



EAST PALO ALTO CITY COUNCIL REGULAR MEETING AGENDA

March 3, 2020, 6:30 p.m.
EPA Government Center
2415 University Ave, First Floor
East Palo Alto, CA 94303

Members of the public have the right to address the City Council on any item on the Agenda, before or during its consideration [G.C. §54954.3(a)]. In order to speak, you must fill out a speaker card and submit it to the City Clerk. You will have no more than two (2) minutes to speak.

1. **CALL TO ORDER AND ROLL CALL**

2. **APPROVAL OF THE AGENDA**
(Government Code Section 54957.7(a))

3. **CLOSED SESSION**

I. **CONFERENCE WITH LEGAL COUNSEL-PENDING LITIGATION (Government Code Section 54956.9) CASE NAME: Young v. Cancilla, et al., United States District Court, Case No. 4:18-CV-01931**

A. **PUBLIC COMMENT ON CLOSED SESSION ITEMS**

B. **ADJOURNMENT INTO CLOSED SESSION**

C. **RECONVENE INTO OPEN SESSION**

D. **REPORT OUT OF CLOSED SESSION**

4. **COMMUNITY FORUM**

Notice to the Public: *Anyone wishing to address the City Council on any matter for which another opportunity to speak is not provided on the Agenda, and which is within the Council's purview, is requested to submit a completed Speaker Sheet to the City Clerk. When your name is called, step to the podium and address the Council. Each speaker is limited to 2 minutes. The Mayor has the discretion to lengthen or shorten allotted times.*

5. **COUNCIL PRESENTATIONS - NONE.**

6. **APPROVAL OF CONSENT CALENDAR**

1. **Minutes of the February 18 and 22, 2020 Meetings**

Recommendation: Adopt the minutes of the February 18, 2020 Regular Meeting and February 22, 2020 Strategic Planning Session Meeting.

2. **Actions Related to the Light Tree Affordable Housing Development Project**

Recommendation: 1. Adopt a resolution related to the Light Tree Affordable Housing Development Affordable Housing and Sustainable Communities (AHSC) Program application:

a. Authorizing the City Manager to enter into, execute, and deliver a State of California Standard Agreement in the amount not to exceed \$13,500,000 and any and all other documents required or deemed necessary or appropriate, and all amendments thereto (collectively, the "AHSC Loan Documents") as approved by the City Attorney.

b. Authorizing the City Manager to enter into, execute, and deliver a State of California Standard Agreement in the amount not to exceed \$6,500,000 and any and all other documents required or deemed necessary or appropriate, and all amendments thereto (collectively, the "AHSC Grant Documents") as approved by the City Attorney.

- c. Stating that the City shall be subject to the terms and conditions as specified in the Standard Agreement(s).
- d. Authorizing the City Manager to execute the AHSC Loan Documents and the AHSC Grant Documents, and any amendment or modifications thereto, on behalf of City.
- e. Authorizing the City Manager to enter into, execute, and deliver the Implementation and Cooperation Agreement between the San Mateo County Transit District (SamTrans) as a non-applicant, the Developer, and the City for the purpose of acquiring and operating three electric buses as part of the new East Palo Alto-San Bruno route, subject to minor, non-substantive modifications as approved by the City Attorney.

2. Adopt a Resolution authorizing and directing the City Manager to waive the Affordable Housing, Parks and Trails, and Public Facilities impact fees, which will reduce the total project cost by \$713,440.

3. Extend Grant Term Agreement Dates

Recommendation: Adopt a Resolution authorizing the City Manager to provide the adequate extension for each of the following community grants to fully administer and properly close out: Catholic Charities; Greyhounds Collaborative; Able Works; Job Train Collaborative; MOP Collaborative; Renaissance Mid Pen; and Razorhawks Rugby Club.

4. Contract with Baird & Driskell Community Planning for Housing and Planning-Related Services

Recommendation: Adopt a resolution authorizing the City Manager to:

- 1. Execute an agreement with Baird & Driskell Community Planning, in a form approved by the City Attorney, for housing and planning related services in an amount not to exceed \$104,000 for a three-year term, with up to two (2) one-year extensions at the sole discretion of the City Manager; with funds allocated as follows:
 - a. \$54,000 from the General Fund, to be paid in semi-annual installments, for participation in “21 Elements +” over three years; and
 - b. \$50,000 in SB 2 Planning Grant funds for the development of an affordable housing overlay zone; and
- 2. Waive the City’s bidding requirements pursuant to section 2.84.070(D) of the East Palo Alto Municipal Code.

5. Local Early Action Planning Grant (LEAP)

Recommendation: Adopt a resolution authorizing the City Manager to:

1. Apply for and submit to the Department of Housing and Community Development (“Department”) a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment; and

2. If the Application is approved by the Department, to submit the Application, enter into, execute, and deliver on behalf of the City, a State of California Agreement (“Standard Agreement”) for the amount of up to \$150,000 and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto, in a form approved by the City Attorney.

6. On-call traffic engineering contract with TJKM

Recommendation: Authorize the City Manager to waive normal bid procedures, and to execute a contract, in a form to be approved by the City Attorney, with TJKM in an amount not to exceed \$50,000 for on-call traffic engineering related services through December 31, 2023.

7. Agreement with EPACANDO to Expedite Review and Approval of Second Units

Recommendation: Adopt a resolution authorizing the City Manager to enter into a one-year contract with EPACANDO in an amount not to exceed \$30,000 to increase the City’s capacity to process ADUs and related development proposals, with up to a one-year extension at the sole discretion of the City Manager, in a form approved by the City Attorney.

8. **Monthly Cash Treasury Report for January 2020**
Recommendation: Accept and File the Monthly Cash Treasury Report for the month of January 2020.
9. **Authorization to Waive Formal Bid Procedure for Purchases and Installation of Emergency Communication Equipment for Unmarked Police Vehicle in an Amount Not to Exceed \$ 4,871.48**
Recommendation: Adopt a Resolution authorizing City Manager to accept the informal bid from Telepath Communications to install emergency safety equipment for one 2019 Chevrolet Impala unmarked vehicles in an amount not to exceed \$4,871.48.

7. **ORAL REPORTS**

1. **Staff Reports**
2. **City Council Reports**

8. **INFORMATIONAL REPORTS - NONE.**

9. **SPECIAL PRESENTATIONS**

1. **San Mateo County Library Presentation**
Recommendation: Receive the presentation.

