bicycle + Pedestrian Plan update process led by the *Office of Transportation*
- G. Housing Objective Development Standards initiative led by the *Planning and Development Services Department*
- H. Green Infrastructure policy initiative led by the *Public Works Watershed Protection group*

Master Plan preparation requires extensive community and business outreach and participation, including facilitation of a Community Working Group. Master Plan preparation also involves coordination with regional and local stakeholders, such as housing advocates, business leaders, the County, Stanford University, Caltrans, Santa Clara Valley Transportation Authority (VTA), Palo Alto Unified School District, and the Santa Clara Valley Water District.

Activities and deliverables for the Master Plan include:

- Community outreach and participation
- Basic economic and real estate modeling to understand development feasibility, opportunities, and constraints
- Fiscal impact analysis of development on City infrastructure and services
- Incorporation of state and local VMT and mobility requirements
- Incorporation of the Sustainability and Climate Action Plan goals and policies
- Inclusion of equity assessment results and affordable housing protection, preservation, and production assessment results from the Housing Element update process
- Draft and Final Master Plan with land use designations and proposed Capital Improvement Projects
- Proposed Comprehensive Plan (General Plan) amendments and zoning updates
- A California Environmental Quality Act (CEQA) environmental document

Downtown Housing Master Plan Geographic Area:

A sub-area of the University Avenue/Downtown Priority Development Area (PDA), the Downtown Housing Master Plan area will include the following as its geographic focus:

- From east of the Caltrain tracks and Alma Street east to Cowper Street,
- From Hamilton Avenue north to Lytton Avenue, and
- City parking lots, Peninsula Corridor Joint Powers Board (Caltrain) parking lots, and public rights of way.

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Downtown Housing Master Plan Scope of Work:

Task 1 – Project Management and Coordination

This task outlines the primary project management and coordination tasks necessary for the Downtown Housing Master Plan. These tasks will be conducted throughout the Master Plan preparation process.

Task 1.1 – City Inter-Departmental Coordination

Task 1.2 – Grant Management

Task 1.3 – Consultant Management

Task 1.4 – Community Meeting and Public Hearing Preparation

Task 1.5 – Communications, Website, and Media Coordination

Task 1.1 Deliverable: Memos for City Inter-Departmental Coordination

Task 1.2 Deliverable: Memos for Grant Management

Task 1.3 Deliverable: Memos for Consultant Management

Task 1.4 Deliverable: Memos for Community Meeting and Public Hearing Preparation

Task 1.5 Deliverable: Memos for Communications, Website, and Media Coordination

Task 2 – Community Outreach and Engagement

This task outlines the primary community outreach and engagement for the Downtown Housing Master Plan. These activities will be active throughout the Master Plan preparation process.

Task 2.1 - Community Outreach and Engagement Strategy Development

This task encompasses staff/consultant preparation of the Downtown Housing Master Plan community outreach and engagement strategy. Throughout the Master Plan process, it is central to gather meaningful input from a full range of stakeholders within and nearby to the planning area, including residents of all incomes, races and ethnic backgrounds, employees of local businesses, community- and faith-based organizations, and public agencies providing services in the area. This task will include laying out the specific engagement meetings, outreach channels, and methods listed in tasks 2.2 through 2.5. Equity assessment information from the Housing Element process will inform the Community Outreach and Engagement Strategy.

Task 2.1 Deliverable: Staff Report and Final Consultant Contract

Task 2.2 - Community Working Group Meetings (up to 18 meetings)

This task encompasses convening of a Community Working Group that will shape the Downtown Housing Master Plan and review draft plan materials. Staff plan to hold 12 – 18 Working Group meetings during the planning process. Staff anticipate the City will solicit applications and the Council will select a group that is representative of residents, housing developers, local businesses, community-based organizations, service providers, and other stakeholders.

Task 2.2 Deliverables: Staff Reports or Memos for Community Working Group Meetings

Task 2.3 - Technical Advisory Group Meetings (6 – 10 meetings)

This task encompasses convening of a technical advisory group that will shape the Downtown Housing Master Plan. The Technical Advisory Group will provide detailed technical input throughout the Master Plan process and help ensure alignment between this plan and other local and regional planning efforts. The composition would include staff from key City departments, the ABAG/MTC grant manager, as well as representatives of local, county, and regional agencies, and service providers.

Task 2.3 Deliverables: Staff Reports or Memos for Technical Advisory Group Meetings

Task 2.4 – Stakeholder Interviews and Stakeholder Surveys

Direct outreach through stakeholder interviews and stakeholder surveys to receive information for and feedback on the deliverables from Task 3.2 Key Community Assessment and Policy Development Focus Areas.

Task 2.4 Deliverable: Interviews

Task 2.4 Deliverable: Surveys

Task 2.4 Deliverable: Analysis and Synthesis of Interview and Survey Data

Task 2.5 - Community Workshops, Design Charettes, and Digital Engagement (at least 3 meetings)

This task includes direct outreach through both in-person (pandemic restrictions permitting) and virtual workshops, charettes, and other meetings to receive information for and feedback on the deliverables from Task 3.2 Key Community Assessment and Policy Development Focus Areas. Key topics will include housing, mobility, advancing racial and economic equity, design preferences, and other topics. Translation services would be provided, as well as childcare if the meetings are in person.

Task 2.5 Deliverables: Staff Reports, Memos and/or Presentation Materials for Community Visioning Workshops, and Design Charettes,

Task 2.6 – Downtown Housing Master Plan Website or Webpage

The team will maintain a webpage or a website for the Master Plan process to inform the public and stakeholders on progress, centralize project records, upcoming activities, and to host online engagement activities. The website or webpage will support Task 2, Task 3, and Task 4.

Task 2.6 Deliverables: Create and Maintain Website or Webpage with Ongoing Updates

Task 3 – Community Assessment and Policy Development

This task focuses on identifying and analyzing challenges and opportunities to increase housing development downtown. As discussed in the project description, the central challenges include:

- Land costs are high and office is more profitable than housing.
- Insufficient bike and pedestrian infrastructure can promote car use.
- Public parking is a high value and uses significant amounts of public land.
- Reliance on external consumer base.

Task 3.1 – Community Assessment and Policy Development Strategy

This task encompasses staff release of a request for proposals for Master Plan preparation, review of proposals, and consultant selection. We would seek proposals from consultants with expertise in community engagement, housing/comprehensive planning, urban design and economic/real estate analysis. This task results in the inclusion of a refined selected consultant scope of work to complete the project and a report to inform the community of a policy development strategy to achieve the Master Plan goals.

Task 3.1 Deliverable: Staff Report and Final Consultant Contract

Task 3.2 – Key Community Assessment and Policy Development Focus Areas

This task outlines the primary analysis and reports necessary for identifying and analyzing the Master Plan area central opportunities and challenges, as well as for meeting the PDA Planning

Grant analysis requirements. These analyses will inform and become part of the chapters contained within the Master Plan.

Task 3.2.1 – Equity Analysis, Assessment, and Policy Recommendations

This task will identify any existing inequities between people of different racial or ethnic backgrounds, genders, age groups, abilities, or sexual orientation, as well as the historic and recent factors and policies that contribute to these inequities. This task will utilize this information to develop policies to address existing inequities, as well as to inform the meetings and outreach efforts discussed in Task 2 and inform the deliverable for Task 3.2.2. This task integrates and builds upon the findings from the Housing Element update process and informs understanding of community needs around equity in the Master Plan area. That information will include area specific information on demographics, economic opportunity and stability, housing stability, health and risk factors of residents and employees of businesses in the plan area and surrounding community.

Task 3.2.1 Deliverable: (1) Equity Analysis, Assessment, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.2 – Responsiveness to State, Regional, and Local Legal and Regulatory Landscape for Housing Production, Preservation, and Protection Policy Recommendations

This task involves investigating and summarizing state, regional, and the local policies used by other jurisdictions that influence the regulatory landscape for housing production, preservation, and protection.

Task 3.2.2 Deliverable: (1) State, Regional, and Local Legal and Regulatory Landscape Analysis, Assessment, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.3 – Affordable Housing and Jobs Analysis, Assessment and Policy

Recommendations This task identifies the composition of jobs in the Master Plan area and evaluates the affordability of housing compared to the wages of employees in these jobs. This task quantifies housing need, establishes the housing profile for the area, (deed-restricted affordable housing, unsubsidized affordable housing, market-rate housing, informal housing and accessibility, etc.), establishes the employment/industry profile for the area, identifies the development pipeline, assesses real estate conditions and constraints, and assesses local policy conditions and constraints. This task will discuss obstacles to delivery of housing for all income levels and responsive policies. This task will be closely coordinated with the Housing Element update process that is already underway.

This task integrates and builds upon the findings from Task 3.2.2, as well as the Housing Element update process. This task informs understanding of community needs regarding housing and employment, including how to affirmatively further fair housing in the plan area. This task draws upon the information from Task 3.2.1 and identifies in greater detail the characteristics of the existing and planned housing stock in the plan area and surrounding area, as well as projected short- and long-term need.

Task 3.2.3 Deliverable: (1) Affordable Housing and Jobs Analysis, Assessment, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.4 – Housing Development Implementation, Economic Feasibility, and Financing Analysis and Policy Recommendations

While housing in the Downtown area is attractive, high land costs, constrained parcel sizes, competition with other land uses, and other constraints significantly influence housing yield. This task focuses on a housing development feasibility analysis to identify the development standards, incentives, and the associated remaining amount of subsidy necessary to yield more residential and mixed-use developments specifically in the Master Plan area. This task integrates and builds upon the findings from Task 3.2.2, Task 3.2.3 and the Housing Element update process. This task will analyze the housing opportunity sites identified in the Housing Element Update to understand what is required for housing to be realized on these sites.

The analysis will investigate publicly owned and privately owned parcels at various levels of housing affordability. The analysis will identify funding necessary to rehabilitate existing affordable units in the area, thereby preserving and protecting them. Like efforts undertaken by MTC and ABAG, the analysis will identify the funding shortfall that limits the level of affordable housing production and rehabilitation in the Master Plan area.

This task will include recommendations for City actions to help finance affordable housing, such as consideration of publicly owned parking lots or other publicly owned parcels for housing and mixed-use projects, consideration of different types of partnerships with developers, facilitation of land assembly policies, consideration of

establishing a business tax to support the Housing Trust Fund, and consideration of a bond measure.

Task 3.2.4 Deliverable: (1) Housing Development Implementation, Economic Feasibility, Financing Analysis, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.5 – Resilience and Climate Adaptation Analysis, Assessment and Policy Recommendations

This task assesses the relative vulnerability of the plan area and surrounding communities to natural hazards (examples: sea level rise and flooding, seismic factors) and to environmental quality (examples: air quality, tree canopy/green space, water quality, environmental contamination). This task identifies potential investments, policies or programs to better adapt the community to these vulnerabilities and poise the community to respond to future conditions and events. This task integrates and builds upon the Sustainability and Climate Action Plan led by the Office of Sustainability and the Sea Level Rise Vulnerability Assessment led by the Public Works Department.

Task 3.2.5 Deliverable: (1) Resilience and Climate Adaptation Analysis, Assessment, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.6 – Community Assets, Services, and Infrastructure Analysis, Assessment, and Policy Recommendations

This task identifies the existing availability of essential services and social infrastructure (examples: health care, food and sundries, childcare and education, open space and recreation, community facilities, etc.), existing physical infrastructure (examples: energy, waste, water, electric vehicle charging, broadband, etc.), and existing community assets (examples: formal and informal gathering spaces, cultural institutions, etc.) in the plan area. This task will assess the stability of existing and identify currently missing community assets, services, and infrastructure, as well as identify potential investments, policies or programs to support them in the Master Plan area. This analysis will focus on the needed assets to support an increased downtown population.

Task 3.2.6 Deliverable: (1) Community Assets, Services, and Infrastructure Analysis, Assessment, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.7 – Mobility and Interconnectivity Analysis, Assessment, and Policy Recommendations This task will assess trip patterns, the quality and relative safety of travel by active modes and for persons with disabilities, access to transit and essential services, and vehicle miles traveled for residents and employees of local businesses within and adjacent to the Master Plan area. This task will identify potential investments, policies or programs to improve mobility and interconnectivity, as well as reduce Vehicle Miles Travelled (VMT).

This task integrates and builds upon Public Works Department and Office of Transportation efforts, including the University Avenue Corridor Street Design, Citywide Bicycle + Pedestrian Plan update, parking management, and VMT policy making.

Task 3.2.7 Deliverable: (1) Mobility and Interconnectivity Analysis, Assessment, and Policy Recommendation Report or Memo (2) City Council Study Session

Task 3.2.8 – Downtown Private Realm and Public Realm Design Guidelines, Architectural Review Findings, and Objective Standards for Housing Development Policy Recommendations

This task evaluates the City’s current Downtown Design Guidelines, Architectural Review Findings, and Objective Standards for Housing Development to assess which aspects could be updated to facilitate housing development in the Downtown Housing Master Plan area. Private realm considerations include design gestures that contribute to a strong sense of place, such as building massing, lighting, landscaping, and building interfaces with public realm such as streets, alleys, and open space. Considerations include building on previous efforts that maintained view corridors, activity focal points, and a human scale orientation throughout downtown. Considerations also include urban design that addresses the anticipated greater diversity of building forms, densities, height, and mixed-use development for the Master Plan area. This effort will draw on city-wide Objective Design Standards as well as Housing Element discussions regarding form.

Led by the Office of Transportation and the Public Works Watershed Protection group, public realm considerations include a Sustainable Streets focus that identifies the key remaining steps necessary to implement vision zero policies, complete street designs, versatile use of the public right of way, and green streets infrastructure designs within the Master Plan area. Public realm considerations also reference innovations in parking management and curb management.

Task 3.2.8 Deliverable: (1) Downtown Private Realm and Public Realm Design Guidelines, Architectural Review Findings, and Objective Standards for Housing Development Policy Recommendations Report or Memo (2) City Council Study Session

Task 3.2.9 – Downtown Visioning, Opportunities/Constraints, Identification of Community Best Practices and Master Plan Approach Recommendations

This task integrates all other subtasks and discusses the options for meeting the Master Plan area central challenges based upon the information surfaced during this Community Assessment and Policy Development effort.

Task 3.2.9 Deliverable: (1) Downtown Visioning, Opportunities/Constraints, Identification of Community Best Practices and Master Plan Approach Recommendations Report or Memo (2) City Council Study Session

Task 4 –Downtown Housing Master Plan Documents

This overall task outlines the primary documents necessary for adoption of the Downtown Housing Master Plan, as well as the documents necessary to meet the PDA Planning Grant requirements.

Task 4.1 – Downtown Housing Master Plan Preparation

This task outlines the steps necessary to prepare the Downtown Housing Master Plan.

Task 4.1.1 – Master Plan Sections and Topic Outline

This task results in the outline of the Master Plan sections and topics. As required by the PDA Planning Grant, the outline can be organized differently, but will include at least the following topics: introduction, vision, development standards, open space, mobility, community assets and infrastructure, and implementation and financing. This report will integrate the content and deliverables from the prior tasks.

Task 4.1.1 Deliverable: Master Plan Sections and Topic Outline

Task 4.1.2 - Master Plan Administrative Draft 1

Task 4.1.2 Deliverable: Master Plan Administrative Draft 1

Task 4.1.3 - Master Plan Community Working Group and Technical Advisory Group

Draft 1 Task 4.1.3 Deliverable: Master Plan Community Working Group and Technical Advisory Group Draft 1

Task 4.1.4 - Master Plan Administrative Draft 2

Task 4.1.4 Deliverable: Master Plan Administrative Draft 2

Task 4.1.5 - Master Plan Public Hearing Draft 1

Task 4.1.5 Deliverable: Master Plan Public Hearing Draft 1

Task 4.1.6 – Master Plan Final

Task 4.1.6 Deliverable: Master Plan Public Final

Task 4.2 – Downtown Housing Master Plan California Environmental Quality Act (CEQA) Environmental Document

This task outlines the steps necessary to prepare the CEQA Environmental Document necessary for the Downtown Housing Master Plan. The goal of this task is to prepare the correct CEQA document that will clear projects that are consistent with the Master Plan, avoiding the need for project-level analyses.

Task 4.2.1 – Notice of Preparation (NOP)/Initial Study

Task 4.2.1 Deliverable: Notice of Preparation (NOP)/Initial Study

Task 4.2.2 - Identification of Appropriate CEQA Environmental Document

This task identifies the appropriate CEQA Environmental Document, likely an Initial

Study/Negative Declaration, Initial Study/Mitigated Negative Declaration, Supplemental Environmental Impact Report, or a Programmatic Environmental Impact Report.

Task 4.2.1 Deliverable: City Internal Memo

Task 4.2.3 – Environmental Document Notices and Preparation

This task outlines the steps for completing CEQA documentation for the Downtown Housing Master Plan.

Task 4.2.3A – Scoping Meeting (If Applicable)

Task 4.2.3A Deliverable: Staff Report, Noticing, and Scoping Meeting

Task 4.2.3B – Administrative Draft CEQA Environmental Document

Task 4.2.3B Deliverable: Administrative Draft CEQA Environmental Document

Task 4.2.3C – Draft CEQA Environmental Document

Task 4.2.3C Deliverable: Draft CEQA Environmental Document

Task 4.2.3D – Notice of Completion (NOC)

Task 4.2.3D Deliverable: Notice of Completion (NOC)

Task 4.2.3E – Final Environmental Impact Report (FEIR) (If Applicable)Task

4.2.3E Deliverable: Final Environmental Impact Report (FEIR)

Task 4.2.3F – Notice of Determination (NOD)

Task 4.2.3F Deliverable: Notice of Determination (NOD)

Task 4.3 – Downtown Housing Master Plan Adoption, CEQA Environmental Document Certification, Comprehensive Plan Amendment, and Municipal Code Update

This task outlines the steps necessary to adopt the Downtown Master Plan.

Task 4.3.1 – Public Hearings (Updates and Coordination)

This task pertains to public hearings with City Council and other boards and commissions to provide updates and coordination on the Master Plan process. Three to five public hearings are anticipated with each body (i.e. City Council, Planning and Transportation Commission, Architectural Review Board).

Task 4.3.1 Deliverables: Staff Reports and associated presentations

Task 4.3.2 – Public Hearings (Adoption)

This task pertains to public hearings with City Council and other boards and commissions necessary to certify the CEQA Environmental Document and adopt the Master Plan. At least four public hearings are anticipated.

Task 4.3.2 Deliverables: Staff Reports and associated presentations

Task 4.3.3 – CEQA Environmental Document Certification or Adoption

Task 4.3. 3 Deliverable: Document Certification/Adoption Resolution

Task 4.3.4 - Master Plan Adoption

Task 4.3.4 Deliverable: Master Plan Adoption Resolution

Task 4.3.5 – Land Use Map Update and Comprehensive Plan AmendmentTask 4.3.5

Deliverable: Map Update and Amendment Resolution

Task 4.3.6 – Zoning Map Update and Municipal Code Update Task 4.3.6 Deliverable: Map
and Code Update Ordinance

OPTIONAL TASKS:

To be Determined after receipt of feedback

Annex II Project Schedule, Budget and Payment

FIRM-FIXED PAYMENT

MTC shall reimburse AGENCY in estimated amounts by task indicated below. Budget may be reallocated between tasks in the MTC Project Manager's discretion. Payment shall be due upon acceptance by the MTC Project Manager. RECIPIENT shall submit an invoice identifying the project deliverable or milestone for which payment is sought no later than thirty (30) days after MTC's acceptance of such deliverable/milestone.

#	<u>Deliverable</u>	<u>Due Date:</u>	<u>Amount Due</u>
Task 1 – Project Management and Coordination			
1.1	City Inter-Departmental Coordination <ul style="list-style-type: none">Memos	12/31/2024	\$50,000
1.2	Grant Management <ul style="list-style-type: none">Memos	12/31/2024	
1.3	Consultant Management <ul style="list-style-type: none">Memos	12/31/2024	
1.4	Community Meeting and Public Hearing Preparation <ul style="list-style-type: none">Memos	12/31/2024	
1.5	Communications, Website, and Media Coordination <ul style="list-style-type: none">Memos	12/31/2024	
Task 2 – Community Outreach and Engagement			
2.1	Community Outreach and Engagement Strategy Preparation <ul style="list-style-type: none">Staff Report and Final Consultant Contract	09/30/2022	\$200,000
2.2	Community Working Group Meetings <ul style="list-style-type: none">Staff Reports or Memos for Community Working Group Meetings	12/31/2024	
2.3	Technical Advisory Group Meetings <ul style="list-style-type: none">Staff Reports or Memos for Technical Advisory Group Meetings	12/31/2024	
2.4	Stakeholder Interviews and Community Surveys <ul style="list-style-type: none">InterviewsSurveysAnalysis and Synthesis of Interview and Survey Data	12/31/2024	
2.5	Community Visioning Workshops, Design Charettes, and Feedback Meetings <ul style="list-style-type: none">Staff Reports, Memos and/or Presentation Materials for Community Visioning Workshops, and Design Charettes	12/31/2024	
2.6	Downtown Housing Master Plan Website <ul style="list-style-type: none">Create and Maintain Website or Webpage with Ongoing Updates	12/31/2024	

Task 3 – Community Assessment and Policy Development			
3.1	Community Assessment and Policy Development Strategy Preparation <ul style="list-style-type: none"> • Staff Report and Final Consultant Contract 	9/30/2022	\$400,000
3.2	Key Community Assessment and Policy Development Focus Areas <ul style="list-style-type: none"> • Equity Analysis, Assessment, and Policy Recommendation Report or Memo • State, Regional, and Local Legal and Regulatory Landscape Analysis, Assessment, and Policy Recommendation Report or Memo • Affordable Housing and Jobs Analysis, Assessment, and Policy Recommendation Report or Memo • Housing Development Implementation, Economic Feasibility, Financing Analysis, and Policy Recommendation Report or Memo • Resilience and Climate Adaptation Analysis, Assessment, and Policy Recommendation Report or Memo • Community Assets, Services, and Infrastructure Analysis, Assessment, and Policy Recommendation Report or Memo • Mobility and Interconnectivity Analysis, Assessment, and Policy Recommendation Report or Memo • Downtown Visioning, Opportunities/Constraints, Identification of Community Best Practices and Master Plan Approach Recommendations Report or Memo • City Council Study Session(s) 	12/31/2023	
Task 4 – Downtown Housing Master Plan Documents			
4.1	Downtown Housing Master Plan Preparation <ul style="list-style-type: none"> • Master Plan Sections and Topic Outline • Master Plan Administrative Draft 1 • Master Plan Community Working Group and Technical Advisory Group Draft 1 • Master Plan Administrative Draft 2 • Master Plan Public Hearing Draft 1 • Master Plan Public Final 	12/31/2023	\$150,000
4.2	California Environmental Quality Act (CEQA) Environmental Document <ul style="list-style-type: none"> • Notice of Preparation (NOP)/Initial Study • City Internal Memo • Staff Report, Noticing, and Scoping Meeting • Administrative Draft CEQA Environmental Document • Draft CEQA Environmental Document • Notice of Completion (NOC) • Final Environmental Impact Report (FEIR) • Notice of Determination (NOD) 	9/30/2024	

4.3	Master Plan Adoption, CEQA Environmental Document Certification, Comprehensive Plan Amendment, and Municipal Code Update <ul style="list-style-type: none">Public Hearing Staff Reports and associated presentationsDocument Certification/Adoption ResolutionMaster Plan Adoption ResolutionMap Update and Amendment ResolutionMap and Code Update Ordinance	12/31/2024	
		TOTAL	\$800,000

ATTACHMENT 1

MTC Resolution 4202

Date: November 18, 2015
 W.I.: 1512
 Referred by: PAC
 Revised: 07/27/16-C 10/26/16-C 12/21/16-C
 03/22/17-C 04/26/17-C 05/24/17-C
 06/28/17-C 07/26/17-C 09/27/17-C
 10/25/17-C 11/15/17-C 12/20/17-C
 01/24/18-C 02/28/18-C 03/28/18-C
 04/25/18-C 05/23/18-C 06/27/18-C
 07/25/18-C 09/26/18-C 11/28/18-C
 12/19/18-C 01/23/19-C 02/27/19-C
 03/27/19-C 06/26/19-C 07/24/19-C
 09/25/19-C 10/23/19-C 11/20/19-C
 02/26/20-C 05/27/20-C 07/22/20-C
 09/23/20-C 11/20/20-C 01/27/21-C
 02/24/21-C 04/28/21-C 05/26/21-C

ABSTRACT

Resolution No. 4202, Revised

Adoption of the project selection policies and project programming for the second round of the One Bay Area Grant program (OBAG 2). The project selection criteria and programming policy contain the project categories that are to be funded with various fund sources including federal surface transportation act funding available to MTC for its programming discretion to be included in the federal Transportation Improvement Program (TIP) for the OBAG 2 funding period.

The resolution includes the following attachments:

- Attachment A – OBAG 2 Project Selection Criteria and Programming Policy
- Attachment B-1 – OBAG 2 Regional Program Project List
- Attachment B-2 – OBAG 2 County Program Project List

On July 27, 2016, Attachment A, and Attachments B-1 and B-2 were revised to add additional funding and projects to the OBAG 2 framework, including \$72 million in additional Fixing America's Surface Transportation Act (FAST) funding, and to incorporate housing-related policies.

On October 26, 2016, Attachment A, and Attachment B-1 were revised to clarify language related to the North Bay Priority Conservation Area (PCA) Program in Attachment A and to deprogram \$2,500,000 from the Water Emergency Transportation Authority (WETA) Ferry Service Enhancement Pilot within the Regional Active Operational Management Program.

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On December 21, 2016, Attachments B-1 and B-2 were revised to redirect \$417,000 in un-programmed balances from the Regional Active Operational Management program to MTC's Spare the Air Youth within the Climate Initiatives Program; divide MTC's Rideshare Program into three subcomponents totaling \$10,000,000: \$720,000 for Rideshare Implementation, \$7,280,000 for the Carpool Program, and \$2,000,000 for the Vanpool Program; direct \$1,785,000 from 511 Next Gen to the Commuter Benefits program; direct \$1,000,000 in un-programmed balances to SMART's Multi-Use Pathway; transfer \$1,000,000 from MTC's Casual Carpool project to MTC's Eastbay Commuter Parking project within the Bay Bridge Forward program, as the former will be funded with non-federal funds; transfer \$500,000 from the Freeway Performance Initiative program and \$500,000 in un-programmed balances to US 101/Marin Sonoma Narrow's B2 Phase 2 project in the Regional Active Operational Management Program; shift \$40,000,000 from the BART Car Replacement/Expansion project to the Golden Gate Bridge Suicide Deterrent project and \$13 million from MTC's Clipper project to un-programmed balances within the Transit Priorities program as part of a RM2 funding action to address a cost increase on the Golden Gate Bridge Suicide Deterrent project; and program \$5,990,000 to Alameda County's Safe Routes to School Program in the County Program.

On March 22, 2017, Attachment B-1 was revised to program \$17,000,000 in un-programmed balances within the Regional Transit Priorities Program to MTC's Clipper Program, as part of the FY17 Transit Capital Priorities program.

On April 26, 2017, Attachment B-2 was revised to program \$1,655,000 to the Sonoma Safe Routes to School program; and redirect \$1,000 from Contra Costa Transportation Authority's Planning Activities Base to its discretionary balance and \$1,000 from San Francisco County Transportation Authority's Planning Activities Base to its discretionary balance to address an inconsistency between amounts programmed to planning activities in Appendix A-3 and reflect actual amounts obligated for planning.

On May 24, 2017, Attachment B-1 was revised to redirect \$1,237,000 from 511 Next Gen to AOM Implementation within the Regional Active Operational Management program to reflect re-organization of staff between program elements; direct \$18,000,000 in Arterial/Transit Performance to the Program for Arterial System Synchronization (\$5,000,000) and the Next Gen Arterial Operations Program (\$13,000,000) within the Regional Active Operational Management program; direct \$19,000,000 from the Transportation Management System (TMS) Field Equipment Devices Operations and Maintenance to TMS Implementation (\$2,910,000), Performance-Based Intelligent

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Transportation Systems Device Maintenance and Rehabilitation (\$5,940,000), Transportation Management Center Asset Upgrade and Replacement (\$4,000,000), I-880 Communication Upgrade and Infrastructure Gap Closures (\$4,000,000) and a Detection Technology Pilot (\$5,000,000) within the Regional Active Operational Management program; and remove \$290,556 in un-programmed balances from the Regional Active Operational Management program to address over-programming in a previous cycles of the STP/CMAQ regional programs.

On June 28, 2017, Attachments B-1 and B-2 were revised to reprogram \$1,000,000 from the SMART Pathway – 2nd to Andersen to San Rafael's Grand Ave Bike/Pedestrian Improvements within the Regional Climate Initiatives program as part of a funding exchange within the City of San Rafael, conditioned on San Rafael committing \$1 million in non-federal funds to the construction of the pathway, and a resolution of local support for the use of federal funds on the Grand Ave project, and TAM approval of the redirection of local measure funds between the projects; split out \$8,729,000 from the 511 Next Gen program to 511 Implementation within the Regional Active Operational Management program; program \$1,250,000 to Golden Gate Bridge Highway and Transportation District for the Bettini Transit Center as part of the Marin County Program; and program \$2,617,000 within the San Mateo County Program to the San Mateo County Office of Education for the SRTS program, including \$223,000 in supplemental funds from San Mateo's discretionary balance.

On July 26, 2017, Attachment B-1 was revised to program \$12,000,000 to the US 101 Marin Sonoma Narrows project as part of a fund exchange agreement with Sonoma County Transportation Authority; \$11,000,000 in exchange funds are added to the program for tracking purposes, with the final \$1 million in exchange funds to be identified through a future Commission action.

On September 27, 2017, Attachment B-1 was revised to change the name of the Next Gen Arterial Operations Program (NGAOP) to Innovative Deployment for Enhanced Arterials (IDEA) to reflect program rebranding and additional focus on advanced technologies; program \$4,160,000 to Incident Management Implementation and \$8,840,000 to I-880 Integrated Corridor Mobility project within the Regional Active Operational Management program; split out the Connected Vehicles/Shared Mobility program into the Connected Vehicles/Automated Vehicles program for \$2,500,000 and the Shared Use Mobility program for \$2,500,000; and program \$16,000,000 for three corridors within the Freeway Performance Program, with \$8,000,000 for I-680, \$3,000,000 for I-880, and \$5,000,000 for SR-84.

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On October 25, 2017, Attachment B-1 was revised to program \$10,000,000 to the Bay Area Air Quality Management District for the Spare the Air program, in lieu of the Electric Vehicle Programs within the Regional Climate Initiatives Program, conditioned on the Air District contribution of an additional \$10 million to advance implementation of electric vehicles within the region.

On November 15, 2017, Attachment B-2 was revised to program \$200,000 in the Alameda County Program to the I-580 Corridor Study, to support a joint corridor study between Alameda County Transportation Commission (ACTC) and MTC; \$122,000 within the Napa County Program to Napa Valley Transportation Authority (NVRTA) for the Napa County Safe Routes to School (SRTS) Program; and \$300,000 within the Contra Costa County Program to San Ramon for the San Ramon Valley Street Smarts Program.

On December 20, 2017, Attachments A, Appendix A-3, B-1, and B-2 were revised to program \$334 million in the County Program to local and county projects recommended by the nine Congestion Management Agencies (CMAs); redirect \$10,248,000 from BART Car Replacement/Expansion to Clipper within the Regional Transit Priorities Program; revise the CMA Planning Activities funding amounts to reflect the supplementary funds requested by several CMAs through their County Programs; and clarify the program details for the Local Housing Production Incentive program (also known as the *80K by 2020 Challenge Grant*).

On January 24, 2018, Attachment B-1 was revised to redirect \$4,100,000 from Performance-Based ITS Device Maintenance and Rehabilitation to I-880 Communication Upgrade and Infrastructure Gap Closures, within the Transportation Management System program.

On February 28, 2018, Attachments B-1 and B-2 were revised to program \$13 million in Innovative Deployments to Enhance Arterials (IDEA) program grants within the Regional Active Operational Management Program; redirect \$822,000 within Contra Costa County's Safe Routes to School Program (SRTS) for future SRTS projects; program \$2,813,000 to San Francisco SRTS Non-Infrastructure Program within the San Francisco County Program; and clarify MTC exchange fund projects.

On March 28, 2018, Attachment B-1 was revised to distribute the \$1.5 million Community-Based Transportation Planning Program among the nine county Congestion Management Areas

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(CMAs); clarify the limits of three Freeway Performance Program projects within the Regional Active Operational Management Program; and reflect the programming of \$30,000 in MTC exchange funds for Bay Area Greenprint Functionality Improvements, as part of the PCA program.

On April 25, 2018, Attachment B-1 was revised to program \$8,200,000 in Priority Conservation Area (PCA) grants within the North Bay PCA Program; \$3,400,000 to Sonoma County Transportation Authority (SCTA) for the Marin Sonoma Narrows B2 Phase 2 project, as part of an exchange agreement in which an equal amount of SCTA's future Regional Transportation Improvement Program (RTIP) funds will be programmed at MTC's discretion; \$7,288,000 in PDA Planning and Implementation grants; and \$500,000 to MTC for PDA Implementation.

On May 23, 2018, Attachments B-1 and B-2 were revised to change the project sponsor from MTC to VTA for the IDEA Program project at the Veteran's Administration Palo Alto Medical Center; redirect funds within the Santa Clara County OBAG 2 County Program to reduce San Jose's West San Carlos Urban Village Streetscape Improvements by \$2,050,000, redirecting \$1,000,000 from the project to Santa Clara's Saratoga Creek Trail Phase 1 and \$1,050,000 to Saratoga's Prospect Rd Complete Streets project; and direct an additional \$25,000 in unprogrammed balances within Santa Clara County OBAG 2 County Program to Saratoga's Prospect Rd Complete Streets project.

On June 27, 2018, Attachments B-1 and B-2 were revised to program \$800,000 to MTC's Carsharing Implementation and \$325,000 to Targeted Transportation Alternatives within the Climate Initiatives Program; redirect from MTC's 511 NextGen program \$8,271,000 to 511 Implementation, \$2,000,000 to Contra Costa Transportation Authority's (CCTA's) I-80 Central Ave Interchange Improvements project, and \$380,000 to an unprogrammed balance within the Regional Active Operational Management program; clarify the scope of MTC's Freeway Performance Program I-880 to reflect the project limits of I-80 to I-280; and redirect \$1,394,000 from Vallejo's Local Streets Rehabilitation project to Fairfield's Heart of Fairfield project within the Solano County Program.

On July 25, 2018, Attachment B-1 was revised to program \$1,600,000 to Santa Clara Valley Transportation Authority (VTA) for the SR 85 Transit Guideway Study as part of a fund exchange agreement; remove Rohnert Park's \$65,000 Central Rohnert Park PDA/Creekside Neighborhood Subarea Connector Path Technical Assistance grant from the Regional PDA

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Planning Grant program as it will be funded through a prior cycle; reduce the funding for Windsor's PDA Planning and Implementation Staffing Assistance grant by \$85,000 as this project will receive an equivalent amount of funds through a prior cycle; a total of \$150,000 balance created by these two revisions was returned to the Regional PDA Planning Grant Program un-programmed balance.

On September 12, 2018, Attachments B-1 and B-2 were revised to program \$3,000,000 within the Freeway Performance Program to the US 101 corridor in San Mateo and Santa Clara counties; direct an additional \$6,000,000 within the Freeway Performance Program to the I-680 corridor within Contra Costa County, \$4,000,000 of which is part of an exchange agreement with Contra Costa Transportation Authority (CCTA); redirect \$15,000 within the Innovative Deployment for Enhanced Arterials (IDEA) program from IDEA Technical Assistance to VTA's IDEA grant at the Veterans Affairs Palo Alto Medical Center; redirect \$48,000 from MTC's Clipper to the BART Car Replacement/Expansion project within the Transit Priorities program to reflect program amounts previously adopted through the Transit Capital Priorities (TCP) program; revise the amount programmed to VTA's SR 85 Transit Guideway Study within Regional Strategic Initiatives to \$1,200,000 to reflect amount previously approved; redirect \$1,214,000 from Berkeley's North Shattuck Avenue Rehabilitation project to its Southside Complete Streets and Transit Improvements project within the Alameda County Program; from Sunnyvale's East Sunnyvale Area Sense of Place Improvements, redirect \$1,000,000 to Los Altos' Miramonte Ave Bicycle and Pedestrian Access Improvements and \$1,140,000 to the Safe Routes to School program balance within the Santa Clara County Program; and program \$4,500,000 available from a previous funding cycle to the following projects within Regional Strategic Initiatives: \$617,000 to Novato's Pavement Rehabilitation (for Downtown Novato SMART Station) as part of a local funding exchange, \$1,120,000 to the Transportation Authority of Marin (TAM) for the Old Redwood Highway Multi-Use Pathway project, \$763,000 for San Rafael's Grand Ave Bridge project, and \$2,000,000 to TAM for the US 101 Marin Sonoma Narrows project.

On November 28, 2018, Attachment B-1 was revised to make adjustments related to the MTC/SCVTA Funding Exchange Agreement MTC Resolution No. 4356 and to the MTC/CCTA Funding Exchange Agreement MTC Resolution No. 4357, and to program \$4,000,000 in MTC exchange funds in accordance with MTC Resolution 3989, to the following projects: \$619,000 to CCTA for Innovative Deployment for Enhanced Arterials; \$621,000 to the city of Walnut Creek for innovative Deployment for Enhanced Arterials; \$500,000 to the city of Richmond for the

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Richmond-San Rafael Bridge Bikeway Access; \$1,160,000 to MTC for Richmond-San Rafael Bridge Forward; and \$1,100,000 to MTC for Napa Valley Transportation Demand.

On December 19, 2018, Attachments B-1 and B-2 were revised to redirect \$5,200,000 from MTC's I-880 Integrated Corridor Management (ICM) Central Segment to the I-880 ICM Northern Segment project within the Regional Active Operational Management Program; clarify the Diridon Integrated Station Area Concept Plan project within the Regional Priority Development Planning and Implementation Program to reference Santa Clara Valley Transportation Authority (VTA) as a project partner; within the Santa Clara County Program, redirect \$794,000 in unprogrammed balances to Sunnyvale's East Sunnyvale Sense of Place Improvements, clarify the remaining unprogrammed balance is discretionary, and clarify the division of funding for Santa Clara's Saratoga Creek Trail Phase 1 project between the county's Safe Routes to School program and its discretionary program.

On January 23, 2019, Attachment B-2 was revised to redirect \$15,980,000 within the San Francisco County Program from the Better Market Street project to the Central Subway project.

On February 27, 2019, Attachment B-1 was revised to change the fund source of \$3,779,849 programmed to the Golden Gate Bridge Suicide Deterrent in Surface Transportation Block Grant Program (STP) funds to federal Highway Infrastructure Program (STP Bump) funds provided in the Consolidated Appropriations Act, 2018. Of the \$3,779,849 freed up by this swap, \$1,000,000 is returned to the region's STP/CMAQ balance to help address the CMAQ shortfall as a result of the region becoming attainment for carbon monoxide (CO) and therefore receiving less CMAQ funds which are distributed based on air quality status. The remaining \$2,779,849 is held for future Commission action.

On March 27, 2019, Attachment A, Appendix A-8, Appendix A-10, and Attachment B-1 were revised to clarify provisions pertaining to the interim status report requirements for Priority Development Area (PDA) Investment & Growth Strategies; change the recipient of the Concord IDEA project from CCTA to the City of Concord and reduce the MTC Exchange funding from \$619,000 to \$589,000; and redirect the \$30,000 in MTC Exchange funds to a new MTC-led Concord IDEA project.

On June 26, 2019, Attachment B-2 was revised to program \$822,000 in unprogrammed Safe Routes to School Program (SRTS) balances within the Contra Costa County Program to six

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MTC Resolution No. 4202, Revised

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existing projects; and to redirect \$251,000 within the San Mateo County Program from Atherton's Middlefield Road Class II Bike Lanes to its James Avenue Rehabilitation.

On July 24, 2019, Attachment A was revised to delegate authority to the Executive Director or designee to sign Letters of Understanding for the exchange of STP/CMAQ funds with other regions, within certain conditions and limitations, and to delegate to a Committee of the Commission the authority to approve exchanges beyond these conditions and limitations.

On September 25, 2019, Attachments B-1 and B-2 were revised to clarify that the \$300,000 programmed to Alameda County Transportation Commission (ACTC) within the Community Based Transportation Plan (CBTP) Updates program will be directed to its Congestion Management Agency (CMA) Planning program as part of an internal fund exchange within ACTC; redirect \$9.6 million from 511 Implementation to 511 Next Gen within the Bay Area 511 Traveler Information Program; within the Freeway Performance Program redirect \$625,000 in from MTC's SR 84 (US 101 to I-880) to the environmental phase of MTC's I-580 WB HOV Lane Extension project and change the project sponsor of the I-80/Central Ave. Interchange Improvements project from the Contra Costa Transportation Authority (CCTA) to City of Richmond; within the Innovative Deployment to Enhance Arterials (IDEA) program, clarify that LAVTA is a partner agency for the Dublin Category 2 IDEA project; within the Transportation Management Systems (TMS) program, change the name of the overall program to Connected Bay Area, redirect \$2 million from the Detection Technology Pilot project and \$1.8 million from the Performance-Based ITS Device Maintenance and Rehabilitation project to provide an additional \$3.8 million to the I-880 Communications Upgrade and Infrastructure Gap Closures project; within the Incident Management program, redirect \$1 million from MTC's I-880 Integrated Corridor Management (ICM) Central Segment to the Northern Segment; within the San Francisco County program, redirect \$3,366,000 from John Yehall Chin Elementary Safe Routes to School (SRTS) Improvement; and within the Santa Clara County program, redirect \$1 million from Los Altos' Miramonte Ave Bicycle and Pedestrian Access Improvements project to Cupertino's McClellan Rd Separated Bike Lane project, and program \$1,346,000 in unprogrammed discretionary balances to Campbell's Harriet Ave Sidewalk project and Los Gatos Shannon Rd Complete Streets project.

On October 23, 2019, Attachment B-1 was revised to redirect \$3 million from MTC's Detection Technology Pilot project to establish the InterConnect Bay Area grant program within the Connected Bay Area program; direct \$5 million (\$4 million Solano County and \$1 million other

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North Bay counties) within the Housing Incentive Pool program to establish the Sub-HIP program, with specific projects to be recommended through future programming actions; and program \$1 million to BART for AB2923 Implementation from unprogrammed balances within the PDA Planning & Implementation program.

On November 20, 2019, Attachments B-1 and B-2 were revised to program \$6,023,000 in MTC exchange funds in accordance with MTC Resolution No. 3989 to 13 projects within the Priority Conservation Area (PCA) Grants program; and within the Contra Costa County program, redirect \$1,025,000 from Brentwood's Various Streets and Roads Preservation project to Pittsburg's Pavement Improvements project, redirect \$618,000 from San Pablo's Market Street Pavement Rehabilitation project to Giant Road Pavement Rehabilitation project; and revise the name of Walnut Creek's Ygnacio Valley Road Rehabilitation project to reflect the latest proposed scope of work.

On February 26, 2020, Attachments A, B-1, and B-2 were revised to program \$1 million to MTC for SR 37 corridor planning in Marin, Napa, Solano, and Sonoma Counties and \$3 million to MTC for I-80 corridor planning from the Carquinez Bridge to the San Francisco-Oakland Bay Bridge (SFOBB) Toll Plaza within the Freeway Performance Program; revise the name of the Concord Willow Pass Road Rehabilitation and Safe Routes to School project within the Contra Costa County Program to reflect the project's current scope; and clarify language within the OBAG 2 Project Selection Criteria and Programming Policy to reflect the Commission adoption of Housing Incentive Pool (HIP) program guidelines, MTC Resolution No. 4348.