10. **PUBLIC HEARINGS**

1. **Ordinance Banning Electronic Nicotine Delivery Systems and Flavored Tobacco**
Recommendation: Waive the first reading and introduce an ordinance amending Chapters 5.80 and 8.56 of the East Palo Alto Municipal Code to ban the sale of flavored tobacco, including menthol tobacco products, electronic cigarettes, and prohibit the sale of any tobacco products by pharmacies located in City limits.
2. **Zoning Text Amendment (ZTA19-002) to add a new Section 18.48.230 of the East Palo Alto Municipal Code and amend sections 18.12.020 and 18.14.020 of the East Palo Alto Municipal Code and Ravenswood Specific Plan Table 6-1 to comply with newly adopted Assembly Bill (AB) 2162 pertaining to supportive housing**
Recommendation: Waive the first reading; and

Introduce an Ordinance approving Zoning Text Amendment, ZTA19-002 that:

- a. Amends sections 18.12.020 and 18.14.020 of the East Palo Alto Municipal Code to allow supportive housing to be a permitted or conditionally permitted use in non-residential zones where multi-family residential uses are allowed;
- b. Adds a new Section 18.48.230 regarding supportive housing standards to Chapter 18.48 of the East Palo Alto Municipal Code;
- c. Amends the Ravenswood Specific Plan Table 6-1 Allowed Uses in Land Use Districts to allow supportive housing to be a permitted or conditionally permitted use; and

Finds that the Text Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Statute and Guidelines.

11. **POLICY AND ACTION - NONE.**

12. **ADJOURNMENT**

This AGENDA is posted in accordance with Government Code Section 54954.2(a)

This Notice of Availability of Public Records: All public records relating to an open session item which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to the majority of the City Council will be available for public inspection at the City Clerk's Office, 2415 University Avenue, East Palo Alto, CA at the same time that the public records are distributed or made available to the City Council. Such documents may also be available on the East Palo Alto website www.ci.east-palo-alto.ca.us subject to staff's ability to post the documents prior to the meeting. Information may be obtained by calling (650) 853-3100.

The City Council meeting packet may be reviewed by the public in the Library or the City Clerk's Office. Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection at the front counter at the City Clerk's Office, 2ND Floor, City Hall, 2415 University Avenue, East Palo Alto, California 94303 during normal business hours. Information distributed to the Council at the Council meeting becomes part of the public record. A copy of written material, pictures, etc. should be provided for this purpose.

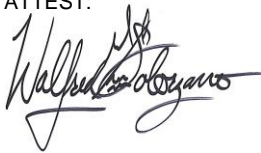
East Palo Alto City Council Chambers is ADA compliant. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office at (650) 853-3127 no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.

DECLARATION OF POSTING

This Notice is posted in accordance with Government Code §54954.2(a) or §54956. Members of the public can view electronic agendas and staff reports by accessing the City website. Under penalty of perjury, this Agenda was posted to the public at least 72 hours prior to the meeting.

POSTED: February 26, 2020

ATTEST:



Walfred Solorzano
City Clerk



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020
TO: Honorable Mayor and Members of the City Council
VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*
BY: Walfred Solorzano, City Clerk
SUBJECT: Minutes of the February 18 and 22, 2020 Meetings

Recommendation

Adopt the minutes of the February 18, 2020 Regular Meeting and February 22, 2020 Strategic Planning Session Meeting.

Background

The City Council will consider adopting the minutes of the February 18, 2020 Regular Meeting and February 22, 2020 Strategic Planning Session Meeting.

Attachments

1. February 18, 2020 Draft Minutes
2. February 22, 2020 Draft Minutes



**EAST PALO ALTO CITY COUNCIL
REGULAR MEETING MINUTES**
EPA Government Center
2415 University Ave, First Floor – City Council Chamber
East Palo Alto, CA 94303

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order by Mayor Regina Wallace-Jones at 6:32 p.m.

Attendee Name	Title	Status	Arrived
Regina Wallace-Jones	Mayor	Present	
Carlos Romero	Vice Mayor	Late	6:35 p.m.
Ruben Abrica	Council Member	Present	
Lisa Gauthier	Council Member	Present	
Larry Moody	Council Member	Present	

2. APPROVAL OF THE AGENDA

The City Council moved Item No. 11.4 to be heard before Item No. 11.1.

RESULT:	ADOPTED [UNANIMOUS]
MOTION BY:	Gauthier
SECOND:	Moody
AYES:	Wallace-Jones, Romero, Abrica, Gauthier, Moody

3. CLOSED SESSION

I. CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6) Agency Designated Representative(s): Jaime M. Fontes, City Manager, Rafael E. Alvarado Jr., City Attorney, Brenda Olwin, Finance Director, Marie McKenzie, Administrative Services Director, and Irene Camarena, Human Resources Manager, Charles Sakai, Special Counsel Employee Organization: East Palo Alto Police Officers' Association

A. PUBLIC COMMENT ON CLOSED SESSION ITEMS

No public comments were made.

B. ADJOURNMENT INTO CLOSED SESSION

The City Council adjourned into closed session at 6:38 p.m.

C. RECONVENE INTO OPEN SESSION

The City Council reconvened into open session at 7:49 p.m.

D. REPORT OUT OF CLOSED SESSION

Rafael E. Alvarado, Jr., City Attorney, stated that there was direction from City Council but no reportable action.

4. PUBLIC COMMENT

Shawneece Stevenson, David Tschang, Gail Wilkerson, Leland Francois, Court Skinner, Maria Lara, and Michael Francois provided public comment.

5. COUNCIL PRESENTATIONS

1. **Patrick Brock Proclamation**

Court Skinner, Michael Francois, and Tim Steele provided public comment.

The City Council presented the proclamation honoring the memory of Patrick Brock.

6. APPROVAL OF CONSENT CALENDAR

1. Adopted the minutes of the January 30, 2020 and February 4, 2020 Meetings.
2. Adopted a resolution directing the City Manager to enter into a one-year contract, with up to a one-year extension at the sole discretion of the City Manager, in a form approved by the City Attorney, for anti-displacement services with Nuestra Casa, Youth United for Community Action, and Community Legal Services in East Palo Alto, for an amount not to exceed \$279,088; and Appropriated \$116,000 from the Rent Stabilization Program Fund for eviction defense services in the first year of the contract; and Amending the Rent Stabilization Program's 2019-2020 Budget accordingly.
3. Adopted a Resolution authorizing the City Manager to execute the Memorandum of Understanding ("MOU") between the Cable Joint Powers relating to the administration and utilization of the PEG support fees paid by Comcast, AT&T, and any other State Franchisee.
4. Adopted a Resolution authorizing the City Manager to execute a Fourth Amendment to the agreement with 4 Leaf Inc., in a form approved by the City Attorney, to increase the contract amount by \$235,000, for a new not-to-exceed amount of \$990,784.
5. Accepted and filed the Treasury Report for the second fiscal quarter ended December 31, 2019.
6. Adopted a Resolution authorizing City Manager to accept the informal bid from Telepath Communications to install emergency safety equipment for one 2020 Ford Expedition unmarked vehicles in an amount not to exceed \$5,352.62.
7. Adopted a Resolution authorizing the City Manager to compensate American Water/Veolia for the City's Capital Water system improvements pertaining to the O'Brien Turnout Upgrade project.

RESULT:	ADOPTED [UNANIMOUS]
MOTION BY:	Gauthier
SECOND:	Romero
AYES:	Wallace-Jones, Romero, Abrica, Gauthier, Moody

7. ORAL REPORTS

1. **Staff Reports**

There were no staff reports made.

2. **City Council Reports**

Council member Gauthier requested information related to the maintenance of Ravenswood 101 shopping center.

Mayor Wallace-Jones asked staff to revisit at Council-appointed committees.

8. INFORMATIONAL REPORTS – NONE.

9. **SPECIAL PRESENTATIONS**

1. **East Palo Alto Sanitary District Presentation**

Akin Okupe, General Manager/District Engineer, East Palo Alto Sanitary District, made a presentation and responded to questions posed by the City Council.

Deborah Lewis-Virges, David Tschang, Court Skinner, Liah Grew, and Dennis Scherzer provided public comment.

The City Council received the presentation.

10. **PUBLIC HEARINGS - NONE.**

11. **POLICY AND ACTION**

1. **Informational Report on the City's Potential Efforts in Education**

Jill Bourne, City Librarian and Director of Libraries, and Ann Grabowski, Manager of Policy and Data Analytics, City of San Jose, made a presentation and responded to questions posed by the City Council.

Julian Branch, Barrie Hathaway, and David Tschang provided public comment.

By consensus, the City Council accepted the informational report and provided direction regarding the City becoming more engaged in education efforts in East Palo Alto.

2. **Update on the RV Safe Parking Program, a Collaboration Between the City of East Palo Alto and Project WeHOPE**

Patrick Heisinger, Assistant City Manager, and Rachel Horst, Housing Project Manager, made a presentation and responded to questions posed by the City Council.

David Tschang provided public comment.

By consensus, the City Council received the update on the RV Safe Parking Program and directed staff to study tiny homes programs.

3. **Challenge Grant Revenue Sources**

Patrick Heisinger, Assistant City Manager, and Rachel Horst, Housing Project Manager, made a presentation and responded to questions posed by the City Council.

By consensus, the City Council received the report.

4. **FY 2019-20 Mid-Year Budget Amendments**

Brenda Olwin, Finance Director, made a presentation and responded to questions posed by the City Council.

The City Council adopted a resolution approving the proposed mid-year amendments to the Fiscal Year 2019-20 Budget.

RESULT:	ADOPTED [UNANIMOUS]
MOTION BY:	Romero
SECOND:	Gauthier
AYES:	Wallace-Jones, Romero, Abrica, Gauthier, Moody

12. **ADJOURNMENT**

The meeting was adjourned at 11:28 p.m.

Mayor

ATTEST:

City Clerk

DRAFT

Attachment: February 18, 2020 Draft Minutes (1124 : Minutes of the February 18 and 22, 2020 Meetings)



EAST PALO ALTO CITY COUNCIL SPECIAL MEETING MINUTES

Cooley Landing
2100 Bay Road
East Palo Alto, CA 94303

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order by Mayor Regina Wallace-Jones at 8:02 AM

Attendee Name	Title	Status	Arrived
Regina Wallace-Jones	Mayor	Present	
Carlos Romero	Vice Mayor	Present	
Ruben Abrica	Council Member	Present	
Lisa Gauthier	Council Member	Present	
Larry Moody	Council Member	Present	

2. STRATEGIC PLANNING SESSION

1. Strategic Planning 2020

City staff made presentations and responded to questions posed by the City Council.

Court Skinner, Jeff Austin, Dixie-Lee S. Specht-Schulz, Ofelia Bello, Stewart Hyland, Nazanin Salehi, Laura Rubio, and Deborah Lewis-Virges provided public comment.

The City Council evaluated the progress made and status of the Fiscal Year 2019-2020 City Council Strategic Priorities; Defined the Fiscal Year 2020-2021 City Council Strategic Priorities; and directed staff to return to the City Council for final adoption of the Fiscal Year 2020-2021 City Council Strategic Priorities.

3. ADJOURNMENT

The meeting was adjourned at 12:33 p.m.

Mayor

ATTEST:

City Clerk

Attachment: February 22, 2020 Draft Minutes (1124 : Minutes of the February 18 and 22, 2020 Meetings)



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Rachel Horst, Housing Project Manager

SUBJECT: Actions Related to the Light Tree Affordable Housing Development Project

Recommendation

1. Adopt a resolution related to the Light Tree Affordable Housing Development Affordable Housing and Sustainable Communities (AHSC) Program application:
 - a. Authorizing the City Manager to enter into, execute, and deliver a State of California Standard Agreement in the amount not to exceed \$13,500,000 and any and all other documents required or deemed necessary or appropriate, and all amendments thereto (collectively, the "AHSC Loan Documents") as approved by the City Attorney.
 - b. Authorizing the City Manager to enter into, execute, and deliver a State of California Standard Agreement in the amount not to exceed \$6,500,000 and any and all other documents required or deemed necessary or appropriate, and all amendments thereto (collectively, the "AHSC Grant Documents") as approved by the City Attorney.
 - c. Stating that the City shall be subject to the terms and conditions as specified in the Standard Agreement(s).
 - d. Authorizing the City Manager to execute the AHSC Loan Documents and the AHSC Grant Documents, and any amendment or modifications thereto, on behalf of City.
 - e. Authorizing the City Manager to enter into, execute, and deliver the Implementation and Cooperation Agreement between the San Mateo County Transit District (SamTrans) as a non-applicant, the Developer, and the City for the purpose of acquiring and operating three electric buses as part of the new East Palo Alto-San Bruno route, subject to minor, non-substantive modifications as approved by the City Attorney.
2. Adopt a Resolution authorizing and directing the City Manager to waive the Affordable Housing, Parks and Trails, and Public Facilities impact fees, which will reduce the total project cost by \$713,440.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 6: Create a Healthy and Safe Community