On May 27, 2020, Attachment B-1 was revised to clarify the scope of MTC's Freeway Performance Program planning-only project on I-80 extends from Carquinez Bridge in Contra Costa to Fremont Street in San Francisco; change the sponsor for three projects within the Regional Priority Conservation Area (PCA) Grant program; and to redirect \$104,000 in the North Bay Priority PCA Grant program from Novato's Carmel Open Space Acquisition project to Novato's Hill Area National Recreation Area, as the former project has been cancelled.

On July 22, 2020, Attachment B-1 was revised to program \$5 million to five projects in Solano, Marin, Napa, and Sonoma Counties within the Housing Incentive Pool Pilot Program (Sub-HIP) and program \$1 million to the Napa Valley Forward Traffic Calming and Multimodal Improvements project within the Freeway Performance Program (FPP); and incorporate \$7,681,887 in federal Highway Infrastructure Program apportionment provided through the

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MTC Resolution No. 4202, Revised

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Department of Transportation Appropriations Act, 2020 to the Golden Gate Bridge Suicide Deterrent.

On September 23, 2020, Attachment B-2 was revised to redirect \$2,000,000 from Napa's Silverado Trail Five-way Intersection Improvement project to Napa Valley Transportation Authority's Vine Transit Bus Maintenance Facility within the Napa County Program, and \$1,394,000 from Fairfield's Heart of Fairfield Improvements to its Cadenasso Dr. repaving project within the Solano County Program.

On November 20, 2020, Attachment B-1 was revised to program \$1,000,000 to SFCTA for the environmental phase of the Yerba Buena Island/Treasure Island Multi-Use Pathway project within the Priority Conservation Area (PCA) Grants program, with payback from BATA at a future date; \$647,000 in MTC exchange funds in accordance with MTC Resolution No. 3989 to four projects within the Priority Conservation Area (PCA) Grants program; and to clarify the project sponsor of the Old Redwood Highway Multi-Use Pathway project as Larkspur, rather than the Transportation Authority of Marin (TAM).

On January 27, 2021, Attachments A and Attachment B-1 were revised, and Appendix A-11 was added, to incorporate additional funding into the OBAG 2 framework, including \$52.9 million in STP/CMAQ program balances made available through FY2018-FY2020 appropriations of Federal Highway Infrastructure Program (FHIP) funds, and a \$1.5 million balance redirected from the Cycle 1 STP/CMAQ Climate Initiatives program, as part of the Safe & Seamless Mobility Quick-Strike program.

On February 24, 2021, Attachment B-1 was revised to program a total of \$7.91 million in Federal Highway Infrastructure Program (FHIP) funds provided in the Consolidated Appropriations Act, 2021, and project savings from previous STP/CMAQ cycles to the Golden Gate Bridge Highway and Transportation District (GGBHTD) for shareable costs of an increase to the Golden Gate Bridge Suicide Deterrent System. Because the final FFY 2021 FHIP amount is not yet available at the time of the Commission meeting, the final split between the two fund sources will be adjusted by staff as a technical change, with the total amount not to exceed \$7.91 million.

On April 28, 2021, Attachment B-1 was revised to change the fund source of \$13,942,852 from Federal Highway Infrastructure Program (FHIP) funds to Surface Transportation Block Grant

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MTC Resolution No. 4202, Revised

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(STP) funds for the Gate Bridge Highway and Transportation District (GGBHTD) for the Golden Gate Bridge Suicide Deterrent System project; program \$61,708,245 in STP/CMAQ funds, and \$13,942,852 in FHIP funds redirected from the GGB suicide deterrent system, to the Transportation Authority of Marin (TAM) for the US-101 Marin-Sonoma Narrows Segment B7 project as part of the SB1/RMS alternative funding plan; and program \$99,840,510 in STP/CMAQ funds to the Solano Transportation Authority (STA) for the Solano I-80 Express Lanes project as part of the SB1/RMS alternative funding plan. The programmed funding to TAM and STA serves as a loan to the project sponsors to permit the projects to move to construction while Regional Measure 3 funds are unavailable. The loaned funds shall be repaid to MTC as non-federal funds and will be subject to future OBAG programming.

On May 26, 2021, Attachment B-1 and Appendix A-11 were revised to program \$34,593,076 in Federal Highway Infrastructure Program funds made available through federal Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) to augment the Regional Safe and Seamless Mobility Quick-Strike program framework; and to program \$7,775,000 in Priority Development Area (PDA) Planning and Implementation grants and \$87,000 in Regional PDA Supportive Studies within the Regional PDA Planning and Implementation program.

Further discussion of the project selection criteria and programming policy is contained in the memorandum to the Programming and Allocations Committee dated November 4, 2015, July 13, 2016, October 12, 2016, December 14, 2016, February 8, 2017 (action deferred to March 2017), March 8, 2017, April 12, 2017, May 10, 2017, June 14, 2017, July 12, 2017, September 13, 2017, October 11, 2017, November 8, 2017, December 13, 2017, January 10, 2018, February 14, 2018, March 7, 2018, and April 11, 2018; the Planning Committee dated April 6, 2018; and the Programming and Allocations Committee dated May 9, 2018, June 13, 2018, July 11, 2018, September 12, 2018, November 14, 2018, December 12, 2018, January 9, 2019, February 13, 2019, March 6, 2019, June 12, 2019, July 10, 2019, September 4, 2019, October 9, 2019, November 13, 2019, February 12, 2020, May 13, 2020, July 8, 2020, September 9 2020, November 4, 2020, January 13, 2021, February 10, 2021, April 14, 2021, and May 12, 2021; and the Planning Committee dated May 14, 2021.

Date: November 18, 2015
W.I.: 1512
Referred By: Programming & Allocations

RE: One Bay Area Grant Program Second Round (OBAG 2) Project Selection Criteria and Programming Policy

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4202

WHEREAS, the Metropolitan Transportation Commission (MTC) is the Regional Transportation Planning Agency (RTPA) for the San Francisco Bay Area pursuant to Government Code Section 66500 et seq.; and

WHEREAS, MTC is the designated Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area region and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes federal funds; and

WHEREAS, MTC is the designated recipient for state and federal funding assigned to the RTPA/MPO of the San Francisco Bay Area for the programming of projects; and

WHEREAS, state and federal funds assigned for RTPA/MPO programming discretion are subject to availability and must be used within prescribed funding deadlines regardless of project readiness; and

WHEREAS, MTC, in cooperation with the Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD), the Bay Conservation and Development Commission (BCDC), California Department of Transportation (Caltrans), Congestion Management Agencies (CMAs), county Transportation Authorities (TAs), transit operators, counties, cities, and interested stakeholders, has developed criteria, policies and procedures to be used in the selection of projects to be funded with various funding including regional federal funds as set forth in Attachments A, B-1 and B-2 of this Resolution, incorporated herein as though set forth at length; and

WHEREAS, using the policies set forth in Attachment A of this Resolution, MTC, in cooperation with the Bay Area Partnership and interested stakeholders, will develop a program of projects to be funded with these funds for inclusion in the federal TIP, as set forth in Attachments B-1 and B-2 of this Resolution, incorporated herein as though set forth at length; and

WHEREAS the federal TIP and subsequent TIP amendments and updates are subject to public review and comment; now therefore be it

MTC Resolution 4202
Page 2

RESOLVED that MTC approves the "Project Selection Criteria and Programming Policy" for projects to be funded in the OBAG 2 Program as set forth in Attachments A, B-1 and B-2 of this Resolution; and be it further

RESOLVED that the regional discretionary funding shall be pooled and distributed on a regional basis for implementation of project selection criteria, policies, procedures and programming, consistent with the Regional Transportation Plan (RTP); and be it further

RESOLVED that the projects will be included in the federal TIP subject to final federal approval and requirements; and be it further

RESOLVED that the Executive Director or designee may make technical adjustments and other non-substantial revisions, including updates to fund sources and distributions to reflect final funding criteria and availability; and be it further

RESOLVED that the Executive Director or designee is authorized to revise Attachments B-1 and B-2 as necessary to reflect the programming of projects as the projects are selected, revised and included in the federal TIP; and be it further

RESOLVED that the Executive Director or designee shall make available a copy of this resolution, and attachments as may be required and appropriate.

METROPOLITAN TRANSPORTATION COMMISSION



Dave Cortese, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in Oakland, California, on November 18, 2015

Attachment B-1

MTC Resolution No. 4202

OBAG 2 Regional Programs
FY 2017-18 through FY 2021-22
April 2021

Revised: 07/27/16-C 10/26/16-C 12/21/16-C 03/22/17-C 05/24/17-C 06/28/17-C 07/26/17-C 09/27/17-C 10/25/17-C
12/20/17-C 01/24/18-C 02/28/18-C 03/28/18-C 04/25/18-C 05/23/18-C 06/27/18-C 07/25/18-C 09/26/18-C 11/28/18-C
12/19/18-C 02/27/19-C 03/27/19-C 06/26/19-C 09/25/19-C 10/23/19-C 11/20/19-C 02/26/20-C 05/27/20-C 07/22/20-C
11/20/20-C 01/27/21-C
02/24/21-C 04/28/21-C 05/26/21-C

MTC Res. No. 4202 Attachment B-1

Adopted: 11/18/15-C

OBAG 2 Regional Programs Project List

Close Grouping Before Printing
Not for Commission Action

PROJECT CATEGORY AND TITLE	SPONSOR	STP	CMAQ	Total STP/CMAQ	Other
OBAG 2 REGIONAL PROGRAMS		\$484,059,423	\$196,665,000	\$680,724,423	\$99,975,260
1. REGIONAL PLANNING ACTIVITIES		STP	CMAQ		
Regional Planning	MTC	\$9,555,000		\$9,555,000	
1. REGIONAL PLANNING ACTIVITIES	TOTAL:	\$9,555,000		\$9,555,000	
2. PAVEMENT MANAGEMENT PROGRAM		STP	CMAQ		
Pavement Management Program	MTC	\$1,500,000		\$1,500,000	
Pavement Technical Advisory Program (PTAP)	MTC	\$7,500,000		\$7,500,000	
Statewide Local Streets and Roads (LSR) Needs Assessment	MTC/Caltrans	\$250,000		\$250,000	
2. PAVEMENT MANAGEMENT PROGRAM	TOTAL:	\$9,250,000		\$9,250,000	
3. PDA PLANNING & IMPLEMENTATION		STP	CMAQ		
PDA Planning and Implementation					
PDA Implementation	MTC	\$2,000,000		\$2,000,000	
PDA Supportive Studies	MTC	\$587,000		\$587,000	
PDA Planning					
<u>Berkeley: San Pablo Avenue PDA Plan</u>	<u>MTC</u>	<u>\$750,000</u>		<u>\$750,000</u>	
<u>Oakland: MacArthur Transit Village PDA; North Oakland/Golden Gate PDA Plan</u>	<u>MTC</u>	<u>\$800,000</u>		<u>\$800,000</u>	
<u>Oakland: Eastmont Town Center/International Blvd; Fruitvale and Dimond; MacArthur Blvd Corridor; San A</u>	<u>MTC</u>	<u>\$800,000</u>		<u>\$800,000</u>	
Union City: Decoto Industrial Parkway Study Area Specific Plan 2.0	MTC	\$800,000		\$800,000	
El Cerrito: San Pablo Avenue Specific Plan and EIR Update/Amendments	MTC	\$308,000		\$308,000	
Moraga: Moraga Center Specific Plan Implementation Project	MTC	\$140,000		\$140,000	
<u>Richmond: Hilltop PDA Plan</u>	<u>MTC</u>	<u>\$750,000</u>		<u>\$750,000</u>	
<u>San Pablo: Rumrill Blvd PDA Plan</u>	<u>MTC</u>	<u>\$250,000</u>		<u>\$250,000</u>	
<u>Marin County: Urbanized Corridor/Marin City PDA Plan</u>	<u>MTC</u>	<u>\$300,000</u>		<u>\$300,000</u>	
San Rafael: Downtown Precise Plan	MTC	\$500,000		\$500,000	
San Francisco: HUB Area EIR	MTC	\$500,000		\$500,000	
San Francisco: Transit Corridors Study	MTC	\$500,000		\$500,000	
<u>Burlingame: Broadway Planning Area PDA Plan</u>	<u>MTC</u>	<u>\$400,000</u>		<u>\$400,000</u>	
<u>South San Francisco: Downtown Station Area PDA Plan</u>	<u>MTC</u>	<u>\$500,000</u>		<u>\$500,000</u>	
<u>Cupertino: VTA Cores and Corridors PDA Plan</u>	<u>MTC</u>	<u>\$400,000</u>		<u>\$400,000</u>	
<u>Milpitas: Midtown PDA Plan</u>	<u>MTC</u>	<u>\$500,000</u>		<u>\$500,000</u>	
<u>Palo Alto: University Ave/Downtown PDA Plan</u>	<u>MTC</u>	<u>\$800,000</u>		<u>\$800,000</u>	
San Jose/VTA: Diridon Integrated Station Area Concept Plan	MTC	\$800,000		\$800,000	
San Jose: SW Expressway/Race Street Light Rail Urban Village Plans	MTC	\$500,000		\$500,000	
<u>Santa Clara: Downtown PDA Plan</u>	<u>MTC</u>	<u>\$400,000</u>		<u>\$400,000</u>	
Vacaville: Downtown Specific Plan	MTC	\$350,000		\$350,000	
Santa Rosa: Downtown Station Area Specific Plan Update/Amendment	MTC	\$800,000		\$800,000	
Staffing Assistance					
Emeryville: Mitigate Regulation-Induced Displacement, Streamlined Asset Mngmt	MTC	\$180,000		\$180,000	
Fremont: SB743 Implementation	MTC	\$150,000		\$150,000	
Hayward: SB743 Implementation	MTC	\$150,000		\$150,000	
Oakland: ADU Initiative	MTC	\$200,000		\$200,000	
Oakland: Innovative Construction Initiative	MTC	\$200,000		\$200,000	
Concord: VMT-based Transportation Impact Standards	MTC	\$150,000		\$150,000	
Concord: Galindo Street Corridor Plan	MTC	\$200,000		\$200,000	
Lafayette: Updated Parking Ordinance and Strategies	MTC	\$150,000		\$150,000	
San Jose: PDA/Citywide Design Guidelines	MTC	\$200,000		\$200,000	
Windsor: Parking Management and Pricing	MTC	\$35,000		\$35,000	
Technical Assistance					
<u>Marin/Sonoma VMT Implementation Group</u>	<u>MTC</u>	<u>\$170,000</u>		<u>\$170,000</u>	
<u>Napa/Solano VMT Implementation Group</u>	<u>MTC</u>	<u>\$170,000</u>		<u>\$170,000</u>	
<u>Various Jurisdictions: VMT Implementation Group</u>	<u>MTC</u>	<u>\$140,000</u>		<u>\$140,000</u>	
Emeryville: Developing the Highest and Best Use of the Public Curb	MTC	\$65,000		\$65,000	
<u>Hayward: Micro Mobility/Safety Program</u>	<u>MTC</u>	<u>\$75,000</u>		<u>\$75,000</u>	
Oakland: General Plan Framework - PDA Community Engagement Program	MTC	\$65,000		\$65,000	
<u>San Leandro: BayFair TOD Infrastructure Design/Finance</u>	<u>MTC</u>	<u>\$150,000</u>		<u>\$150,000</u>	
San Francisco: Mission-San Jose PDA Housing Feasibility Analysis	MTC	\$65,000		\$65,000	
San Francisco: PDA Density Bonus Program	MTC	\$65,000		\$65,000	
Belmont: Transportation Demand Management Program	MTC	\$65,000		\$65,000	
<u>San Mateo: TDM Ordinance</u>	<u>MTC</u>	<u>\$150,000</u>		<u>\$150,000</u>	
<u>Santa Rosa/Sonoma County: Renewal Enterprise District</u>	<u>MTC</u>	<u>\$150,000</u>		<u>\$150,000</u>	
<u>San Jose: Urban Villages District Parking & Rezoning</u>	<u>MTC</u>	<u>\$120,000</u>		<u>\$120,000</u>	
BART AB2923 Implementation	BART	\$1,000,000		\$1,000,000	
<u>Unprogrammed balance</u>	<u>MTC</u>	<u>\$7,862,000</u>		<u>\$7,862,000</u>	
Community-Based Transportation Plan (CBTP) Updates	MTC				
ACTC: CMA Planning (for Community-Based Transportation Plans)	MTC	\$300,000		\$300,000	
CCTA: Community-Based Transportation Plans	MTC	\$215,000		\$215,000	
TAM: Community-Based Transportation Plans	MTC	\$75,000		\$75,000	
NVTA: Community-Based Transportation Plans	MTC	\$75,000		\$75,000	
SFCTA: Community-Based Transportation Plans	MTC	\$175,000		\$175,000	
C/CAG: Community-Based Transportation Plans	MTC	\$120,000		\$120,000	
VTA: Community-Based Transportation Plans	MTC	\$300,000		\$300,000	
STA: Community-Based Transportation Plans	MTC	\$95,000		\$95,000	
SCTA: Community-Based Transportation Plans	MTC	\$110,000		\$110,000	
CBTP Program Evaluation	MTC	\$35,000		\$35,000	
3. PDA PLANNING & IMPLEMENTATION	TOTAL:	\$20,000,000		\$20,000,000	
4. CLIMATE INITIATIVES		STP	CMAQ		
Climate Initiatives					
Spare the Air & EV Program Outreach (for Electric Vehicle Programs)	BAAQMD		\$10,875,000	\$10,875,000	
Carsharing Implementation	MTC		\$800,000	\$800,000	
Targeted Transportation Alternatives	MTC		\$325,000	\$325,000	
Spare the Air Youth Program - 2	MTC		\$1,417,000	\$1,417,000	
4. CLIMATE INITIATIVES	TOTAL:		\$23,417,000	\$23,417,000	

Attachment B-1

MTC Resolution No. 4202

OBAG 2 Regional Programs

FY 2017-18 through FY 2021-22

April 2021

Revised: 07/27/16-C 10/26/16-C 12/21/16-C 03/22/17-C 05/24/17-C 06/28/17-C 07/26/17-C 09/27/17-C 10/25/17-C
 12/20/17-C 01/24/18-C 02/28/18-C 03/28/18-C 04/25/18-C 05/23/18-C 06/27/18-C 07/25/18-C 09/26/18-C 11/28/18-C
 12/19/18-C 02/27/19-C 03/27/19-C 06/26/19-C 09/25/19-C 10/23/19-C 11/20/19-C 02/26/20-C 05/27/20-C 07/22/20-C
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MTC Res. No. 4202 Attachment B-1

Adopted: 11/18/15-C

OBAG 2 Regional Programs Project List

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PROJECT CATEGORY AND TITLE	SPONSOR	STP	CMAQ	Total STP/CMAQ	Other
OBAG 2 REGIONAL PROGRAMS		\$484,059,423	\$196,665,000	\$680,724,423	\$99,975,260
5. REGIONAL ACTIVE OPERATIONAL MANAGEMENT		STP	CMAQ		
Active Operational Management					
AOM Implementation	MTC	\$23,737,000		\$23,737,000	
Bay Area 511 Traveler Information					
511 Next Gen	MTC	\$26,148,000		\$26,148,000	
511 Implementation	MTC	\$7,450,000		\$7,450,000	
Rideshare					
Rideshare Implementation	MTC		\$720,000	\$720,000	
Carpool Program	MTC		\$7,280,000	\$7,280,000	
Vanpool Program	MTC		\$2,000,000	\$2,000,000	
Commuter Benefits Implementation	MTC		\$674,000	\$674,000	
Commuter Benefits Program	MTC		\$1,111,000	\$1,111,000	
Napa Valley Transportation Demand Strategies (Fund Exchange)	MTC/NVTA				\$1,100,000
Bay Bridge Forward					
Transbay Higher Capacity Bus Fleet/Increased Service Frequencies	AC Transit		\$1,200,000	\$1,200,000	
Pilot Transbay Express Bus Routes	AC Transit		\$800,000	\$800,000	
Eastbay Commuter Parking	MTC	\$2,500,000		\$2,500,000	
Transbay Higher Capacity Bus Fleet/Increased Service Frequencies	WestCat		\$2,000,000	\$2,000,000	
Dumbarton Forward					
SR 84 (US 101 to I-880) Dumbarton Forward	MTC	\$4,375,000		\$4,375,000	
Richmond-San Rafael Bridge Forward					
Richmond-San Rafael Bridge Bikeway Access (Fund Exchange)	Richmond				\$500,000
Richmond-San Rafael Bridge Forward (Fund Exchange)	MTC				\$1,160,000
Freeway Performance Program					
Freeway Performance Program	MTC		\$14,240,000	\$14,240,000	
FPP: I-880 (I-80 to I-280)	MTC	\$3,000,000		\$3,000,000	
FPP: I-580 WB HOV Lane Extension (SR 24 to I-80/SFOBB approach) PL & ENV Only	MTC	\$625,000		\$625,000	
FPP: I-80 (Carquinez Bridge to Fremont St., SF) PL only	MTC	\$3,000,000		\$3,000,000	
FPP: CC I-680 NB HOV/Express Lanes (Ala Co. to Sol Co.)	MTC	\$10,000,000		\$10,000,000	
FPP: I-80 Central Ave Interchange Improvements	Richmond	\$2,000,000		\$2,000,000	
FPP: SR 37 (US 101 to I-80) PL only	MTC	\$1,000,000		\$1,000,000	
FPP: Napa Valley Forward Traffic Calming & Multimodal Imps.	MTC		\$1,000,000	\$1,000,000	
FPP: US 101 (SR 85 to San Francisco Co. Line)	MTC	\$3,000,000		\$3,000,000	
FPP: SCTA US 101/Marin Sonoma Narrows (MSN) B2 Phase 2	SCTA	\$1,000,000		\$1,000,000	
Program for Arterial System Synchronization (PASS)	MTC		\$5,000,000	\$5,000,000	
Innovative Deployments for Enhanced Arterials (IDEA)					
IDEA Technical Assistance	MTC	\$1,532,000		\$1,532,000	
IDEA Category 1					
AC Transit: Dumbarton Express Route (SR84)	MTC	\$2,300,000		\$2,300,000	
Alameda: Webster & Posey Tubes (SR 260), Park St	MTC	\$276,000		\$276,000	
Hayward: Various Locations	MTC	\$302,000		\$302,000	
Oakland: Bancroft Ave	MTC	\$310,000		\$310,000	
Pleasanton: Various Locations	MTC	\$290,000		\$290,000	
Union City: Union City Blvd & Decoto Rd	MTC	\$710,000		\$710,000	
San Ramon: Bollinger Canyon Rd & Crow Canyon Rd	MTC	\$563,000		\$563,000	
San Rafael: Downtown San Rafael	MTC	\$830,000		\$830,000	
South San Francisco: Various Locations	MTC	\$532,000		\$532,000	
San Jose: Citywide	MTC	\$1,400,000		\$1,400,000	
IDEA Category 2					
LAVTA/Dublin: Citywide	MTC	\$385,000		\$385,000	
Emeryville: Powell, Shellmound, Christie & 40th St	MTC	\$785,000		\$785,000	
Concord: Concord Blvd, Clayton Rd & Willow Pass Rd (Fund Exchange)	MTC				\$589,000
MTC Concord Blvd, Clayton Rd & Willow Pass Rd (Fund Exchange)	MTC				\$30,000
Walnut Creek: Various locations (Fund Exchange)	MTC				\$621,000
Los Gatos: Los Gatos Blvd	MTC	\$700,000		\$700,000	
VTA: Veterans Admin. Palo Alto Medical Center	VTA	\$845,000		\$845,000	
Connected Vehicles/Automated Vehicles (CV/AV)	MTC	\$2,500,000		\$2,500,000	
Shared Use Mobility	MTC	\$2,500,000		\$2,500,000	
Connected Bay Area					
TMS Implementation	MTC	\$2,910,000		\$2,910,000	
TMC Asset Upgrade and Replacement	MTC	\$1,150,000		\$1,150,000	
I-880 Communication Upgrade and Infrastructure Gap Closures	MTC	\$11,940,000		\$11,940,000	
InterConnect Bay Area Program	MTC	\$3,000,000		\$3,000,000	
Incident Management					
Incident Management Implementation	MTC	\$4,160,000		\$4,160,000	
I-880 ICM Northern	MTC		\$6,200,000	\$6,200,000	
I-880 ICM Central	MTC		\$2,640,000	\$2,640,000	
Unprogrammed Balance	TBD	\$380,000		\$380,000	
5. REGIONAL ACTIVE OPERATIONAL MANAGEMENT	TOTAL:	\$128,135,000	\$44,865,000	\$173,000,000	\$4,000,000
6. TRANSIT PRIORITIES		STP	CMAQ		
BART Car Replacement/Expansion	BART		\$99,800,000	\$99,800,000	
GGB Suicide Deterrent (for BART Car Replacement/Expansion)	GGBH&TD	\$9,760,668		\$9,760,668	\$30,239,332
Clipper	MTC	\$34,200,000		\$34,200,000	
Unprogrammed Balance		\$15,283,000		\$15,283,000	
6. TRANSIT PRIORITIES	TOTAL:	\$59,243,668	\$99,800,000	\$159,043,668	\$30,239,332
7. PRIORITY CONSERVATION AREA (PCA)		STP	CMAQ		
Regional Peninsula, Southern and Eastern Counties PCA Grant Program					
Bay Area GreenPrint: PCA Functionality Imps (Fund Exchange)	MTC/GreenInfo Network				\$30,000
PCA Grant Implementation	MTC/Coastal Conservancy				\$500,000
Alameda County: Niles Canyon Trail, Phase 1	Alameda County				\$321,000
Albany: Albany Hill Access Improvements	Albany				\$251,000

Attachment B-1

MTC Resolution No. 4202

OBAG 2 Regional Programs

FY 2017-18 through FY 2021-22

April 2021

Revised: 07/27/16-C 10/26/16-C 12/21/16-C 03/22/17-C 05/24/17-C 06/28/17-C 07/26/17-C 09/27/17-C 10/25/17-C
 12/20/17-C 01/24/18-C 02/28/18-C 03/28/18-C 04/25/18-C 05/23/18-C 06/27/18-C 07/25/18-C 09/26/18-C 11/28/18-C
 12/19/18-C 02/27/19-C 03/27/19-C 06/26/19-C 09/25/19-C 10/23/19-C 11/20/19-C 02/26/20-C 05/27/20-C 07/22/20-C
 11/20/20-C 01/27/21-C
 02/24/21-C 04/28/21-C 05/26/21-C

MTC Res. No. 4202 Attachment B-1

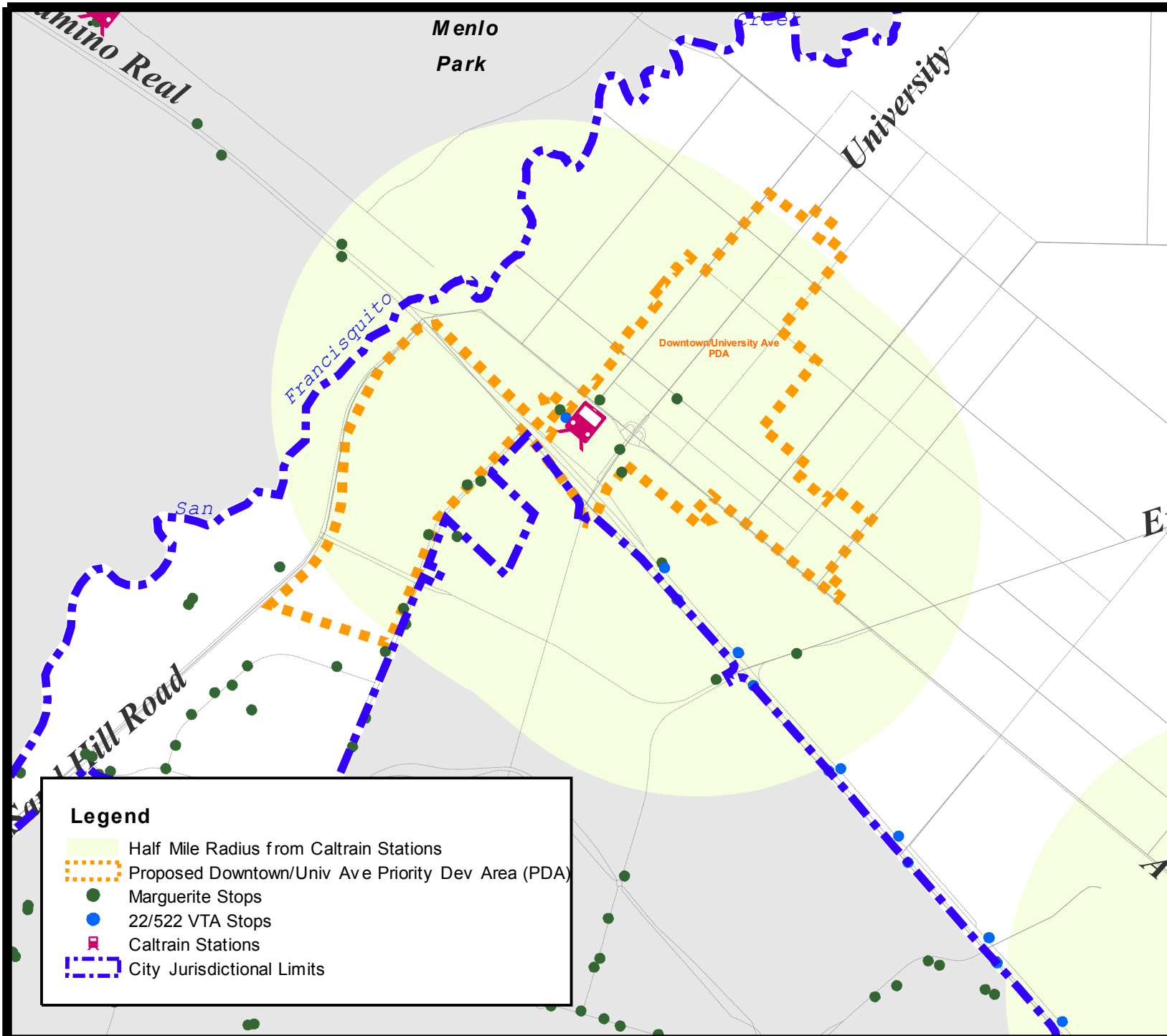
Adopted: 11/18/15-C

OBAG 2 Regional Programs Project List

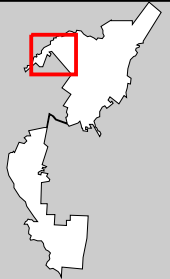
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PROJECT CATEGORY AND TITLE	SPONSOR	STP	CMAQ	Total STP/CMAQ	Other
OBAG 2 REGIONAL PROGRAMS		\$484,059,423	\$196,665,000	\$680,724,423	\$99,975,260
Livermore: Arroyo Road Trail	Livermore				\$400,000
WOEIP/Urban Biofilter: Adapt Oakland Urban Greening in West Oakland	WOEIP/Urban Biofilter				\$300,000
EBRPD: Bay Trail at Point Molate (RSR Bridge to Point Molate Beach Park)	EBRPD				\$1,000,000
JMLT: Pacheco Marsh/Lower Walnut Creek Restoration and Public Access	John Muir Land Trust				\$950,000
SFCTA: Yerba Buena Island Multi-Use Pathway (PE/ENV)	SFCTA	\$1,000,000		\$1,000,000	
San Francisco: McLaren Park and Neighborhood Connections Plan	SF Recreation and Parks				\$194,000
San Francisco/Coastal Conservancy: Twin Peaks Trail Improvement	SF Rec and Park/Conservancy				\$74,000
GGNPC/NPS: Rancho Corral de Tierra Unit Management Plan Engagement	National Parks Service				\$200,000
SMCHD: Pillar Point Public Access Improvements	San Mateo Co. Harbor District				\$298,000
Menlo Park: Bedwell Bayfront Park Entrance Improvements	Menlo Park				\$520,000
San Mateo Co.: Colma Creek Adaptation Study (Colma Creek Connector)	San Mateo Co.				\$110,000
San Mateo Co.: San Bruno Mtn. Habitat Conservation Plan Grazing Pilot	San Mateo Co.				\$137,900
South San Francisco: Sign Hill Conservation and Trail Master Plan	South San Francisco				\$135,100
Point Blue: Pajaro River Watershed: Habitat Restoration and Climate Resilient Imps.	Point Blue Conservation Science				\$379,000
SCVOSA: Coyote Ridge Open Space Preserve Public Access, Phase 1	Point Blue Conservation Science				\$400,000
SCVOSA: Tilton Ranch Acquisition	Santa Clara Valley Open Space Auth.				\$1,000,000
North Bay PCA Grant Program					
Marin County: Hicks Valley/Wilson Hill/Marshall-Petaluma Rehab. (for Corte Madera: Par	Marin County	\$312,000		\$312,000	
Marin County: Hicks Valley/Wilson Hill/Marshall-Petaluma Rd Rehab	Marin County	\$869,000		\$869,000	
Novato: Nave Dr/Bell Marin Keys Rehabilitation (for Hill Recreation Area Imps.)	Novato	\$104,000		\$104,000	
Novato: Vineyard Rd Improvements (for Hill Recreation Area Imps.)	Novato	\$265,000		\$265,000	
National Parks Service: Fort Baker's Vista Point Trail	NPS	\$500,000		\$500,000	
NVTA: Vine Trail - St. Helena to Calistoga	NVTA	\$711,000		\$711,000	
Napa: Vine Trail - Soscol Ave Corridor	Napa	\$650,000		\$650,000	
Napa County: Silverado Trail Rehabilitation - Phase L	Napa County	\$689,000		\$689,000	
Solano County: Suisun Valley Farm-to-Market - Phase 3 Bike Imps	Solano County	\$2,050,000		\$2,050,000	
Sonoma County: Crocker Bridge Bike/Pedestrian Bridge	Sonoma County	\$1,280,000		\$1,280,000	
Sonoma County: Joe Rodota Trail Bridge Replacement	Sonoma County	\$770,000		\$770,000	
7. PRIORITY CONSERVATION AREA (PCA)	TOTAL:	\$9,200,000		\$9,200,000	\$7,200,000
8. BAY AREA HOUSING INITIATIVES		STP	CMAQ		
Bay Area Preservation Pilot (BAPP) (Funding Exchange)	MTC				\$10,000,000
Housing Incentive Pool	TBD		\$25,000,000	\$25,000,000	
Sub-HIP Pilot Program					
Fairfield: Pavement Preservation/Rehabilitation (for One Lake Apts. Linear Park Trail)	Fairfield	\$2,100,000		\$2,100,000	
Vacaville: Pavement Preservation/Rehabilitation (for Allison PDA Affordable Housing)	Vacaville	\$1,900,000		\$1,900,000	
Marin County: Marin City Pedestrian Crossing Imps.	Marin County		\$300,000	\$300,000	
NVTA: Imola Park and Ride	NVTA	\$300,000		\$300,000	
Santa Rosa: Downtown Multi-modal and Fiber Improvements	Santa Rosa		\$400,000	\$400,000	
8. BAY AREA HOUSING INITIATIVES	TOTAL:	\$4,300,000	\$25,700,000	\$30,000,000	\$10,000,000
9. SAFE & SEAMLESS MOBILITY QUICK-STRIKE		STP	CMAQ		
TBD	TBD	\$52,900,000		\$52,900,000	\$34,593,076
9. SAFE & SEAMLESS MOBILITY QUICK-STRIKE	TOTAL:	\$52,900,000		\$52,900,000	\$34,593,076
10. REGIONAL STRATEGIC INVESTMENTS (RSI)		STP	CMAQ		
CC I-680 NB HOV/Express Lanes Ala Co to Sol Co (Fund Exchange)	CCTA/MTC	\$4,000,000		\$4,000,000	
GGB Suicide Deterrent System	GGBHTD	\$7,910,000		\$7,910,000	
Pavement Rehab (for Downtown Novato SMART Station)	Novato	\$617,000		\$617,000	
Old Redwood Highway Multi-Use Pathway	Larkspur		\$1,120,000	\$1,120,000	
Grand Ave Bridge	San Rafael		\$763,000	\$763,000	
Grand Ave Bike/Ped Imps (for SMART 2nd to Andersen Pathway)	San Rafael		\$1,000,000	\$1,000,000	
US 101 Marin-Sonoma Narrows	TAM	\$2,000,000		\$2,000,000	
US 101/Marin Sonoma Narrows (MSN) B2 Phase 2 (Fund Exchange)	SCTA	\$15,400,000		\$15,400,000	
US 101 Marin-Sonoma Narrows (MSN) B7 (Loan for RM3)	TAM	\$61,708,245		\$61,708,245	\$13,942,852
I-80 Express Lanes in Solano County (Loan for RM3)	STA	\$99,840,510		\$99,840,510	
10. REGIONAL STRATEGIC INVESTMENTS (RSI)	TOTAL:	\$191,475,755	\$2,883,000	\$194,358,755	\$13,942,852
OBAG 2 REGIONAL PROGRAMS	TOTAL:	\$484,059,423	\$196,665,000	\$680,724,423	\$99,975,260

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The City of
Palo Alto



Downtown/University Av
PDA

This map is a product of the
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MASTER FUNDING AGREEMENT

BETWEEN THE METROPOLITAN TRANSPORTATION COMMISSION

AND

CITY OF PALO ALTO

**PLANNING, PROGRAMMING,
TRANSPORTATION, TRANSIT, LAND USE OR OTHER PROJECTS**

FOR

FISCAL YEAR 2021-22 through FISCAL YEAR 2031-32

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MASTER FUNDING AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
And CITY OF PALO ALTO
For PLANNING, PROGRAMMING,
TRANSPORTATION, TRANSIT, LAND USE OR OTHER PROJECTS

This Master Funding Agreement, effective as of February 17, 2022 (this “Master Funding Agreement” or “Agreement”), is entered into by and between the Metropolitan Transportation Commission (hereafter “MTC”), a regional transportation planning agency established pursuant to California Government Code § 66500 *et seq.*, and CITY OF PALO ALTO (hereafter “AGENCY”). MTC and AGENCY are collectively referred to herein as “the Parties.”

WITNESSETH

WHEREAS, MTC has been designated as the Metropolitan Planning Organization (MPO - federal) and the Regional Transportation Planning Agency (“RTPA” - state) for the San Francisco Bay Region; and

WHEREAS, MTC from time to time expects to provide funds available to it as MPO, RTPA or otherwise to AGENCY; and

WHEREAS, it is expected that these funds will be used for planning, programming, transportation, transit, land use or other projects relevant to MTC or its statutory purposes (the “Project” or “Projects”); and

WHEREAS, the Parties wish to set forth the terms and conditions under which MTC may from time to time provide funding to AGENCY; and

WHEREAS, before MTC will make funds available hereunder, MTC and AGENCY will enter into at least one Supplement to this Master Funding Agreement, which must be in substantially the form attached hereto as Exhibit A (each, a “Supplement”) to establish the terms and conditions applicable to AGENCY when receiving funds for the Project;

NOW, THEREFORE, the Parties hereto agree as follows:

1.0 GENERAL

This Master Funding Agreement shall have no force and effect with respect to a Project or any portion thereof unless and until a Supplement has been fully executed by both MTC and AGENCY governing the relevant Project. Exhibit A, Form of Supplement, is attached hereto and incorporated herein. Each Supplement shall include the following information:

- a. A description of the applicable Project scope of work;
- b. A maximum payment amount for the applicable Project scope of work;

- c. An indication of whether the various clauses attached hereto as Exhibits B-1 through B-7 shall apply to AGENCY's implementation of the applicable Project scope of work;
- d. Any additional covenants, conditions, restrictions or reporting requirements that apply to the applicable Project scope of work or funding source MTC is providing to AGENCY;
- e. Identification of the MTC and AGENCY project managers for the applicable Project scope of work;
- f. The estimated budget and payment milestones for the applicable Project scope of work; and
- g. Any MTC or AGENCY resolutions, authorizations or approvals, or any other key documents, relevant to the applicable Project scope of work or funding source MTC is providing to AGENCY.

Upon execution by MTC and AGENCY of such a Supplement, AGENCY shall assume the responsibility for implementing the applicable Project scope of work, and MTC will administer funding to AGENCY in accordance with this Agreement, the applicable Supplement, and any other documents incorporated by reference into such Supplement.

2.0 INTERAGENCY AGREEMENT ADMINISTRATION

The administration of this Agreement will be conducted by MTC staff. Day-to-day management of individual projects required under this Agreement is assigned to the appropriate Project Manager at AGENCY and Project Manager at MTC, as set forth in the applicable Supplement.

3.0 FUNDING

- A. The total compensation to be paid to AGENCY under this Agreement shall be the sum of the amounts of compensation payable to AGENCY as set forth in each Supplement.
- B. AGENCY and MTC jointly agree to exert their best efforts to manage each component of the Project in such a way that prevents costs from exceeding the estimated budget set forth in the applicable Supplement.
- C. Reimbursement of AGENCY travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration for similar employees (i.e. non-representative employees)

4.0 TERM

This Agreement is in effect for the ten years following the Effective Date. This Agreement term may be extended by mutual written agreement.

5.0 PAYMENT

Contingent upon AGENCY's satisfactory completion of work products or milestones, as applicable, required under the applicable Supplement, AGENCY shall submit invoices to MTC for that portion of the funds available to AGENCY that have been expended. This invoice will be in the format and provided no more frequently than prescribed by MTC in the applicable Supplement. In addition, all supporting documentation must accompany expenditures included on AGENCY invoices. Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, which shall be subject to the review and approval of MTC's Project Manager or a designated representative. Approval of an invoice shall not be unreasonably withheld. AGENCY should submit invoices electronically via email to MTC at acctpay@bayareametro.gov or deliver or mail invoices to MTC, as follows:

Attention: Accounting Section
Metropolitan Transportation Commission
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA, 94105

6.0 DELAYS AND FAILURE TO PERFORM

Whenever AGENCY encounters any difficulty that will delay timely performance of work, AGENCY shall notify MTC in writing. The parties agree to cooperate to work out a mutually satisfactory course of action.

If MTC determines that (a) AGENCY's failure to complete a product on a timely basis is due to causes solely within AGENCY's control; and/or (b) AGENCY has failed to consider MTC recommendations aimed at facilitating progress toward that product, MTC may impose such sanctions as it may determine appropriate. Sanctions may include withholding of commensurate payment due under this Agreement until compliance is achieved.

7.0 AMENDMENTS

This Agreement or any Supplement hereto may be amended by mutual agreement of MTC and AGENCY at any time during the term of the Agreement. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the authorized Executive or a designated representative of MTC and AGENCY and specifically identified as amendments to the Agreement. The MTC Project Manager is not a designated representative, for purposes of executing an amendment.

8.0 TERMINATION

Either party may terminate this Agreement, in whole or in part, at any time upon ninety (90) days' written notice. In this event, AGENCY shall submit a requisition to MTC for an amount representing the actual cost of services performed up to the effective date of termination for which AGENCY has not been previously reimbursed. In no event shall the maximum expenditure allowed under this Agreement, as it may be adjusted by a written amendment signed by both parties, be exceeded. Upon payment of the amount found due, MTC shall be under no further obligation to AGENCY, monetarily or otherwise.

9.0 USE OF THIRD-PARTY CONTRACTS

AGENCY may subcontract or subvene funds to local agencies, consultants or contractors for performance of portions of the work required under this Agreement, without the prior written consent of MTC, provided AGENCY complies with any other applicable requirements of this Agreement and the applicable Supplement hereto, and applicable federal and state requirements.

10.0 INDEMNIFICATION

AGENCY shall indemnify, defend, and hold harmless MTC, its Commissioners, representatives, agents and employees from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AGENCY, its officers, employees or agents, or subconsultants or any of them in connection with this Agreement.

11.0 LAWS AND REGULATIONS

AGENCY shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state and/or a local government, and of any agency thereof, including but not limited to the California Department of Transportation (Caltrans) Local Assistance Procedures Manual, as they exist at the time of execution of the Agreement and as they may be amended in the future, which relate to or in any manner affect the performance of this Agreement and any Supplements.