Background

On January 29, 2019, the City Council adopted Resolution #5074, authorizing the City Manager to take various actions associated with submitting a grant application to the Affordable Housing and Sustainable Communities (AHSC) Program in the amount of \$20 Million for the Light Tree Apartments Project. If the application was successful, these actions included seeking City Council approval for and executing a State of California Standard Agreement (Standard Agreement), as required to access AHSC funds.

The Light Tree project consists of a substantial renovation of 57 existing apartments, selective demolition of 37 townhomes, and construction of 128 new apartments, resulting in 182 affordable apartments and three management staff units, yielding a new total of 185 apartments and a net increase of 91 new affordable apartments. Please see Attachment 3 for a more detailed Project Overview.

The Light Tree AHSC application, submitted jointly with Eden Housing, Inc. and EPACANDO (Developer), requested \$13.5 million in loan funding for affordable housing development and \$6.5 million in grant funding for related transit and infrastructure improvements. Table 1 outlines the AHSC activities and the amount of funds allocated to each.

Table 1

AHSC Program Application - Proposed Distribution of Funds			
Element	Entity	\$\$\$	Activity
Affordable Housing Development (AHD) and/or Housing Related Infrastructure (HRI)	Developer	\$13.5 M	Funding for the Affordable Housing Project. Eligible expenses include construction and permanent financing.
Sustainable Transportation Infrastructure (STI)	City of East Palo Alto	\$2.75 M	The City will provide 1) an estimated 3,200 linear feet of safe and accessible sidewalks on Addison Street and Clarke Avenue and the creation of the City's first "Complete Green Street" (Addison Street Improvement Project and Clarke Avenue Connectivity Improvement Project), and 2) up to 8.6 miles (1.5 miles of Class II and 7.1 miles of Class III) of bikeways per the City's Bicycle Transportation Plan. The cross streets for this improvement are as follows: Addison Street between East Bayshore Road and Bay Road; Clarke Avenue between Tinsley Street and O'Connor Street. Addison Street will be 3,800 linear feet of sidewalk and Clarke Avenue will be 200 linear feet of sidewalk. Please see <i>Attachment 4</i> for more information on the City's proposed STI and TRA improvements. These improvements would be

			prioritized in the City's Capital Improvement Program (CIP).
Transit-Related Amenities (TRA)	City of East Palo Alto	\$1 M	The City will provide improvements to the existing bus stop furniture and sidewalks around the bus stops.
Sustainable Transportation Infrastructure (STI)	SamTrans	\$2.25 M	SamTrans is planning to launch a new limited stop route using US-101, as well as adjacent arterials between East Palo Alto and San Bruno. This route was identified as part of the US-101 Express Bus Feasibility Study, which recommended implementation of six new routes over three phases. See <i>Attachment 5</i> for a map of the proposed route. The East Palo Alto-San Bruno route would launch with the opening of the planned San Mateo County Managed Lanes project, tentatively scheduled for 2022, and would run for 12 years. Key service areas and destinations include East Palo Alto, Menlo Park, Redwood City, Redwood Shores, SFO, and the San Bruno BART Station. The route would operate daily on weekdays (6 AM to 7 PM) every 20 minutes. SamTrans' has committed to work with the City and Developer to identify the location of a new bus stop near the Project, if the Application is successful. Travel demand modeling conducted as part of the Express Bus Feasibility Study showed potential daily ridership on this new route to be approximately 1,900. SamTrans estimates that 15-20% of the daily ridership on the route would either initiate or terminate their trip in East Palo Alto. With AHSC Program funds, SamTrans would acquire three electric buses for a total cost estimate of \$2.25 M. Sam Trans would then fund the ongoing operations of this service. Please see <i>Attachment 5</i> for more information on SamTrans' proposed STI improvements.
Eligible Program Costs (PGM)	Developer	\$.5 M	Includes up to 650 transit passes per year for up to three years for residents of the Light Tree Apartments community.
TOTAL		\$20 M	

On June 21, 2019, the Strategic Growth Council (SGC) selected the City's AHSC application. On July 8, 2019, the City received the formal grant notification from the SGC and was notified that the City had 90 days to execute the Standard Agreement with the Department of Housing and Community Development (Department). The Department provided the City with a draft of the Standard Agreement for review on November 13, 2019.

The purpose of this memorandum is: 1.) to obtain the City Council's approval that the City Manager execute the Standard Agreement between the City/Developer and the Department; the Implementation and Cooperation Agreement between the City, the Developer, and SamTrans; and the Disbursement Agreement between the Department and the City and 2.) to consider waiving certain impact fees for the Light Tree project given the public infrastructure improvements and other benefits that will result from the AHSC award.

Analysis

Standard Agreement

As noted in the January 29, 2019 staff report to City Council, upon award of AHSC Program funds, the Applicant is required to enter into a State of California Standard Agreement

(Standard Agreement) with the Department. The Standard Agreement commits funds from the AHSC Program to the Light Tree project and contains a detailed scope of work and schedule of performance for each of the loan and grant components. The draft Standard Agreement for both the AHSC grant and loan can be found in Attachment 1 as Exhibit A to the Resolution. (Please note that the Standard Agreement consists of two parts: the Loan Agreement and the Grant Agreement, each of which consists of a cover page, summary page, and Exhibits A, B, C, D, and E.)

Implementation and Cooperation Agreement

The Standard Agreement holds all parties “Joint and Severally Liable” for the total fulfillment of the AHSC funding obligations. This means that the City could be held liable for the loan for the affordable housing Project if the Developer does not meet the obligations of the loan, or the Developer could be held responsible for completing the City’s transportation-related capital improvements if the City fails to complete them.

In order to mitigate much of the joint and several liability risk of the Standard Agreement, the City will also enter into an Implementation and Cooperation Agreement with its co-applicant, the Developer, and Sam Trans. While it is not a co-applicant, SamTrans is included in the Implementation and Cooperation Agreement because the agency will implement a portion of the transportation improvement (STI) grant by acquiring and operating three new electric buses on the newly created East Palo Alto-San Bruno bus route.

The Implementation and Cooperation Agreement clearly delineates roles and responsibilities of each party and contains a schedule of performance that commits each one to completing its portion of the AHSC grant and loan. This Agreement is provided in Attachment 1 as Exhibit B to the Resolution.

Disbursement Agreement

In addition to the Standard Agreement, HCD requires the Applicant to enter into a Disbursement Agreement. As the recipient of transportation-related AHSC grant funds, the City will enter into a Disbursement Agreement with HCD. The Agreement will also govern the disbursement of AHSC program funds from the City to SamTrans for the purchase and operation of the three new electric buses. The Disbursement Agreement will be drafted closer to the closing date of the AHSC grant and loan.

Development Impact Fees

As an affordable housing project that will result in a net increase of 91 affordable units to the City, the Light Tree development is already exempt from the Affordable Housing Impact Fee. Additionally, with the AHSC award, the City will be able to fund \$3.75 million dollars in public infrastructure improvements that will benefit residents of both Light Tree and the surrounding neighborhood.

When City Council passed Resolution #5093 establishing development impact fees, it included language authorizing City Council to adjust or reduce impact fees for affordable housing developments if the project provides substantial community benefits that address infrastructure, facility, or other community needs.

For these reasons, the Developer has requested that the City waive the Parks and Trails and Public Facilities Fees. Reducing these fees will lower the total development cost and potentially enable Eden Housing to leverage additional tax credits to finance the project. As Tables 2 and 3 below show, waiving the Public Facilities and Parks and Trails impact fees will reduce the total project cost by \$713,440. The City's willingness to waive fees for an affordable housing project does better position the Developer to secure additional financing due to the fact that impact fee waivers are considered a local funding commitment from the local jurisdiction.

Staff is not comfortable recommending that storm drainage, transportation, and water capacity fees be exempted. However, staff does recommend the City Council waive the parks and trails and public facilities impact fees.

Table 2 shows the current Parks and Trails and Public Facilities Fees as they apply to the Light Tree project, in addition to the Storm Drainage, Transportation, and Water Capacity fees.

Table 2

Impact Fee	2019-2020 Fee Amount	Light Tree Impact Fee
Parks and Trails	\$2,847.00 / dwelling unit	\$259,077.00
Public Facilities	\$4,993.00 / dwelling unit	\$454,363.00
Total proposed to be waived		\$713,440
Storm Drainage	\$70,000.00/acre	\$237,300.00
Transportation	\$1,775.00 / dwelling unit	\$161,525.00
Water Capacity	\$5,014 / dwelling unit	\$456,274

Unit Mix

Units in the Light Tree development currently range from 50%-60% AMI. The unit mix that Eden is proposing in its application for tax credits differs slightly from the proposed unit mix in the January 29, 2019 City Council staff report and presentation on Light Tree. The below table shows the unit mix proposed in that staff report.

Table 3

Light Tree Apartments Unit Mix and Affordability Detail									
UNIT SIZE	Current		Proposed Project						TOTAL
	50% AMI		30% AMI		50% AMI		60% AMI		
	Apts	Max Income	Apts	Max Income	Apts	Max Income	Apts	Max Income	
Studios	14	\$48,600	2	\$28,500	14	\$48,600	2	\$54,500	18
One Bedroom	20	\$51,350	12	\$30,800	20	\$51,350	62	\$56,485	94
Two Bedroom	37	\$58,650	3	\$35,200	15	\$58,650	29	\$64,515	47
Three Bedroom	22	\$66,000	2	\$39,600	7	\$72,600	14	\$72,600	23
Unrestricted Manager Units	1								3

Total	94	19	56	107	185
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Upon re-certification of the households in the existing 94 units, the Developer revised the income breakdown in the current project, which is shown below. An updated unit mix for the proposed project is also shown in Table 4, reflecting a concerted effort on the part of the Developer to shift towards a higher number of ELI units.

Table 4

Light Tree Apartments - Updated Unit Mix and Affordability Detail											
UNIT SIZE	Current				Proposed Project						Total
	50% AMI		60% AMI		30% AMI		50% AMI		60% AMI		
	Units	Max Income	Units	Max Income	Units	Max Income	Units	Max Income	Units	Max Income	
0-BR	13	\$64,500	1	\$77,400	9	\$33,850	9	\$56,450	0	\$90,450	18
1-BR	18	\$72,550	2	\$87,060	29	\$38,700	65	\$64,500	0	\$103,350	94
2-BR	29	\$87,050	7	\$104,460	3	\$43,550	38	\$72,550	7	\$116,250	48
3-BR	16	\$99,950	7	\$119,940	2	\$48,350	8	\$80,600	12	\$129,150	22
Unrestricted Manager Units	1										3
Total	77		17		43		120		19		185

Next Steps

The Developer intends to pull Building Permits for the Project on April 1, 2020. It is estimated that the Project will be completed by October 2022.

Fiscal Impact

If the actions outlined in this staff report are approved, the City would not receive the Parks and Trails and Public Facilities fees, totaling \$713,440.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo County Library located at 2415 University Avenue, East Palo Alto.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Attachments

1. Resolution AHSC Light Tree Standard Agreement
2. Exhibit A to Standard Agreement AHSC (Grant)
3. Exhibit B to Standard Agreement AHSC (Grant)

4. Exhibit C to Standard Agreement AHSC (Grant)
5. Exhibit D to Standard Agreement AHSC (Grant)
6. Exhibit E to Standard Agreement AHSC (Grant)
7. STD 213 to Standard Agreement AHSC (Grant)
8. STD 215 to Standard Agreement AHSC (Grant)
9. Exhibit A to Standard Agreement AHSC (Loan)
10. Exhibit B to Standard Agreement AHSC (Loan)
11. Exhibit D to Standard Agreement AHSC (Loan)
12. Exhibit E to Standard Agreement AHSC (Loan)
13. STD 213 to Standard Agreement AHSC (Loan)
14. STD 215 to Standard Agreement AHSC (Loan)
15. Exhibit B to Resolution AHSC Cooperation and Implementation Agreement
16. Resolution Light Tree Impact Fees