12.0 RECORDS

AGENCY agrees to establish and maintain an accounting system conforming to generally accepted accounting principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. AGENCY further agrees to keep all records pertaining to the Project(s) being funded for audit purposes for a minimum of: (a) three (3) years following final payment to AGENCY, (b) four (4) years following the fiscal year of last expenditure under the Agreement; or (c) until completion of any litigation, claim or audit, whichever is longest.

13.0 AUDITS

AGENCY shall permit MTC and MTC's authorized representatives to have access to AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 12. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. Such permission shall extend to books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement of the AGENCY's contractors and subcontractors, if any. If applicable, should MTC request access to the construction site and related field operations, MTC shall provide reasonable notice to AGENCY, and AGENCY shall provide access as it deems reasonable and safe, subject to the rights of the property owner if such owner is not AGENCY.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that MTC or any of MTC's duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subconsultant for the term specified above. "Subconsultant" is defined in Article 14.0 Subcontracts, below.

14.0 SUBCONTRACTS

A. For purposes of this Agreement, "subconsultant" shall mean any consultant or contractor under contract with the AGENCY to perform Project work. Any subconsultants must be engaged under written contract with AGENCY with provisions allowing AGENCY to comply with all requirements of this Agreement. Failure of a subconsultant to provide any insurance required under this Agreement shall be at the risk of AGENCY. MTC's Project Manager shall be notified in writing of any substitution or addition of subconsultants.

For any Project funded by the Federal Transit Authority (FTA), Federal Highway Administration (FHWA) or Caltrans, AGENCY shall complete Form 10-C, as may be revised by Caltrans from time to time, within thirty (30) days of executing an agreement with a subconsultant and submit it to MTC's Project Manager. MTC shall not process payment of any invoice under the applicable Supplement relating to work by a subconsultant unless AGENCY shall have submitted to MTC a Form 10-C with respect to its contract with such subconsultant.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MTC and any subconsultants, and no subcontract shall relieve AGENCY of his/her responsibilities and obligations hereunder. AGENCY agrees to be as fully responsible to MTC for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of

them as it is for the acts and omissions of persons directly employed by AGENCY. AGENCY's obligation to pay its subconsultants is an independent obligation from MTC's obligation to make payments to AGENCY.

C. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under of this Agreement.

15.0 PROHIBITED INTERESTS

No member, officer, employee or agent of MTC, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, et seq., direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, AGENCY further covenants that it has made a complete disclosure to MTC of all facts of which AGENCY is aware upon due inquiry bearing upon any possible interest, direct or indirect, that it believes any member, officer, agent or employee of MTC (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC.

16.0 ORGANIZATIONAL CONFLICTS OF INTEREST

AGENCY shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed by subconsultants or subcontractors under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC or AGENCY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

AGENCY shall not engage the services of any subconsultant or subcontractor on any work related to this Agreement if the subconsultant or subcontractor, or any employee of the subconsultant or subcontractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement AGENCY becomes aware of an organizational conflict of interest in connection with the work performed by a subconsultant or subcontractor hereunder, AGENCY shall immediately provide MTC with written notice of the facts and circumstances giving rise to this organizational conflict of interest. AGENCY's written notice will also describe alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC becomes aware of an organizational conflict of interest

in connection with performance of any work hereunder by a subconsultant or subcontractor, MTC shall similarly notify AGENCY. In the event a conflict is presented, whether disclosed by AGENCY or its subconsultant or subcontractor, or discovered by MTC, MTC will consider the conflict presented and any alternatives proposed and meet with AGENCY to determine an appropriate course of action. MTC's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject AGENCY or its subconsultant or subcontractor to damages incurred by MTC in addressing organizational conflicts that arise out of work performed by such subconsultant or subcontractor, or to termination of this Agreement for breach.

17.0 CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

18.0 PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

19.0 NO THIRD-PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

20.0 ORDER OF PRECEDENCE

In the event of a conflict in the provisions of this Agreement, any Supplement hereto, or the Exhibits hereto incorporated by reference into such Supplement, the following order of priority shall be used in resolving such conflict: the applicable Supplement shall have first priority, then the Exhibits incorporated into such Supplement, then this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION COMMISSION

DocuSigned by:

Therese W. McMillan

9FD56424D5A54BA...

Therese W. McMillan, Executive Director

CITY OF PALO ALTO

DocuSigned by:

Ed Shikida

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Ed Shikida, City Manager

EXHIBIT A
FORM OF SUPPLEMENT**SUPPLEMENT [insert number] TO MASTER FUNDING AGREEMENT**

This Supplement No. ____ to Master Funding Agreement (“Supplement or “Agreement”) is entered into this _____ day of _____, 2017, by and between the Metropolitan Transportation Commission (hereafter “MTC”) and [AGENCY] (hereafter “AGENCY”) and supplements the Master Funding Agreement, dated _____, 2017, by and between MTC and AGENCY.

Pursuant to this Supplement, MTC agrees to provide an amount not to exceed _____ dollars (\$_____) in [describe funding source] to AGENCY to fund the [brief description of Project] (as more fully described in Annex I hereto, the “Supplement Project”). The estimated budget and payment milestones for the Supplement Project scope of work is attached as Annex II hereto.

MTC will reimburse AGENCY for its actual eligible costs incurred for completed Supplement Project milestones or deliverables described in Annex II hereto.

The Supplement Project work will commence [date], and be completed no later than _____, 20__.

The clauses selected below and attached as exhibits to the Master Funding Agreement shall apply to AGENCY’s performance of the applicable Supplement Project scope of work hereunder:

- ☐ Exhibit B-1, Additional Terms and Conditions (General), Paragraph A
- ☐ Exhibit B-1, Additional Terms and Conditions (General), Paragraph B
- ☐ Exhibit B-2, Additional Terms and Conditions (Federally Required Clauses)
- ☐ Exhibit B-3, Additional Terms and Conditions (State Required Clauses)
- ☐ Exhibit B-4, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Non-Federally-Funded Agreements)
- ☐ Exhibit B-5, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Federally-Funded Agreements)
- ☐ Exhibit B-6, Additional Terms and Conditions (Regional Toll Funds including RM1, RM2, and AB1171)
- ☐ Exhibit B-7, Additional Terms and Conditions (Regional Discretionary Federal Funds including STP and CMAQ)

[Insert any additional covenants, conditions, restrictions or reporting requirements that apply to the Supplement Project scope of work or funding source MTC is providing to AGENCY.]

[Describe/attach any MTC or AGENCY resolutions, authorizations or approvals, or any other key documents, relevant to the applicable Project scope of work or funding source MTC is providing to AGENCY.]

The MTC Project Manager for the Supplement Project is [name, telephone, email]. The AGENCY Project Manager for the Supplement Project is [name, telephone, email].

This Supplement is supplemental to the Master Funding Agreement; all terms and conditions of the Master Funding Agreement, as may be amended, remain unchanged hereby.

Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Master Funding Agreement.

**METROPOLITAN TRANSPORTATION
COMMISSION**

CITY OF PALO ALTO

Therese W. McMillan, Executive Director

Ed Shikada, City Manager

EXHIBIT B-1

ADDITIONAL TERMS AND CONDITIONS (GENERAL)

A. INSURANCE REQUIREMENTS

AGENCY shall, at its own expense, obtain and maintain (and/or cause its subconsultant(s) to obtain and maintain, as applicable) the types of insurance and financial security listed (if any) in the applicable attachment or exhibit to the relevant Supplement against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under such Supplement, and in effect at all times for the duration of such Supplement. All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A- or better with a Financial Size Category of VIII or better, or as otherwise specified in the applicable Supplement. Notwithstanding anything to the contrary, AGENCY may satisfy the insurance requirements herein utilizing self-insurance providing equivalent coverage.

B. CLAIMS OR DISPUTES

Unless otherwise directed in writing by MTC, AGENCY shall continue performance under this Agreement while any matters in dispute are being resolved. Further, MTC shall pay AGENCY for any undisputed work performed by AGENCY prior to or during the resolution of the matters in dispute. In the event there is a dispute concerning the interpretation of this Agreement or any aspect of the Project that the project managers identified by MTC and AGENCY are unable to resolve, the project manager for either MTC or AGENCY may request that an ad hoc Dispute Resolution Committee ("DRC") be convened to resolve the dispute. The DRC shall consist of two members, one appointed by the MTC Executive Director and the other appointed by the Chief Executive Officer of AGENCY. The responsibility of chairing each ad hoc DRC shall alternate between the agencies, beginning with MTC. Further, disputes between MTC and AGENCY that cannot be resolved by the DRC may be submitted to alternative dispute resolution, as agreed to by the parties. Fees and expenses of the mediator will be borne equally.

EXHIBIT B-2
ADDITIONAL TERMS AND CONDITIONS
(FEDERALLY REQUIRED CLAUSES)

1. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and, for FTA-funded projects, 49 U.S.C. § 5332 and any implementing requirements that FTA may issue. AGENCY agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability or sex, discriminate or permit discrimination against any employee or applicant for employment.

2. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

It is the policy of MTC and the U.S. Department of Transportation to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 Code of Federal Regulations Part 26, can compete fairly for contracts and subcontracts relating to MTC's procurement and professional services activities.

AGENCY shall not discriminate on the basis of race, color, national origin or sex in the performance of the applicable Supplement. AGENCY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of contract, which may result in the termination of the applicable Supplement or this Agreement, or such other remedy as MTC deems appropriate.

3. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21). For FTA-funded projects, AGENCY further agrees to comply with the current FTA Circular 4702.1A, "Nondiscrimination Guidelines for FTA Recipients," the U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations, and the U.S. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons.

4. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

5. STATE ENERGY CONSERVATION PLAN

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

6. ALLOWABILITY OF COSTS

AGENCY shall comply with the cost principles (as applicable) in Office of Management and Budget (OMB) Circulars A-87, or A-122, or 48 Code of Federal Regulations Chapter 1 Part 31, or 49 Code of Federal Regulations Part 18, or in 2 Code of Federal Regulations Parts 200 and 1201, as applicable. In addition, all subcontracts must be in accordance with 2 Code of Federal Regulations Part 200, as applicable, MTC's funding agreement with DOT and any regulations, guidelines and circulars of DOT, applicable as a result of such funding agreement. Further, all subconsultants shall agree to comply with 48 Code of Federal Regulations, Chapter 1, Part 31.

7. LICENSE FOR FEDERAL GOVERNMENT PURPOSES

FTA/FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under the applicable Supplement; and (b) any rights of copyright to which MTC or AGENCY purchases ownership under the applicable Supplement.

8. IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of the applicable Supplement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the: **[select appropriate agency]** Federal Transit Administration/Federal Highway Administration, U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."

9. AUDITS

AGENCY agrees to grant MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives access to AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to the applicable Supplement, for the purpose of making an audit, examination, excerpt and transcription during the term of the applicable Supplement and for the period specified in Article 14. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. If, as a result of any audit, it is determined by the auditor that reimbursement of any costs including profit or fee under the applicable Supplement was in excess of that

represented and relied upon during price negotiations or represented as a basis for payment, AGENCY agrees to reimburse MTC for those costs within sixty (60) days of written notification by MTC.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subrecipient agrees that MTC the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subrecipient for the term specified above.

10. FLY AMERICA REQUIREMENTS.

AGENCY agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301 - 10, which provide that recipients and subrecipients of Federal funds and their consultants are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property to the extent such service is available, unless travel by foreign air carrier is a matter of necessity as defined by the Fly America Act. AGENCY shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements, if used. AGENCY agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

11. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS.

A. AGENCY acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, AGENCY certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Supplement or the FTA assisted project for which work is being performed under the applicable Supplement. In addition to other penalties that may be applicable, AGENCY further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on AGENCY to the extent the Federal Government deems appropriate.

B. AGENCY also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the

penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on AGENCY, to the extent the Federal Government deems appropriate.

C. AGENCY agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

12. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

MTC and AGENCY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the applicable Supplement or this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to MTC, AGENCY or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from this Agreement.

13. DEBARMENT

This Article is only applicable if the applicable Supplement exceeds \$25,000. AGENCY certifies that neither it, nor any of its participants, principals or subrecipients is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 2 CFR Parts 180 and 1200, by any Federal agency or department.

14. CLEAN AIR AND WATER POLLUTION ACTS

This Article is only applicable if the applicable Supplement exceeds \$100,000. AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

15. LOBBYING

This Article is only applicable if the applicable Supplement exceeds \$100,000. AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

Attachments:

Attachment A – Federally Required Certifications (AGENCY shall either provide these certifications to MTC or shall provide copies of such certifications AGENCY has independently made to the Federal Government.)

EXHIBIT B-2**ATTACHMENT A****FEDERALLY REQUIRED CERTIFICATIONS****CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS****Instructions for Certification:**

1. **By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MTC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MTC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact MTC for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MTC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction”, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MTC may pursue available remedies including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its “principals” [as defined at 49 C.F.R. Section 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date

(signature of authorized official)

(type/print name and title)

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____ hereby certify on behalf of CITY OF PALO that:
ALTO
(name and title of grantee
official)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person 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.

Executed this _____ day of _____, 20__

By:

(signature of authorized official)

(title of authorized official)

EXHIBIT B-3
ADDITIONAL TERMS AND CONDITIONS
(STATE-REQUIRED CLAUSES)

- 1) Attachment A – Fair Employment Practices Addendum
- 2) Attachment B – Nondiscrimination Assurances
 - a. Appendix A – Clauses to be inserted in every agreement subject to the ACT, as defined in Attachment B of this Exhibit and REGULATIONS, also as defined in Attachment B.
 - b. Appendix B – To be included as covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein
 - c. Appendix C – To be included for subsequent transfer of real property acquired or improved under federal-aid Program
 - d. Appendix D – To be included for the construction or use of or access to space on, over, or under real property acquired or improved under the federal-aid Program
- 3) Attachment C – State Department of Transportation Requirements

EXHIBIT B-3**ATTACHMENT A****FAIR EMPLOYMENT PRACTICES ADDENDUM**

1. In the performance of the applicable Supplement, AGENCY shall not discriminate against any employee for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g. cancer), age (over 40), marital status, and denial of family care leave. AGENCY shall 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. 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. AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 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 the applicable Supplement by reference and made a part hereof as if set forth in full. Each of the 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. AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the applicable Supplement.

4. AGENCY shall 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 the applicable Supplement.

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 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 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 the applicable Supplement 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 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 AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure AGENCY's breach of the applicable Supplement.

EXHIBIT B-3**ATTACHMENT B****NONDISCRIMINATION ASSURANCES**

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 AGENCY receives federal financial assistance from the Federal Department of Transportation. AGENCY HEREBY GIVES ASSURANCE THAT AGENCY shall promptly take any measures necessary to effectuate the applicable Supplement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That 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 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: AGENCY hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority 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 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 affecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where 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 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 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 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 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 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 AGENCY retains ownership or possession of the property.

9. That 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 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 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. 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. AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of STATE assisted contracts. The California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies is incorporated by reference in the applicable Supplement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the applicable Supplement. Upon notification to the recipient of its failure to carry out the 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 (31 USC 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 AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO ATTACHMENT B

(Clauses to be inserted in every agreement subject to ACT and REGULATIONS)

During the performance of the applicable Supplement, AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as AGENCY) agrees as follows:

(1) Compliance with Regulations: 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 the applicable Supplement.

(2) Nondiscrimination: 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. 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 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 AGENCY of the AGENCY's obligations under the applicable Supplement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to 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 AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts AGENCY has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of AGENCY's noncompliance with the nondiscrimination provisions of the applicable Supplement, 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 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: 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.

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 AGENCY becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO ATTACHMENT B

To be included as covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein)

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 AGENCY shall 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 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 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 AGENCY, its successors and assigns.

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 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 ATTACHMENT B

(To be included for subsequent transfer of real property acquired or improved under federal-aid Program)

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by AGENCY, pursuant to the provisions of Assurance 7(a) of Attachment I-2.

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, 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, 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 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 ATTACHMENT B

(To be included for the construction or use of or access to space on, over, or under real property acquired or improved under the federal-aid Program)

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by AGENCY, pursuant to the provisions of Assurance 7 (b) of Attachment I-2.

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, 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, 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 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.

EXHIBIT B-3**ATTACHMENT C****STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS****Caltrans Non – Discrimination**

A. In the performance of work undertaken pursuant to the applicable Supplement, AGENCY shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.

B. AGENCY shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. AGENCY shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 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 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into the applicable Supplement by reference and made a part hereof as if set forth in full.

C. Each of AGENCY's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. AGENCY shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under the applicable Supplement.

D. AGENCY shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to the applicable Supplement by this reference. Wherever the term "Contractor" appears therein, it shall mean AGENCY.

E. AGENCY shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

EXHIBIT B-4
ADDITIONAL TERMS AND CONDITIONS
(PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS
NON-FEDERALLY FUNDED AGREEMENTS)

AGENCY's contractor(s) and all subcontractors shall comply with applicable sections of the California Labor Code and regulations promulgated thereunder (including without limitation, Sections 1720 *et seq.* and Title 8 of the California Code of Regulations Sections 16000 *et seq.*) governing the payment of prevailing wages, as determined by the Director of the California Department of Industrial Relations, in regards to work performed and/or funded under this Agreement. In particular, AGENCY's attention is drawn to Labor Code Sections 1771 (payment of prevailing wage rate), 1775 (penalty for non-payment), 1776 (payroll records), and 1777.5 (use of apprentices). AGENCY's contractor(s) and all subcontractors, to the extent the work of such contractor(s) and subcontractors under this Agreement are subject to California Labor Code Section 1720 *et seq.*, shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and shall furnish electronic certified payroll records directly to the Labor Commissioner through the internet portal of the Division of Labor Standards Enforcement. Per Master Funding Agreement Article 12.0, Records and 13.0 Audits, MTC reserves the right to request copies of the certified payroll records.

EXHIBIT B-5
ADDITIONAL TERMS AND CONDITIONS
(PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS
FEDERALLY FUNDED AGREEMENTS)

The Additional Federal Clauses Applicable to Public Works included in Attachment A, attached hereto and incorporated herein by this reference, and the Davis-Bacon prevailing wages apply to work performed and/or funded under the applicable Supplement. AGENCY agrees that AGENCY will require its contractor(s) and all subcontractors will pay the higher of (i) the applicable wage set forth in Federal Wage Determinations, and (ii) the applicable California prevailing rate. Certified payroll records in the form set forth in the Public Works Payroll Reporting Form, as found at <https://www.dol.gov/whd/forms/wh347.pdf>, shall be prepared or collected from its contractor(s) and all subconsultant(s) on a weekly basis by the AGENCY. Per Master Funding Agreement Article 12.0, Records and 13.0 Audits, MTC reserves the right to request copies of the certified payroll records. MTC may withhold payment if the certified payrolls to be submitted by AGENCY pursuant to this Exhibit B-5, Prevailing Wage Rates, Apprenticeships, and Payroll Records, are not current.

EXHIBIT B-5

ATTACHMENT A

ADDITIONAL FEDERAL CLAUSES APPLICABLE TO PUBLIC WORKS

1. Buy America
2. Davis-Bacon Act
3. Contract Work Hours and Safety Standards Act
4. Copeland Anti-Kickback Act
5. Prompt Payment of Funds Withheld to Subcontractors

1. Buy America Requirements

Buy America – Attention is directed to the “Buy America” requirements of the surface Transportation Assistance Act of 1982 (Section 165) and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) Sections 1041(a) and 1048(a), and the regulations adopted pursuant thereto. In conformance with the law and regulations, all manufacturing processes for steel and iron materials furnished for incorporation into the work on this project shall occur in the United States; with the exception that pig iron and processed, pelletized and reduced iron ore manufactured outside of the United States may be used in the domestic manufacturing process for such steel and iron materials. The application of coatings, such as epoxy coating, galvanizing, painting, and other coating that protects or enhances the value of steel or iron materials shall be considered a manufacturing process subject to the “Buy America” requirements. A Certificate of Compliance shall be furnished for steel and iron materials. The certificates shall specifically certify that all manufacturing processes for the materials occurred in the United States, except for the above exceptions.

The requirements imposed on AGENCY by the law and regulations do not prevent a minimal use of foreign steel and iron materials if the total combined cost of the materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. The AGENCY or its contractor(s) shall furnish the Engineer acceptable documentation of the quantity and value of the foreign steel and iron prior to incorporation the materials into the work.

Certification requirement for procurement of steel, iron, or manufactured products.

The AGENCY hereby certifies that all manufacturing process for steel and iron materials occurred in the United States, except for the above exceptions.

Signature: _____
Name and Title: _____
Company Name: _____
Date: _____

2. **DAVIS-BACON ACT**

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

3. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Contract Work Hours and Safety Standards Act - (i) The AGENCY's contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the AGENCY's contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

(ii) **Subcontracts** - The AGENCY's contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

4. **COPELAND ANTI-KICKBACK ACT**

Compliance with Copeland Act requirements - The AGENCY's contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

5. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

The AGENCY shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The AGENCY's prime contractor or subcontractor shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating AGENCY's prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

EXHIBIT B-6
ADDITIONAL TERMS AND CONDITIONS
(REGIONAL TOLL FUNDS INCLUDING RM1, RM2, AND AB 1171)

Recitals

WHEREAS, Streets and Highways Code (SHC) Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

WHEREAS, pursuant to SHC Section 31010(b), funds generated in excess of those needed to meet the toll commitments as specified by paragraph (4) of subdivision (b) of Section 188.5 of the SHC shall be available to BATA for funding projects consistent with SHC Sections 30913 and 30914; and

WHEREAS, MTC adopted Resolution No. 3434, Revised, which establishes commitments of bridge toll funds, including such AB 1171 funds, to specific projects and corridors; and

WHEREAS, on November 8, 1988, voters approved Regional Measure 1 (“RM1”), which authorized a standard auto toll of \$1 on the seven state-owned toll bridges in the San Francisco Bay Area to fund various transportation projects within the region; and

WHEREAS, on March 2, 2004, voters approved Regional Measure 2 (“RM2”), increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by \$1.00 to fund various transportation projects within the region that have been determined to reduce congestion or to improve travel in the toll bridge corridors; and

WHEREAS, RM2 established the Regional Traffic Relief Plan and listed specific capital projects and programs and transit operating assistance as eligible to receive RM2 funding as identified in SHC Section 30914(c) and (d). The funding amounts assigned to certain of the programs and projects were subsequently revised by MTC Resolution No. 3801; and

WHEREAS, to the extent the Project is receiving RM2 funding hereunder, SHC Section 30914(c) lists the Project to which this Exhibit B-6 and the applicable Supplement apply as one such eligible transportation project and designates AGENCY as project sponsor; and

WHEREAS, pursuant to MTC Resolution No. 3636, MTC established procedures whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 Bridge Toll funding. A copy of MTC Resolution No. 3636 is attached hereto and incorporated herein as Attachment D, MTC Resolution No. 3636; and

WHEREAS, AGENCY submitted one or more allocation requests for RM2, AB 1171, and/or RM1 funding for the Project to which this Exhibit B-6 applies. A copy of the applicable allocation request(s) as well as AGENCY’s resolution(s) approving the allocation request(s) are attached to the applicable Supplement and incorporated herein as Attachment A, Updated Initial Project Report, and Attachment B, AGENCY Resolution(s), respectively; and

WHEREAS, by the resolution(s) attached to the applicable Supplement and incorporated herein as Attachment A as Attachment C, MTC Resolution(s) Approving Project Request, MTC approved AGENCY's request(s) for the applicable funds for the applicable Project.

I. AGENCY AGREES

A. AGENCY agrees to perform or caused to be performed the activities described in Attachment A, Updated Initial Project Report. AGENCY will provide all necessary staffing and support resources to complete the Project as described in Attachment A, AGENCY agrees to meet all conditions listed in Attachment C, MTC Resolution(s) Approving Project Request.

B. AGENCY shall provide MTC with annual progress reports on or before each July 31 throughout the term of this Agreement in accordance with the monitoring and reporting requirements specified in MTC Resolution No. 3636.

C. AGENCY shall submit invoices to MTC no less than annually, but may submit invoices as frequently as monthly. In either case, AGENCY shall submit an invoice to MTC within thirty (30) days after the end of each period for which payment is sought covering costs for the Project activities accomplished through the end of such period, not covered by previously submitted invoices. Each invoice shall be supported by the following information: (i.) A brief narrative progress report of the activities accomplished during the invoice period, including the percentage of the contract complete and the percentage of funding expended; (ii.) the costs requested for reimbursement with RM1, RM2 and/or AB 1171 funds, as applicable; (iii.) the total costs expended for the invoice period broken down by type and source of funding; (iv.) the total RM1, RM2 and/or AB 1171 funds, as applicable received as reimbursement to date; (v.) the total costs expended for project name to date broken down by type and source of funding; and (vi.) any additional supporting data in a form and detail required by MTC.

D. AGENCY agrees to spend RM1, RM2 and/or AB 1171 funds, as applicable, at a rate not exceeding the schedule attached to the applicable Supplement and incorporated herein as Attachment E, Reimbursement Schedule.

E. AGENCY shall comply with and shall assure that any AGENCY contractor performing Project work with RM1, RM2 and/or AB 1171 funds, as applicable, received under this Agreement complies with MTC Resolution No. 3636, Revised, as well as the provisions of MTC's RM2 Policy Guidance contained in Attachment D, MTC Resolution No. 3636, relative to constructing, operating, and maintaining the Project. MTC may update Resolution No. 3636 from time to time. The AGENCY agrees to comply with the most current Resolution that is approved at any given time.

F. AGENCY is responsible for completing the Project within cost, scope and schedule as described in Attachment A, Updated Initial Project Report, as it may be updated from time to time. Any updates must be approved by AGENCY and MTC in writing before being incorporated into this Agreement.

G. AGENCY certifies that:

- The Project is consistent with the Regional Transportation Plan ("RTP").

- All environmental permits or clearances necessary for the Project have been or will be obtained, and the year of Project funding for the construction phase of the Project has taken into consideration the time necessary to obtain permitting approval for the Project as an operable and useable segment.
- The Project or portion thereof to be funded under this Agreement will be fully funded upon the execution of the applicable Supplement.
- AGENCY has reviewed the Project needs and has adequate internal staffing and support resources to deliver and complete the Project within the cost, scope, and schedule set forth in the Initial Project Report, as updated, attached to the applicable Supplement as Attachment A.
- If applicable to the Project, AGENCY is an eligible sponsor of projects in MTC Resolution No. 3434, Revised.
- If applicable, AGENCY is authorized to submit an application for RM2 funds for the Project in accordance with SHC Section 30914(c).
- If applicable, AGENCY is authorized to submit an application for AB 1171 funds for the Project in accordance with SHC Section 31010(b).
- The Project is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Sections 15000 *et seq.*), and if relevant, the National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*) and the applicable regulations thereunder.
- There is no legal impediment to AGENCY making allocation requests for RM1, RM2 and/or AB 1171 funds, as applicable.
- There is no pending or threatened litigation which might in any way adversely affect the Project or the ability of AGENCY to deliver such Project.

H. In addition to AGENCY's commitment under Article 10, INDEMNIFICATION, of the Master Funding Agreement, AGENCY agrees at its own cost, expense, and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, its Commissioners, representatives, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM1, RM2 and/or AB 1171 funds, as applicable, as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

I. If any revenues or profits from any non-governmental use of the Project are collected by AGENCY, those revenues or profits shall be used exclusively for the public transportation services for which the Project was initially approved, either for capital improvements or maintenance and operational costs, otherwise MTC is entitled to a proportionate share equal to MTC's percentage participation in the Project. MTC's percentage participation shall equal the amount of funds allocated to Project, divided by the total Project budget as shown in Attachment E, Reimbursement Schedule, as updated from time to time, as such amount may be adjusted to reflect total project costs.

J. Project assets purchased by AGENCY with RM1, RM2 and/or AB 1171 funds, as applicable, including facilities and equipment, shall be used for the intended public transportation uses and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for their useful life, MTC shall be entitled to a present day value refund or credit (at MTC's

option) based on MTC's share of the fair market value of the facilities and equipment at the time the public transportation uses ceased, which sum shall be paid back to MTC in the same proportion that RM1, RM2 and/or AB 1171 funds, as applicable, were originally used.

K. AGENCY shall post on both ends of the Project construction site(s), unless prohibited by the site owner if such owner is not the AGENCY, at least two signs visible to the public stating that the Project is funded with RM1, RM2 and/or AB 1171 funds, as applicable.

L. AGENCY's City Manager, General Manager, Executive Director, Chief Executive Officer, or equivalent officer, or designee, is delegated the authority to make non-substantive changes or minor amendments to the initial project report as he/she deems appropriate; otherwise, Article 7, AMENDMENTS, of this Agreement applies.

M. AGENCY agrees to comply with the provisions of MTC Resolution No. 3636, Revised, and the MTC Resolutions set forth in Attachment C, MTC Resolution(s) Approving Project Request.

II. MTC AGREES

A. MTC agrees to provide AGENCY with RM1, RM2 and/or AB 1171 funds, as applicable, within the allocation amounts in Attachment C, MTC Resolution(s) Approving Project Request and as restated in the relevant Supplement for the purpose of funding the Project as described in Attachment A.

The entire funding amount is available for reimbursement based on the schedule included in Attachment E, Reimbursement Schedule, to the applicable Supplement. In addition, if applicable, MTC agrees to support AGENCY's allocation request from the State according to the Allocation Request Schedule provided in Attachment F to the applicable Supplement.

In the event AGENCY does not use all RM1, RM2 and/or AB 1171 funds, as applicable, made available in a given fiscal year, those unused amounts will be available for reimbursement in subsequent year(s) for the duration of this Agreement.

III. IT IS MUTUALLY AGREED

A. MTC may terminate the applicable Supplement, in its sole discretion, for any force majeure event, including but not limited to any earthquake, flood or other natural disaster, any epidemic, blockade, rebellion, war, act of sabotage or civil commotion, fire, explosion or strike, or prolonged economic conditions affecting the ability of the Bay Area Toll Authority to make payments to bond holders who shall in all circumstances have priority to payment of funds, if such event (i) irrecoverably disrupts or renders impossible AGENCY's performance hereunder; or (ii) disrupts MTC's ability to make payments hereunder. If MTC so terminates the applicable Supplement, AGENCY will be entitled to payment for non-recoverable Project costs incurred prior to the date of such termination, including but not limited to any amounts AGENCY owes to the owner of the Project construction sites, if such owner is not AGENCY, up to the maximum amount payable under this Agreement.

B. If AGENCY fails to perform as specified in this Agreement and the applicable Supplement, MTC may terminate the applicable Supplement or this Agreement for cause. Termination shall be effected by

serving a sixty (60) day advance written notice of termination on AGENCY, setting forth the manner in which AGENCY is in default. If AGENCY does not cure the breach or describe to MTC's satisfaction a plan for curing the breach within the sixty (60) day period, MTC may terminate this Agreement or the applicable Supplement for cause. In the event of such termination for cause, AGENCY will be entitled only to those costs incurred for already completed Project work, not to exceed the maximum amount payable under this Agreement for such Project work, however, in no event shall MTC be required to reimburse AGENCY for any costs incurred for work causing or contributing to the default.

C. If the Project is cancelled, suspended indefinitely, or otherwise not completed for any reason, AGENCY shall repay MTC any RM1, RM2 and/or AB 1171 funds, as applicable, expended that exceed MTC's proportionate share of eligible costs for the Project.

D. Upon completion of the Project, AGENCY will properly account for all Project costs incurred.

E. The applicable Supplement shall terminate upon closeout of the PROJECT in accordance with Policies and Procedures in MTC Resolution No. 3636, Revised, or on the termination date, if any, set forth in the Supplement, whichever is sooner.

F. The terms and conditions of this Agreement include the following and each is incorporated by reference herein as if fully set forth herein.

Attachment A – Updated Initial Project Report (Allocation Request)

Attachment B – AGENCY Resolution(s) (and opinion of counsel, if applicable)

Attachment C – MTC Resolution(s) Approving Project Request(s)

Attachment D – MTC Resolution No. 3636, Revised

Attachment E – Reimbursement Schedule

Attachment F – Allocation Request Schedule

EXHIBIT B-7
ADDITIONAL TERMS AND CONDITIONS
(REGIONAL DISCRETIONARY FEDERAL FUNDS INCLUDING STP AND CMAQ)

1. TERMINATION

Notwithstanding Article 8.0, TERMINATION in the Master Funding Agreement, MTC may terminate this Agreement without cause upon ten (10) days prior written notice. If MTC terminates this Agreement without cause, AGENCY shall be entitled to payment for costs incurred for incomplete deliverables, up to the maximum amount payable for each deliverable. If AGENCY fails to perform as specified in this Agreement, MTC may terminate this Agreement for cause by written notice and AGENCY shall be entitled only to costs incurred for work product acceptable to MTC, not to exceed the maximum amount payable under this Agreement for such work product.

2. RETENTION OF RECORDS

AGENCY agrees to establish and maintain an accounting system confirming to GAAP that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs.

AGENCY further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of three (3) years following final payment to AGENCY or four (4) years following the fiscal year of the last expenditure under this Agreement, whichever is longer, in accordance with generally accepted accounting principles. Copies of AGENCY audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

3. AUDITS

Notwithstanding Article 13.0, AUDITS in the Master Funding Agreement, AGENCY agrees to grant MTC, or any agency that provides MTC with funds for the Project, including but not limited to, the U.S. Department of Transportation, FHWA, the Comptroller General of the United States, the State, and their authorized representatives access to AGENCY's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of this Agreement. All documents shall be available for inspection during normal business hours at any time while the Project is underway and for the retention period specified in Article 4.

AGENCY further agrees to include in all its third-party contracts hereunder a provision to the effect that the contractor agrees that MTC, the U.S. Department of Transportation, FHWA, the Comptroller General of the United States, the State, or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, during normal business hours, for the term specified above. The term "contract" as used in this clause excludes agreements not exceeding \$25,000.

4. LICENSE TO WORK PRODUCTS

AGENCY hereby grants to MTC an irrevocable, non-exclusive, royalty-free license to use without restriction and share with any person or entity all drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture, and any other documents, materials, data, and products ("Work Products") developed, prepared, or assembled by AGENCY or AGENCY's consultant(s) or its subconsultants pursuant to this Agreement. MTC may exercise their licenses to Work Products through sublicenses to a

third party, without the approval of AGENCY or AGENCY's consultant(s) or subconsultants. FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which AGENCY or AGENCY's consultant(s) or subconsultants purchase ownership under this Agreement.

5. **EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and 49 U.S.C. § 5332 for FTA-funded projects, AGENCY agrees that it shall not, on the grounds of race, religious creed, color, national origin, age, physical disability or sex, discriminate or permit discrimination against any employee or applicant for employment.

6. **DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

It is the policy of MTC and the U.S. Department of Transportation to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 Code of Federal Regulations Part 26, can compete fairly for contracts and subcontracts relating to MTC's procurement and professional services activities.

AGENCY shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. AGENCY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of contract, which may result in the termination of this agreement or such other remedy as MTC deems appropriate.

7. **TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21).

8. **ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES**

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

9. **STATE ENERGY CONSERVATION PLAN**

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

10. **DEBARMENT**

AGENCY certifies that neither it, nor any of its participants, principals or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

11. CLEAN AIR AND WATER POLLUTION ACTS

AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

12. LOBBYING

AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

13. INDEMNIFICATION

Notwithstanding Article 10.0, INDEMNIFICATION, in the Master Funding Agreement AGENCY shall indemnify and hold harmless MTC, Caltrans, their Commissioners, Directors, officers, agents and employees from any and all claims, demands, suits, loss, damages, injury and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AGENCY, its officers, directors, employees, agents and contractors, or any of them, under or in connection with this Agreement; and AGENCY agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, Caltrans, their Commissioners, Directors, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments.

14. COMPLIANCE WITH LAWS

AGENCY shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state, or local government, and any agency thereof, including, but not limited to MTC, the U.S. DOT, FHWA, the State, and Caltrans, which relate to or in any manner affect the performance of this Agreement. Those laws, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on MTC as an AGENCY of federal or state funds are hereby in turn imposed on AGENCY (including, but not limited to, 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"), and are herein incorporated by this reference and made a part hereof.

AGENCY contractors shall agree to comply with all 48 CFR, Chapter 1, Part 31, Contract Cost Principles and Procedures. In addition, AGENCY certifies that the AGENCY and its contractors shall comply with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code Section 21,000 *et seq.* and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 *et seq.*) and the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321 *et seq.* and the applicable regulations thereunder.

15. IDENTIFICATION OF DOCUMENTS

AGENCY shall ensure that all reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."



City of Palo Alto City Council Staff Report

(ID # 13571)

Meeting Date: 4/18/2022

Title: Revenue-Generating Ballot Measures for Fall 2022: Discuss 2nd-Round Polling Results and Feedback from Community and Stakeholder Engagement Activities; Review and Provide Staff Direction on Finance Committee Recommended Refined Parameters for a Business License Tax and an Affirmation of the Gas General Fund Transfer; and Provide Direction to Staff on Next Steps Including Launch of Third Poll, and Council's Non-Binding Intentions for Allocation of Potential Proceeds

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

The Finance Committee recommends that the City Council receive a progress report on the Community and Stakeholder Engagement Plan and consider the following ballot measures for voter review November 2022:

1. Affirmation of current Gas Utility Transfer at 18% of the gas utility's gross receipts for general government purposes.
2. A Business License Tax with the following characteristics:
 - a. Tax is determined based on a business's occupied square footage in Palo Alto
 - b. Exemption for hotels (businesses that collect and remit Temporary Occupancy Tax)
 - c. Exemption for groceries (requires a given % of sq ft. of food sales to qualify as a grocery)
 - d. Exemption for seasonal businesses operating less than 90 days
 - e. Exemption for first 5,000 sq ft
 - f. Tax rate of \$0.20/sq ft per year
 - g. Tax to be due beginning January 1, 2024
 - h. Three-year phase-in provision: reduced monthly rate of \$0.12/sq ft for calendar year 2024; rate of \$0.15/sq ft for calendar year 2025; and full rate of \$0.20/sq ft beginning calendar year 2026
 - i. Beginning in 2027 and each year thereafter, tax rate to increase by the CPI, capped at 6% per annum with excess CPI carrying over to future years

- j. Confirm that the City's Business Registry program will continue to operate and be required for all businesses except as exempted by the BRC ordinance.
- 3. Recommend the City Council direct staff to proceed with:
 - a. A third round of polling based on the attached outline (Attachment A) and Finance Committee and Council feedback;
 - b. Drafting of ballot question and full ballot measure text (ordinances) in accordance with tables 1 and 2 in this report for a potential Business License Tax and the Affirmation of the current Gas Utility Transfer.

Optionally, drafting a potential non-binding resolution to inform the public of Council's intentions regarding use of the Business Tax proceeds. Staff anticipate providing a draft template of this as supplemental information subsequent to the release of this report.

EXECUTIVE SUMMARY

This report is a continuation of the City Council's discussions exploring revenue generating 2022 ballot measures. The City Council began these community conversations in the spring of 2021 and deliberations continue to evolve based on stakeholder (resident and business) feedback is received. The Finance Committee recommends that the City Council receive a progress report on the Community and Stakeholder Engagement Plan and consider ballot measures for voter review November 2022, including affirming the current Gas Utility Transfer for general government purposes, considering several business license tax characteristics, furthering a third round of polling and drafting ballot questions and full ballot measure text related to the Business License Tax and affirmation of the current Gas Utility Transfer.

The report also captures community and business input gained to date. Extensive communications and community outreach continues. As of April 7, 2022, there were 394 responses (181 online responses and 213 mailed feedback forms, Attachment C). The City's consultant executed a second round of polling of the voter population testing various characteristics and areas the Council identified for feedback from the voters. To date, over 1,200 residents have responded to two phases of survey research online and by phone.

To summarize the community feedback received so far, a few highlights of the 2nd round of poll responses include:

- Respondents identified the following community priorities in priority order:
 - Public safety priorities as important or extremely important: "Improving police response to violent crime," "Improving the speed or reliability of ambulance services," and "Improving police response to property crimes"
 - Affordable housing and homeless services were also priorities, with respondents identifying as important or extremely important: "Expanding outreach to people experiencing homelessness," and "Funding affordable housing"
 - Climate action and grade separations were also priorities.

The online and mailed feedback forms asked residents to prioritize some of the unfunded community investment needs and City service gaps previously discussed by Council and the Finance Committee. The highest priorities for the respondents are consistent with the results of the second poll:

- “Maintaining basic services” was one of the top three priorities
- “Repairing streets/roads” and “Investing in community-owned assets like roads and community centers” were each one of the top three for about 55 percent of respondents
- “Adding public safety services such as police, fire, and emergency medical” was a top three priority for 46 percent of respondents
- This was followed by “Funding affordable housing and homeless services” (34 percent)

BACKGROUND

Staff presented updated analysis and other information for a potential utility on-bill tax at the Finance Committee’s December 7, 2021 meeting ([Agenda Item #2, begins on p. 55, CMR 13728](#)). For continuity of work by the 2021 Finance Committee, the 2021 Committee met on January 18, 2022 to review the third round of analysis of a potential business license tax ballot measure ([Agenda Item #1, p. 3, CMR 13875](#)), along with a report of Initial Polling Results ([Agenda Item #1, p. 31, CMR 13875](#)) and staff’s draft Community Engagement and Outreach Plan.

Following the two meetings with the Finance Committee, discussion on January 24, 2022 with the City Council ([CMR 13770, p. 385 and CMR 13963, p. 462](#)) considered the Finance Committee’s recommendation to further explore a business license tax, develop a proposal for a utility tax, and amend the Ballot Measure Workplan to include three polls, and proceed with staff’s proposed Community and Stakeholder Engagement Plan.

On Monday, March 28, 2022, the Finance Committee Meeting reviewed the [CMR 13981](#) (Attachment B), Revenue Generating 2022 Ballot Measures: Review Feedback from the Ballot Measure Community and Stakeholder Engagement Plan and the Second Round of Polling; Review Draft Ballot Measure Language; and Recommend to Council Further Refinement of Potential Measures Adopting a Business License Tax and Confirming the Gas Utility General Fund Transfer.

DISCUSSION

The following sections in this report cover the status of the Council work on the continued evaluation of potential ballot measures for voter consideration as part of the November 2022 election. It is organized by section as follows:

- Finance Committee report contents, deliberations, and resulting recommendation to the City Council
- Outline of recommended structure of potential ballot measures for Council review, adjustments, and direction
- Council’s intentions (non-binding) for allocation of funding should potential measures

be placed on the ballot and supported by voters, including a draft resolution for consideration

- Outline of the third poll to evaluate public opinion

Finance Committee Deliberations (March 28, 2022)

The Finance Committee spent extensive time reviewing the updated information regarding potential ballot measures for the November 2022 election. Since the City Council's review and direction on January 24, 2022, less than three months ago, staff have continued to work on the workplan approved by the City Council related to ballot measure evaluation. The staff report (Attachment B) includes significant information pertaining to the progress on:

- Implementation of the Community and Stakeholder Engagement Plan
 - Results of the second public opinion poll,
 - Results of the online and mailed feedback survey,
 - Report on the business and community focus groups conducted by the City's consultant, Public Dialogue Consortium;
- Additional analysis of components of a potential Business Tax Measure,
 - Calculations to model impacts of the policy exemptions such as hotels and grocery stores,
 - Refined structure of a potential tax including concurrent management of the Business Registry Certificate Program and CPI calculation options
- Overview of the components of a ballot measure(s)
 - Draft ballot language and ordinance language for affirmation of the Gas Funds Transfer

Staff and its consultants solicited community feedback in February and March on the fiscal sustainability work plan, service priorities and improvements, and potential ballot measures. This was reviewed in detail by the Committee with the results used to assist in informing their deliberations and recommendations to the Council. Staff used several communications channels, including: a utility bill insert, a page in the spring Enjoy! Catalog, a citywide mailer, the Uplift Local electronic newsletter, other electronic newsletters and community e-mail lists, a public landing page on the City's webpage to access all information (www.cityofpaloalto.org/fiscalsustainability), the City Manager's blog and public comments; and social media outreach. Community members were invited to fill out an online feedback form or an identical paper version. As of April 7, 2022, there were 394 responses (181 online responses and 213 mailed feedback forms, Attachment C). The City's consultant executed a second round of polling of the voter population testing various characteristics and areas the Council identified for feedback from the voters. To date, over 1,200 residents have responded to two phases of survey research online and by phone.