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

AUTHORIZING THE CITY MANAGER TO ENTER INTO, EXECUTE, AND DELIVER A STANDARD AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM IN AN AMOUNT NOT TO EXCEED \$20,000,000; AND RELATED ACTIONS

WHEREAS, the Strategic Growth Council (“SGC”) and the State of California Department of Housing and Community Development (the “Department”) issued a Notice of Funding Availability dated November 1, 2018 (“NOFA”) under the Affordable Housing and Sustainable Communities (“AHSC”) Program established under Division 44, Part 1 of the Public Resources Code commencing with Section 75200; and

WHEREAS, on January 29, 2019, via Resolution No. 5074, the City Council authorized the City Manager to submit an application jointly with Eden Housing/EPACANDO (the “Developer”) to the Department for an AHSC award in an amount not to exceed \$20,000,000; and

WHEREAS, Resolution No. 5074 also authorized the City Manager to negotiate and execute an Implementation and Cooperation Agreement between the City of East Palo Alto (the “City”), the Developer, and non-applicant SamTrans, that clearly delineates roles and responsibilities of each party; and

WHEREAS, the City is an eligible joint Applicant under the AHSC Program and was awarded an AHSC Program loan in an amount not to exceed \$13,500,000 (“AHSC Loan”) and an AHSC Program grant in an amount not to exceed \$6,500,000 (“AHSC Grant”) for an aggregate amount not to exceed \$20,000,000 under the above described NOFA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO THAT:

1. The City Manager is hereby authorized to enter into, execute, and deliver a State of California Standard Agreement in the amount not to exceed \$13,500,000 and any and all other documents required or deemed necessary or appropriate to carry into effect the full intent and purpose of the above resolution, in order to evidence the AHSC Loan, the Developer’s obligations related thereto, and the Department’s security therefore, including, but not limited to, a promissory note, a deed of trust and security agreement, a regulatory agreement, a development agreement, and certain other documents required by the Department as security for, evidence of or pertaining to the AHSC Loan, and all amendments thereto (collectively, the “AHSC Loan Documents”) as approved by the City Attorney.
2. The City Manager is hereby authorized to enter into, execute, and deliver a State of California Standard Agreement in the amount not to exceed \$6,500,000 and any and all other documents required or deemed necessary or appropriate to carry into effect the full intent and purpose of the above resolution, in order to evidence the AHSC Grant, the City’s obligations related thereto, and the Department’s security therefore; including, but not limited to, a disbursement agreement, a covenant and certain other documents required by the Department as security for, evidence of or pertaining to the AHSC Grant, and all amendments thereto (collectively, the “AHSC Grant Documents”) as approved by the City Attorney.

- 3. The City shall be subject to the terms and conditions as specified in the Standard Agreement(s). Fund are to be used for allowable capital asset project expenditures to be identified in **Exhibit A** of the Standard Agreement. The application in full is incorporated as part of the Standard Agreements. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. The City hereby agrees to use the funds for eligible capital asset(s) in the manner presented in the application as approved by the Department and in accordance with the NOFA, Program Guidelines, and application package.
- 4. The City Manager is hereby authorized to execute the AHSC Loan Documents and AHSC Grant Documents, and any amendment or modifications thereto, on behalf of the City, as approved by the City Attorney.
- 5. The City Manager is hereby authorized to enter into, execute, and deliver the Implementation and Cooperation Agreement between the San Mateo County Transit District (SamTrans) as a non-applicant, the Developer, and the City for the purpose of acquiring and operating three electric buses as part of the new East Palo Alto-San Bruno route, substantially in the form included as **Exhibit B**, subject to minor, non-substantive modifications as approved by the City Attorney.

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Resolution AHSC Light Tree Standard Agreement (1129 : Actions Related to the Light Tree Affordable Housing Development

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority & Purpose

This Standard Agreement, STD 213, (hereinafter "Agreement") is the result of the Recipient's application ("Application") for funding under the Affordable Housing and Sustainable Communities ("AHSC") Program ("Program") pursuant to:

- A. Part 1 of Division 44 of the Public Resources Code (commencing with Section 75200);
- B. The Program Guidelines dated October 29, 2018 ("Guidelines"), issued by the State of California, Strategic Growth Council ("SGC") and as may be amended from time to time; and
- C. The Program's Notice of Funding Availability ("NOFA") issued by the Department Housing and Community Development ("Department" or "HCD"), is dated November 1, 2018.

The Application, and the Project Report dated October 25, 2019 (the "Project Report") including all representations made therein, are hereby incorporated in this Agreement by this reference.

The Guidelines and the NOFA are available on the Program Web site at:

http://sgc.ca.gov/programs/ahsc/docs/20190221-AHSC_17-18_Guidelines-Updated.pdf

By entering into this Agreement and thereby accepting the award of Program grant funds ("Grant"), the Recipient agrees to comply with applicable statutory law, Guidelines, the NOFA, and this Agreement, to abide by the representations made in the Application, and the terms and conditions of the Disbursement Agreement, which is more particularly described in Exhibit B, attached hereto.

2. Definitions

Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines, and page 1 of this Exhibit A, in addition:

"Affordable Housing Development" refers to the residential rental Affordable Housing Development described in the Application providing the affordable housing units, as described therein, in consideration of that portion of the Grant. The Affordable Housing Development shall meet all the criteria for an eligible project as set forth Section 103(a)(1) of the Guidelines.

"Recipient" refers to the entity or entities submitting an application or to a related entity approved by the Department entering into this Agreement and identified as "Contractor" on page 1 to this Agreement (STD 213). In the case of joint applicants, "Recipient" shall also refer to each applicant

EXHIBIT A

or the Department-approved assignee of such applicant. Each joint applicant shall be jointly and severally liable for all obligations of a Recipient as set forth herein.

Any reference to a specific "Section" or "section" of the Guidelines shall initially refer to that specific numbered section of the Guidelines adopted on and dated October 29, 2018. Notwithstanding, if and when the Department amends any portion of the Guidelines, all references herein to any such portion of the Guidelines shall be deemed to refer to the updated version of the Guidelines, either in whole or in part, as may be applicable. To the extent that any Guidelines section or sections (Section or Sections) provision is or are amended, and thereafter receive(s) a new Guidelines section number(s), any reference herein to the old Guidelines section(s) number(s) shall be interpreted to refer instead to the Guidelines section(s) that is (or are) intended to replace the content and substance of the former Guidelines section(s).