For the business license tax, three in five voters support the business license tax concept that was tested (a deference for the first 5,000 square feet occupied plus a \$0.10 per square foot

monthly rate¹). For the affirmation of the Gas Fund transfer, support remains high when voters hear a more detailed explanation of the measure. As noted above, the highest priorities for the respondents of the community feedback survey, both online and mailer, were consistent with the results of the second poll regarding priorities for investments.

The Finance Committee moved the following action for City Council review:

MOTION: Council Member DuBois moved, seconded by Vice Mayor Kou for the Finance Committee to recommend that the City Council consider:

- A. Gas ballot language to include 18% and current uses
- B. Business tax ballot language to include
 - i. Exempt hotels
 - ii. Exempt groceries, require amount of use for food sales
 - iii. Exempt seasonal businesses less than 90 days
 - iv. Require BRC and exempt first 5000 sq ft
 - v. Proposed escalating rate over 3 years starting in 2024 at \$0.12 a sq ft per month, at \$0.15, \$0.20 then CPI capped at 6% per annum with excess CPI carrying over to future years
- C. Recommend the City Council direct staff to proceed with a third round of polling based on Finance Committee and Council's feedback

MOTION PASSED: 3-0

Outline of the recommended structure of potential ballot measures for Council review, adjustments, and direction

The Finance Committee report begins to more formally provide an overview of the components associated with a ballot measure that staff has or will begin working on and are bringing forward for Council consideration as appropriate over the coming months. The two areas of focus for City Council review, deliberation, and direction will be focused on the ballot question (via the third round of polling) and the full text of the measure. Based on the recommended direction from the Finance Committee, the tables below outline the recommended structure for the two potential ballot measures. Staff is seeking City Council review, adjustments, and ultimately direction on the desired structure. This direction will be used for the third round of polling, discussed later in this report, to test the potential ballot questions as well as drafting of the full measure text/ordinance.

Table 1: Summary of Square Footage Business Tax

Tax Imposed	Business License Tax assessed based on square footage, levied on individual businesses who maintain a physical presence within the City
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¹ Various rates were tested to determine public perspective ranging from \$0.05 per square foot per month to \$0.20 per square foot per month. The Main ballot question tested \$0.12 per square foot per month.

Table 1: Summary of Square Footage Business Tax

Disposition of Revenue	Proceeds allocated to the General Fund for general government purposes of the City ('general tax' requires majority voter support); Council may adopt a non-binding resolution stating intentions for using proceeds
Exemptions	<p>The following would be exempt from payment of the tax</p> <ul style="list-style-type: none"> Any organization exempt under federal or California state laws Grocery or Supermarket stores (businesses that are typically identified as "full-service markets" that combine a full range of grocery sales; the measure will specify a minimum percent of occupied space that must be used for the sale of grocery/food items in order to qualify for the grocery exemption) Any hotel operator as defined in PAMC 2.33 (ie, businesses that are required to collect and remit transient occupancy tax) First 5,000 square feet of all businesses Seasonal businesses operating less than 90 days
Method of Calculation	Tax would be measured by square feet (staff is exploring a potential calculation definition such as the total gross square feet as defined in zoning codes)
Rate of Tax and Phase-In	<ul style="list-style-type: none"> Three-year phase in of the tax with the following rates (estimated to begin no later than January 2024): <ul style="list-style-type: none"> Year 1: \$0.12/sq ft per month (\$1.44/sq ft per yr) Year 2: \$0.15/sq ft per month (\$1.80/sq ft per yr) Year 3 and thereafter: \$0.20/sq ft per month (\$2.40/sq ft per yr) Beginning in year 4, annual increase based on Bay Area CPI growth, with a 6% cap per annum and any excess CPI above 6% carrying over to future years Penalties and interest to be assessed for non-compliance
Council Authority	<ul style="list-style-type: none"> Designate authority for the City Council to adjust rates or other provisions in any manner that does not increase the tax. For example: <ul style="list-style-type: none"> Pause in the annual escalation of the tax rate Pause in collection of the tax Reduction in tax rate One-time or ongoing addition of exemptions
Audit Provision	<ul style="list-style-type: none"> Provision of audit authority

This structure reflects the Finance Committee recommendation including exemptions as well as an intent to administer the Business Registry Certificate (BRC) Program concurrently with the potential business license tax, requiring all businesses, including those that occupy less than 5,000 square feet, to register with the BRC and pay a cost-recovery fee of \$50 per year.

The proposed exemption for grocery stores and hotels will reduce the estimated annual generated revenue from a range of \$12 to \$47 million, to \$11 to \$43 million, or approximately 8 percent. As discussed in [Attachment A of CMR 13875, p. 17](#), there are eight grocery stores in the City that were identifiable in the CoStar real estate database, totaling 139,580 square feet. In addition, 1,410,260 square feet comprise addresses in the hospitality category, totaling 30 properties.

Based on the results of the second poll, voters are comfortable with a measure that would increase average monthly rent for a business by up to \$0.10 per square foot (1.5% of rent),² when they are presented with a range of possible monthly rents. As shown in the Finance Committee report, the estimated revenue generated by a monthly \$0.10 per square foot rate is up to \$21.7 million. These estimates continue to reflect gross revenues estimates. There will be administrative costs as well as some likely leakage (revenue lost as the result of system limitations, process control gaps, and/or human errors) that will ultimately reduce these figures.

Business license tax exemptions were tested in the second round of polling with the results supporting an exemption for businesses less than 5,000 square feet will more likely gain support, followed by grocery stores, with retail and hotels being less likely to gain support by voters.

Table 2: Summary of Gas Utility Transfer Affirmation

Purpose of Measure	Voters to affirm the City's past practice of annually transferring from the gas utility an amount up to 18% of gas utility gross revenues to the general fund for general government use.
Disposition of Revenue	Proceeds allocated to the General Fund for general government purposes of the City ('general tax' requires majority voter support)
Method of Calculation	<ul style="list-style-type: none"> Tax would be measured by gross revenues of the gas utility received during the fiscal year two fiscal years before the fiscal year of the transfer The projected cost of the transfer would be included in the City's retail gas rates as part of the cost of providing gas service.

² Based on an assumed rental rate of \$6.96 per square foot per month

Rate	<ul style="list-style-type: none"> An amount equal to 18% of the gross revenues of the gas utility. This measure would confirm the City's past and current practice and would not increase utility rates from current levels.
Council Authority	<ul style="list-style-type: none"> City Council may decide to transfer a lesser amount from voter approved levels

The primary decision points for this measure that the Committee discussed were 1) the percentage of gross revenues to transfer, and 2) whether the ballot question should include specific examples of services funded by the transfer, in addition to "general government uses," which is required language. Transferring 18 percent of gross revenues is consistent with the current transfer. The Committee and staff recommend keeping the measure simple and consistent with measures recently approved in other cities.

Council's intentions (non-binding), Consideration of Allocation of funding should potential measures be placed on the ballot and supported by voters - What will the City do with the tax proceeds?

By law, the proceeds of both potential measures will be placed in the City's general fund, where they can be spent on any general government purposes. Spending decisions will be made each year by the sitting Council. But while today's intentions are not binding on future Councils, the current Council and staff have been actively discussing the fiscal sustainability of the organization and desired and planned uses of the potential revenues and wish to share that thinking with the public. This can be done in many ways, including staff reports, community engagement, and possible adoption of a non-binding Resolution stating Council intentions.

- Most recently in 2019 the City Council priority of Fiscal Sustainability restarted deliberation over establishment of a Business License Tax. The goal of this priority was to continue to make proactive progress towards fiscal sustainability to maintain the quality of life that the City of Palo Alto supports through its services. A tenet of this was a goal of achieving a sound equilibrium balancing our resources, services, and costs, that fiscal sustainability can be achieved. In addition, rail grade separations and affordable housing were identified as significant funding needs.
- The economic impacts associated with the COVID-19 pandemic, and efforts to contain and mitigate the spread of the virus resulted in a \$40 million gap between revenues and expenses in the FY 2021 Adopted Operating Budget. Efforts for a potential tax were halted considering this unprecedented time. Financial ramification of the pandemic resulted in significant reductions in services to the community, capital investment including catch-up and keep-up costs as well as new projects, and concessions from some of the City's bargaining units.
- Adding to revenue challenges, in FY 2021 a local court held that a portion of the City's

longstanding annual transfer of funds from the gas and electric utilities – which has funded general City services such as police, fire, parks and libraries for many decades – could not lawfully continue absent voter approval. While the court ruling is not final and may be appealed, beginning in FY 2022 and future years, the City has prudently adjusted the annual budget to set aside the disputed funds pending resolution of the issue.

- The significant reductions taken in FY 2020 and 2021 will persist on an ongoing basis unless revenues can be brought into alignment with expenses as outlined in the City’s FY 2023-2032 Long Range Financial Forecast; specifically, alternative scenario A which modeled if the City restored all services to pre-covid service levels, reflecting an \$11 million deficit in FY 2023 and deficits until FY 2030.

With this context and the deliberation by the Council and Finance Committee, below describes a framework for considering allocation of funds should the respective ballot measures be placed before voters for consideration.

Affirmation of Gas Utility Transfer

For many decades, Palo Alto gas ratepayers have funded contributions to the City’s general fund to support a variety of City programs and services, including police protection, fire and emergency medical services, local parks, community centers and libraries. The great majority of municipal utilities in California make similar transfers to help fund government services. Indeed, investor-owned utilities also collect funds from ratepayers that are transferred outside the utility; in the case of investor-owned utilities, these funds are paid to investors as profit. In Palo Alto, voters approved the use of some rate revenues for City services in Charter language adopted in the 1950’s. Since then, however, California law has evolved through a series of statewide initiatives and court decisions interpreting those laws. Cities now are required to follow strict procedures on how they set rates and use rate proceeds. In recent years, a group of lawyers launched a series of legal challenges all around the state alleging that the common practice of using utility rate revenues to support general services violates the law as it has evolved. In FY 2021 a local court held that a portion of Palo Alto’s longstanding annual transfer of funds from the gas utility could not lawfully continue absent voter approval. While the court ruling is not final and has been appealed, City leaders believe it is prudent to seek voter affirmation that the City may continue its current and longstanding past practices.

After the court decision in 2021, the City began setting aside the disputed funds pending resolution of the legal challenge. Service reductions were made across the organization – including fire and emergency services, police protection, library hours, and community center programs – fortunately, some of the cuts were slightly mitigated by one-time funding.

As reported in FY 2022 financial status reports and updated FY 2023-2032 Financial Forecasts, staff projects the City will have excess funds beyond required reserve levels in FY 2022. This availability of one-time funds is a result of a quicker than planned recovery pace when

compared to the conservative financial planning Council directed for the FY 2021 and FY 2022 budget processes. Therefore, as reported in financial status updates, it is expected that major tax revenues will be collected above budgeted estimates in FY 2022. It should be noted that this does not reflect a robust recovery; the City continues to show some lag in the pace of recovery compared to neighbors, especially in revenues such as Sales Tax. As discussed in this report, staff have updated the Long-Range Financial Forecast for the FY 2023 financial planning and long-term fiscal sustainability remains constrained.

As part of the FY 2023 Proposed Operating Budget, staff anticipates recommending allocation of the projected one-time excess funds limited-term restoration of services previously eliminated. Services to be reinvested in include areas previously reduced such as police officers, fire services, support for the City's community centers, children's theater productions, library hours, and support for the City's current and long-range planning efforts. However, since these are recommended to be restored with one-time funding, affirmation by the voters through this potential ballot measure is necessary to sustain the ongoing reinvestment of these services, otherwise they will sunset once the one-time funding is fully spent.

Business License Tax Revenues

As outlined above, even prior to the pandemic the City has been evaluating the potential for raising additional revenues to address unfunded needs as identified by the community and Council. Consistently in various public opinion polls, there has been community interest in some form of tax on business activities within Palo Alto.

The business license tax measure is proposed to be a general tax, which means that the proceeds will be placed in the City's general fund for expenditure on any lawful governmental purpose, as determined each year through the City's budget process. If the Council wishes, however, it could inform the public of Council's plans and intentions for uses of the tax proceeds by adopting a Resolution containing this information. A Resolution of this sort could be adopted at any time before or after the November election. It would not be part of the measure placed before the voters, although Arguments For and Against that appear in the Voter Information Pamphlet, could refer to it. Note that a Council Resolution of intention regarding expenditures would not legally bind this Council or future Councils. This is because policies and legislation cannot override the Charter-based authority of the elected Council to determine uses of general funds each year, in whatever way that year's Council determines best serves the public interest. If the Council is interested in such a Resolution, direction is requested regarding the intentions for uses that should be stated in the Resolution.

Based on current feedback, it is recommended that Council consider planning to spend proceeds from a business license tax on enhancing current services or add new services. As the City continues to grow, likely in population as it strives to meet housing development goals, expansion of service capacity will be critical to ensure high quality services to the community. Below are areas identified for investment illustrated as scenarios for Council. If the Council were interested in any of the scenarios or some alternative allocation, while not binding, the

City would take steps in planning to use funds in that manner post affirmation of election and could inform the public of Council's plans and intentions for uses of the tax proceeds by adopting a Resolution containing this information. Major investments:

- *New/enhanced services*: investing in new services such as but not limited to special police teams to support traffic and downtown core safety, robust economic development activities as outlined in the City Council's current Economic Recovery and Transition major projects³, additional emergency medical services including supporting new service delivery models for supporting mental health crisis
- *Investment in transportation*: improving pedestrian, bicyclist, and driver safety and mobility by building separate crossings under train tracks to prevent collisions and improve circulation
- *Investment in affordable housing and services for unhoused³*: supporting community members experiencing homelessness including resources for housing programs as well as renter protection support projects
- *Investment in unfunded Capital Improvements*: investing in projects such as the parks master plan, Palo Alto animal shelter, Cubberley Community Center rehabilitation
- *Investment in the Council's sustainability and climate action³*: investing in protection and adaptation plans reducing carbon emissions

³ City Council approved workplans reviewed on April 4, 2022, agenda item 15, packet page 195.
<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20220404/20220404pccsmamendedlinked1.pdf>

Table 3: Scenarios Illustrating Potential Uses of Business License Tax Proceeds

	Tax Rate: \$0.10/SF Estimated Gross Revenue: \$21M annually	Tax Rate: \$0.20/SF Estimated Gross Revenue: \$43M annually
<i>New/Enhanced Services</i>	\$4M	\$8M
<i>Railroad/Train Crossing Safety</i>	\$7.7M (~\$100M in financed proceeds ⁴)	\$15.4M (~\$100M in financed proceeds ⁴)
<i>Affordable Housing/ Unhoused Services</i>	\$5M financeable &/or pay go	\$10M financeable &/or pay go
<i>Unfunded Capital Improvements</i>	\$2M financeable &/or pay go	\$6.6M financeable &/or pay go
<i>Sustainability & Climate Action: Protection & Adaptation</i>	\$1M	\$2M
<i>Administrative Expenses</i>	\$0.5M-\$1M	\$0.5M-\$1M
These scenarios are not binding. By law, the proceeds of this potential measure will be placed in the City's general fund, where they can be spent on any general government purposes. That decision will be made each year by the sitting Council.		

Outline of the Third Poll to Evaluate Public Opinion

As approved by the City Council, the workplan stipulates a third and final poll for completion in May 2022. This poll is intended to test ballot question language. **Attachment A** provides an outline of the third poll for Council review and direction to complete. Upon that direction, the City's consultant will take the direction, modifications, and inputs from the City Council to finalize the full poll text and expect to launch the poll in early May 2022. Results will be brought back to the City Council in early June for consideration and feedback on further refining of potential ballot measures.

TIMELINE

The City is moving into a new phase of the workplan associated with the potential ballot measures. With the City Council's deliberations and direction in this report, staff will move to a more refined stage with the goal for the Council to consider placement of a ballot measure(s) for voters' consideration at the last Council meeting in June 2022. The calendar outlines the next steps following this item and has been expanded to outline some of the staff and consultant work occurring in between public meetings as the City continues to seek engagement and feedback from stakeholders.

⁴ Staff have used a broad ratio to illustrate the approximate capacity to finance proceeds. This illustration assumes that every \$1 in revenues can lead to financed proceeds of \$13-\$14 assuming a 30-year debt service. This ratio is extremely uncertain and will vary due to economic factors, status of the market, and structure of the debt (e.g. GO Bond, versus lease backed bond, versus revenue bonds) to make a few. It should be used for understanding orders of magnitude for future planning only.

BALLOT MEASURE(S) WORKPLAN TIMELINE

<p>April 2022 ★ TONIGHT</p>	<p><i>City Council:</i></p> <ul style="list-style-type: none"> - Discussion of funding resource/spending allocation - Review Finance Committee work and recommendations based on <ul style="list-style-type: none"> ○ Progress report of the Community and Stakeholder Engagement Plan, including results of: Second round polling, Community wide survey, focus groups, Community Listening Session - Review outlines of ordinance language for the business license tax and the measure to affirm the Gas Funds Transfer - Direction to staff and polling consultant to execute third and final poll: <ul style="list-style-type: none"> - Third poll focus on testing ballot question(s)
<p>May 2022</p>	<p><i>Staff and consultant work:</i></p> <ul style="list-style-type: none"> - Third Round of Polling launched (early May) - Information presentations to local organizations regarding budget and ballots - Drafting of full language for ballot question and ordinances (full measure text) - Continued Community Engagement through <ul style="list-style-type: none"> ○ Additional focus groups specifically reviewing draft language and administration ○ Citywide Newsletter and blog posts
<p>June 2022</p>	<p><i>City Council:</i></p> <ul style="list-style-type: none"> - Receive and review results of third round polling - Review and provide direction on draft full ballot language and ballot questions for potential ballot measure(s) <p><i>Last Council Mtg in June:</i></p> <ul style="list-style-type: none"> - Final Approval of November 2022 Ballot Measures for voter consideration
<p>August 2022</p>	<p><i>Staff work:</i></p> <ul style="list-style-type: none"> - Language submitted to Santa Clara County Registrar of Voters including <ul style="list-style-type: none"> ○ Ballot question(s) (a clear, accurate statement that describes what the measure will do, not to exceed 75 words) ○ Impartial analysis of the measure prepared by the City Attorney ○ Full text of the measure(s) ○ Arguments for and against
<p>November 2022</p>	<p>Election</p>

RESOURCE IMPACT, POLICY IMPLICATIONS

Staff and Consultant Resource Impacts

Implementation of this workplan to develop a revenue generating local ballot measure has and continues to require significant resources that include internal staff, consultant expertise, as well as stakeholder engagement. Resource needs scale proportionately based on the ballot measure option and the complexity of the measure and analysis that staff are directed to pursue. It is important that the scope of the potential ballot measure(s) be clearly defined and effectively narrowed for staff to successfully progress through the workplan.

This initiative has required an equivalent of approximately two full time dedicated staff positions, however, a significant increase in staffing resources including additional focused executive support from the Executive Leadership Team is now required. This has an impact on other projects as this project is prioritized over others and will likely result in delays.

In addition, support is required from outside consultants and engagement with internal stakeholders in key departments. The City Council appropriated funding for this activity as part of the FY 2022 Preliminary 1st Quarter and subsequent actions. Through Council approved budget amendments of \$270,400, additional resources supporting this major project include:

- Community & Stakeholder Engagement: Lew Edwards Group, \$101,695
Council approved on 11/15/2021, CMR [13626](#),
- Public Opinion Polling: Fairbank, Maslin, Maullin, Metz & Associates (FM3), \$113,500
Council approved on 4/4/2022, CMR [14078](#)
- Outside Counsel
- Miscellaneous printing and mailing

Ballot Measure Placement Resource Impact

The Santa Clara County Registrar of Voters estimates that placing two measures on the November 2022 election ballot will cost approximately \$160,000, or \$80,000 each. Appropriation for these funds will be brought forward in the FY 2023 Proposed Budget depending on Council direction.

Ballot Measure Revenue Generation Resource Impact

The revenue generated by a potential ballot measure will be directly impacted by the structure and rates approved by the City Council. As currently recommended by the Finance Committee, the revenue estimates are summarized below:

- *Affirmation of the Gas Utility Transfer: approximately \$7 million, annually*
This would affirm the current practice of inclusion of this expense in the development of gas utility rates and would not increase gas rates beyond existing forecasted changes. Current gas utility rates for residential customers remain below comparators such as PG&E. Additional information on gas rate comparisons can be found in the FY 2023 Gas Utility Financial Plan.
- *Business License Tax: approximately \$11 to \$43 million, annually*

This would establish a new tax and revenue to the City's General Fund where they can be spent on any general government purposes. That decision will be made each year by the sitting Council, however, examples of investments are outlined in the discussion earlier in this report.

STAKEHOLDER ENGAGEMENT

The Ballot Measure Workplan integrates stakeholder engagement through constituent polling and extensive direct stakeholder outreach. Staff has gained valuable input and feedback to date from the City Council, Finance Committee, community members, and the business community.

Per City Council direction, the City has engaged with FM3 to perform polling, Lew Edwards Group for stakeholder engagement planning, and the Public Dialogue Consortium (PDC) for stakeholder engagement. Over the last several months, more than 1,200 residents have responded to two phases of survey research online and by phone, and another 400 have shared their feedback through the mail or on the City's dedicated website at www.cityofpaloalto.org/fiscalsustainability. The City has also conducted a number of community and business focus groups and listening sessions to engage the public and business stakeholders in this important conversation about the City's budget challenges, focus on fiscal sustainability and future service priorities and investments.

In addition to receiving direct feedback on service improvements, City service priorities, the community has expressed strong interest in voter-approved, locally controlled revenue options to maintain services and support residents and businesses alike. Staff will continue to engage stakeholders to gain additional input on this evolving conversation.

ENVIRONMENTAL REVIEW

This activity is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

Attachments:

- **Attachment8.a:** Attachment A - Palo Alto Feasibility Survey Outline, 3rd Poll
- **Attachment8.b:** Attachment B - Ballot Measure Engagement, Draft Measure Language, Refined Analysis_Staff Report 13981
- **Attachment8.c:** Attachment C - Summary of Online Survey Responses



OPINION
RESEARCH
& STRATEGY

TO City of Palo Alto Staff and Council

FROM Dave Metz, Miranda Everitt and Denny Han
FM3 Research

RE: Final Ballot Measure Feasibility Survey Outline

DATE April 4, 2022

This memo outlines our recommended approach for the Palo Alto ballot measure structure survey, anticipating two potential local ballot measures in November 2022. This survey is structured to assess the feasibility of a potential business license tax measure as well as the feasibility of a utility related measure; it will give us information about the interactions in support between the two. Voters will also hear an exchange of pros and cons, modeling in brief the impact of "yes" and "no" campaigns.

1. Survey introduction
2. Cell or landline, safety check
3. Right direction/wrong track (tracking to prior years)
4. Initial vote for a business license tax measure, using 75-word ballot label (rotated)
5. Initial vote for a utility fund transfer measure, using 75-word ballot label (rotated)
6. Willingness to support both measures
7. Test of key potential provisions (e.g. rates, project priorities) – focusing narrowly on those not previously tested
8. Arguments in support of a business license tax measure (will be rotated with opposition messaging)
 - a. Comparison to nearby city rates
 - b. Accountability e.g. audits, public disclosure, local spending
 - c. Investments in public safety through police and emergency services
 - d. Fair share for large businesses vs. local mom-and-pops
 - e. Tax base: Not a tax on homeowners or shoppers and benefit of diversifying the tax base
 - f. Uses of funds other than public safety
9. Re-vote for a business license tax measure after support or opposition messaging alone
10. Arguments in opposition to a business license tax measure (will be rotated with support messaging)
 - a. Inflation
 - b. Loopholes: small and medium businesses will end up paying the most
 - c. Government waste and mismanagement
 - d. Businesses are still struggling to recover from COVID
11. Final vote for a business license tax measure

12. Final vote for a utility fund transfer measure

13. Demographics

- a. Own a business in Palo Alto
- b. Own/rent place of residence
- c. Education
- d. Ethnicity
- e. Gender

14. Voter file information (will not need to ask this)

- a. Party
- b. Age
- c. Past election participation



City of Palo Alto

(ID # 13981)

Finance Committee Staff Report

Meeting Date: 3/28/2022

Title: Revenue Generating 2022 Ballot Measures: Review Feedback from the Ballot Measure Community and Stakeholder Engagement Plan and the Second Round of Polling; Review Draft Ballot Measure Language; and Recommend to Council Further Refinement of Potential Measures Adopting a Business License Tax and Confirming the Gas Utility General Fund Transfer

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

Staff recommends that the Finance Committee:

- A. Receive a progress report on the Community and Stakeholder Engagement Plan and consider the results as the Committee continues to evaluate potential revenue generating ballot measures;
- B. Review, provide feedback, and forward to the City Council: (i) initial draft of the ballot question, and (ii) initial draft ordinance language ratifying the Gas General Fund Transfer;
- C. Review refined calculations of a potential square footage-based business license tax:
 - i. Consider staff's revised proposal to modify "option 3", (a flat fee of \$50 for the first 5,000 square footage occupied and apply a monthly tax rate per square foot beyond the 5,000 threshold with exemptions for grocery stores and businesses subject to the transient occupancy tax) to include an exemption for the first 5,000 square feet of space occupied by a business and administer the Business Registry Certificate (BRC) Program concurrently with the Business License Tax,
 - ii. Recommend to Council a monthly rate per square footage,
 - iii. Review and consider staff's additional refinement for the annual CPI adjustment Council directed previously; and
- D. Recommend the City Council direct staff to proceed with a third round of polling based on the draft ballot language and refined business license tax calculations.

EXECUTIVE SUMMARY

On January 24, 2022, the City Council directed staff to continue preparation of a potential Business License Tax Measure and a Gas Funds Transfer Measure for the November 2022

election ballot. Council direction in January also included development and execution of an additional poll by the City's polling consultant, FM3, and for staff to launch the Community and Stakeholder Engagement Plan. This staff report presents progress of these efforts with the goal of providing the Finance Committee information needed to recommend a Business Tax rate, solidify desired tax characteristics, and to provide guidance to staff on next steps. The following items are discussed in this staff report for discussion and recommendation to the Council:

1. Summary and progress report on the Community and Stakeholder Engagement Plan, which includes:
 - a. A summary of the results of the second poll (**Attachments A and B**),
 - b. Results of the online and mailed feedback survey (**Attachment C**),
 - c. A progress report on the business and community focus groups conducted by the City's consultant, Public Dialogue Consortium (**Attachment D**);
2. Components of a ballot measure(s):
 - a. Business license tax, discussion on ordinance status,
 - b. Measure to affirm the Gas Funds Transfer draft ballot question and ordinance (**Attachment E**); and
3. Business license tax additional analysis

For reference, **Attachment F** of this staff report includes a summary of work done to date on the potential revenue generating ballot measure(s).

BACKGROUND

The Finance Committee serves as the public body to review periodic progress reports and allow for structured public discussion for feedback and recommendations on potential revenue generating ballot measures. The Summary of Prior Work on Potential Ballot Measures can be found in **Attachment F**.

Staff presented updated analysis and other information for a potential utility on-bill tax at the Finance Committee's December 7, 2021 meeting ([Agenda Item #2, begins on p. 55, CMR 13728](#)). For continuity of work by the 2021 Finance Committee, the 2021 Committee met on January 18, 2022 to review the third round of analysis of a potential business license tax ballot measure ([Agenda Item #1, p. 3, CMR 13875](#)), along with a report of Initial Polling Results ([Agenda Item #1, p. 31, CMR 13875](#)) and staff's draft Community Engagement and Outreach Plan.

Following the two meetings with the Finance Committee, discussion on January 24, 2022 with the City Council ([CMR 13770, p. 385 and CMR 13963, p. 462](#)) considered the Finance Committee's recommendation to further explore a business license tax, develop a proposal for a utility tax, and amend the Ballot Measure Workplan to include three polls, and proceed with staff's proposed Community and Stakeholder Engagement Plan. The following is Council's direction to staff and the Finance Committee on January 24th:

- A. Pursue preparation of a square footage business license tax with the following characteristics, as recommended by the Finance Committee:
 - i. Continue to review the rates, adding option 3 (flat fee of \$50 for first 5,000 square footage occupied and apply a monthly tax rate per square foot beyond the 5,000 threshold) as a starting point;
 - ii. Exemptions for businesses subject to the Transient Occupancy Tax and grocery stores;
 - iii. Annual escalator uses CPI as a basis;
- A. Develop a proposal for voter ratification of the existing gas General Fund Equity Transfer and eliminate the UUT option, with exploration of whether to cap growth of the transfer to be explored via polling;
- B. Amend the workplan to three polls, with the second poll developed and executed by the City's polling consultant, and the third to test potential ballot language; and
- C. Launch the Community and Stakeholder Engagement Plan, as outlined in the staff report.

MOTION PASSED 6-1 (Tanaka no)

DISCUSSION & ANALYSIS

Community and Stakeholder Engagement Plan and Second Poll Status and Update

Staff and its consultants engaged the community in February and March to obtain feedback on the fiscal sustainability work plan and potential ballot measures. Staff used over nine (9) communications channels, including: a utility bill insert, a page in the spring Enjoy! Catalog, a citywide mailer, the Uplift Local electronic newsletter, other electronic newsletters and community e-mail lists, a public landing page on the City's webpage to access all information (www.cityofpaloalto.org/fiscalsustainability), and the City Manager's blog and public comments. Community members were invited to fill out an [online feedback form](#)¹ or an identical paper version. As of March 22, 2022, there were 358 responses (174 online responses and 184 mailed feedback forms). In addition, staff executed a second round of polling of the voter population testing various characteristics and areas the Council identified for additional feedback from the voters. Below is a summary of these projects.

Results of Second Round of Polling

In their January 24th meeting, Council directed staff to amend the Ballot Measure Workplan to include an additional poll. The City's consultant, FM3, completed the second poll in mid-March 2022. Over 427 residents responded, an intentional smaller sample than the initial poll, to the survey using emailed online surveys and phone outreach. The survey included questions to test tax concepts in more specificity than the initial poll, clarify spending priorities of the voter population, and test support of multiple measures on the November 2022 ballot. FM3's

¹ <https://us.openforms.com/Form/07db0c33-8339-497b-839b-6aab75e1f635>

presentation of the poll results is in **Attachment A**, and the detailed poll results are in **Attachment B**. FM3 will present **Attachment A** at the committee meeting.

A few highlights of the responses:

- Respondents identified the following community priorities in priority order:
 - Public safety priorities as important or extremely important: “Improving police response to violent crime,” “Improving the speed or reliability of ambulance services,” and “Improving police response to property crimes
 - Affordable housing and homeless services were also priorities, with respondents identifying as important or extremely important: “Expanding outreach to people experiencing homelessness,” and “Funding affordable housing”
 - Climate action and grade separations were also priorities.
- For the business license tax, three in five voters support the business license tax concept that was tested (a deference for the first 5,000 square feet occupied plus a \$0.10 per square foot monthly rate).
 - Voters were comfortable with the concept of increasing the tax representing up to a \$0.10 per square foot monthly rate
 - Likely to support a measure that exempts small-square footage businesses while less likely to support a measure that exempts hotels.
 - Voters are more likely to support the business license tax to fund new investments.
- For the affirmation of the Gas Fund transfer, support remains high when voters hear a more detailed explanation of the measure.
 - Voters are divided on whether they would prefer a measure for new revenue dedicated to new investments or to improving existing services.

Community Feedback Survey (Online and Mailed)

The feedback forms asked residents to prioritize some of the unfunded community investment needs and City service gaps previously discussed by Council and the Finance Committee. The highest priorities for the respondents are consistent with the results of the second poll:

- “Maintaining basic services” was one of the top three priorities
- “Repairing streets/roads” and “Investing in community-owned assets like roads and community centers” were each one of the top three for about 55 percent of respondents
- “Adding public safety services such as police, fire, and emergency medical” was a top three priority for 46 percent of respondents
- This was followed by “Funding affordable housing and homeless services” (34 percent)

The complete results from the online survey, including all written comments, are summarized in **Attachment C**.

Community and Business Focus Groups

Staff and the City's consultant, Public Dialogue Consortium (PDC), kicked off a series of community focus groups in February and continued through March. The focus groups provided information about the City's fiscal sustainability efforts and the two potential ballot measures, allow attendees to ask clarifying questions of staff, and elicit feedback on City service priorities and various aspects of the ballot measures. Staff and PDC conducted five focus groups, four with the business community and one with the community at large. There were 27 attendees in total at the business focus groups representing a range of business perspectives, including the Chamber of Commerce, small retail and restaurants, hotels, major employers in the Stanford Research Park, Stanford University, the Stanford Shopping Center, real estate companies, law firms, and senior housing. The community focus group had six attendees, primarily local nonprofits focused on housing and youth services. A memo from PDC regarding the focus group process and results is included in **Attachment D**.

Some of the key takeaways from the business focus groups included:

- Several attendees expressed concern that the CPI escalator could cause the tax to grow significantly in coming years unimpeded leaving forecasting to be difficult for them and the potential for exponential financial ramifications, especially given current levels of inflation.
- Many attendees expressed a preference for having some certainty about the way the funds would be spent.
- Attendees asked that funds be spent on purposes that benefitted the business community. Police services, economic development, affordable housing, and planning and development services were all listed as priorities.
- There was also feedback that the timing was bad for a new tax. Businesses were still recovering from the pandemic-related economic downturn. The new tax could impact business decisions about their long-term operations as they adjusted to new post-pandemic economic conditions.
- There was minimal feedback on affirming the gas utility transfer, with some attendees saying it sounded reasonable and others saying they did not know enough to have a position.

Feedback from the community focus group emphasized the challenges for the employees of local nonprofits in finding affordable housing and parking, and support for the use of funds for affordable housing.

Components of a Ballot Measure

As the workplan outlining a path for Council evaluation of potential ballot measures for the voter population consideration in November 2022 continues, the below section begins to more formally provide an overview of the components associated with a ballot measure that staff has or will begin working on and are bringing forward for Council consideration as appropriate over the coming months.

For each local measure, the official ballot includes the following:

- a letter designation generated by the County Registrar of Voters;
- the ballot question (a clear, accurate statement that describes what the measure will do, not to exceed 75 words); and
- space for voters to mark their vote for or against.

In advance of the election, registered voters receive a Voter Information Guide that includes additional information, including:

- an impartial analysis of the measure prepared by the City Attorney;
- the full text of the measure; and
- arguments for and against.

The City Council approves the key components of each local measure: the ballot question and the text of the measure. The City Council also will adopt a resolution (which does not become a part of the ballot) calling a local election and sending the measure or measures to the County Registrar of Voters. The current workplan includes Council formal and final action on these items in June 2022. This report includes initial draft of a ballot question and an initial draft of the full text of the measure ratifying the Gas Utility Transfer. A draft of the text for the potential Business License Tax measure as ballot question is being prepared and will be presented at a future meeting. Key concepts that require additional definition are listed here for Committee discussion and direction.

Measure to Affirm the Gas Funds Transfer Draft Ordinance

Staff has prepared the following initial draft ballot question:

Shall the measure affirming the City of Palo Alto's past practice of annually transferring from the City's gas utility an amount up to __% of the gross revenues of the gas utility to the City's general fund for general government use, to be paid for by the retail gas rates and providing approximately \$ _____ annually until ended by voters, be adopted?

This draft is 58 words long, allowing up to 17 additional words. As noted above, many local revenue measures include additional detail on projects and services that may be funded by the measure, such as public safety, emergency response, parks, etc. Committee input on the ballot question is appropriate, though final decisions on this language will not be needed for several months.

The primary decision points for this measure include 1) the percentage of gross revenues to transfer, and 2) the uses to note in the ballot measure question. Transferring 18 percent of gross revenues would be consistent with the current transfer, but as gas rates rise in coming years would exceed the current transfer. In consultation with our legal counsel, this rate must either be based on a flat rate or a percentage and cannot be a blend. Therefore, staff recommend keeping the measure simple and consistent with similar agencies and provide the

voters consideration of a percentage, current practice would reflect an 18 percent of gross revenues. For the Finance Committee’s feedback and consideration, the draft ordinance for the measure can be found in **Attachment E**.

Business License Tax Status of Ordinance

Staff is actively working on a ballot question and full text of the measure for a Business License Tax. Key policy choices regarding the details of the business license tax design were introduced in the January 18, 2022 Finance Committee staff report ([CMR 13875, p. 11 and 28](#)). A summary of the key elements identified and being worked on by staff include:

1. Definition of “business” and various considerations.
2. Definition of square footage occupied.
3. Definition of Grocery Stores or Supermarkets.

Below is a brief status update on these definitions and areas where further definition will be necessary

Definition of Business. Staff expects to align the definition of business with the definition already identified in the Business Registry Certificate Program terms. For seasonal or transitory businesses that occupy square footage and conduct business activity over a short duration (such as seasonal sale lots, special events, concerts, performances, circuses, filming, and party rentals). Staff recommends exempting businesses that occupy space in the City for less than an identified period of time such as 90 days.

Definition of square footage. Staff expects to align with existing examples of other jurisdictions as well as documents already in existence such as lease documents. Some variability and definition will be necessary for ownership versus leased, as well as common space versus shared space usage as well.

Definition of Grocery Stores or Supermarkets. There are multiple ways and varying levels of details in defining a grocery store and this has proved the likely be one of the more complex exemptions under consideration. The Edible Food Recovery Requirements includes a definition of grocery stores as

“a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).”

Staff is also evaluating a definition that may include a numeric threshold for food products, such as “a retail business where at least three-quarters of the floor area open to the public is occupied by food products sold for consumption off-site.”

Participants of the focus groups conducted in March, sought to clarify the definition of grocery stores. Their questions demonstrated that the measure should indicate whether retail stores, including drug stores or convenience marts that sell grocery items, or bakeries that sell baked good onsite, will fall into the grocery store exemption.

Revised Square Footage Business License Tax Modeling

Staff modeled a baseline scenario for a square footage business license tax and three options for the Council's consideration. Council directed the Finance Committee and staff to continue to review rates for a square footage business license tax using Option 3 as a starting point:

Table 1: Summary of Square Footage Business Tax Baseline Model and Options	
Baseline Scenario: No Exemptions <ul style="list-style-type: none"> Excludes properties likely to be exempt per CA law (banks, healthcare, religious, education property types) Est. revenues: \$15M to \$59M 	Option 1: Exemption for Retail (less than or equal to 5,000 sf) and all grocery stores <ul style="list-style-type: none"> Est. revenues: \$14M to \$57M
Option 2: Tiered Rates <ul style="list-style-type: none"> Flat fee for businesses less than or equal to 5,000 sf (\$50/year) For all others, assume monthly rate per square foot Est. revenues: \$14M to \$56M 	Option 3: Tiered Rates After Square Footage Threshold, <u>exempting grocery stores and hotels</u> <ul style="list-style-type: none"> Flat fee for first 5,000 sf (\$50/year) and apply monthly rate/sf beyond threshold Est. revenues \$11M to \$43M

Staff has updated the model for this option to assume exemptions for businesses subject to the City's Transient Occupancy Tax and grocery stores. On further review, staff recommends that the intent of Option 3 be implemented as follows:

1. Exempt the first 5,000 square feet of space occupied by a business
2. Apply the monthly tax rate per square foot (to be determined, between \$0.05 and \$0.20 per square foot) to footage beyond 5,000 square feet (on square foot 5,001, the rate would be applied), and
3. Administer the Business Registry Certificate (BRC) Program concurrently with the potential business license tax, requiring all businesses, including those that occupy less than 5,000 square feet, to register with the BRC at its current rate of \$50 per year.

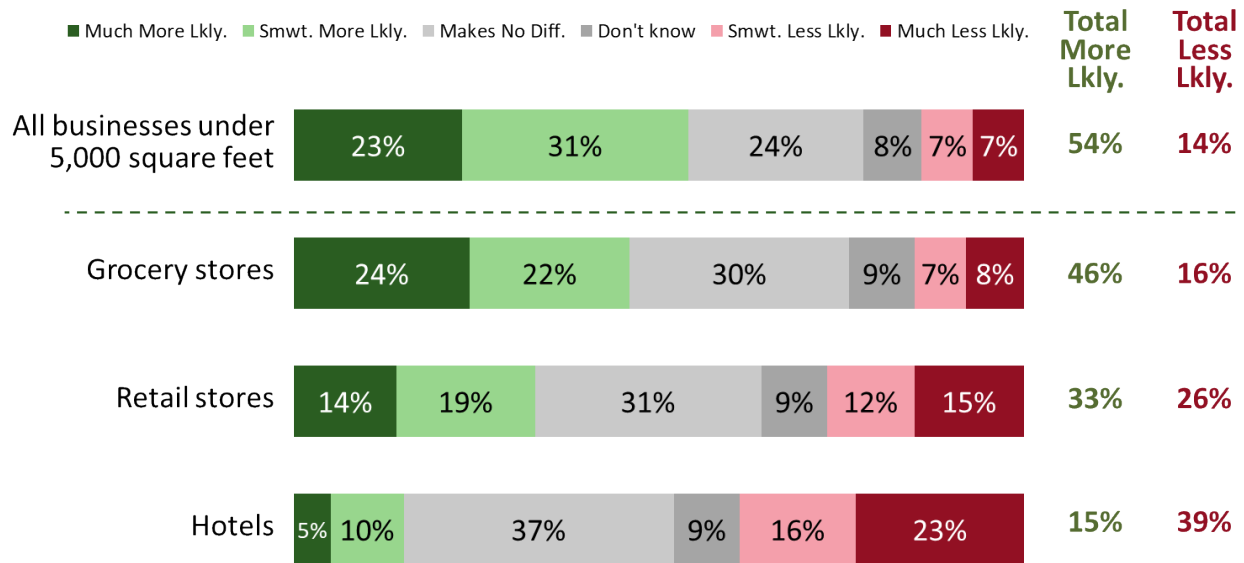
This refined structure decreases estimated business license tax revenue by \$21,000 (see **Table 2** below).

The proposed exemption for grocery stores and hotels reduces the estimated generated revenue from a range of \$12 to \$47 million, to \$11 to \$43 million, approximately 8 percent. Below is a summary table outlining details for the Baseline Scenario and the three options. Option 3 has been revised to exclude grocery stores and properties in the hospitality category. Based on the results of the second poll, voters are comfortable with a measure that would increase average monthly rent for a business by up to \$0.10 per square foot. As shown in **Table 2**, the estimated revenue generated by a monthly \$0.10 per square foot rate is up to \$21.7 million. These estimates continue to reflect gross revenues estimates. There will be administrative costs as well as some likely leakage that will ultimately reduce these figures.