3. Scope of Work

The Scope of Work ("Work") for this Agreement shall consist of one or more of the following categories, by or on behalf of the Recipient, within the Program Project Area as detailed in this Exhibit A and the Project Report:

Included ("x")	Grant Award Categories
	Housing-Related Infrastructure (HRI)
X	Program Costs (PGM)
X	Sustainable Transportation Infrastructure (STI)
X	Transportation-Related Amenities (TRA)

The Department, the Recipient and other parties as required by the Department shall enter into a Disbursement Agreement governing among other things the disbursement of Program funds as more particularly described in Exhibit B hereto.

At the request of the Department, Recipient shall provide further and additional evidence sufficient to demonstrate the existence and/or completion of the items listed in the Project Report for which the Recipient's Application received points. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reductions or cancellation of the amount of the grant award, require repayments of any disbursed Program funds and the disencumbrance of Program funds awarded.

A. HRI

The Scope of Work for this Agreement for Housing-Related Infrastructure ("HRI Work") shall consist of the following:

N/A

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The Affordable Housing Development and housing as designated in the Application that is supported by the HRI Work, and which is to be developed and constructed by the Recipient, or other developer, contains the following unit mix.

Location of Housing Development (APN, address, parcel map, specific plan or similar reference) City and County		Light Tree Apartments 1805 East Bayshore Road East Palo Alto, CA 94303 APN: 063-492-350 San Mateo County		
Enter the number of units by bedroom size and income level.				
# of Bedrooms	# of Project Units	AHSC Assisted Units* (Affordable Housing Development)	Income Limit (% of AMI)	TOTAL RESTRICTED UNITS**
0	2	2	30%	2
0	2	0	50%	2
1	19	19	30%	19
1	55	0	50%	55
2	3	3	30%	3
2	25	0	50%	25
2	5	0	60%	5
2	1	0	MGR	0
3	2	2	30%	2
3	8	0	50%	8
3	5	0	60%	5
3	1	0	MGR	0
Total Project Units	128	26		126

*AHSC Assisted Units must equal at least 20 percent of the total residential units.

**Total Restricted units include all units restricted by AHSC and the Tax Credit Allocation Committee (TCAC). The Grant amount was calculated based on the number of Total Restricted Units.

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The HRI Work is necessary for the development of the Affordable Housing Development. The Recipient is responsible for and shall ensure the completion of the HRI Work and the completion and occupancy of the Housing Development in accordance with the criteria set forth above and in the Project Report. The Department reserves the right to review and approve all HRI Work to be performed by the Recipient, or contracted by the Recipient, in relation to this Agreement. Any revision to the HRI Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

B. Program Costs

The Scope of Work for this Agreement for Program (PGM) Costs (“PGM Work”) shall consist of the following:

Free transit passes for all eligible residents for unlimited use on SamTrans for fifteen years. Eden Housing Resident Services, Inc. or a service provider under contract will provide on-site transportation coordination services, including community walking and biking maps, school route and travel plans for residents, along with pedestrian and bicycle safety programs, bicycle clinics, and subsidized bicycle and equipment purchasing programs.

The Recipient is responsible for and shall ensure the completion of the PGM Work associated with the Program Costs in accordance with the criteria set forth above and in the Project Report. The Department reserves the right to review and approve all PGM Work to be performed by the Recipient, or contracted by the Recipient, in relation to this Agreement. Any revision to the PGM Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

C. Sustainable Transportation Infrastructure

The Scope of Work for this Agreement for Sustainable Transportation Infrastructure (“STI Work”) shall consist of the following:

A new limited stop express route operated by SamTrans between East Palo Alto and San Bruno. SamTrans will acquire 3 electric-powered express buses as of the Project and will be responsible for operations and maintenance of the new buses on the proposed limited stop express route. 1.5 miles of Class II and 7.1 miles of Class III bikeways will be installed to provide connectivity to existing bike trails and a safe bikeway system. Pedestrian improvements include sidewalks, curb ramp and the development of an ecologically friendly “Green” street, creating 3,600 linear feet of ADA compliant sidewalks and sustainable urban greening. Along with 3 intersections of new crosswalks to increase pedestrian safety.

The Recipient is responsible for and shall ensure the completion of the STI Work in accordance with Program requirements, the Application, and the criteria set forth in the

EXHIBIT A

Project Report. The Department reserves the right to review and approve all STI Work to be performed by the Recipient in relation to this Agreement. Any revision to the STI Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

D. Transportation-Related Amenities

The Scope of Work for this Agreement for Transportation-Related Amenities (“TRA Work”) shall consist of the following:

Improvements to 8 bus stop shelters, benches and sidewalks at City-owner bus stops.

The Recipient is responsible for and shall ensure the completion of the TRA Work in accordance with the criteria set forth above and in the Project Report. The Department reserves the right to review and approve all TRA Work to be performed by the Recipient in relation to this Agreement. Any revision to the TRA Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

4. Criteria Applicability

Based on the points awarded to its Application, Recipient assures the Department of the existence of the following criteria of Section 107:

Guideline Reference		Affordable Developments and Housing-Related Infrastructure	Sustainable Transportation Infrastructure	Transportation-Related Amenities	Active Transportation Programs	Transit Ridership Programs	Criteria Air Pollutant Reduction Program
		Capital Projects			Program Costs		
a	Estimated GHG Reductions based on GHG Quantification Methodology	X	X	X	X	X	
b	Extent to which Project incorporates Active Transportation Improvements		X	X	X	X	
c	Extent to which the Project incorporates Green Buildings and Renewable Energy	X					

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Guideline Reference		Affordable Developments and Housing-Related Infrastructure	Sustainable Transportation Infrastructure	Transportation-Related Amenities	Active Transportation Programs	Transit Ridership Programs	Criteria Air Pollutant Reduction Program
		Capital Projects			Program Costs		
d	Extent to which Project incorporates Housing and Transportation Collaboration	X	X	X			
e	Extent to which Project incorporates Location Efficiency and Access to Destinations	X					
f	Extent to which Project Leverages non-AHSC Funds	X					
g & h	Anti-Displacement and Local Workforce Development & Hiring Practices	X					
i	Extent to which the Affordable Housing Development Serves Extremely Low Income Households	X					
j	Extent to which Project incorporates Programs				X	X	
k	Extent to which the Project incorporates Urban Greening		X				

A. GHG Emissions Reductions Estimate

Based on the inputs in the Application, the estimated total MTCO_{2e} over the life of the project is 36305.09. This information can be found on the Strategic Growth Council's website in a document called AHSC Round 4 Data for Public Release.