Table 2: Business License Tax Baseline Scenario and Options						
	Property Count	RBA w/ Vacancy	Estimated Annual Revenue Based on Rate per Square Foot (tax rate shown as rate per square foot per month)			
			\$0.05/sf	\$0.10/sf	\$0.15/sf	\$0.20/sf
Option 3: Flat Fee for a Defined Threshold (assumes \$50 for first 5,000 sf) and Apply Monthly Rate Beyond Threshold						
100-5,000 sf	411	1,137,822	\$20,550	\$20,550	\$20,550	\$20,550
5,001-20,000 sf	450	4,171,323	\$1,179,684	\$2,336,604	\$3,493,668	\$4,650,816
20,001-100,000 sf	270	10,675,292	\$5,608,638	\$11,203,848	\$16,799,094	\$22,394,256
100,001+ sf	41	7,007,785	\$4,083,742	\$8,165,374	\$12,247,090	\$16,328,746
Total	1,172	22,992,222	\$10,892,614	\$21,726,376	\$32,560,402	\$43,394,368
<u>Estimated Monthly Fee:</u>						
5,000 sf business			\$4.20	\$4.20	\$4.20	\$4.20
30,000 sf business			\$1,250	\$2,500	\$3,750	\$5,000
100,000 sf business			\$4,750	\$9,500	\$14,250	\$19,000

As discussed in [Attachment A of CMR 13875, p. 17](#), there are eight grocery stores in the City that were identifiable in the CoStar real estate database, totaling 139,580 square feet (see Table A5 in above mentioned staff report). In addition, Table A8 of this staff report lists 1,410,260 square feet for addresses in the hospitality category, totaling 30 properties. The property count for the hospitality properties corroborates the City's transient occupancy tax records.

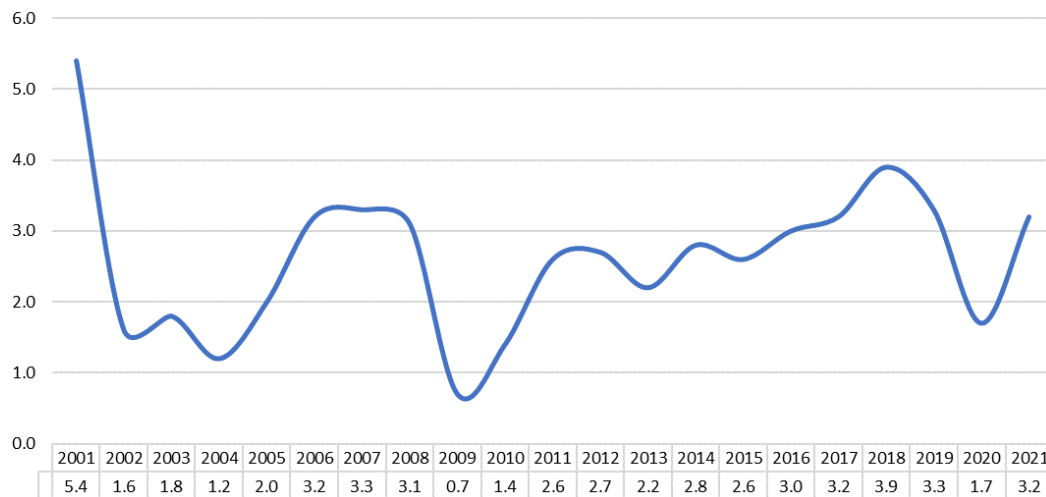
Business license exemptions were tested in the second round of polling (see **Attachment A**) and summarized in Chart 1 below. Based on these results, an exemption for businesses less than 5,000 square feet will more likely gain support, followed by grocery stores, with retail and hotels being less likely to gain support by voters.

Chart 1: Second Round Polling - Exemptions**Options for an Annual Escalator**

To assist in further refining the direction for consideration of a CPI escalator, staff researched the annual CPI for San Francisco-Oakland-Hayward for all urban consumers for the past 20 years. The 20-year average shown in Chart 1 below is 2.6 percent, the highest being 5.4 percent in 2001 (dot.com boom) and the lowest being 0.7 percent in 2009 (Great Recession). The 2021 average CPI was 3.2 percent.

Chart 2:

Annual CPI for All Urban Consumers (CPI-U)



Staff would recommend consideration of a structure similar to recent measures approved by the voters such as the Storm Water fee, which identifies a CPI escalator with a 6% annual cap

on the growth. It should also be noted an alternative found in research done by Matrix Consulting in 2019 (CMR 10655) would be to cap units of measure for a business license tax, rather than capping CPI as some other agencies have done.

Conclusion & Next Steps

The Finance Committee's further refinement of tax characteristics and policy guidance, taking into consideration results from the second round of polling, the community survey, and focus groups, is critical so that staff can continue advancing the Ballot Measure Workplan, as approved by the Council in August 2021. As discussed in this staff report, the Committee's feedback and recommendation to Council of tax characteristics (monthly rate and CPI) and guidance on policy decisions for the ordinance that will be adopted by Council in June are critical at this stage of the process. These further refinements will assist staff in continued planned engagement with stakeholders including more specific feedback both on the measures as well as the administrability of them.

TIMELINE

The below table recaps future items for the Ballot Measure Workplan, as approved by the City Council in August, based on the process and discussion so far, and amended to include a second round of polling.

Ballot Measure Workplan Timeline	
March 2022 ★ TONIGHT	<i>Finance Committee:</i> <ul style="list-style-type: none"> - Progress report of the Community and Stakeholder Engagement Plan, including review of the results for <ul style="list-style-type: none"> ○ Second round poll ○ Community wide survey ○ Focus groups - Review draft ballot questions and ordinance language for the business license tax and the measure to affirm the Gas Fund transfer - Consideration of additional refinements for the potential business license tax proposal

Ballot Measure Workplan Timeline	
April 2022	<i>City Council:</i> <ul style="list-style-type: none"> - Formalized discussion of funding resource/spending allocation - Progress report of the Community and Stakeholder Engagement Plan, including results of <ul style="list-style-type: none"> o Second round poll o Community wide survey o Focus groups o Community Listening Session - Review of draft ballot questions and ordinance language for the business license tax and the measure to affirm the Gas Funds Transfer - Direction to staff and polling consultant to execute final poll: <ul style="list-style-type: none"> o Review of outline for final poll, with a focus to test ballot question(s)
May 2022	Second Round of Polling launched (early May)
June 2022	<i>Council:</i> <ul style="list-style-type: none"> - Results of second round polling reported - Final Approval of November 2022 Ballot Measures, including ballot measure language
August 2022	Language submitted to Santa Clara County Registrar of Voters
November 2022	Election

FISCAL/RESOURCE IMPACT

Implementation of this workplan to develop a revenue generating local ballot measure will require significant resources that include internal staff, consultant expertise, as well as stakeholder engagement. Resource needs will scale proportionately based on the ballot measure option and the complexity of the measure that the Finance Committee and City Council direct staff to pursue. It is important that the scope of the potential ballot measure(s) be clearly defined and effectively narrowed for staff to successfully progress through the workplan.

This initiative has required an equivalent of approximately two full time dedicated staff positions, however, as work continues to progress a significant increase in staffing resources including additional focused executive support from the Executive Leadership Team has begun to ramp up. This will have an impact on other projects. In addition, support is required from outside consultants and engagement with internal stakeholders in key departments. The City Council appropriated funding for this activity as part of the FY 2022 Preliminary 1st Quarter. Additional contracts and/or proposed budget amendments will be brought forward for approval as appropriate.

The Santa Clara County Registrar of Voters estimates that placing two measures on the November 2022 election ballot will cost approximately \$160,000, or \$80,000 each. Appropriation for these funds will be brought forward in the FY 2023 Proposed Budget.

Staff plans to bring forward an amendment to the professional services agreement with Fairbank, Maslin, Maullin, Metz & Associates (FM3) in a separate staff report this spring to include the second round of polling, which requires approval by the City Council, based on contract authority set forth in the Palo Alto Municipal Code. In addition to this, additional outreach for print and mailing would be needed as well.

STAKEHOLDER ENGAGEMENT

The Ballot Measure Workplan integrates stakeholder engagement through constituent polling and stakeholder outreach. Staff, throughout the process and from previous conversations, has solicited input and feedback with the Finance Committee, the City Council, residents, and the business community. The City has engaged with FM3 to perform polling, Lew Edwards Group for stakeholder engagement planning, and the Public Dialogue Consortium (PDC) for stakeholder engagement. Staff received direction to proceed with initial polling at the November 8, 2021 Council meeting and reviewed results with the Finance Committee on January 18 2021 ([CMR 13875](#)). In addition, staff received direction from the City Council at its January 24, 2022 meeting to launch the Community and Stakeholder Engagement Plan, which is currently underway, and received direction for the City's polling consultant, FM3, to develop and execute a second round of polling. This staff report summarizes staff's progress to date of this component of the workplan.

A landing page on the City's website has been created to provide the community and stakeholders information and a variety of ways to engage in this conversation. Please visit www.cityofpaloalto.org/fiscalsustainability for more information.

ENVIRONMENTAL REVIEW

This activity is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

Attachments:

- Attachment A: Palo Alto Ballot Measure Survey Analysis
- Attachment B: Palo Alto Ballot Measure Refinement Survey (Tracking)
- **REMOVED FOR UPDATED VERSION 4/7/22** Attachment C: Summary of Online Survey Responses
- Attachment D: Public Dialogue Consortium Focus Groups Progress to Date
- Attachment E: Draft Ordinance for Measure to Affirm Gas Fund Transfer
- Attachment F: Summary of Prior Work on Potential Revenue Generating Ballot Measures



CITY OF
PALO ALTO






Updating Palo Alto Voter Views of Potential Ballot Measures

*Key Findings of a Survey of Palo Alto Voters
Conducted March 8-14, 2022*



OPINION
RESEARCH
& STRATEGY

Survey Methodology

Dates	March 8-14, 2022
Survey Type	Dual-mode Voter Survey
Research Population	Likely November 2022 Voters in Palo Alto
Total Interviews	427
Margin of Sampling Error	(Full Sample) $\pm 4.9\%$ at the 95% Confidence Level (Half Sample) $\pm 6.9\%$ at the 95% Confidence Level
Contact Methods	 Telephone Calls  Email Invitations  Text Invitations
Data Collection Modes	 Telephone Interviews  Online Interviews

(Note: Not All Results Will Sum to 100% Due to Rounding)

Survey Goals and Approach

BLT and Utility Fund Measures Rotated

Business License Tax

Utility Fund Transfer Ratification

Vote on One, Both, Neither?

Utility Fund Measure Explanation

BLT Amounts and Exemptions

Uses of Funds

Message Blocks Rotated

**Pro-BLT Messages and Re-Vote
Anti-BLT Messages and Re-Vote**

Demographics

- Assess voter reactions to two potential ballot measure concepts: a business license tax and a measure to ratify utility fund transfers.
 - ✓ Voters randomly heard either the BLT or utility measure first.
- Evaluate voters' priorities for uses of funds.
- Check the impact of campaigns for and against the BLT measure specifically. These were also rotated to give us a look at the measure's "floor" and "ceiling."



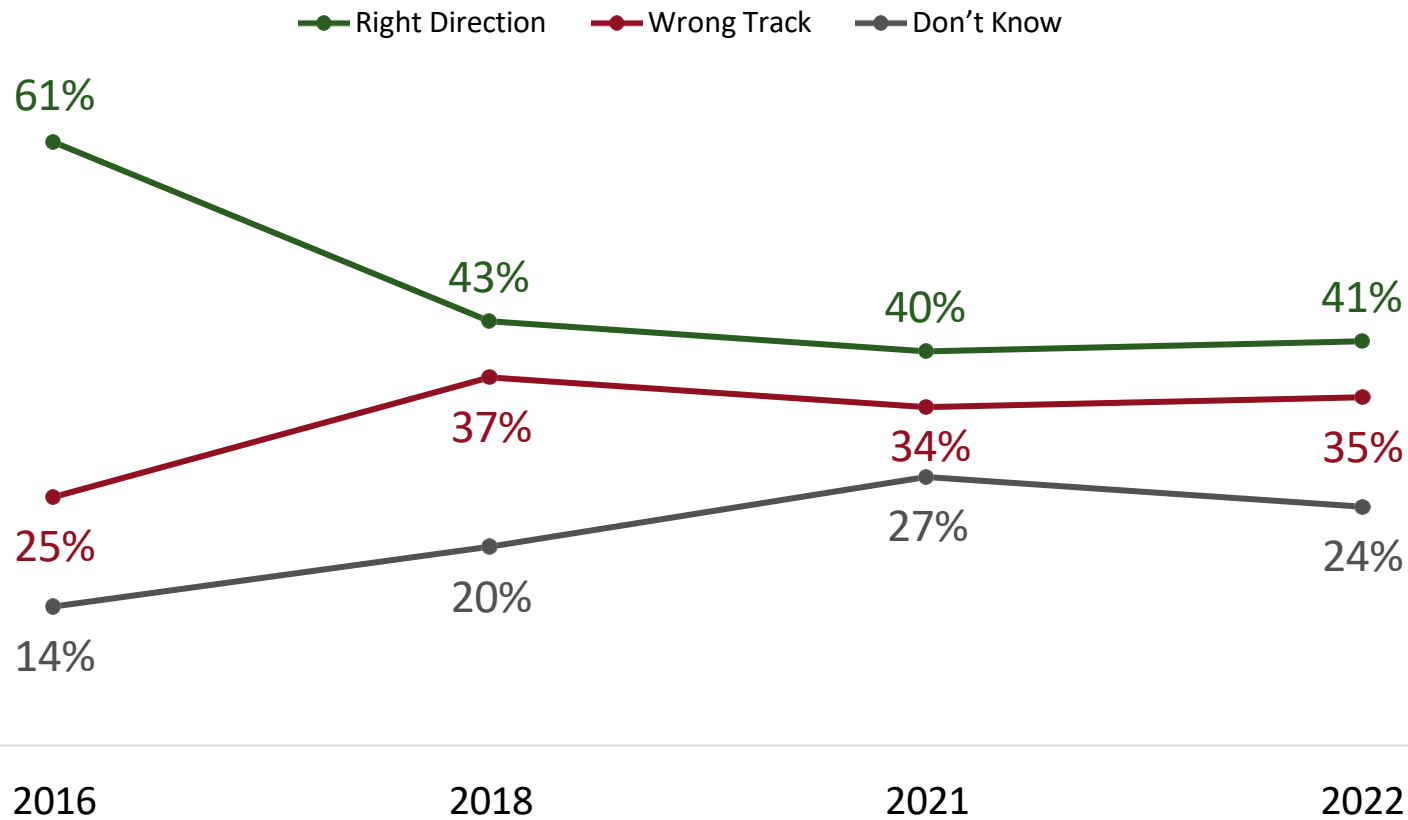
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Context

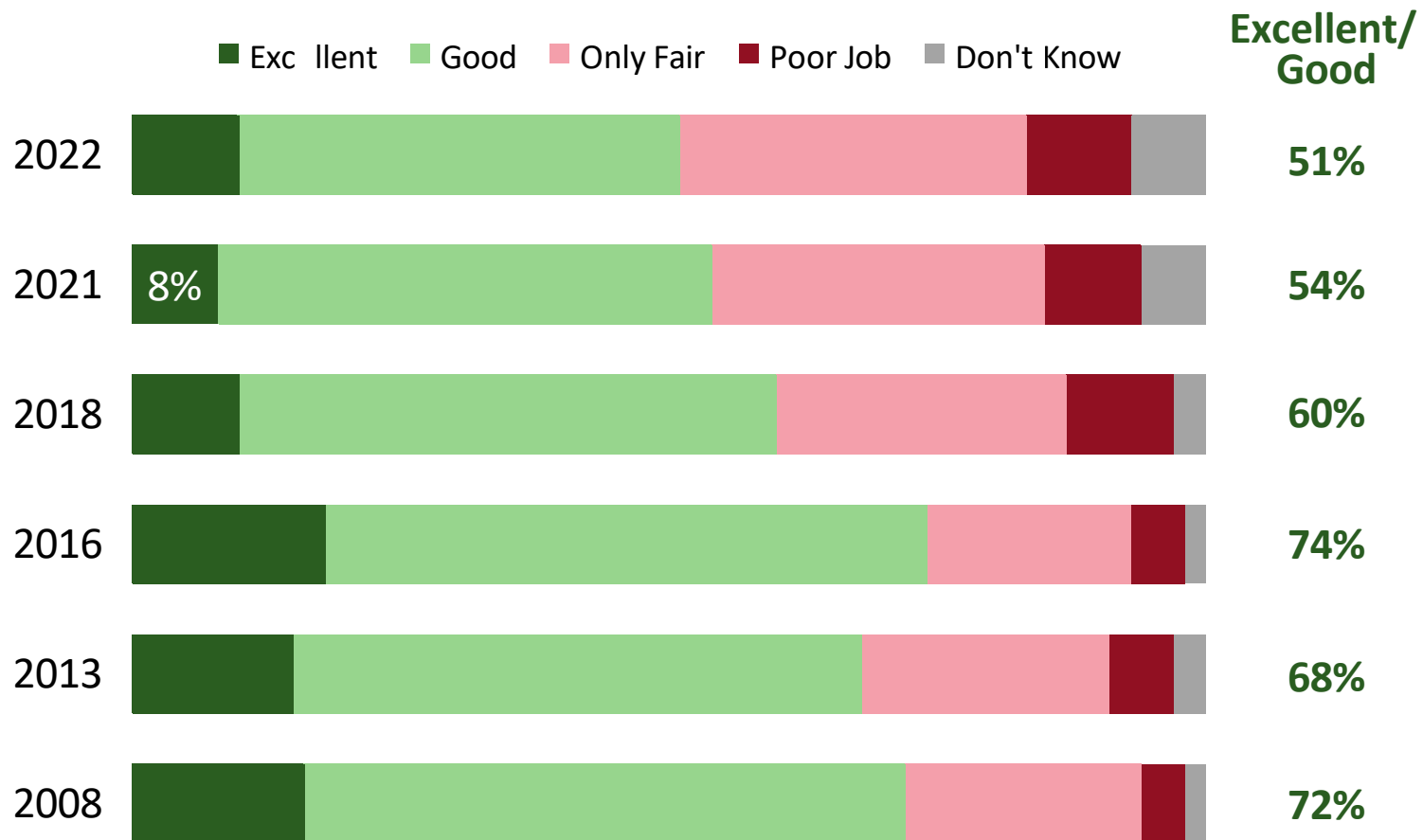
Voters continue to be pessimistic about the direction of the city.

Would you say that things in Palo Alto are generally headed in the right direction, or do you feel that things are headed in the wrong direction?



A majority rates City services as “excellent” or “good” – a slight erosion compared with prior years.

How would you rate the overall job being done by Palo Alto City government in providing services to the city’s residents? Would you say the City is doing an ...?





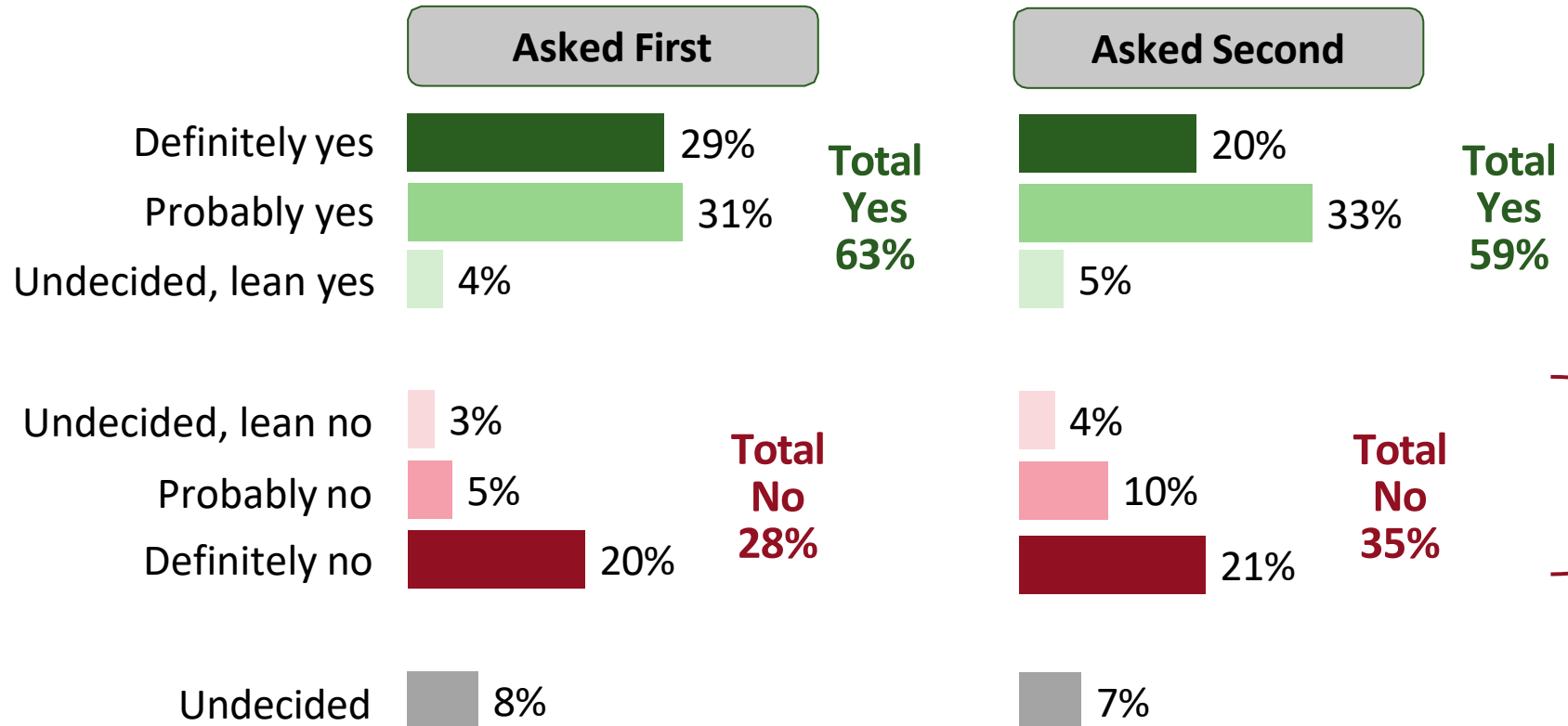
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Voter Views of Ballot Measure Concepts

About three in five support a business license tax conceptually.

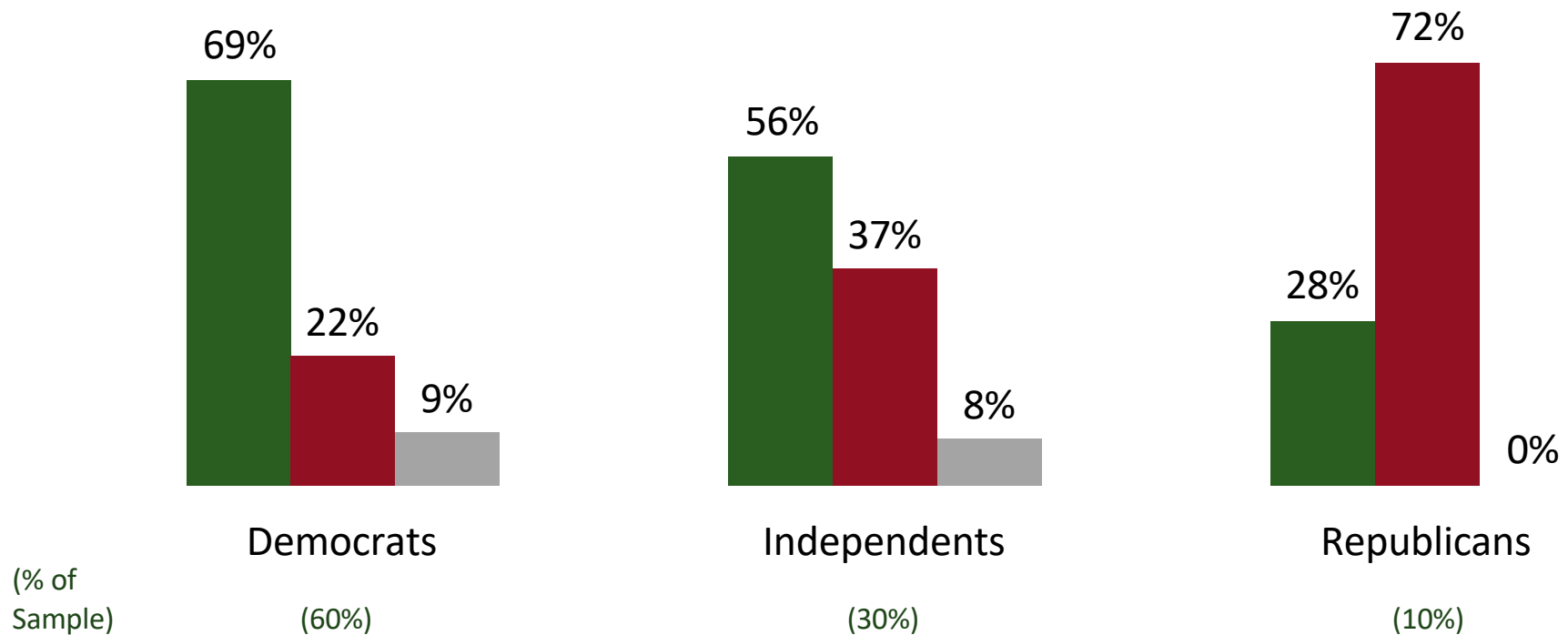
The measure would deal with a business license tax. This measure would create a business license tax on commercial property in the city of \$50 per year for the first 5,000 square feet occupied, plus 12 cents per square foot per month for space occupied over 5,000 square feet, adjusted annually for inflation. The funds would pay for City services such as police, fire and emergency medical services, affordable housing and support for the unhoused, parks and recreation, transportation, the City's climate action plan, and other public services.



Nearly seven in ten Democrats support this measure, as does a majority of independents.

Initial Business License Tax Vote by Party

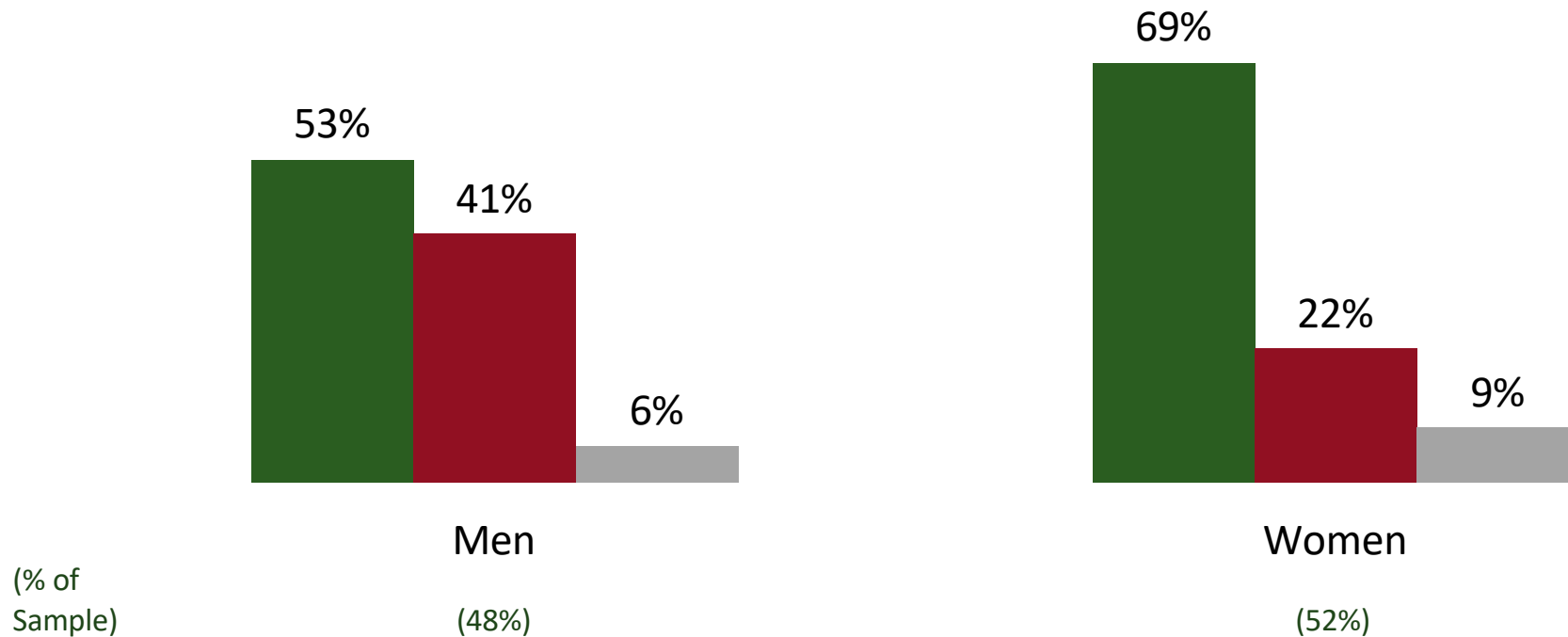
■ Total Yes ■ Total No ■ Undecided



Women are stronger supporters than men, though the measure has majorities across gender lines.

Initial Business License Tax Vote by Gender

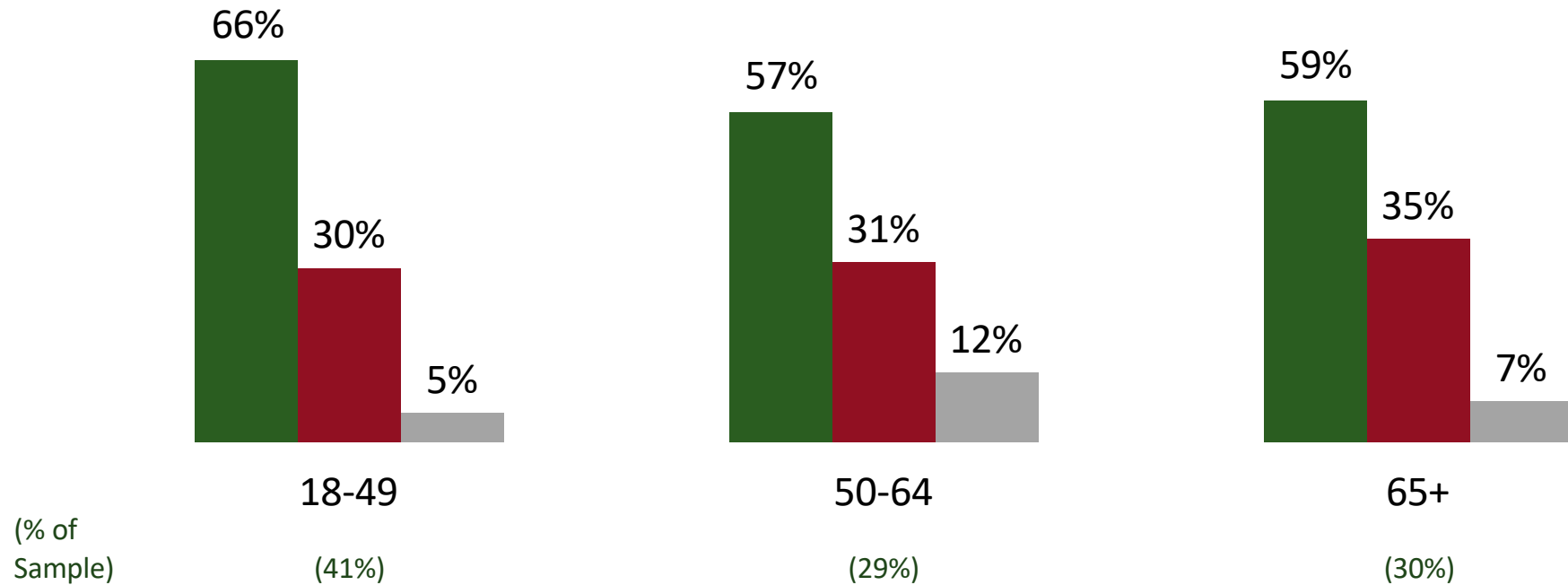
■ Total Yes ■ Total No ■ Undecided



Two-thirds of voters under 50 back the measure, as do nearly three in five over 50.

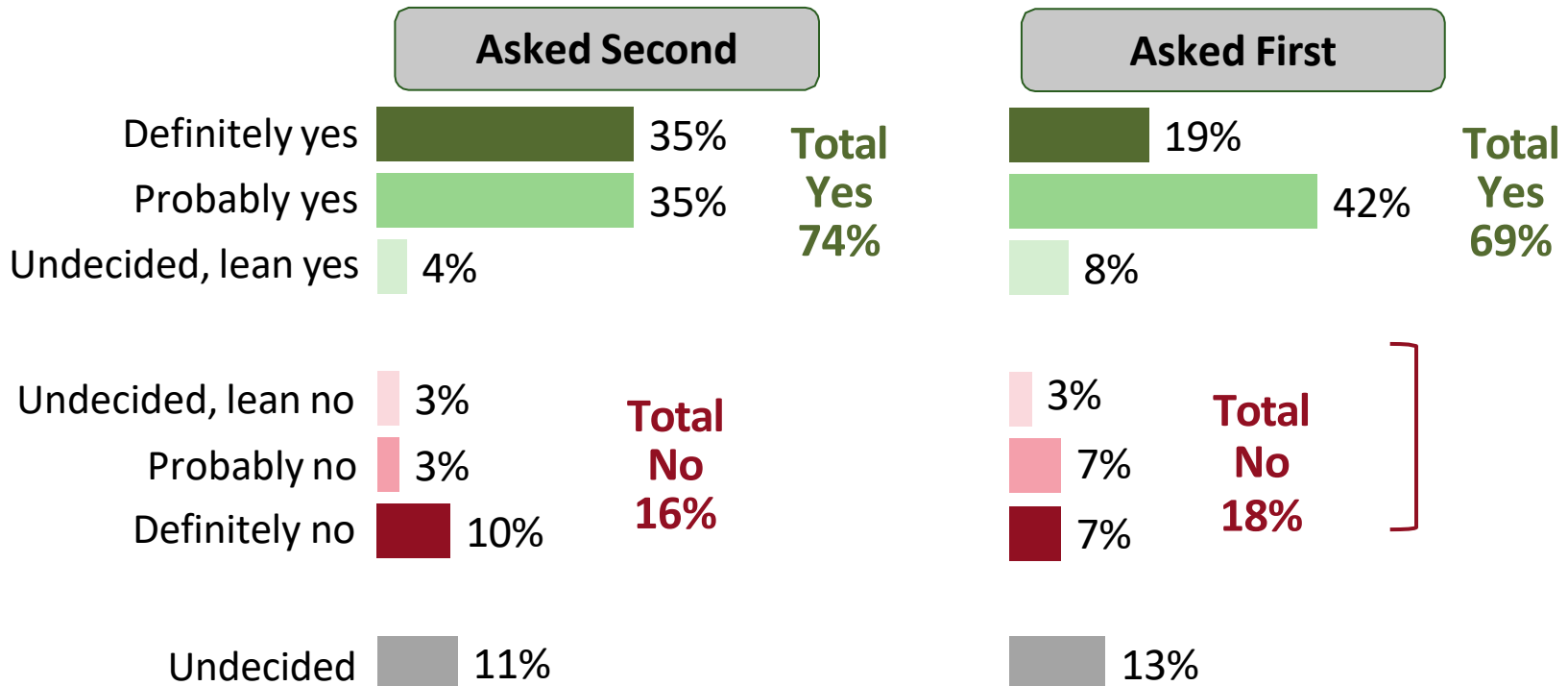
Initial Business License Tax Vote by Age

■ Total Yes ■ Total No ■ Undecided



The utility fund measure has support from at least seven in ten voters.

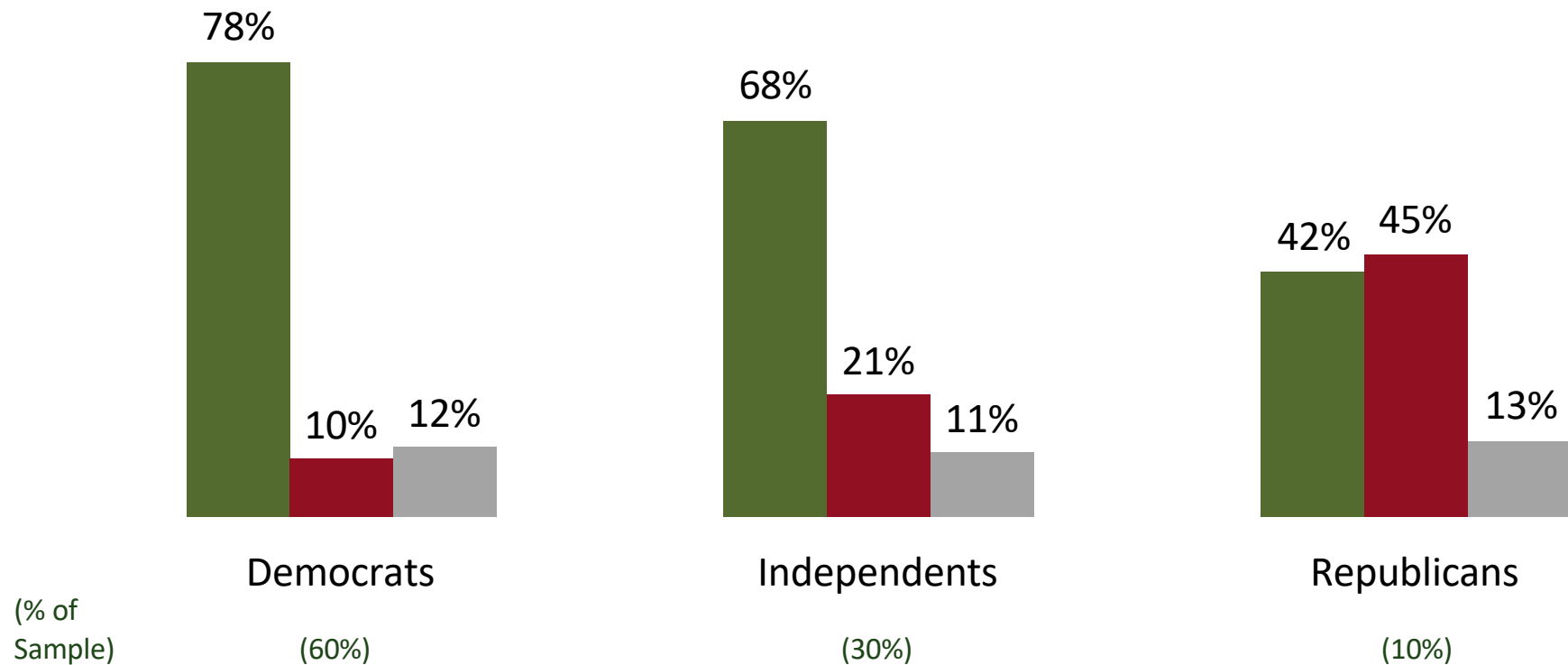
The **FIRST/SECOND** measure would deal with utilities. As you may know, the City of Palo Alto provides natural gas service to residents and businesses. As part of its routine budget practices, the city annually transfers some money from the utility fund to the general City budget which maintains core services. This measure would confirm the existing practice of transferring not more than 18% of City of Palo Alto Utilities' gross annual sales of gas, providing over \$7 million annually to needed investments like police, fire and emergency medical services; affordable housing and support for the unhoused; parks and recreation; transportation; the City's climate action plan; and other public services. This measure would not increase utility rates.



Nearly four in five Democrats and more than two-thirds of independents support it.

Initial Utility Measure Vote by Party

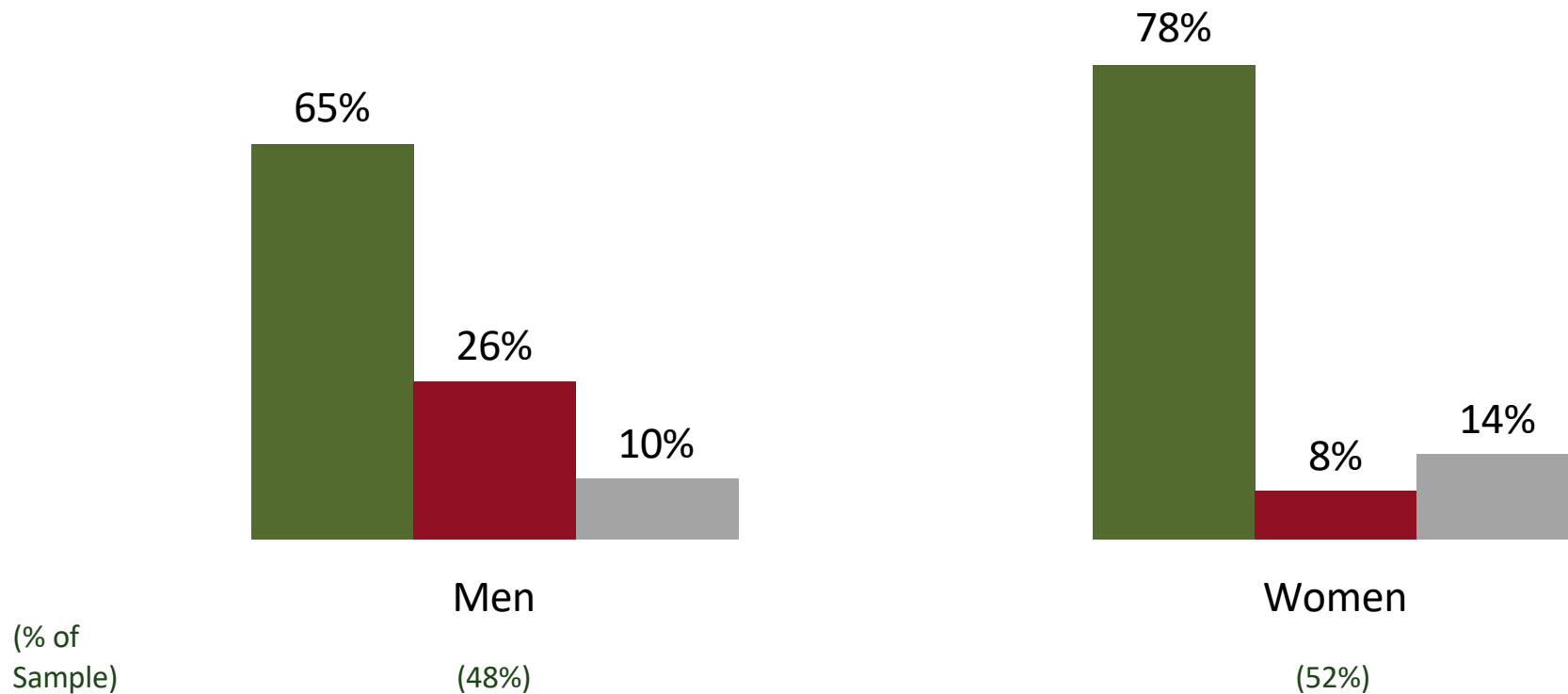
■ Total Yes ■ Total No ■ Undecided



Women support the measure by a 70-point margin.

Initial Utility Measure Vote by Gender

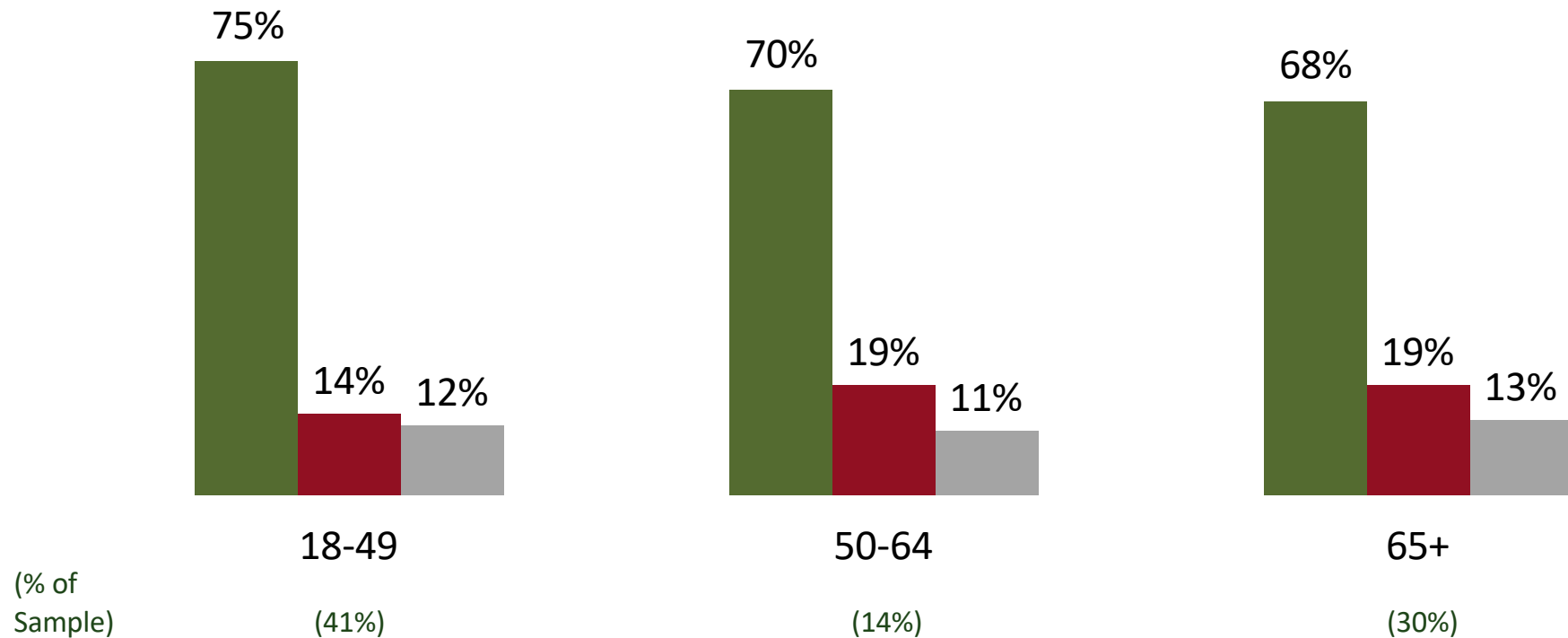
■ Total Yes ■ Total No ■ Undecided



Support is very broad across age categories.

Initial Utility Measure Vote by Age

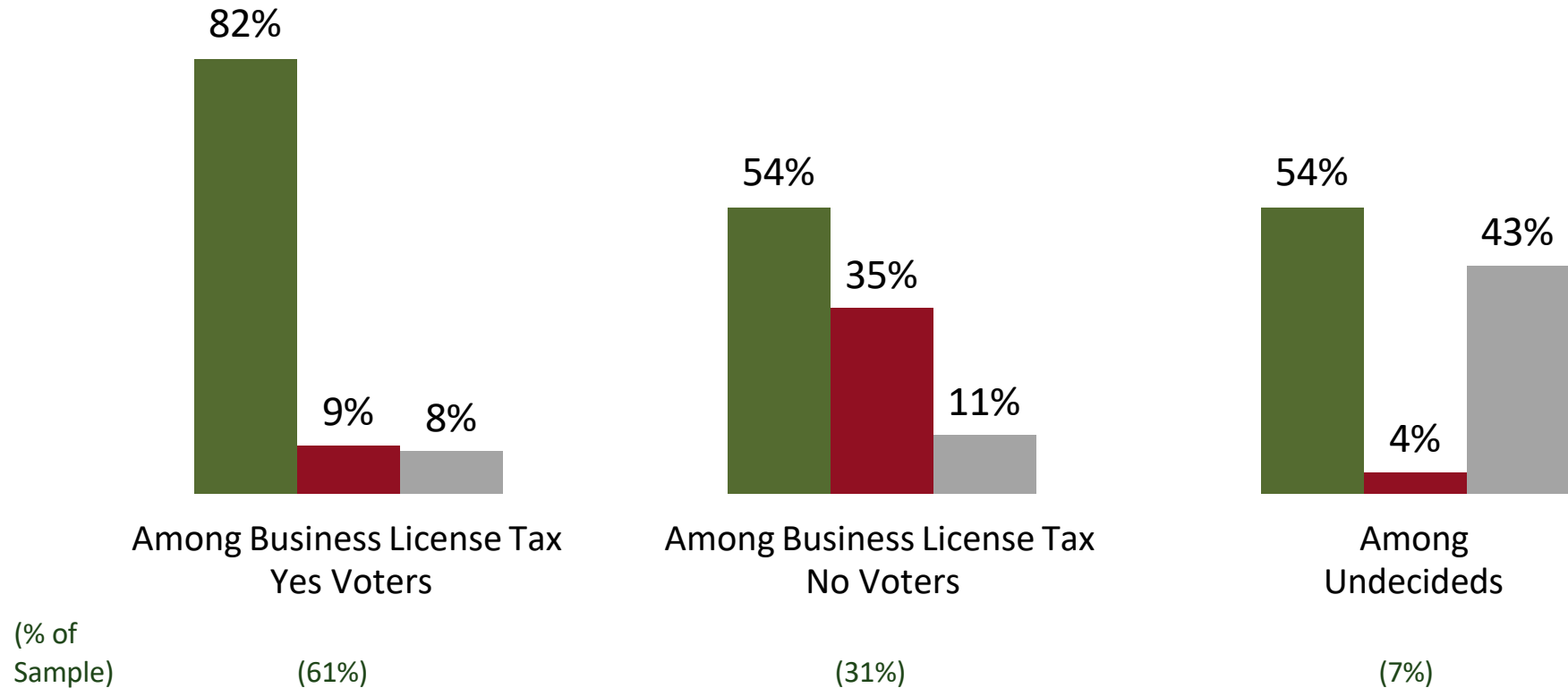
■ Total Yes ■ Total No ■ Undecided



A majority of those voting “no” on the business license tax support the utility measure.

Initial Utility Measure Vote by Initial Business License Tax Vote

■ Total Yes ■ Total No ■ Undecided



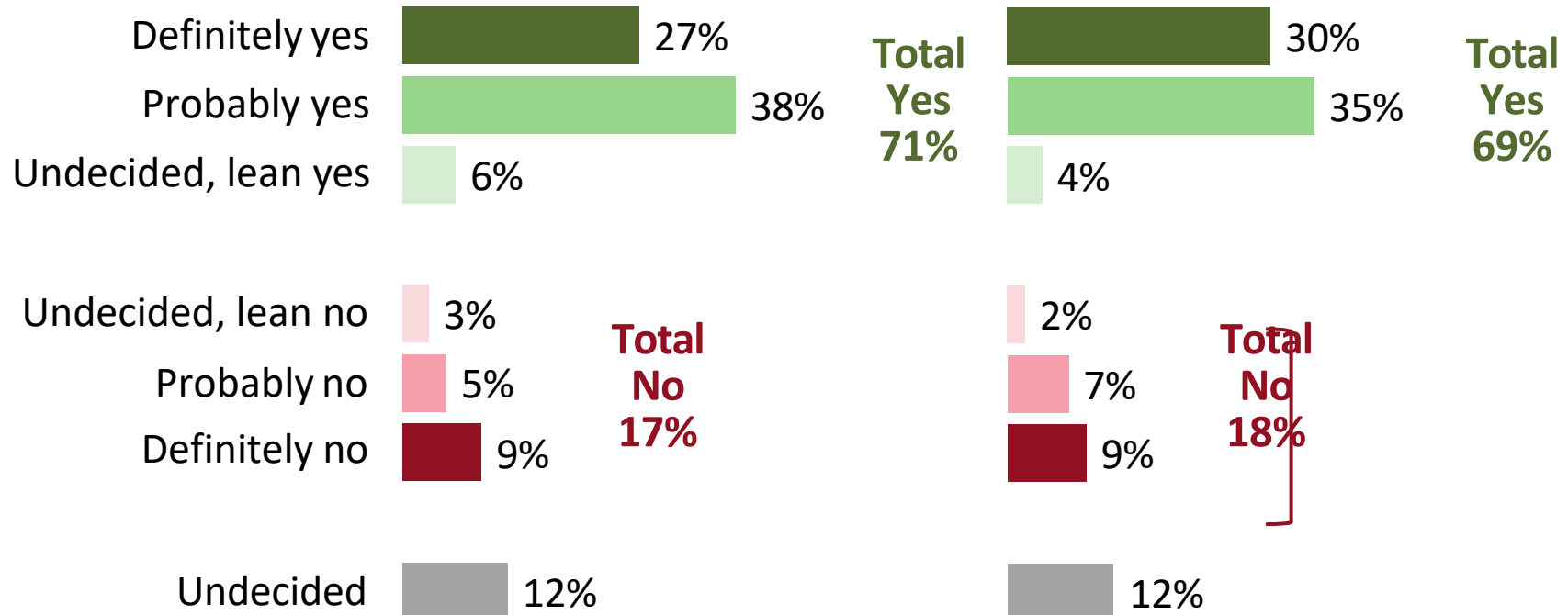
Next, voters were provided more context on the utility fund measure.

Investor-owned utilities like PG&E that provide natural gas service transfer some funds from their utility to shareholders. Cities like Palo Alto that own their own utilities do not have shareholders, so many cities instead transfer some funds from the utility to pay for City services like police, fire, transportation, parks and other public services. Palo Alto received voter approval for these kinds of transfers in its municipal Charter in 1950; however, this practice has been challenged legally, and voter approval may be required for it to continue. As a result, the City may place this measure to reconfirm this practice on the November ballot.

This did not shift patterns of support.

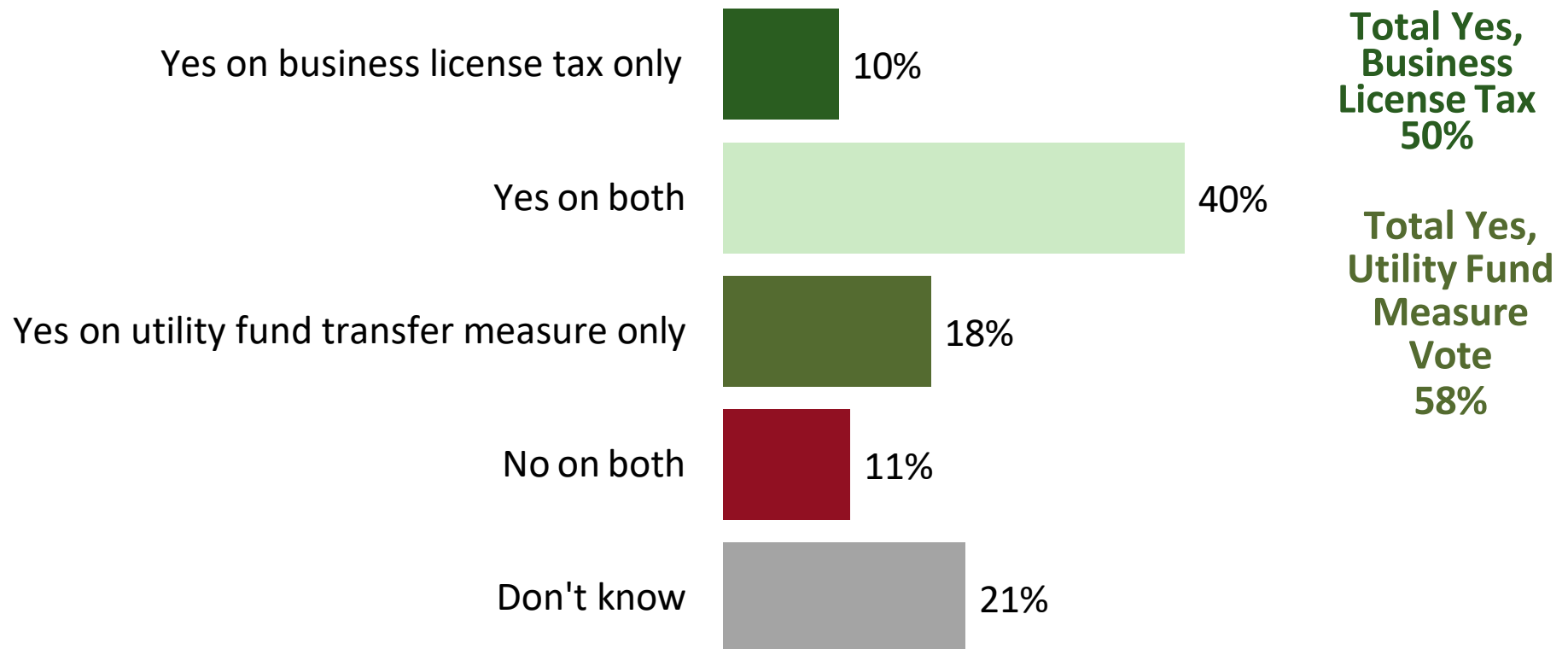
Initial Utility Measure Vote

Utility Measure Vote After Info



In a head-to-head test, two in five said they would vote "yes" on both measures.

If both of these measures were on the same ballot, would you vote "yes" on both, for just one, or for neither?





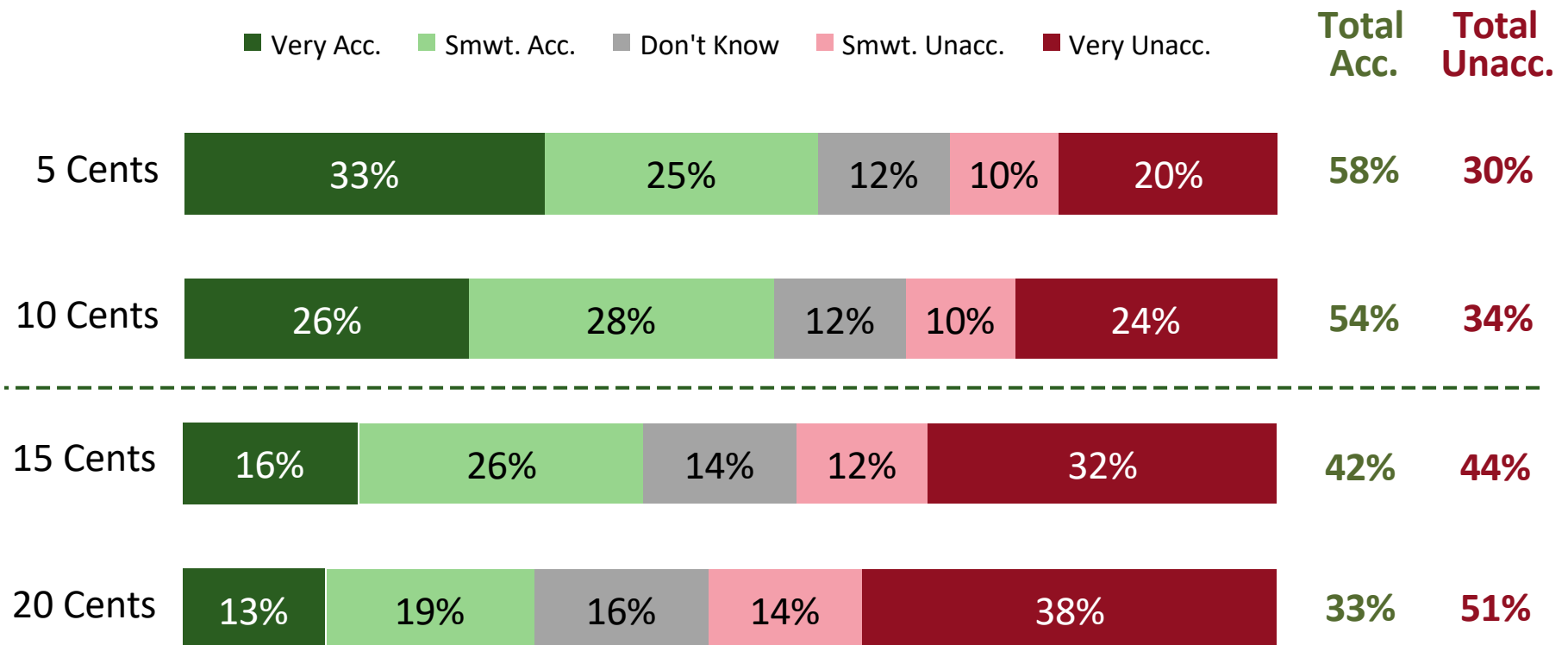
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Structuring a Business License Tax

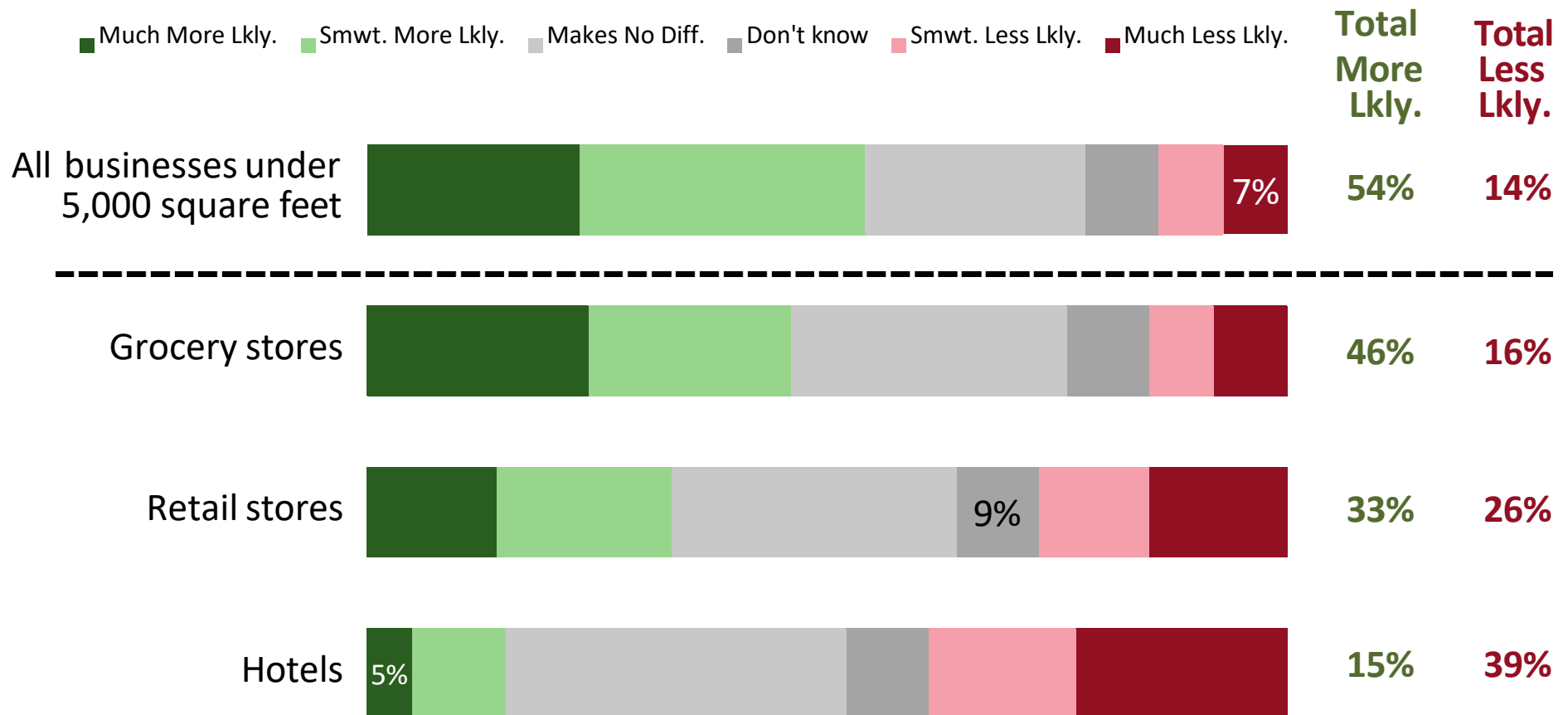
Majorities are comfortable with a rate that would increase rent by 10 cents per square foot.

The structure of this measure has not been finalized. Currently, average monthly rents for businesses range from \$4.10 to \$6.40 per square foot per month for retail and industrial space and \$7.10 to \$8.50 per square foot per month for office space. Would a measure that increased monthly business rent by roughly __ per square foot be an acceptable or unacceptable amount?



Exemptions for small-square-footage businesses are a plus; an exemption for hotels is more of a minus.

If it were written to exempt _____ from the tax, would you be more likely to support it or less likely to support it? If it makes no difference, you can tell me that instead.

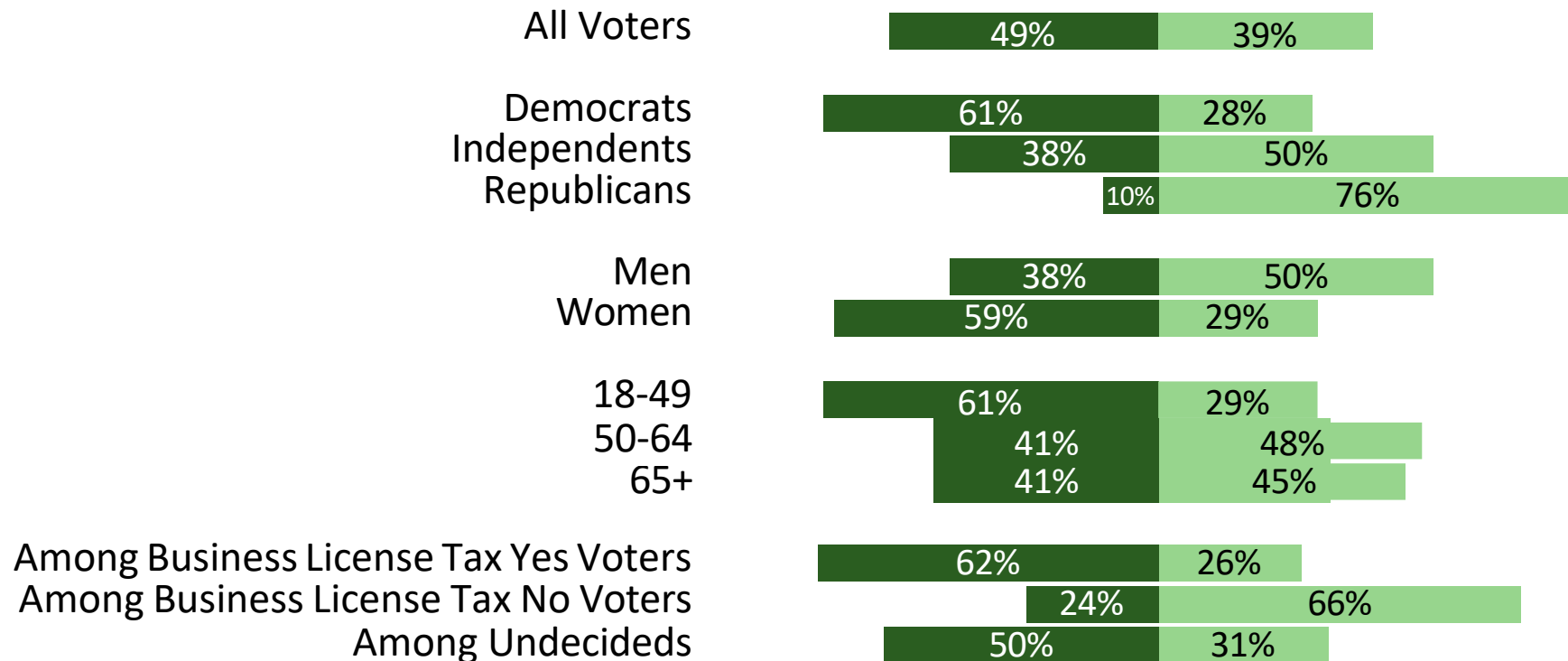


Voters are split on their desired focus for new revenue, with a strong preference for major new investments among Democrats.

Offering major new City services, such as affordable housing, climate change reduction efforts, improving the safety of rail crossings, transportation services such as shuttles, or support for the unhoused

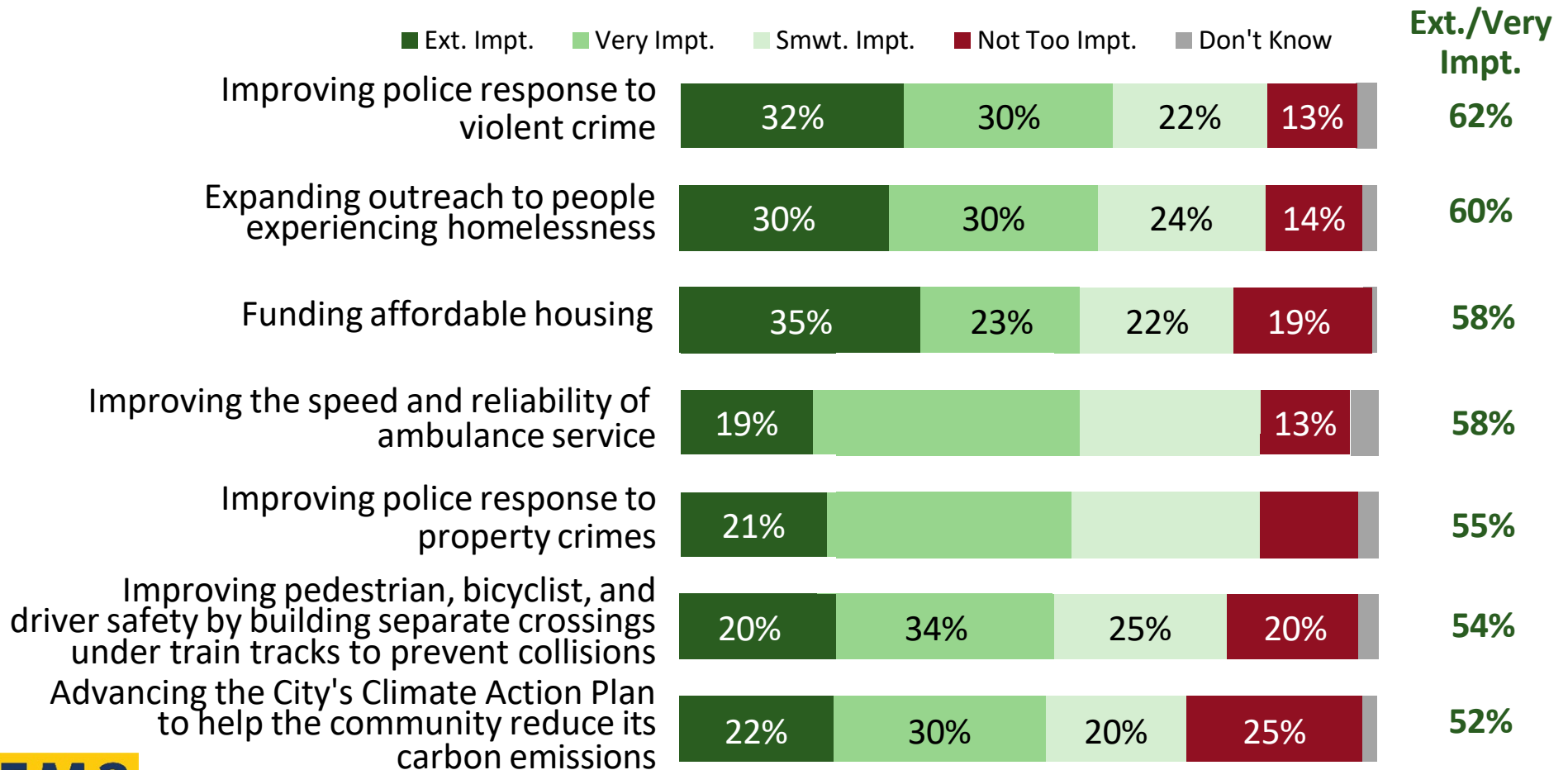
OR

Improving the quality and reliability of core City services such as fire and emergency services, and parks and recreation

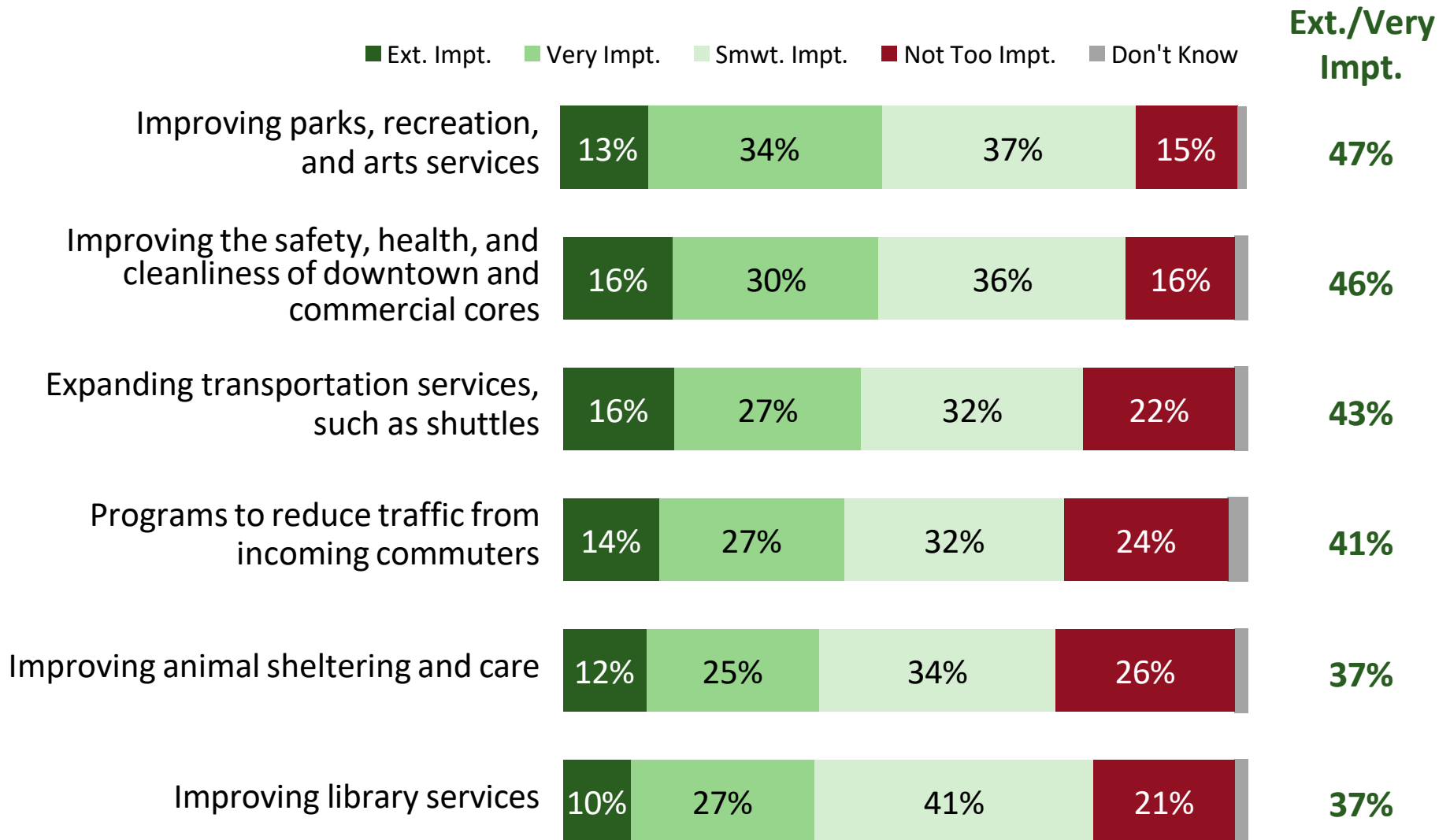


Improvements to public safety, homelessness and housing services are seen as most important.

I am going to read you a list of more-specific ways in which funds generated by a tax could be spent. Please tell me how important each item is to you personally: extremely important, very important, somewhat important, or not too important.



Voters value library services, animal sheltering, and transportation with less intensity.





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Messaging and Movement

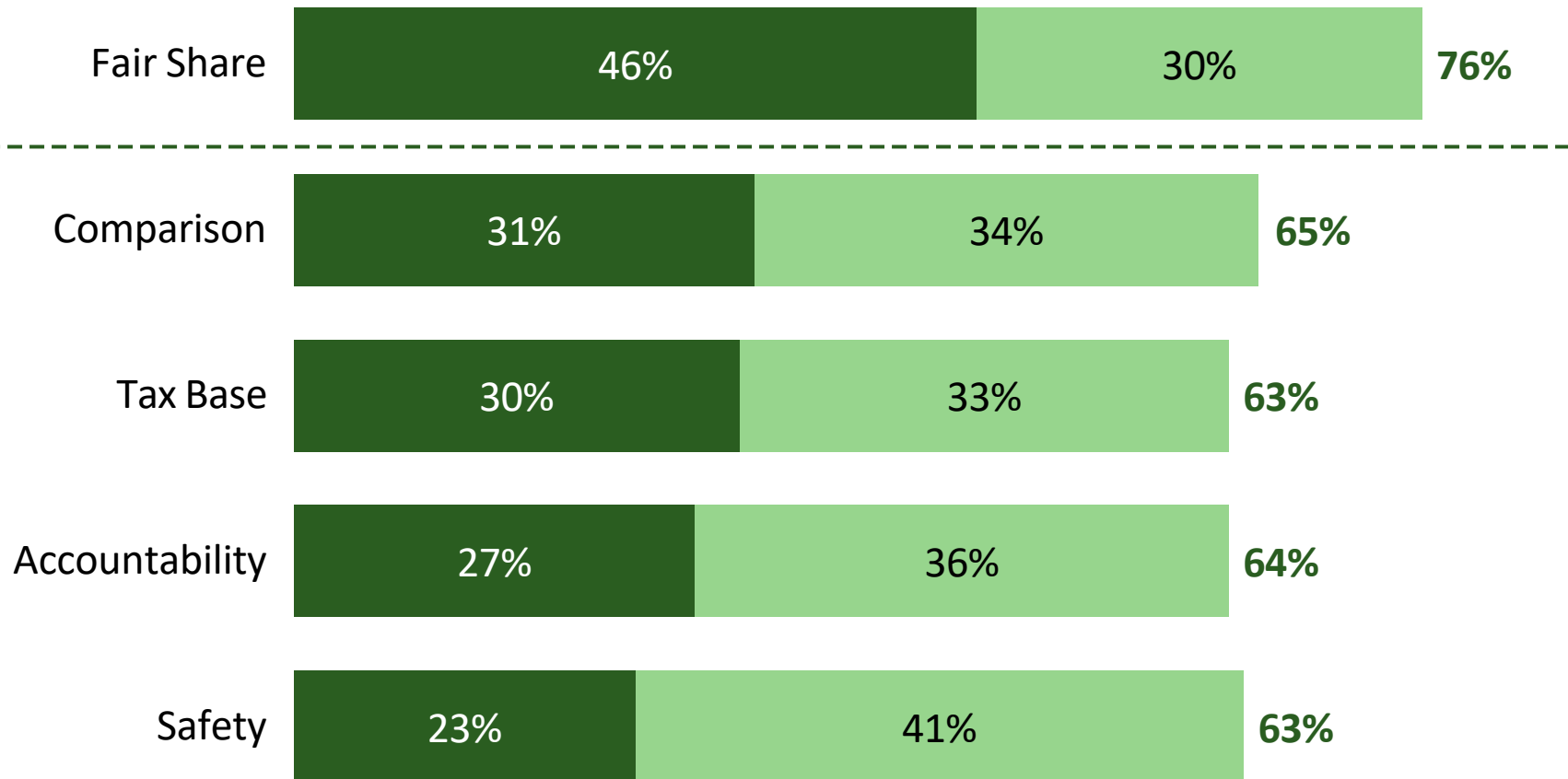
Support Messages Tested

(Ranked in Order of Effectiveness)

46%	(FAIR SHARE) Palo Alto currently registers businesses of all sizes for \$50. That means a mom-and-pop coffee shop pays the same as a tech company with thousands of employees. This measure is a sensible way to ensure large businesses pay their fair share for the services the City provides and that their employees enjoy, like road repairs and police and fire protection.
31%	(COMPARISON) Palo Alto does not have a business license tax, unlike most communities in California. Several nearby communities have significant taxes on business, such as East Palo Alto's tax of \$2.50 per square foot annually on commercial office space over 25,000 square feet and San Francisco's business tax of \$2.85 to \$5.60 per \$1,000 of gross receipts annually. This tax would align Palo Alto's tax system with those of other cities in the area.
30%	(TAX BASE) This measure is not a tax on homeowners or shoppers, but on the city's largest businesses. Sales taxes continue to decline in Palo Alto, and by diversifying the City's tax base with a thoughtfully designed business license tax, we will be better able to weather future financial crises without having to raise taxes on everyday residents.
27%	(ACCOUNTABILITY) This measure will be subject to strict accountability provisions like annual financial audits; full public disclosure of all spending; and a requirement that all funds be spent locally in Palo Alto. This will ensure funds are used efficiently, effectively, and as promised.
23%	(SAFETY) The recent economic downturn had significant impacts to funding for police and emergency services. Recently the community has seen increases in property crimes impacts to fire and emergency medical services. This measure would provide funding for police and emergency services to address these issues.

The most compelling message in favor of the measure explains how this would be fairer to small businesses than the status quo.

■ Very Convincing ■ Somewhat Convincing

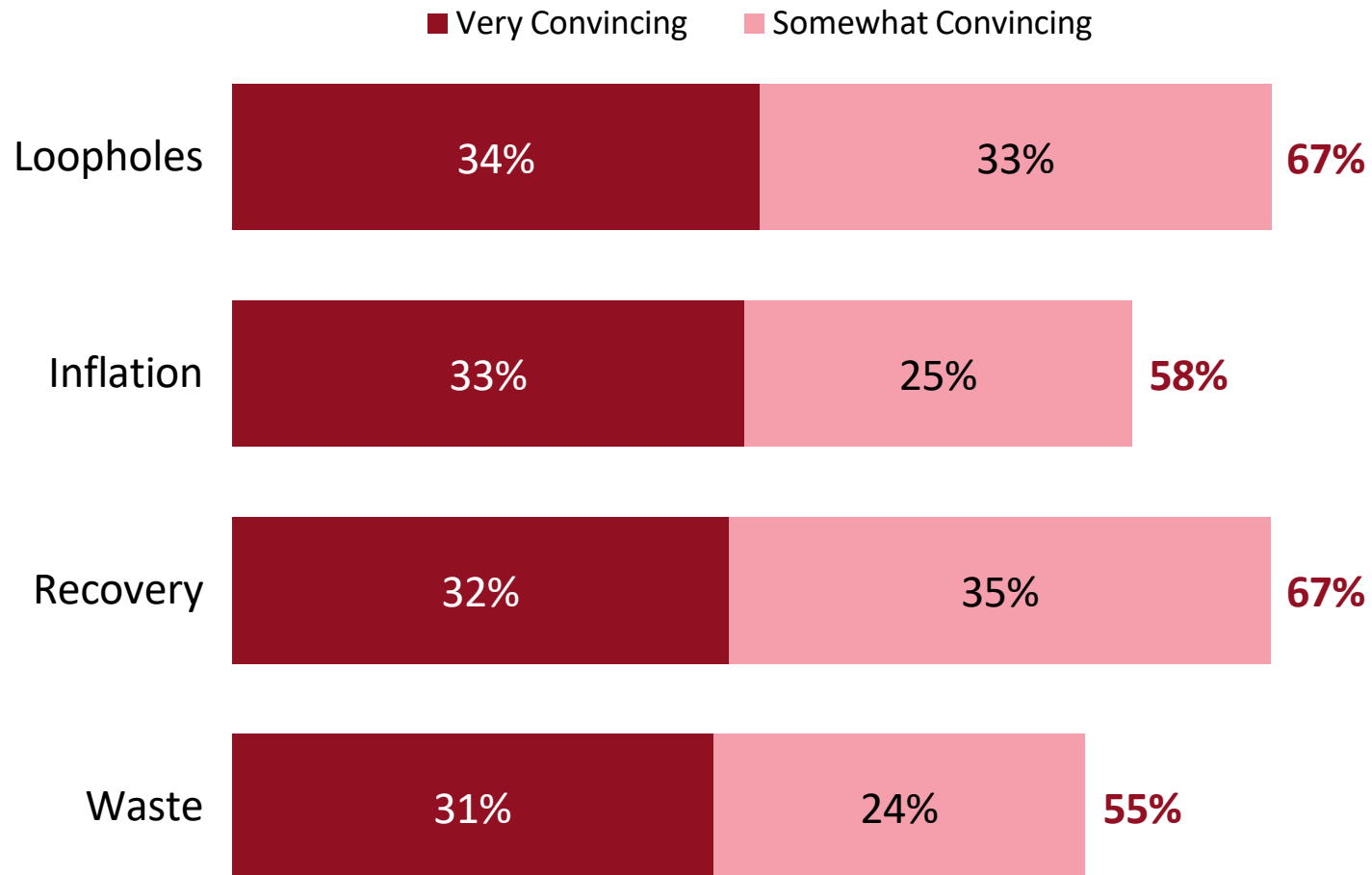


Opposition Messages Tested

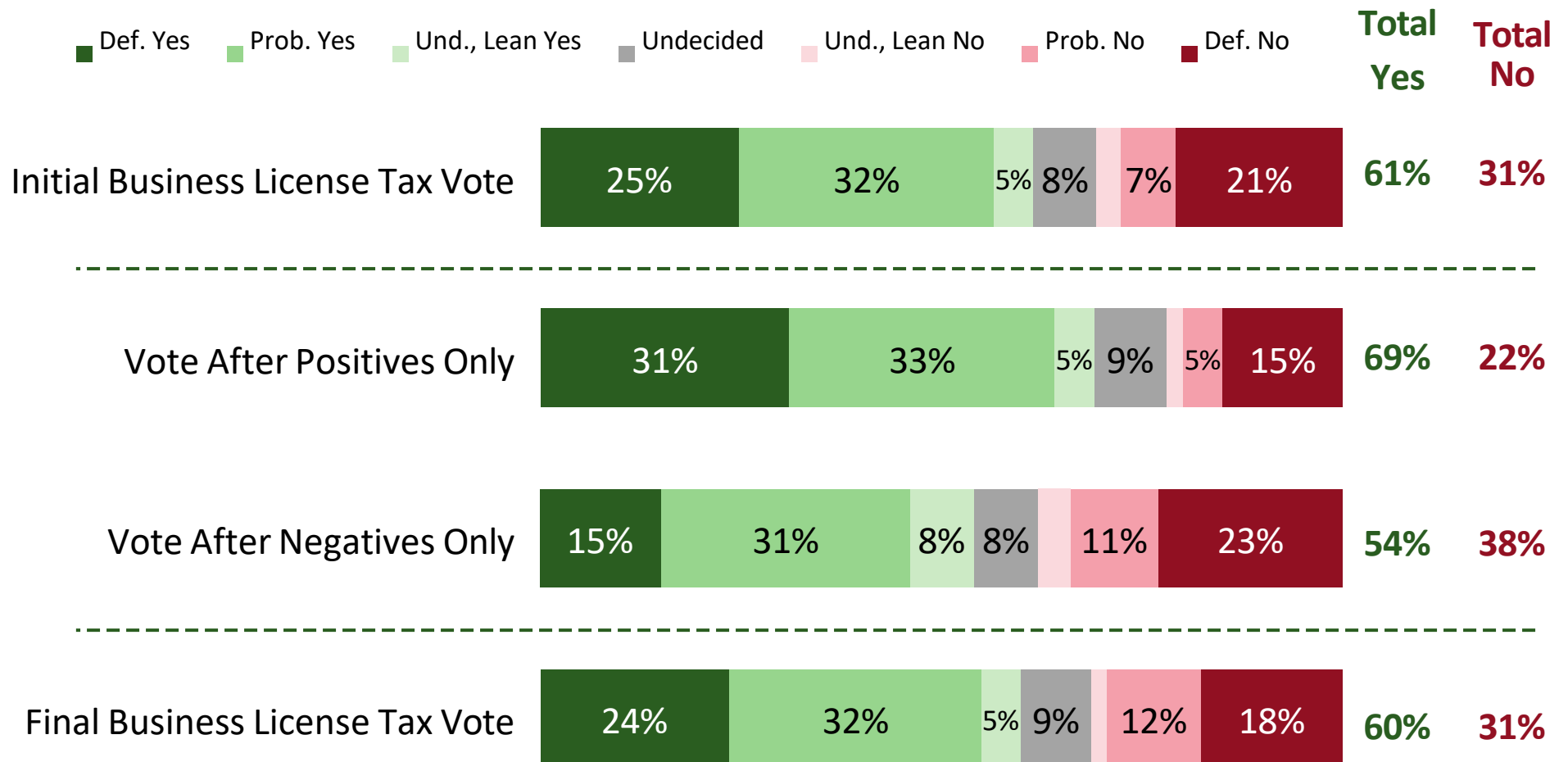
(Ranked in Order of Effectiveness)

34%	(LOOPHOLES) Just like any tax, this will fall hardest on small and medium businesses already struggling with labor shortages, inflation, and high commercial rent. Meanwhile, the largest companies will find creative loopholes to get out of paying their fair share.
33%	(INFLATION) The cost of living is out of control and inflation is on the rise. With the price of groceries and gasoline increasing and an interest-rate hike on the way, now is simply not the time to be raising taxes.
32%	(RECOVERY) COVID-19 restrictions have already pushed many local businesses to slash hours or even close. The last thing we need to do is drive up prices with a tax that hurts local businesses just as we start to recover.
31%	(WASTE) Given the amount of money we already pay in city, county, and state taxes, and the amount we pay for expensive employee pensions, salaries, and healthcare benefits, City government simply needs to tighten its belt, work together, and do a better job with the dollars they already have.

A variety of negative messages resonate broadly.



A majority supports the measure throughout exposure to pro and con messages.





CITY OF
PALO ALTO



Conclusions

Conclusions

- The mood of the city continues to be mixed, as it is in many cities around region. A slim majority rates City government's performance as "excellent" or "good" (51%).
- Three in five back the business license tax concept we tested, which – pending a more detailed exploration of a more specific concept and associated ballot language – has consistent majority support.
- Voters are comfortable with a measure that would increase average monthly rent for businesses by up to 10 cents per square foot. They are more likely to support a measure that exempts small-square footage businesses, and are less likely to support one that exempts hotels.
- A measure ratifying utility fund transfers polls at 71%; support remains high when voters hear a more detailed explanation.
- Voters are divided on whether they would prefer new revenue be dedicated to major new investments or to improving existing services – however, those who support the BLT are more likely to favor new investments.
- Voters are most enthusiastic about allocating funding toward public safety, affordable housing, and outreach to the unhoused.

For more information, contact:



OPINION
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MARCH 8-14, 2022



CITY OF PALO ALTO BALLOT MEASURE SURVEY
220-6319 WT
N=427
MARGIN OF SAMPLING ERROR $\pm 4.9\%$ (95% CONFIDENCE LEVEL)
A/B & C/D SPLITS

Hello, I'm _____ from _____, a public opinion research company. I am definitely not trying to sell you anything. We are conducting an opinion survey about issues that interest people living in the City of Palo Alto and we are only interested in your opinions. May I speak to _____? **(YOU MUST SPEAK TO THE VOTER LISTED. VERIFY THAT THE VOTER LIVES AT THE ADDRESS LISTED, OTHERWISE TERMINATE).**

- A. Before we begin, I need to know if I have reached you on a cell phone, and if so, are you in a place where you can talk safely without endangering yourself or others? **(IF NOT ON A CELL PHONE, ASK: Do you own a cell phone?)**

Yes, cell and can talk safely ----- 90%
 Yes, cell but cannot talk safely ----- **TERMINATE**
 No, not on cell ----- 10%
(DON'T READ) DK/NA/REFUSED ----- TERMINATE

1. **(T*)** First, would you say that things in Palo Alto are generally headed in the right direction, or do you feel that things are headed in the wrong direction?

	<u>2016</u>	<u>2018</u>	<u>2021</u>	<u>2022</u>
Right direction -----	61%-----	43%-----	40%-----	41%
Wrong track -----	25%-----	37%-----	34%-----	35%
(DON'T READ) DK/NA -----	14%-----	20%-----	27%-----	24%

2. **(T)** And how would you rate the overall job being done by Palo Alto City government in providing services to the city's residents? Would you say the City is doing an ...? **(READ RESPONSES AND RECORD)**

	<u>2016</u>	<u>2018</u>	<u>2021</u>	<u>2022</u>
EXCELLENT/GOOD -----	74%-----	60%-----	54%-----	51%
Excellent -----	18%-----	10%-----	8%-----	10%
Good -----	56%-----	50%-----	46%-----	42%
FAIR/POOR -----	24%-----	37%-----	40%-----	42%
Only fair -----	19%-----	27%-----	31%-----	33%
Poor job -----	5%-----	10%-----	9%-----	10%
(DON'T READ) Don't know -----	2%-----	3%-----	6%-----	7%

NOW I WOULD LIKE TO ASK YOU A FEW QUESTIONS ABOUT TWO MEASURES THAT MAY APPEAR ON THE PALO ALTO BALLOT IN THE NOVEMBER ELECTION.

(SPLIT SAMPLE A ONLY: Q3 THEN Q4)

(SPLIT SAMPLE B ONLY: Q4 THEN Q3)

3. The **FIRST/SECOND** measure would deal with a business license tax. This measure would create a business license tax on commercial property in the city of 50 dollars per year for the first 5,000 square feet occupied, plus 12 cents per square foot per month for space occupied over 5,000 square feet, adjusted annually for inflation. The funds would pay for City services such as police, fire and emergency medical services, affordable housing and support for the unhoused, parks and recreation, transportation, the City's climate action plan, and other public services.

Do you think you would vote yes or no on such a measure? **(IF YES/NO, ASK: "Is that definitely or just probably?") (IF UNDECIDED, ASK: Do you lean toward voting yes or no?)**

	SPLIT A	SPLIT B	
	Q3	Q3	
	<u>FIRST</u>	<u>LAST</u>	<u>TOTAL</u>
TOTAL YES -----	63% -----	59% -----	61%
Definitely yes -----	29%	20%	25%
Probably yes -----	31%	33%	32%
Undecided, lean yes -----	4%	5%	5%
 TOTAL NO -----	 28% -----	 35% -----	 31%
Undecided, lean no -----	3%	4%	3%
Probably no -----	5%	10%	7%
Definitely no -----	20%	21%	21%
 (DON'T READ) DK/NA -----	 8% -----	 7% -----	 8%

(SPLIT SAMPLE A ONLY: Q3 THEN Q4)

(SPLIT SAMPLE B ONLY: Q4 THEN Q3)

4. The **FIRST/SECOND** measure would deal with utilities. As you may know, the City of Palo Alto provides natural gas service to residents and businesses. As part of its routine budget practices, the city annually transfers some money from the utility fund to the general City budget which maintains core services. This measure would confirm the existing practice of transferring not more than 18 percent of City of Palo Alto Utilities' gross annual sales of gas, providing over 7 million dollars annually to needed investments like police, fire and emergency medical services; affordable housing and support for the unhoused; parks and recreation; transportation; the City's climate action plan; and other public services. This measure would not increase utility rates.

Do you think you would vote yes or no on such a measure? **(IF YES/NO, ASK: "Is that definitely or just probably?")** **(IF UNDECIDED, ASK: "Do you lean toward voting yes or no?")**

	SPLIT A Q4 <u>LAST</u>	SPLIT B Q4 <u>FIRST</u>	<u>TOTAL</u>
TOTAL YES -----	74% -----	69% -----	71%
Definitely yes -----	35%-----	19%-----	27%
Probably yes -----	35%-----	42%-----	38%
Undecided, lean yes -----	4%-----	8%-----	6%
 TOTAL NO -----	 16% -----	 18% -----	 17%
Undecided, lean no -----	3%-----	3%-----	3%
Probably no -----	3%-----	7%-----	5%
Definitely no -----	10%-----	7%-----	9%
 (DON'T READ) DK/NA -----	 11% -----	 13% -----	 12%

(RESUME ASKING ALL RESPONDENTS)

5. If both of these measures were on the same ballot, would you vote "yes" on both, for just one, or for neither? **(IF YES ON ONE, ASK: Which one would you vote "yes" on: the business license tax or the utility fund transfer measure?)**

TOTAL YES -----	69%
Yes on both -----	40%
Yes on business license tax only-----	10%
Yes on utility fund transfer measure only-----	18%
 No on both -----	 11%
(DON'T READ) DK/NA -----	21%

6. Now I will provide you some additional background information on this measure. Investor-owned utilities like P-G-and-E that provide natural gas service transfer some funds from their utility to shareholders. Cities like Palo Alto that own their own utilities do not have shareholders, so many cities instead transfer some funds from the utility to pay for City services like police, fire, transportation, parks and other public services. Palo Alto received voter approval for these kinds of transfers in its municipal Charter in 1950; however, this practice has been challenged legally, and voter approval may be required for it to continue. As a result, the City may place this measure to reconfirm this practice on the November ballot. Having heard this, do you think you would vote yes or no on such a measure? **(IF YES/NO, ASK: "Is that definitely or just probably?") (IF UNDECIDED, ASK: "Do you lean toward voting yes or no?")**

TOTAL YES----- 69%
 Definitely yes----- 30%
 Probably yes----- 35%
 Undecided, lean yes -----4%

TOTAL NO----- 18%
 Undecided, lean no -----2%
 Probably no-----7%
 Definitely no-----9%

(DON'T READ) DK/NA ----- 12%

THE REST OF MY QUESTIONS ARE ABOUT THE BUSINESS LICENSE TAX MEASURE.

7. First, the structure of this measure has not been finalized. Currently, average monthly rents for businesses range from \$4.10 to \$6.40 per square foot per month for retail and industrial space and \$7.10 to \$8.50 per square foot per month for office space. Would a measure that increased monthly business rent by roughly **(READ EACH ITEM)** per square foot be an acceptable or unacceptable amount? **(IF ACCEPTABLE/ UNACCEPTABLE, ASK: "Is that very or somewhat ACCEPTABLE/ UNACCEPTABLE?") (READ IN ORDER) (ROTATE TOP-TO-BOTTOM AND BOTTOM-TO-TOP)**

	<u>VERY ACC</u>	<u>SMWT ACC</u>	<u>SMWT UNACC</u>	<u>VERY UNACC</u>	<u>(DK/NA)</u>	<u>TOTAL ACC</u>	<u>TOTAL UNACC</u>
[]a. 5 cents-----	33%	25%	10%	20%	12%	58%	30%
[]b. 10 cents -----	26%	28%	10%	24%	12%	54%	34%
[]c. 15 cents -----	16%	26%	12%	32%	14%	42%	44%
[]d. 20 cents -----	13%	19%	14%	38%	16%	33%	51%

8. If it were written to exempt _____ from the tax, would you be more likely to support it or less likely to support it? If it makes no difference, you can tell me that instead. **(IF MORE/LESS, ASK: Is that much MORE/LESS LIKELY, or only somewhat?) (RANDOMIZE)**

	<u>MUCH MORE LKLY</u>	<u>SMWT MORE LKLY</u>	<u>SMWT LESS LKLY</u>	<u>MUCH LESS LKLY</u>	<u>MAKES NO DIFF</u>	<u>(DON'T READ) DK/NA</u>	<u>TOTAL MORE LKLY</u>	<u>TOTAL LESS LKLY</u>
[]a. Retail stores -----	14%	19%	12%	15%	31%	9%	33%	26%
[]b. (T) Grocery stores -----	24%	22%	7%	8%	30%	9%	46%	16%
[]c. All businesses under five thousand square feet -----	23%	31%	7%	7%	24%	8%	54%	14%
[]d. Hotels -----	5%	10%	16%	23%	37%	9%	15%	39%

9. Next, I am going to read you a list of more-specific ways in which funds generated by a tax could be spent. After I read each one, please tell me how important each item is to you personally: extremely important, very important, somewhat important, or not too important. **(RANDOMIZE)**

	<u>EXT IMP</u>	<u>VERY IMP</u>	<u>SMWT IMP</u>	<u>NOT TOO IMP</u>	<u>(DON'T READ) DK/NA</u>	<u>EXT/ VERY</u>
[]a. Improving police response to property crimes -----	21%	35%	27%	14%	3%	55%
[]b. Improving police response to violent crime -----	32%	30%	22%	13%	3%	62%
[]c. Improving the speed and reliability of ambulance service-----	19%	38%	26%	13%	4%	58%
[]d. Improving pedestrian, bicyclist, and driver safety by building separate crossings under train tracks to prevent collisions-----	20%	34%	25%	20%	2%	54%
[]e. Expanding transportation services, such as shuttles -----	16%	27%	32%	22%	2%	43%
[]f. Advancing the City's Climate Action Plan to help the community reduce its carbon emissions -----	22%	30%	20%	25%	2%	52%
[]g. Programs to reduce traffic from incoming commuters -----	14%	27%	32%	24%	3%	41%
[]h. Expanding outreach to people experiencing homelessness -----	30%	30%	24%	14%	2%	60%
[]i. Improving the safety, health, and cleanliness of downtown and commercial cores -----	16%	30%	36%	16%	2%	46%
[]j. Funding affordable housing -----	35%	23%	22%	19%	2%	58%
[]k. Improving parks, recreation, and arts services-----	13%	34%	37%	15%	1%	47%
[]l. Improving animal sheltering and care -----	12%	25%	34%	26%	2%	37%
[]m. Improving library services-----	10%	27%	41%	21%	2%	37%

10. Next, if a ballot measure to provide additional funding were approved by voters, would you prefer that the money be dedicated to: **(ROTATE)**

[] Offering major new City services, such as affordable housing, climate change reduction efforts, improving the safety of rail crossings, transportation services such as shuttles, or support for the unhoused----- 49%

OR

[] Improving the quality and reliability of core City services such as fire and emergency services, and parks and recreation----- 39%

(DON'T READ) Both -----2%

(DON'T READ) Neither -----2%

(DON'T READ) Don't Know/NA -----8%

NEXT, HERE ARE SOME STATEMENTS FROM SUPPORTERS AND OPPONENTS OF THE POTENTIAL BUSINESS TAX WE HAVE BEEN DISCUSSING.

(SPLIT SAMPLE C ONLY: Q11/Q12/Q13)

(SPLIT SAMPLE D ONLY: Q13/Q12/Q11)

11. First, I am going to read you some statements from people who support the measure. After hearing each statement, please tell me whether you find it very convincing, somewhat convincing, or not convincing as a reason to support the measure. If you do not believe the statement, please tell me that too.
(RANDOMIZE)

	<u>VERY CONV</u>	<u>SMWT CONV</u>	<u>NOT CONV</u>	<u>DON'T BEL</u>	<u>(DK/NA)</u>	<u>VERY/ SMWT</u>
[]a. (COMPARISON) Palo Alto does not have a business license tax, unlike most communities in California. Several nearby communities have significant taxes on business, such as East Palo Alto's tax of \$2.50 per square foot annually on commercial office space over 25,000 square feet and San Francisco's business tax of \$2.85 to \$5.60 per 1000 dollars of gross receipts annually. This tax would align Palo Alto's tax system with those of other cities in the area. -----	31%	34%	23%	6%	6%	65%
[]b. (ACCOUNTABILITY) This measure will be subject to strict accountability provisions like annual financial audits; full public disclosure of all spending; and a requirement that all funds be spent locally in Palo Alto. This will ensure funds are used efficiently, effectively, and as promised. -----	27%	36%	22%	10%	4%	64%

		<u>VERY CONV</u>	<u>SMWT CONV</u>	<u>NOT CONV</u>	<u>DON'T BEL</u>	<u>(DK/NA)</u>	<u>VERY/ SMWT</u>
[]c.	(SAFETY) The recent economic downturn had significant impacts to funding for police and emergency services. Recently the community has seen increases in property crimes impacts to fire and emergency medical services. This measure would provide funding for police and emergency services to address these issues.-----	23%	41%	24%	9%	4%	63%
[]d.	(FAIR SHARE) Palo Alto currently registers businesses of all sizes for 50 dollars. That means a mom-and-pop coffee shop pays the same as a tech company with thousands of employees. This measure is a sensible way to ensure large businesses pay their fair share for the services the City provides and that their employees enjoy, like road repairs and police and fire protection.-----	46%	30%	14%	5%	4%	76%
[]e.	(TAX BASE) This measure is <u>not</u> a tax on homeowners or shoppers, but on the city's largest businesses. Sales taxes continue to decline in Palo Alto, and by diversifying the City's tax base with a thoughtfully designed business license tax, we will be better able to weather future financial crises without having to raise taxes on everyday residents. -----	30%	33%	20%	13%	4%	63%

(SPLIT SAMPLE C ONLY: Q11/Q12/Q13)

(SPLIT SAMPLE D ONLY: Q13/Q12/Q11)

12. Now that you've learned more about it, would you support or oppose a measure that would create a business license tax on commercial property in the city of 50 dollars per year for the first 5,000 square feet occupied plus 12 cents per square foot per month for space occupied over 5,000 square feet, adjusted annually for inflation, to pay for City services such as police, fire and emergency medical services, affordable housing and support for the unhoused, parks and recreation, transportation, the City's climate action plan, and other public services? Do you think you would vote yes or no on such a measure? **(IF YES/NO, ASK: "Is that definitely or just probably?") (IF UNDECIDED, ASK: "Do you lean toward voting yes or no?")**

	SPLIT C AFTER SUPPORT ONLY	SPLIT D AFTER OPPOSE ONLY
TOTAL YES -----	69%	54%
Definitely yes -----	31%	15%
Probably yes -----	33%	31%
Undecided, lean yes -----	5%	8%
TOTAL NO -----	22%	38%
Undecided, lean no -----	2%	4%
Probably no -----	5%	11%
Definitely no -----	15%	23%
(DON'T READ) DK/NA -----	9%	8%

(SPLIT SAMPLE C ONLY: Q11/Q12/Q13)

(SPLIT SAMPLE D ONLY: Q13/Q12/Q11)

13. Next, I am going to read you some statements from people who oppose this potential ballot measure. After hearing each statement, please tell me whether you find it very convincing, somewhat convincing, or not convincing as a reason to oppose the measure. If you do not believe the statement, please tell me that too. **(RANDOMIZE)**

	VERY CONV	SMWT CONV	NOT CONV	DON'T BEL	(DK/NA)	VERY/ SMWT
[]a. (INFLATION) The cost of living is out of control and inflation is on the rise. With the price of groceries and gasoline increasing and an interest-rate hike on the way, now is simply not the time to be raising taxes. -----	33%	25%	31%	7%	4%	58%
[]b. (LOOPHOLES) Just like any tax, this will fall hardest on small and medium businesses already struggling with labor shortages, inflation, and high commercial rent. Meanwhile, the largest companies will find creative loopholes to get out of paying their fair share. -----	34%	33%	21%	7%	5%	67%

	<u>VERY CONV</u>	<u>SMWT CONV</u>	<u>NOT CONV</u>	<u>DON'T BEL</u>	<u>(DK/NA)</u>	<u>VERY/ SMWT</u>
[]c. (WASTE) Given the amount of money we already pay in city, county, and state taxes, and the amount we pay for expensive employee pensions, salaries, and healthcare benefits, City government simply needs to tighten its belt, work together, and do a better job with the dollars they already have.-----	31%	24%	32%	8%	5%	55%
[]d. (RECOVERY) COVID restrictions have already pushed many local businesses to slash hours or even close. The last thing we need to do is drive up prices with a tax that hurts local businesses just as we start to recover. -----	32%	35%	23%	6%	4%	67%

14. Sometimes over the course of a survey like this, people change their minds, and sometimes they do not. Let me ask you one more time about the measure to create a business license tax on commercial property in the city of 50 dollars per year for the first 5,000 square feet occupied, plus 12 cents per square foot per month for space occupied over 5,000 square feet, adjusted annually for inflation, to pay for City services such as police, fire and emergency medical services, affordable housing and support for the unhoused, parks and recreation, transportation, the City's climate action plan, and other public services.

Do you think you would vote yes or no on such a measure? **(IF YES/NO, ASK: "Is that definitely or just probably?")** **(IF UNDECIDED, ASK: "Do you lean toward voting yes or no?")**

	<u>SPLIT C OPPOSE LAST</u>	<u>SPLIT D OPPOSE FIRST</u>	<u>TOTAL</u>
TOTAL YES -----	60% -----	60% -----	60%
Definitely yes -----	23%	24%	24%
Probably yes -----	33%	31%	32%
Undecided, lean yes -----	5%	5%	5%
TOTAL NO -----	30% -----	33% -----	31%
Undecided, lean no -----	3%	1%	2%
Probably no -----	11%	12%	12%
Definitely no -----	15%	20%	18%
(DON'T READ) DK/NA -----	10% -----	8% -----	9%

HERE ARE MY LAST QUESTIONS, AND THEY ARE FOR STATISTICAL PURPOSES ONLY.

15. Do you own a business in Palo Alto?

Yes -----6%
 No ----- 91%
 ((DON'T READ) DK/NA -----3%

16. Do you own or rent your place of residence?

Own-----58%
 Rent-----32%
 ((DON'T READ) DK/NA ----- 11%

17. What was the last level of school you completed?

High school graduate or less -----3%
 Some college/vocational school----- 10%
 College graduate (4 years)-----41%
 Post graduate work/Professional school-----44%
 ((DON'T READ) DK/NA-----2%

18. With which racial or ethnic group do you identify yourself: Latino or Hispanic, African American or Black, White or Caucasian, Asian or Pacific Islander, multiracial, or some other ethnic or racial background? **(IF ASIAN OR PACIFIC ISLANDER, ASK: "Are you Vietnamese, Chinese, South Asian or East Indian, or of some other Asian background?")**

Latino/Hispanic -----4%
 African American/Black -----1%
 Caucasian/White ----- 60%
 Vietnamese----- 1%
 Chinese -----9%
 South Asian/East Indian -----7%
 Other Non-Asian/Pacific Islander -----1%
 Other Asian/Pacific Islander -----3%
 Multiracial -----6%
 ((DON'T READ) DK/NA -----8%

THANK AND TERMINATE

GENDER (BY OBSERVATION):

Male----- 48%

Female----- 52%

PARTY REGISTRATION:

Democrat ----- 60%

Republican ----- 10%

No Party Preference ----- 28%

Other----- 2%

FLAGS

P16----- 54%

G16 ----- 72%

P18----- 58%

G18 ----- 74%

P20----- 70%

G20 ----- 95%

BLANK ----- 3%

AGE

18-24 ----- 10%

25-29 ----- 6%

30-34 ----- 7%

35-39 ----- 4%

40-44 ----- 6%

45-49 ----- 8%

50-54 ----- 9%

55-59 ----- 11%

60-64 ----- 10%

65-74 ----- 14%

75+----- 16%

PERMANENT ABSENTEE

Yes----- 90%

No----- 10%

HOUSEHOLD PARTY TYPE

Dem 1 ----- 33%

Dem 2+ ----- 17%

Rep 1 ----- 5%

Rep 2+ ----- 1%

Ind 1+ ----- 20%

Mix----- 23%

MODE

Phone ----- 51%

Online ----- 49%

REMOVED FOR UPDATED VERSION 4/7/22

Summary of Responses to Online Community Feedback Survey

Status update, March 28, 2022

Starting February 15, 2022, the City provided an online feedback form regarding the City's Fiscal Sustainability efforts. Community members could rank their priorities for community services, provide suggestions for additional service priorities, and pose questions about the City's fiscal sustainability efforts and revenue measures.

ATTACHMENT D

March 18, 2022



To: Ed Shikada, City Manager

Fr: Public Dialogue Consortium

Re: Update on Business and Community Stakeholder Focus Groups

On November 15, 2021, the City Council approved a contract with The Lew Edwards Group for community engagement and ballot measure strategy and preparation services related to the potential revenue generating November 2022 ballot measures. As part of this process, the Lew Edwards Group enlisted the services of the Public Dialogue Consortium to conduct focus groups with members of the business community and community at-large, and to facilitate a public listening session with the Palo Alto community.

Focus Groups

Staff compiled a comprehensive list of Palo Alto stakeholders consisting of business groups, employers, and community groups and organizations, and conducted extensive outreach utilizing multiple platforms to invite participants to the focus groups. Focus group invites were sent via e-mail and mail to business and community organizations throughout Palo Alto, with efforts to be as inclusive as possible. Sample business and community invites are attached. At first five focus groups were scheduled for the business community, and two groups were scheduled for community groups and organizations, but PDC and the City were ultimately able to accommodate all participants in five focus groups.

The five focus groups were conducted between February 22 and March 17, 2022. Four of the focus groups involved business community stakeholders, which consisted of 27 participants total. One community stakeholder group was conducted with six participants. The list of participants in each focus group is attached.

Attendance at the focus groups was underwhelming. Despite the extensive outreach, invitations, and follow-up reminders, we could have accommodated many more focus group participants based on the number of groups offered and the way they were structured. In fact, three focus groups were cancelled and two had to be rescheduled due to low attendance.

All focus group were conducted to achieve the same three outcomes:

- Educate stakeholders about Palo Alto's Fiscal Sustainability Strategy for 2022 and the funding options currently under consideration.
- Elicit feedback on City service priorities that are important to the business community and community at-large.

ATTACHMENT D

- Elicit feedback on the two ballot measures that the City Council is considering for voters in November 2022: (1) Measure to affirm Gas Funds Transfer and (2) Adopt a new Business License Tax.

The focus group format was the same for the business and community at-large stakeholders. Part one established the context for the focus group, including introductions, the agenda, and outcomes and purposes. Part two consisted of a staff presentation on the City's Fiscal Sustainability Strategy, including revenue trends and services, and the two ballot measures under consideration. The third part was a facilitated discussion to elicit participant feedback. The following questions were used to focus the discussion:

- What clarifying questions about the presentation do you have for staff?
- What City services and priorities are important to you and your organization, business, or group?
- What do you and your organization, business, or group think about placing these two measures on the ballot? First, Measure to affirm Gas Funds Transfer? Next, the business license tax?
- What are your thoughts about how the business license tax should be structured?
 - Should any types of businesses be exempted if this idea is pursued (e.g., based on size, or type)?
 - What about basing the tax on a square footage percentage?
 - Are there any other factors in how the tax should be structured that you want to share?
- Under what circumstances, if any, could you support the Measure to affirm Gas Funds Transfer? Under what circumstances could you support the business license tax?
- Is there anything else you would like to say about the Fiscal Sustainability Strategy, City services, or the two potential ballot measures before we close?

Results and Summary Themes

An analysis of the focus group results reveals mixed support for the Business License Tax. Specifically, opinions fell mostly into two categories. One was "conditional approval." Many focus group participants said that they could support the measure as long as particular elements are included or conditions are met (see the four themes below). The second category was "no support," with several group participants saying that they do not favor placing the measure on the November ballot under any circumstances.

By comparison, there was majority support to affirm the Gas Funds Transfer, with focus group participants saying that they favor placing the measure on the ballot, or were

ATTACHMENT D

neutral about the measure due to lack of familiarity with it. There was no direct opposition to the Gas Funds Transfer.

Looking deeper into the views expressed about the Business License Tax, four dominant themes emerged from an analysis of the focus group discussions.

1. *No cap on the CPI.* Concerns were expressed that without a cap on the CPI the tax would continually increase, as some group participants said, “to millions of dollars for some companies.” In addition to wanting a cap on the CPI, a related suggestion is to put a cap on the total amount of the tax that a business would pay.
2. *No sunset.* The lack of a specified end date for the tax is viewed as problematic, particularly when coupled with the concern that the tax does not have a CPI cap. The prospect of the tax continually increasing indefinitely was the most significant concern expressed by group participants.
3. *Not the right time.* Another major concern was the timing of the tax. Group participants noted that many businesses are in recovery mode from COVID, and that there are commercial vacancies from businesses that did not survive the downturn from the pandemic. Given the uncertainties surrounding the current economic climate, the tax is seen as an impediment to business recovery and a disincentive to attract new businesses to Palo Alto.
4. *Need a funding plan.* Group participants voiced concerns about how the revenue from the tax will be allocated, specifically with the revenue going into the General Fund and spent on services that do not benefit the business community or the community at-large. The recommendation is to develop a plan that specifies how the revenue will be spent, which for group participants will ensure transparency and accountability.

Next steps

Two follow-up engagements will be conducted. One is a public Listening Session to be held on Tuesday, March 29 at 6:00pm, available to all members of the Palo Alto community. This session will include the staff presentation on the 2022 Fiscal Sustainability Strategy and the two ballot measures currently under consideration, followed by comments and input from the participants.

A second round of focus groups will be conducted with business community stakeholders in April and May to elicit input on the specific factors that will be used to structure the Business License Tax. Results from the listening session and second round of focus groups will be incorporated into the results from the initial five focus groups, and compiled in a summary and presented to the Finance Committee and City Council.

ATTACHMENT D

Abendschein, Jonathan

From: City Mgr
Sent: Wednesday, February 16, 2022 5:15 PM
To: Velasquez, Ingrid; Horriqan-Taylor, Meghan; Abendschein, Jonathan
Subject: FW: Invitation: Community Virtual Focus Group on City Service Improvements and Fiscal Sustainability Strategy

The City is inviting community leaders to join a conversation on City services and fiscal sustainability, which will help inform upcoming discussions on the annual budget process and potential revenue measures considerations.

In order to continue providing the high-quality services all community members expect and deserve, the City of Palo Alto is convening a series of conversations on a Fiscal Sustainability Strategy for 2022. This strategy is designed to ensure that the City can continue to make investments in services that have been impacted by the pandemic and economic shifts, such as libraries, recreation, and public safety.

Through several recent community surveys, our residents have told us that maintaining the City's ability to fund basic services, while addressing future needs, such as housing, fire and emergency medical services, affordable housing and supporting the unhoused, parks and recreation, transportation, and other public services are important to them.

You, or a representative from your organization or group, are invited to a virtual focus group to share your views on the service improvements important to you, and the best approach to generating the locally controlled funding the City needs to address community priorities.

Please select one of the following focus group meetings below and click on the link to register. Participants will receive an email confirmation and link for the virtual focus group meeting.

Focus Group 1: Tuesday, March 8, 12:00 – 1:15pm [Register](#)

Focus Group 2: Thursday, March 17, 6:00 – 7:15pm [Register](#)

If you are unable to participate in one of the focus groups, please consider responding to our online survey, which is available to all members of the Palo Alto community.

Additionally, a community listening session is being held on Tuesday, March 29, 6:00 – 8:00 p.m. All members of the Palo Alto community are invited to attend and share their views on service improvements and potential revenue measures considerations. Register for the Community Listening Session [here](#).

For more information about Palo Alto's Fiscal Sustainability Strategy, and to take an online survey about service improvements, please visit www.cityofpaloalto.org/fiscalsustainability

Best Regards,
Ed Shikada



Office of the City Manager
(650) 329-2392 | city_mgr@cityofpaloalto.org
www.cityofpaloalto.org



Please click here to provide feedback on our City's services

ATTACHMENT D

Abendschein, Jonathan

From: City Mgr
Sent: Wednesday, February 16, 2022 5:07 PM
To: Abendschein, Jonathan; Velasquez, Ingrid
Subject: Invitation: Business Virtual Focus Group on City Service Improvements and Fiscal Sustainability Strategy

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Please select one of the following focus group meetings below and click on the link to register. Participants will receive an email confirmation and link for the virtual focus group meeting.

Focus Group 1: Tuesday, February 22, 9:00 – 10:15am [Register](#)

Focus Group 2: Tuesday, February 22, 12:00 – 1:15pm [Register](#)

Focus Group 3: Thursday, February 24, 1:00 – 2:15pm [Register](#)

Focus Group 4: Thursday, March 3, 9:00 – 10:15am [Register](#)

Focus Group 5: Tuesday, March 8, 6:00 – 7:15pm [Register](#)

If you are unable to participate in one of the focus groups, please consider responding to our online survey, which is available to all members of the Palo Alto community.

Additionally, a community listening session is being held on Tuesday, March 29, 6:00 – 8:00 p.m. All members of the Palo Alto community are invited to attend and share their views on service improvements and potential revenue measures considerations. Register for the Community Listening Session [here](#).

ATTACHMENT D

For more information about Palo Alto's Fiscal Sustainability Strategy, and to take an online survey about service improvements, please visit www.cityofpaloalto.org/fiscalsustainability

Best Regards,
Ed Shikada



Office of the City Manager
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www.cityofpaloalto.org



Please click here to provide feedback on our City's services

ATTACHMENT D

Palo Alto Focus Group Participants **list does not include 3/29 listening session*

Tuesday, 2-22-22, 12pm (Business)

1 Participant

1. John Shenk, Thoits Brothers

Thursday, 3-3-22 9am (Stanford Research Park and Shopping Center)

19 Participants

1. Yvonne Mills, Morrison & Foerster
2. Angie Pyszczyński, Simon Properties
3. Georgie Gleim, Gleim Jewelers
4. Thomas Lawson, Ford Motor Company
5. Peter Arbour, Ford Motor Company
6. Charlie Weidanz, Palo Alto Chamber of Commerce
7. Kent Leacock, VMware
8. Jennifer Cohen, Tesla
9. Barry Barnes, CleanSweep Campaigns
10. Don Cecil, MC2 Bay Area Public & Government Affairs Consulting
11. Allison Koo, Sand Hill Property Company
12. Pam Decharo, Owner, Hair International
13. John Koselak, Vi Living
14. Jessie Borges, Lockheed Martin
15. Nicholas Karrelas, SAP
16. Shweta Bhatnagar, Stanford University
17. Lucy Wicks, Stanford University
18. Tiffany Griego, Stanford University
19. Michael Bordoni, Stanford University

Tuesday, 3-8-22 12pm (Community)

6 Participants

1. Mary Gloner, Project Safetynet
2. Karla Henriquez, Project Safetynet
3. Rhonda Bekkedahl, Channing House retirement community
4. Kate Blessing-Kawamura, Eden Housing
5. Matt Bryant, resident & pharmacist
6. Edesa Bitbadal, representative for NAIOP Silicon Valley on public policy matters

Tuesday, 3-15-22 6pm (Business)

4 Participants

1. Dan Kostenbauder - VP for tax policy, Silicon Valley Leadership Group
2. Howard Schneck - tax director at Varian Medical Systems
3. Valerie Sinden - global overview systems at Varian Medical Systems
4. Kris Quigley - representing CA Life Sciences

ATTACHMENT D**Thursday, 3-17-22 12pm (Chamber of Commerce)****5 Participants**

1. Elizabeth Santana, Palo Alto Players
2. Karen Law, Palo Alto Players
3. Nancy Coupal - Coupal Cafe
4. Shweta Bhatnagar - Stanford University
5. Charlie Weidanz - Chamber of Commerce

ATTACHMENT E

Gas Utility Transfer to the General Fund

Each fiscal year the City Council may transfer from the gas utility to the general fund an amount equal to [% of the gross revenues of the gas utility received during the fiscal year two fiscal years before the fiscal year of the transfer] or [% of the gross revenues of the gas utility received during the fiscal year immediately preceding the fiscal year before the fiscal year of the transfer]. At its discretion, the City Council may decide to transfer a lesser amount. The projected cost of the transfer shall be included in the City's retail gas rates included in the City's retail gas rates as a cost of providing services.

Note: The description of the fiscal year used to measure the transfer can be either:

 % of the gross revenues of the gas utility received during the fiscal year two fiscal years before the fiscal year of the transfer

or

 % of the gross revenues of the gas utility received during the fiscal year immediately preceding the fiscal year before the fiscal year of the transfer

ATTACHMENT F

Summary of Prior Work on Potential Revenue Generating Ballot Measures

The City of Palo Alto has been discussing its options for potential revenue-generating ballot measures through 2019 and 2020. This work was suspended at City Council direction in March 2020 in order to marshal available resources to manage through the COVID-19 pandemic. A timeline of the CMRs and discussions with the Finance Committee and the City Council since April of 2019, when staff was formally directed to begin working on this project by the City Council, is included below for additional context. The date, the forum of the meeting (Finance Committee or City Council), the summary title, and the CMR number are included for ease of reference.

Timeline

4/22/2019 City Council, “2019 Fiscal Sustainability Workplan”, [CMR 10267](#)

4/22/2019 City Council, “Approve Workplan for a Potential Revenue Generated Ballot Measure”, [CMR 10261](#)

6/18/2019 Finance Committee, “Review, Comment, and Accept Preliminary Revenue Estimates for Consideration of a Ballot Measure”, [CMR 10392](#)

8/20/2019 Finance Committee, “Evaluation and Discussion of Potential Revenue Generating Ballot Measures”, [CMR 10445](#)

9/16/2019 City Council, “Evaluation and Discussion of Potential Revenue Generating Ballot Measures and Budget Amendment”, [CMR 10615](#)

10/1/2019 Finance Committee, “Revised Workplan for Consideration of a Ballot Measure”, [CMR 10712](#)

10/15/2019 Finance Committee, “Stakeholder Outreach, Initial Polling, and Discussion of a Potential Ballot Measure”, [CMR 10743](#)

11/4/2019 City Council, “Potential Ballot Measure Polling/Outreach, Contract, Solicitation Exemption and Budget Amendment”, [CMR 10792](#)

12/2/2019 City Council, “Structure and Scenarios of Initial Round of Polling for a Potential Local Tax Measure”, [CMR 10891](#)

12/17/2019 Finance Committee, “Consideration, Evaluation, and Discussion of a Revenue Generating Local Tax Ballot Measure, Review of Refined Modeling, Analysis, Tax Structure and Recommendation to the City Council”, [CMR 10655](#)

ATTACHMENT F

1/27/2020 City Council, “Update, Consideration, and Potential Direction on Possible Local Tax Measure for 2020 Election”, [CMR 11019](#)

3/23/20 City Council, “Consideration of Analysis, Public Outreach, and Refined Polling and Further Direction on a Potential Local Business Tax Ballot Measure for 2020 Election”, [CMR 11161](#)

3/23/20 City Council, “Consideration of Analysis, Public Outreach, and Refined Polling and Further Direction on a Potential Local Business Tax Ballot Measure for 2020 Election”, [At-Places Memorandum](#)

6/15/2021, Finance Committee Staff Report, “Recommend the City Council Approve the Workplan for Pursuit of a Revenue-Generating Local Ballot Measure for the November 2022 General Election; Review and Potential Guidance to Staff on Affordable Housing Funding as Referred by the Council”, [CMR 12299](#)

8/16/2021 City Council, “Approve the Workplan for Development of a Revenue-Generating Local Ballot Measure for the November 2022 General Election; Review and Potential Guidance to Staff on Affordable Housing Funds as Referred by the City Council”, [CMR 12381](#)

9/21/2021 Finance Committee, “Discuss Updates and a Recommended Further Refinement of Potential Revenue Generating Local Ballot Measures,” [CMR 13514](#)

10/19/2021 Finance Committee, “Discuss Updates and Recommend Further Refinement of Potential Revenue Generating Local Ballot Measures, and Review Draft Initial Polling Outline”, [CMR 13648](#)

11/8/2021 City Council, “Discuss Updates and Recommend Further Refinement of Potential Revenue Generating Local Ballot Measures, and Review Draft Initial Polling Outline”, [CMR 13687](#)

12/7/2021 Finance Committee, “Discuss Updates and Recommend Further Refinement of Potential Revenue Generating Local Ballot Measures”, [CMR 13728](#)

1/18/2022 Finance Committee, “Discuss Poll Results Regarding Potential 2022 Revenue Generating Ballot Measures and Recommend Further Refinement of Business License Tax and Utility Tax Proposals”, [CMR 13875](#)

1/24/2022 City Council, “Discuss Polling Results, Analysis, and Community Stakeholder Engagement Plan; Recommend Further Refined Parameters for a Possible Local Tax Ballot Measure for November 2022 Election (Business License Tax and Utility Tax Proposals); and Direct Staff on Related Items such as Community and Stakeholder Engagement Plan,” [CMR 13770, p. 385 and CMR 13963, p. 462](#)

Summary of Responses to Online Community Feedback Survey

Status update, April 7, 2022

Starting February 15, 2022, the City provided an online feedback form regarding the City's Fiscal Sustainability efforts. Community members could rank their priorities for community services, provide suggestions for additional service priorities, and pose questions about the City's fiscal sustainability efforts and revenue measures.

As of April 7, 2022, the [Fiscal Sustainability Community Conversation survey](#) may still be accessed.¹

Survey Contents

Community members were asked the following questions:

The City of Palo Alto is engaging the community around long-term fiscal sustainability and community priorities. Below are some of the key priorities Palo Alto residents have historically identified as key to their quality of life. Please give us your feedback by ranking the following priorities from 1 to 8, with "1" being the most important. We will review all comments to ensure that the City continues to address the community's priorities in its long-range planning.

1. Priorities to be ranked:

- *Expanding City Services*
- *Maintaining basic services*
- *Improving services such as longer library hours*
- *Adding public safety services such as police, fire and emergency medical*
- *Investing in community-owned assets like roads and community centers*
- *Funding affordable housing and homeless services*
- *Repairing streets/roads*
- *Maintaining after school/summer youth programs*

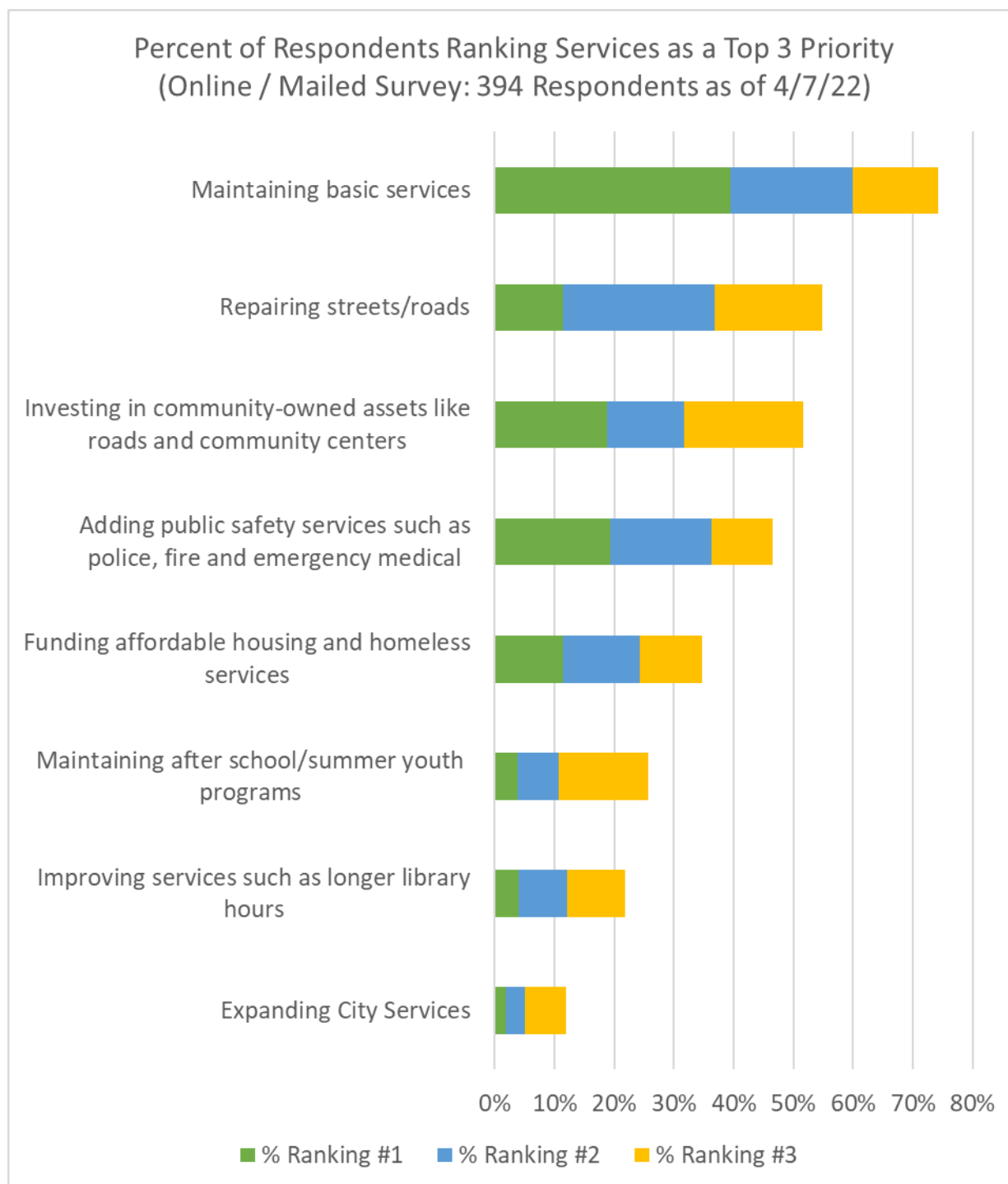
2. Suggestions for additional service priorities:

3. I have the following questions:

Survey Responses

There were 394 responses as of March 22, 2022 (181 online survey responses and 213 mailed survey responses). The most highly ranked priorities for the survey respondents were "Maintaining basic services," "Repairing streets / roads," "Investing in community-owned assets," "Adding public safety services such as police, fire, and emergency medical," and "Funding affordable housing and homeless services," as shown in Table 1. Table 1 shows the percentage of respondents who ranked each priority first, second, or third.

¹ <https://us.openforms.com/Form/07db0c33-8339-497b-839b-6aab75e1f635>

Table 1: Percentage of Survey Respondents Ranking Each Priority First, Second, or Third

There were 137 respondents who submitted suggestions for additional service priorities or additional comments and questions via the online survey. The complete comments are included at the end of this attachment, but in summary:

- 43 respondents wrote comments supporting funding for Lucie Stern Theatre facilities and staffing. Of these, 3-5 appeared to be duplicate submittals.
- 19 comments related to investments in various other types of City infrastructure
- 15 comments related to increasing policing, including code enforcement and traffic enforcement
- 13 comments related to climate action, with a couple of comments opposing City action.
- 6 comments related to affordable housing or homeless services, with a couple of comments expressing concern about setting affordable housing goals or homeless services.
- Other respondents wrote comments related to traffic safety, traffic congestion, road maintenance, parking, expanding bicycle infrastructure and other alternative transportation options, climate change (both in favor of and opposing action), electric grid reliability, fiber internet, zoning, affordable housing, employee pension costs, community and human services, and other topics.

There were 95 respondents to the mailed version of the survey who submitted additional comments or questions. The complete comments are included at the end of this attachment, but to summarize:

- 19 comments related to infrastructure, with an emphasis on roads
- 13 comments focused on increased traffic enforcement, code enforcement, or policing in general.
- 8 comments related to sustainability (climate change, tree canopy, alternative transportation)
- Other respondents wrote comments related to airplane noise, affordable housing, the animal shelter, recreation services, fiber to the home, library hours, utility services, zoning, and service levels in general.

Comments from Online Survey

The following comments were submitted in response to the two open-ended survey questions for the online version of the survey.

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
1	<p>Reducing pension and retirement benefit expenses</p> <p>Switching to a 24/7 mental health crisis team approach like cahoots using mental health and social workers. Police are only needed if there is a threat of violence which is rarely the case. We could save so much money with this approach.</p> <p>Fiber to the Home; Undergrounding utilities as promised so many years ago. Increasing police response to gangs stealing from stores - there doesn't seem to be much effort here at all.</p> <p>New Animal Shelter</p>	<p>This survey is poorly written. Most people want all of the above. But I also want. to see ways to save money. We seem to be adding more and more administrators and fewer people who actually perform the work of caring for the city. Do we really need another assistant to the City Manager? We need a new animal shelter which we could have had for a fraction of the cost of the bike bridge. Increasing library hours is so cheap - why isn't this a given? Let's get the police up to fill strength - 79 officers and then decide to get more. The poor showing of the police with only 59 officers does not mean that 79 is not enough, esp. if we outsource mental health calls.</p>
2	<p>Support our downtown retail and business operations. They provide the revenues needed to provide all services. They also provide the vibrancy we all value.</p>	<p>Why does the Council not support businesses? We need them to support our hotels, frequent our retailers, and provide quality jobs.</p> <p>Why is the Council wanting to tax businesses now with a business tax AND with a district tax?</p> <p>Why doesn't the Council incentivize housing development by a reduction its fees and an offer to expedite the permitting processes instead of keeping those as the worst in the area and adding more taxes to try and add housing itself?</p>
3	n/a	n/a
4	Law enforcement to reduce property crime	
5	<p>Please focus on managing the City and prioritize its citizens.</p> <p>Thanks for the survey.</p>	
6	<p>Providing actionable resources to Eichlers to help with green related retrofitting - for instance, I can't find a non-gas powered boiler for my radiant heating!</p>	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
7	I would also encourage the City to scrub the budget and eliminate some unnecessary items that cost too much. In my neighborhood, I can mention the Ross Road street "improvement" that cost a lot, did not do anything and created a lot of controversy. Also we should aim to make projects less expansive, the pedestrian overpass for 101 at the Baylands should not have costed more than \$10M, also the Mitchell Park community center should not have costed as much and taken so long. The city needs to learn how to manage these projects better.	
8	Finish work at Shoreline Park	
9	Close Churchill Ave Caltrain intersection. It is too dangerous for pedestrians and bikes and cars!!!	
10	providing access to Foothills park to mountain bikes through Arastradero and create one bike trail (single track) in Foothill park	
11	Stop forcing green energy initiatives on the residents, making it more and more expensive to live in PA. These should be put to a vote by residents, not forced by city council members who think more of themselves in how they can get national publicity than supporting the residents.	
12	This should be at the top of the list: Funding city's future obligations in terms of pensions, etc. I have heard that we haven't funded these obligations anywhere near sufficiently.	What is the city doing to fund the future generous pensions that we owe?
13	Delete the commercial zoning requirement, density, and height requirements on most parcels along El Camino. Especially near transportation. Especially for affordable housing. Increase zoning and density along Alma. Especially for affordable housing .	
14	As a subset re public safety, consider installation of additional speed limit signage in our residential neighborhoods.	
15	Please improve bicycle infrastructure! I see many others biking as I do for transportation, but I often don't feel safe next to cars on the main road.	
16	Preparing for flooding risk.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
17	Dealing with the City has become onerous. 10 years ago, staff were responsive with fewer regulations to navigate. 10 years later, and everything has become complicated - you need high-cost permits for a generator or to get solar. You have fill out forms which are returned for minor issues. Just cut out the red tape - please. And enforce city regulations on leaving trash cans out, safety in walking downtown (arrest people).	
18	Affordable housing is a huge problem and we need better solutions.	
19	It was a waste of taxpayer's money for so-called improvement of Ross Road.	
20	Addressing climate change	Is each city department maximizing each budgeted dollar?
21	A. The item, Maintaining basic services, should include preparing for climate change, especially sea level rise, more frequent droughts and global warming. B. The item, Investing in community-owned assets ... , should include providing broadband, i.e. fiber optic, internet service to the premises. C. The item, Expanding City Services, should include providing better intra-city commuter options to reduce the need for individually owned cars. D. The item, Repairing streets/roads, should include adding new bike lanes and upgrading existing lanes to provide safe use.	
22	Law enforcement	
23	Free shuttle system	
24	Increased policing and enforcement of traffic laws such as parking and speed laws	
25	Improved street signage and efficient street lighting. Encourage CalTrans to improve El Camino road surface ! Consider levy of small city tax on all residents -- sliding scale based on income, not to exceed \$100 / year.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
26	<p>I recommend increasing police services to contain burglaries from homes and businesses. Such crime must be addressed.</p> <p>I emphatically do not recommend increasing fire services. They are more than adequately funded and should be reduced to provide any needed emergency medical services.</p> <p>I would have given public safety services a higher ranking, but since fire services was included it was given a lower priority.</p>	
27	<p>Don't just fix the potholes on El Camino redo the street material with a mix of tires and asphalt to make them more resilient to the wear and tear. Also can you please pay attention to Barron Park Streets they are looking like very undeveloped countries</p> <p>The Barron park section of el Camino is a disaster</p>	
28	City-funded housing and transportation services for seniors.	
29	<p>Putting electrical wires underground.</p> <p>Replacing large lawn areas with native shrubs (but leaving areas for kids to play).</p>	
30	Reduction of city management salaries. Find a hungry person to do it for a fair price.	
31		<p>Why is Lucie Stern Community Center so underinvested compared to Cubberley Community Center? It's a beautiful indoor + outdoor space (and home to three award-winning performing arts companies that Palo Alto should be proud to claim as its own!) that can benefit many more community members, especially during COVID-19, if repairs and upgrades are made to the facilities.</p>
32	<p>Make it more difficult for developers/speculators to demolish livable housing to replace it with huge homes that are often not occupied. This is why housing has become unaffordable. Increase incentives to remodel/rehab existing housing stock. Build affordable/low income housing in Palo Alto Square (not sure who owns that). Stop billionaires from buying up multiple neighborhood houses and taking them out of the housing market. Decrease the number of ghost houses.</p>	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
33	Do not spend any money on public art until all the potholes in the city are fixed.	How much money is CPA spending on the fiber-optic project? Why is it building this service when fiber optic is already being provided by AT&T and Comcast? Why is a fire engine dispatched along with an ambulance for every emergency call?
34	Grade Separation on the SP tracks. You can't keep all the people happy all the time. Subsidized Solar Roof plan for residents.	
35	Ease traffic congestion and provide more parking.	
36	First category above (expanding...) is too vague to be useful. Cubberley should get sustained attention and investment, leading to purchase from the school district and total renovation, funded by long term bonds. It is a huge opportunity for the future and a pretty ugly testimonial to our confused process and thinking in the present.	How do we compare to MV, RWC, Sunnyvale in per capita spending on various categories. Can we find places where we are overspending this way?
37	Nothing about utilities here. Improving the utility function is a very high priority.	
38	Missing from the list: RESTORE cut funding for multi-modal transportation projects, including foot-powered transportation safety, especially at identified safety trouble spots on school commute routes. Before you "Add" public safety services, you need to restore what the city cut. The item should read, "RESTORE public safety services." The survey language is not an honest representation of where we are and what adding funds will really do. Restoration of cut services is not "adding" or "expanding" them. These are misleading options. What are "basic services", if not police, fire, road repair, etc. Utilities? Waste collection? Street cleaning? Arborist? What? The average citizen won't know this. This second item is vague and, in context of the rest of this list especially, requires explanation. This is a poor beginning to a listening exercise. I filled out the priorities so the survey would let me go beyond this page. My prioritization is meaningless because the options you offer are inaccurate and vague. My top priority, mentioned above, is not even on the list. How does one prioritize without understanding current budget constraints and the cost of these items? Too little background information to understand trade-offs and make informed choices. So...what do you really mean? Are we talking about restoration of cut services or adding services above the levels we previously had? Be more clear. Additional Feedback: See above.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
39	<p>The City of Palo Alto has been doing mayor improvements in certain areas, Loma Verde and Ferne, Charleston from Middlefield to El Camino and beyond but nothing has been done in the Circles, I had asked for a (ONE) STOP sign at the corner of Carlson Rd (coming from Charleston) and Redwood Circle, a very dangerous outlet from my Carlson Circle because of lack of view and speed on Redwood Circles and nothing has been done, while there are bumps on streets that don't really need them and gardens in crossroads that make them more dangerous for pedestrians and children on bikes.</p> <p>There is no police patrol near schools, example Fairmeadow. Very little patrol on Alma and around the dangerous railroad crossing on Churchill. Cars drive at 60 plus miles per hour on Alma.</p> <p>Also Alma is a shame with trash cans all week long. I have to remove my trash cans after they are serviced or somebody complains (I am 80 years old, by myself) and Alma has trash cans always by the street that looks terrible.</p>	<p>Why every neighborhood in Palo Alto does not get the same service? Louise, Ferne, Amarillo (the road finish on Louise and Amarillo is a shame, already dirty, inadequate and I bet very expensive, it is confusing a total waste of money), Loma Verde and Professor Ville get all the improvements while the Circles get nothing, only high speed cars and even School Busses cut from Alma at full speed on Lindero and Redwood Circle. Why are there so much road construction on Charleston and Alma (almost daily) and Alma in South Palo Alto. This is just the beginning of my questions, I have gone to city meetings and I was never chosen to talk.</p> <p>I have to also say that the police department was great during my husband long illness, for about three years, they came to our house to lift him from the floor, they took him to the hospital, they were always helpful, and correct. Thanks to them.</p>
40		<p>I am concerned about the conflict between cars and bikes on the Bryant Street Bike Boulevard between Embarcadero and downtown. We have been promised a traffic circle and or other measures for slowing cars. What is the status of the traffic circle at Kingsley and Bryant Street?</p>
41	Add more police budget to make the residents feel safe.	
42	Decide what to do with Cubberley	
43	Public safety is by far the highest priority. Besides "police, fire and emergency medical", additional measures for improving public safety will also be important, e.g., community watch, using technology to improve automated surveillance...	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
44	Properly funding the trust funds for retiree pensions and medical benefits should be higher than all the priorities you've listed above. That's the most critical element in achieving fiscal sustainability. The fact that you left this off your list really worries me.	We're seeing a big uptick in crime, and many minor crimes are not followed up on by the police, leading citizens to stop reporting all of these incidents. Thus, I believe that the current crime statistics undercount the true problem. Job #1 for our local government should be maintaining order and taking actions that discourage crime. As I mentioned in suggestions above, I still can't believe cities like Palo Alto have made promises to retirees (pensions and medical benefits) that are not fully funded. This is a time bomb that will come back to bite us later on, causing a big decrease in non-essential services. I recommend we tackle this problem responsibly.
45	More funding for adult community classes	
46	Traffic enforcement. Improve tree program - natives	
47	Get a nighttime curfew for planes out/into SFO, like San Jose.	
48	You'll never be able to build enough new housing in our built-out city to even make a dent in housing costs, let alone make it 'affordable.' Don't further bankrupt the town in this futile endeavor. Every additional housing unit does not bring in the revenue to cover the cost of its increased services.	
49	Stop digging up the Charleston/Arastradero corridor every year! You keep working on it, wasting money, causing traffic jams - and make it harder to drive and bike (yes, I do both).	
50	Funding for task force to identify and eliminate local zoning regulations blocking dense housing development. Increasing mass transit options.	What percentage of emergency services are for police vs other emergency departments?
51	I believe that all City of Palo Alto efforts related to climate change should be terminated. The existing programs will have no measurable impact on CO2 levels in the atmosphere, but will have measurable and adverse impact on the city's fiscal health. Those people who work in the programs can be re-directed to higher priorities, which I rank above.	
52	We also need to find funds to work on climate change	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
53		<p>I would like to understand how the city is measuring current program effectiveness and estimating cost effectiveness of new programs. For example, it's hard to know if we need to spend more on police/fire/medical unless we know how well those services are currently performing now and how much it would cost to make them better buy some increment.</p> <p>Also, many of these questions seem to assume the conclusion. For example, "Funding affordable housing and homeless services" is a solution, while, "increase housing affordability and reduce homelessness" is the goal. You can increase housing affordability by reducing building restrictions, no additional funding required. And are there any proven cost effective programs for reducing homelessness?</p> <p>What is the formal measurement process the city is using in evaluating service levels and cost effectiveness of potential improvements?</p>
54	<p>For the Lucie Stern Community Theater:</p> <p>Allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades</p> <p>Restore a theatre facilities manager position for the Lucie Stern Community Theater</p>	
55	City-owned facilities such as Lucie Stern Center are important assets and need to be maintained as much as libraries or fire stations. This is more valuable in my view than building a new police building.	Many of the above priorities are overlapping!
56	I specifically think Palo Alto should invest in our grid. It's a durable community asset, and it supports our sustainability goals through electrification.	
57	It's difficult for me to rank these needs, one over the other.....however I would put funding improvements to the Lucy Stern Theater near the top since it adds immeasurably to the quality of life in Palo Alto	Is it possible to sponsor a volunteer position for theater maintenance with cooperation from Avenidas who has a rooster of engaged, talented seniors?

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
58	Abilities United used to have a therapy pool that people with disabilities and seniors could use. They no longer have that and Palo Alto could really use a good hot therapy pool. It could be open to the public, and not just disabled and senior people. There is such a big senior population in this town and I don't understand why there's not more facilities for seniors. Why don't we have a functioning animal shelter? Why doesn't the city take better care of the streets and roads? Why doesn't the city take better care of the existing parks and facilities? We don't need another gym.	Why don't we have a functioning animal shelter? Why doesn't the city take better care of the streets and roads? Why doesn't the city take better care of the existing parks and facilities?
59	I am particularly concerned about Lucie Stern Theatre. It is in dire need of maintenance (e.g. seats, plumbing..), facilities upgrade (better ventilation), and personnel to oversee its operation.	
60		G
61	Lucie Stern Theatre ¹	
62	We have beautiful community areas (Lucie Stern) that desperately need funding. Please budget for maintaining the resources we have!	
63	Addressing traffic congestion and noise pollution. Establishing and Strictly enforcing noise controls from motorcycles and speeding cars at night. Having the Palo Alto police use their already extensive funds in patrolling at night and break-in prevention tactics. Maintenance of our public spaces and freeway corridors - our streets and freeways are embarrassingly broken and dirty These issues have become a major concern in the safety and quality of life for us residents.	How are the current taxes and funds being utilized? How much is going toward paying administrative overhead and city officials salaries vs actual community services? What is the effectiveness score of our police and city administrators enforcing and implementing safety, noise control, community services, infrastructure maintenance and clean streets?
64	Allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades Restore a theatre facilities manager position for the Lucie Stern Community Theater	
65	I am a resident of Stanford, not Palo Alto. But I would like to urge you to adequately support the Lucie Stern Theater. Brian White, 881 Tolman Dr, Stanford.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
66	<p>Allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades</p> <p>Restore a theatre facilities manager position for the Lucie Stern Community Theater</p> <p>Add more funds to the Children's Theatre to keep a vibrant community treasure that helps our youth and builds self confidence</p>	
67	<p>Lucy Stern Community Center Theatre needs maintenance. Further a city employee needs to be assigned to oversee the theatre. This facility is 100 years old and is showing its age and lack of recent maintenance.</p>	
68	<p>Restore and repair the Lucie Stern theatre. It provides an important and necessary cultural center for this university town. It's a legacy that needs to be maintained and cared for.</p>	
69	<p>I suggest that city staff opportunities for training regarding interaction with citizens be made available. On two occasions, I attempted to get answers to questions: (1) regarding marking parking spaces so drivers would take up one instead of two spaces; and (2) repair of sidewalks. The responses from city staff were inadequate, in my opinion. On another occasion, when underground power was being installed in the residential area south of University Avenue, communication from the individual coordinating the operation was adequate. I think the quality of communication should be less varied.</p>	<p>When will the overhead power lines be taken down, now that power is delivered underground?</p>
70	<p>Refurbish Lucie Stern Theater</p> <p>Move ahead on rebuilding Cubberley Community Center</p>	
71	<p>Lucy Stern Theater is a vital resource for our well-respected, top-quality community opera and theater companies, West Bay Opera and Palo Alto Players, but it has been sadly neglected for many years, and is in desperate need of plumbing, heating, and lighting upgrades, as well as both basic maintenance and ongoing care.</p>	
72	<p>Lucie Stern facility is in particular need of upgrade, having been around for a century.</p> <p>Seems that #1 and #3 in my choices have some overlap.</p> <p>Affordable housing needs developer and probably city tax incentives/subsidies. Might be a different type of investment than other items</p>	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
73	Allocate funding through the Capital Improvement Project for Lucie Stern Community Theater facility upgrades. Restore a theatre facilities manager position for the Lucie Stern Community Theatre.	
74	Palo Alto should invest in either a major remodel of Lucie Stern Theater or build a new theater. The theater is worn out, its technology is obsolete making it difficult for our wonderful theater companies to work there, and it is too small. TheatreWorks won a Tony and many of their performances are in Mountain View where they built a wonderful new theater some years ago. We must invest in Palo Alto's wonderful theater talent!	
75	Attend to the need of maintenance of the Lucy Stern Theater and Community Center. This is a gem and must be preserved. Many people are affected by the opportunities presented here. Put it in the budget.	
76	Allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades Restore a theatre facilities manager position for the Lucie Stern Community Theater Arts are important to this - any! - community, and the 100 year old Lucie Stern Theater is a landmark that deserves more respectful treatment than it's currently getting. Those of us who produce those arts - plays and operas for example - need your help.	
77	Some of these categories appear to overlap. This means that answers won't be accurate.	
78	Allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades and restore a theatre facilities manager position for the Lucie Stern Community Theater.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
79	Upgrading the Palo Alto electrical grid so that Electric cars, Electric space heating and water heating can be adequately served. Perhaps even finishing the promise to underground utilities while upgrading them. Let's NOT build a Gym.	
80	Please keep in mind the needs of older citizens who no longer can get around easily. The Downtown Library, for just one example, is one thing that needs to be kept available to us.	
81	Magical Bridge Playground maintenance, Lucie Stern Theater sets and infrastructure, summer music concerts	
82	Provide funding to maintain and upgrade the Lucy Stern complex. Wiring and plumbing does age and wear out and no longer comply with code. That can place its very existence in jeopardy.	
83	Lucie Stern Theater and Community Center are most definitely in need of upgrades. Please put funds toward these very valuable community assets.	
84	The school programs through Explore Online are not convenient for double working parents from a timing perspective. Can we check how population mix for parents have changed and adapt to it?	Are there reports on current state of infrastructure, crime rates etc. which help understand current investment in defensive/maintenance activities and what's the right mix?
85		Who is benefitted by the after-school and summer youth programs? Are lower income families appropriately subsidized for these programs? Is the city working on solutions to the problem of people living in RVs around the city? Why do I never see traffic law enforcement any more - speeding and red light running with impunity, creating dangerous situations for kids and adults?
86	Community assets such as the Lucie Stern Theatre have been allowed to atrophy through lack of maintenance & cutting necessary staffing like the theatre facilities manager. It should be much more of a priority to preserve the city's heritage and existing facilities and services than to constantly be on looking for new ways to spend tax revenue on splashy & politically trendy new programs.	
87	Repair & improve Lucie Stern theater & the Children's Theater.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
88	Repairs and improvements to Lucie Steen Community Theater are much needed	
89	<p>The city needs to spend money rehabing Lucie Stern, rather than spend money on street striping and building concrete barriers in middle of streets.</p> <p>There are a number of items that I consider VERY VERY low priority. Hard to make them all a 10. Comments: city services - do not need any more, think about reducing them. Long library hours - is this needed? Funding homeless services - look how great the city did with the Opportunity center. People were to stay there for a max of 2 years. Residents do not want to/ do not plan to move. Maintaining after school programs - is this a role for city or for PAUSD</p>	
90	3.5 Fiber internet	Seeing an increasing number of homeless roaming around our residential streets. What are we doing about it? Not sure why that's happening, but feel like there should be more planning and action around that on a local, state and national level. More specifically I worry about the mentally ill roaming my neighborhood where my kids are. We spend so much \$\$ (mortgage and taxes) to live here that it boggles the mind that the homeless can too and I can't figure out 1. why this is happening more so in the last few months, 2. There seems to be no plan and 3. Why should we just accept all homeless people who come? Does anyone have any good actionable ideas and the ability to execute on those ideas?
91	<p>Repair/Upgrade existing buildings especially:</p> <p>Build New Animal Shelter</p> <p>Maintain and upgrade Lucy Stern Theatre</p>	Why are talking about new initiatives when we haven't taken care of existing buildings and programs? We have no need of a new gym until the Animal Shelter is improved and Lucy Stern Theatre Repairs and Maintenance is insured. Why aren't the bathrooms at Lucy Evans Interpretive Center open to hikers? Mt. View has bathrooms available in the Baylands. We have them - we just don't want to maintain them.
92	Repairing, renovating city buildings, parks. Lucie Stern Center should be made more friendly for its demographic -- over 60.	Why aren't we pushing back more on ABAG for its over the top housing requirements for our City?

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
93	Allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades Restore a theatre facilities manager position for the Lucie Stern Community Theater	Why are you pursuing a city gym facility over upgrading a community jewel like the Lucie Stern Community Theater?
94	Lucie Stern theatre is in wretched condition. As a volunteer crew chief for both Palo Alto Players and West Bay Opera I'm aware of the many problems we face trying to put on a production. Broken seats, insufficient lighting and electrical. Also rodent problems and filthy catwalks for the follow spot operators.	If Palo Alto can fund a bike bridge that serves 100s, can't they fund a theatre that serves thousands?
95	I believe that public safety services are the most important. If the city is not safe, people actually move out instead of moving into Palo Alto. The reason why Palo Alto is such a desirable place is that it's safe for families. Thank you so much for all the work that the police have been doing.	
96	The Lucie Stern Community Theater is in need of repair. For example, the seats don't stay up, which is a hazard for people with less mobility. There are also problems with the plumbing, heating, and lighting systems. Please allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades. In addition, please restore a theatre facilities manager position for the Lucie Stern Community Theater.	
97	We would like more affordable options for renting space to conduct non profit events such as bonsai shows. We'd like to be able to sell bonsai to help fund the rental but the City of Palo Alto's interpretation of the ruling regarding non profits and fundraising has made it quite expensive. I also like the idea I've heard of a city recreation center. I've been to rec centers in other states that are really fantastic facilities with large lap pools, climbing walls, racket ball facilities, etc. Wish we had something like that here and affordable.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
98	Improve Lucie Stern Auditorium.	
99	Finish intended improvements to Park-Wilkie Bike Boulevard	When will we learn what citizens cared most about?
100	With the important things above, it seems like the City has enough on its plate. I have not done any home renovations, but neighbors who have say the process is very inefficient.	Does the City consider reducing/modifying programs that do not work well; make decisions based on some sort of representative user feedback;? Thanks for trying
101	Funding for adaptation to climate change	
102	With pressure from the state to expand the population the city will need to focus on maintaining service levels.	
103		Why don't City workers work five days a week? Why were they recently given more holidays? Why is the City Council seemingly more concerned about accommodating City employees than looking after the interests and needs of Palo Alto residents? City Council members need to recognize that they owe a fiduciary duty not to City employees, or their unions, but City residents.
104	Businesses have significant responsibility to fund housing. The jobs they create causes the demand for new housing (which is always more expensive than depreciated housing) and infrastructure to support population growth (transportation, resources, schools, etc.,) Parks and recreational spaces need to be supported.	How can we get the very wealthy businesses, including Stanford University to pay for the value of the benefits they receive by being here?
105	While local efforts to reduce carbon emissions and sustainability are to be commended, I would NOT invest more in this area. Palo Alto is not responsible for the environment alone, and the effort needs to be more widespread to be effective. As a city, Palo Alto needs to focus on itself first and foremost.	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
106	Lucie Stern facilities especially the Theatre needs total do-over. The toilets are ridiculously too small for a capacity theatre. The pavement is dangerous to walk on when it is raining There is no inside access to handicapped readily available without going outside to go down to the lower door (ripe for being sued). There needs to be brick framework near the front door built up as I watched an 80 year old stumble but fortunately agile so able to stop from a serious fall. For a city with the wealth of PA it is disgracefully maintained. Gorgeous though it may be from the outside, the inside is tatty and downright rundown. Need expertise to have a first rate theatre and children's theatre plus the other rooms.... Do retain its charm but have a contest of architects and do it now. I will gladly work to achieve this.	Why can't Theatreworks or the Players use the toilets in the Children's theatre when they are open as well as all the other toilets, whether there is a wedding or not.
107	Lucie Stern Theatre is in great need of upgrading. One major problem is the need for additional bathrooms at this Community Center. When the theatre is in full attendance and there is a wedding or other event there are only 2 bathrooms for about 400 people to use at a 15 minute intermission. We need more bathrooms here and in particular we need to add gender neutral bathrooms so that women have equal access.	
108	Improve Lucie Stern theatre.	
109	The libraries should be consolidated into two locations, Mitchell Park and Rinconada. Although controversial, this would free up money to improve service at the two locations. Building a new gym should not be given any priority. It was not being considered until John Arrillaga offered a large donation. Now that his gift is no longer available, and he won't be managing the project, the idea should be postponed indefinitely.	
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114	<p>The Lucie Stern Community Theater is in need of repair. For example, the seats don't stay up, which is a hazard for people with less mobility. There are also problems with the plumbing, heating, and lighting systems.</p> <p>Please allocate funding through the Capital Improvement Project (CIP) for Lucie Stern Community Theater facility upgrades.</p> <p>In addition, please restore a theatre facilities manager position for the Lucie Stern Community Theater.</p>	
115	<p>We would like more affordable options for renting space to conduct non profit events such as bonsai shows. We'd like to be able to sell bonsai to help fund the rental but the City of Palo Alto's interpretation of the ruling regarding non profits and fundraising has made it quite expensive.</p> <p>I also like the idea I've heard of a city recreation center. I've been to rec centers in other states that are really fantastic facilities with large lap pools, climbing walls, racket ball facilities, etc. Wish we had something like that here and affordable.</p>	
116	Improve Lucie Stern Auditorium.	
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118	With the important things above, it seems like the City has enough on its plate. I have not done any home renovations, but neighbors who have say the process is very inefficient.	Does the City consider reducing/modifying programs that do not work well; make decisions based on some sort of representative user feedback;? Thanks for trying
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122	Businesses have significant responsibility to fund housing. The jobs they create causes the demand for new housing (which is always more expensive than depreciated housing) and infrastructure to support population growth (transportation, resources, schools, etc,) Parks and recreational spaces need to be supported.	How can we get the very wealthy businesses, including Stanford University to pay for the value of the benefits they receive by being here?
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128	: El Camino Real and certain intersections need to be upgraded. : It can take a LONG time to get through Palo Alto at times on El Camnino and lights need to be better coordinated or in sync.	1) When will road repair be done around Palo Alto in 2022/23? 2) Fiber - this is being discussed, but when will it be rolled out? And have we thought of coordinating with other cities around us? Why go piecemeal when working with adjoining cities on a larger scale can cut costs.
129		Expenditures and scope of each of the above priorities as well as duration of time to achieve goals.

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
130	Continuing to reduce our carbon footprint should be a high priority. Completing (the initiatives we've undertaken to reduce the risk of flooding along San Francisquito Creek should be a high priority. My sense is that there's friction between the city's Development office and homeowners / contractors which I think is unfortunate and should be addressed; I wonder if we're being "over regulated." Water conservation will be increasingly important. Balancing growth vs traffic congestion and citizen quality of life is an ongoing challenge, my sense is that we over prioritize growth. Ensuring that our recyclables are actually recycled and not simply shipped to low income locations around the world is a responsibility we all share; "zero waste" only works if the outcome of recycling is truly zero on the broadest / global scale.	
131	Fix the building permit issuance process. I am only hearing how awful it is from everyone	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
132	<p>Of course the effectiveness of our basic services, street repairs, and public services (especially fire/police/emergency) are extremely important and should be supported as needed. Once those are reasonably sound, street repairs I would like to see Palo Alto learn from the Los Altos downtown model which seems to prioritize a healthier, more balanced, flexible business model that offers its citizens a richer interaction and connection with the community. I often shop in Los Altos for the fabric store, knitting shop, bakery, bookstore, pet store, skate shop, etc. It is difficult that PA is larger and has several shopping areas--T&C, Midtown, downtown, and Cal Ave, but looking at these resources from a comprehensive perspective--which perhaps you have done--would be a useful embedded/ongoing process. Expanding resources for our high school teens is a rich area to explore--a space where teens can play games, eat, make music, study, take classes, etc. would be a tremendous addition. The MP teen space might be successful for younger ones but it doesn't capture the needs of our older teens. Perhaps we need to find someone who is interested in being a benefactor in the vein of Anne Wojcicki (https://www.bizjournals.com/sanjose/news/2014/07/16/anne-wojcicki-makes-it-official-im-behind-los.html)? I am afraid if we leave the market to dictate the business offerings--especially on California Ave--we will see a continued decline in utility of, connection with, and income from our downtown businesses.</p>	<p>What are the basic services? How does the distribution of our funds compare with other comparable and vibrant cities--eg, what percentage of the budget goes to youth programs, safety, road repairs, etc.?</p>
133		What is the city's growth plan
134	<p>Palo alto and the county, state and country need to disallow foreign real estate investment. It is not acceptable that non US citizens determine what gets developed. This leads to homelessness and barren cities without amenities citizens need.</p>	<p>The entire basis of the cities revenues is built on hotel taxes and no one uses hotels but AirBnB. We need to restructure the finances so that sound reliable income streams can fund basic services reliably. The pandemic taught us that travel and tourism is completely optional. Something more stable such as sales tax or property tax is required. Energy taxes may also be required.</p>
135	<p>Stop water fluoridation. It's a toxin and proved to lower baby's IQ. Please repair the gap of side walks. I tripped and took a fall and injured.</p>	
136	gigabit municipal fiber to every house	

Written Comment #	Suggestions for additional service priorities:	I have the following questions:
137	Improve electrical infrastructure Don't spend money on fiber services	

Comments from Feedback Mailer

The following comments were submitted in response to the comments section of the mailed version of the survey with a perforated tear-off postcard to mail back to the City.

Written Comment #	Comment
1	Continue working on Airplane noise solutions
2	Traffic safety: Too many drivers ignore stop signs.
3	1 - Dramatically reduce pollution footprint
4	Just tarmacing street doesn't clear bumps under it. Bad for backs! S.P. Alto, Middlefield
5	The one about "community-owned assets" is very confusing.
6	More street lights in neighborhood
7	Finish putting utility wires underground across all Palo Alto
8	Build trash-to-energy converter @ Baylands
9	My granddaughter is a TEACHER and can't afford to live here most important teacher housing is no the very unacceptable answer
10	What about sustainability. 0.5) What about green initiatives & sustainability
11	The condition of many roads in Palo Alto is terrible
12	What about code enforcement?
13	The rest are so nebulous, it's impossible to make a intelligent choice
14	We need CITY-FUNDED TREE service!
15	We should allow Castilleja to build & grow
16	Top city priorities should be: police/paramedics (emergency response), utilities (public works)
17	Animal shelter/spaying
18	What does our #6 above really mean?
19	More pickleball courts!
20	Sustainability, climate change plans etc.
21	We live in a safe community, housing is a crisis. Allow more housing!
22	On the supply side by greater public ownership, i.e. public banking, ISP etc. Comment on services: ALL DEMAND SIDE!!!
23	Fix the police! Fire the violent officers who cause the City to be sued!!! No pensions. Comments on Services: Expanding City Services - More mental health services Adding public safety... - improve training and better screening of the police recruits
24	Foothill Park - take it back!
25	1 - Create more parks & open areas in this crowded city
26	We need to invest in making Palo Alto a more quitable place to live for everyone.
27	I am concerned about the judge who said utilities profits to general fund is a tax!
28	1 - prep for/mitigate/reduce climate change
29	Repair all non-working street intersection cameras
30	Stop leaf blowers (noise pollution)
31	Bike friendly improvement and good tree health/canopy
32	Remove overhead utility lines
33	PLEASE SUPPORT THE AIRPORT. THANK YOU.
34	There are far more important city services than fiber-in-the-home! Comments on Services: Expanding City Services - How is this different from all that follow? Investing in comm..., funding homeless..., improving services..., repairing streets - how are these different?
35	REAPIRA STREETS – POLICE

Written Comment #	Comment
36	POLICE LEAF BLOWERS!!!! Bring down sound pollution
37	Especially, longer hours @ Children's Library. Whose expansion was supported thru PALF!
38	We are very disappointed w/ these questions. They are so vague. For example what does expanding services mean? What's the difference between #7 and #4 for roads?
39	Issues like crime + roads - which you ignore for libraries. Who uses a library?
40	Lucie Stern Community Center needs attention please.
41	Investing in community owned assets like community centers - particularly Lucie Stern
42	Why to roads appear twice on the list? Please define basic services versus city services.
43	Add speedbumps, reduce speeding cars. What does expanding City services mean? Community owned assets are already great. City has already great work in affordable housing and homeless service area. Put up speed limit signs. Reduce residential and personal safety crimes (for police)
44	No to expanding City services and funding affordable housing and homeless services. Stop police radio encryption (Number 1 - more transparency)
45	Fix Churchill bike lanes at Alma
46	Install smart meters and help with solar installs If you want to know "improvement needed?" why "maintain?"
47	The City needs to address excessive noise from airplanes. Fun this! Top priority!
48	More active policing. Less value futurism
49	Expanding project safety net to include mental health services for adults + youth
50	1 - Fiber to the home from City Muni Internet
51	Please preserve Cal Ave as a No-Car area
52	#1 Priority: Traffic safety kids/teen bike safety - much more police vigilance needed. Comments on services: Cut down semis + tractor trailers off our streets!!! Road safety standards have decreased appallingly in 3-5 years
53	1 - Fix the railroad level crossings!
54	NOT "defund" but "redesign" w/ social services
55	Maintain tree + flower beds on corners (like the 70's + 80's)
56	These streets are the worse/El Camino need ASAP atten
57	Resolve/improve traffic problem on El Camino & Embarcadero - Alma, etc.
58	Resume shuttle
59	Emergency vehicles are very noisy on Middlefield. Cut back on sirens - only use when absolutely necessary. Residences are affected by noise level.
60	I value & appreciate services that are currently provided. Thank you.
61	Please less construction! It obstructs traffic
62	WORK ON OPPOSING THE NEW IDEA OF ALLOWING 4 HOUSES ON A 50x100 Sq.ft.std LOT
63	Comments on Services: Maintaining basic services - roads
64	Stop the stack & pack housing, you only get so many people. Get homeless off the street rehab programs
65	Lack of P.A. employees & using contractors has lead to lack of a or terrible service. Are the plans to hire people instead.
66	Stop racism - no firmament action
67	Cubberley
68	How many existing City positions are currently unfilled?

Written Comment #	Comment
69	Castilleja? Why? Palo Alto takes too long to make decisions on everything.
70	Don't add new things, first improve existing services. Reduce costs, simplify. Programs like Citywide yard sale are excellent.
71	Please maintain service at College Terrace Library.
72	Removing the entrance fee to Foothills Park!
73	Invest in prepaid questionnaire returns
74	Public safety number 1 always; streets and roads number 2
75	Keep libraries open 7 days a week (down arrow) police support
76	Getting rid of gas powered leaf blowers - priority for climate change, pollution, and public health. Specifically repair and preservation at Lucy Stern
77	Please please improve the dumping of things in streets/yards, especially El Camino
78	Don't we already have public safety? How about "improve" Funding - esp homeless services
79	Should not group public safety services together - need more police not fire.
80	The liquid amber trees are dangerous. They need to be trimmed or replaced. Esp. dangerous for people on the street walking
81	3 - More concerts in the park
82	#1 Priority - Airplane noise needs to go!! Quality of life has suffered!! Comments on Services Tree maintenance-city trees
83	Please do what you can to stop the release of feral cats in any community Comments on Services Maintaining basic service - unnecessary waste of water for lawns is of great concern. Runoff is noticeable on a daily basis. Expanded City services - such as processing permits and timely inspections.
84	The roundabouts and islands built, e.g. along Ross Rd., are incompetently designed and constitute a danger to the public, cyclists especially. Comments on Services Maintaining basic services - sewage, utilities, street sweeping
85	All of the above are important!
86	Pay attention to traffic airplane over the city. Residents should be informed and have input in projects like Rinconada park that seems to a big budget and not aesthetically fitting in the park.
87	El Camino is in terrible condition south of Stanford! Please fix.
88	Enforce codes with fines. Need more housing. Crack down on short-term (<30 day) rental of homes (400+ AirB+B homes)
89	Skip the BS about airplane noise or close PA Airport
90	When it rains, the sewers/drains get backed up and flood sidewalks, it has been happening for years - when will this get fixed?? Unclog street drains! Downtown South Forest Ave odd #s side of street
91	Diverse training in case of earthquakes for elders in different languages
92	Midtown trees removed; not replaced Restore basic services first

Written Comment #	Comment
	improving services - tree services tree planting and maintenance in midtown
93	Please do not continue to increase utility rates. Do not start charging for electricity based on time of day usage.
94	Mental health programs. Make a natural swimming place in Foothill Park or Arastradero - instead of only concrete swimming pools.
95	Please crack down on crime.

Schedule of Meetings

Published April 07, 2022

This is a courtesy notice only. Meeting dates, times, and locations are subject to change. Almost all Palo Alto Council and some Standing Committee meetings are cablecast live on Channel 26. If there happens to be concurrent meetings, one meeting will be broadcast on Channel 29.

Meetings are held in-person and by virtual teleconference.

SATURDAY, April 9

Sp. State of the City, 11:00 a.m. (Mitchell Park Community Center)

MONDAY, April 11

Sp. City Council Meeting, 5:00 p.m.

TUESDAY, April 12

Policy & Services Committee Meeting, 7:00 p.m.

WEDNESDAY, April 13

Planning & Transportation Commission Meeting, 6:00 p.m.

THURSDAY, April 28

Historic Resources Board Meeting, 8:30 a.m.

MONDAY, April 18

Sp. City Council Meeting, 5:00 p.m.

TUESDAY, April 19

Sp. Finance Committee Meeting, 5:30 p.m.

WEDNESDAY, April 20

Rail Committee Meeting, 1:00 p.m.

Thursday, April 21

Architectural Review Board Meeting, 8:30 a.m.

Thursday, April 21

Public Art Commission Meeting, 7:00 p.m.

Tuesday, April 26

Parks and Recreation Commission Meeting, 7:00 p.m.

Wednesday, April 27

Planning & Transportation Commission Meeting, 6:00 p.m.

Thursday, April 28

Human Relations Commission, 5:00 p.m.



City of Palo Alto

City Council Staff Report

(ID # 14304)

Meeting Date: 4/18/2022

Title: SUPPLEMENTAL REPORT: Revenue-Generating Ballot Measures for Fall 2022: Discuss 2nd-Round Polling Results and Feedback from Community and Stakeholder Engagement Activities; Review and Provide Staff Direction on Finance Committee Recommended Refined Parameters for a Business License Tax and an Affirmation of the Gas General Fund Transfer; and Provide Direction to Staff on Next Steps Including Launch of Third Poll, and Council's Non-Binding Intentions for Allocation of Potential Proceeds

From: City Manager

Lead Department: City Attorney

Attached is a draft template of a potential non-binding resolution that could be used as a form of communication to inform the public of Council's intentions regarding use of the Business Tax proceeds.

Attachments:

- **Attachment9.a:** Draft Resolution: Uses of Business Tax Proceeds

NOT YET APPROVED

Resolution No. ____

Resolution of the Council of the City of Palo Alto Describing the
Council's Intentions Regarding Uses of Proceeds of a Business
License Tax to be Submitted to the Voters for Approval in
November 2022

R E C I T A L S

A. The City of Palo Alto is a safe, healthy, and vibrant community with a rich array of public services and facilities that enhance the lives and experiences of residents, businesses, workers and visitors to the City. These include a network of neighborhood parks; five libraries; excellent public and private schools and universities; community centers, museums and theater facilities; high-quality local health care services; walkable and bikeable neighborhoods; an extensive urban forest; two lively downtown areas with indoor and outdoor dining, live music and shopping opportunities; world-leading climate protection programs; and more.

B. The City of Palo Alto is also a well-run municipality, with a Triple-A bond rating and a well-deserved reputation for pro-active fiscal management, strong ongoing investments in public infrastructure, and conservative financial planning.

C. As Palo Alto continues to grow and look toward the future, City leaders have been considering asking the City's voters to approve a tax on businesses that operate in the City, as is common in many neighboring communities. A business tax would ensure that organizations that benefit from doing business in Palo Alto also do their part to support the City's efforts to meet evolving challenges, provide for new and expanding public needs, and maintain the high-quality environment that residents, workers, and visitors enjoy.

D. If a business tax is approved by voters, its proceeds will be placed in the City's general fund for use on general government services. Each year, Council Members elected by the voters will determine the uses of those proceeds that best serve the public interest.

E. With this Resolution, the City Council wishes to inform voters of its intentions and current thinking regarding the public services and programs that could be supported by business tax proceeds.

Accordingly the Council of the City of Palo Alto RESOLVES as follows:

SECTION 1.SECTION 2.

NOT YET APPROVED

SECTION 3.

SECTION 4. The Council finds that this is not a project under the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Manager

City Attorney