5. Performance Milestones

Recipient shall ensure the completion of the PERFORMANCE MILESTONES set forth below by the designated dates. When Recipient misses or anticipates missing a Performance Milestone deadline, Recipient shall notify the Department in writing as soon as is reasonably practicable. In this notification, Recipient shall explain why the deadline has been or will likely be missed; provide a status update relative to the other Performance Milestone deadlines; and provide assurances

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that it will meet the remaining Performance Milestone deadlines. Recipient's failure to provide a timely written notification shall be considered a default under this Agreement.

HRI PERFORMANCE MILESTONE	DATE
Executed binding agreement between the Recipient and developer of the proposed Housing Development detailing the terms and conditions of the Project development.	N/A
Site Control of Housing Development site(s) by proposed housing developer.	N/A
Completion of all necessary environmental clearances, including those required under CEQA and NEPA.	N/A
Obtaining all necessary and discretionary public land use approvals.	N/A
Obtaining all enforceable funding commitments for at least the first phase of the Housing Development supported by the HRI.	N/A
Obtaining all enforceable funding commitments for all construction period financing for the HRI	N/A
Obtaining enforceable commitments for all construction/permanent financing described in the Sources and Uses including substantially final construction and permanent loan documents, and tax credit syndication documents for remaining phases of Project.	N/A
Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	N/A
Commencement of construction of the HRI.	N/A
Commencement of construction of the Housing Development	N/A
Construction of HRI complete.	N/A

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Construction of the Housing Development complete and the filing of The Notice of Completion.	N/A
Program funds fully disbursed.	N/A

PGM PERFORMANCE MILESTONE	DATE
Identification and commitment of program operator and partners	06/01/23
Completion of a business or a work plan	06/01/23
Identification of ongoing support for operation costs beyond grant period	12/31/24

STI PERFORMANCE MILESTONE	DATE
Executed binding agreement between the Recipient and developer of the proposed development detailing the terms and conditions of the Project development.	02/01/19
Site Control of STI site(s) by proposed developer.	01/11/19
Completion of all necessary environmental clearances, including those required under CEQA and NEPA.	03/01/20
Obtaining all necessary and discretionary public land use approvals.	01/11/19
Submission of Final Construction Drawings and Specifications to the appropriate local permitting authority.	05/01/21
Commencement of construction of STI.	07/01/21
Construction completion of STI and closeout.	03/31/22

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Program funds fully disbursed.	12/31/24
TRA PERFORMANCE MILESTONE	DATE
Executed binding agreement between the Recipient and developer of the proposed development detailing the terms and conditions of the Project development.	02/01/19
Site Control of TRA site(s) by proposed developer.	01/11/19
Completion of all necessary environmental clearances, including those required under CEQA and NEPA.	03/01/20
Obtaining all necessary and discretionary public land use approvals.	01/11/19
Submission of Final Construction Drawings and Specifications to the appropriate local permitting authority.	05/01/21
Commencement of construction of TRA.	07/01/21
Construction completion of TRA and closeout.	01/01/22
Program funds fully disbursed.	12/31/24

6. HCD Contract Coordinator

The HCD Contract Coordinator of this Agreement for the Department is the Division of Financial Assistance Loan Closing AHSC Program Manager, or the Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the HCD Contract Coordinator at the following address:

Loan Closing AHSC Program Manager
Division of Financial Assistance - Loan Closing Section
Department of Housing and Community Development
P.O. Box 952054

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Sacramento, California 94252-2054

7. Recipient Contact Coordinator

The Recipient's Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the contact at the following address:

Recipient:	Eden Housing, Inc.
Name:	Andre Madeira, Senior Vice President
Address:	22645 Grand Street Hayward, CA 94541
Phone No.:	510-247-8118
Email:	amadeira@edenhousing.org

Recipient:	City of East Palo Alto
Name:	Jaime M. Fontes
Address:	2415 University Avenue, 2 nd Floor East Palo Alto, CA 94303
Phone No.:	650-853-3193
Email:	jfontes@cityofepa.org

Recipient:	East Palo Alto Community Alliance and Neighborhood Development Organization
Name:	Duane Bay
Address:	2369 University Avenue, 2 nd Floor East Palo Alto, CA 94303

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Eden Housing, Inc.
City of East Palo Alto
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Phone No.:	
Email:	

Attachment: Exhibit A to Standard Agreement AHSC (Grant) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

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EXHIBIT B**BUDGET DETAIL AND PAYMENT PROVISIONS****1. Project Sources and Uses**

The preliminary projected sources and uses (“Sources and Uses”) set forth in this Exhibit B contains the cost items for the design, development and construction of the approved HRI, STI, TRA Project(s) (collectively, “Infrastructure Project”), and for PGM, as applicable. Recipient agrees that any cost overruns or increases resulting in a total cost for Infrastructure Project exceeding that set forth therein shall be the responsibility of Recipient.

2. Contract Amount

A. For the purposes of performing the Work, the Department agrees to provide the aggregate amount identified on page 1, number 3 of this Agreement (STD 213) in the form of a grant (“Grant”) for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this Grant amount, or for any unauthorized or ineligible costs.

- 1) For the purposes of performing the Work related to the HRI, as set forth in Exhibit A, the Department agrees to provide \$0.00 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.
- 2) For the purposes of performing the Work related to the PGM, as set forth in Exhibit A, the Department agrees to provide \$348,705.00 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.
- 3) For the purposes of performing the Work related to the STI, as set forth in Exhibit A, the Department agrees to provide \$5,000,000.00 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.
- 4) For the purposes of performing the Work related to the TRA, as set forth in Exhibit A, the Department agrees to provide \$1,000,000.00 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.

B. The Department may approve a request from the Recipient to reallocate funds between authorized activities and itemized amounts stated in the budget for the designated grant

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Work. Changes in aggregate of ten percent or less, of the total grant amount between activity categories during the term of this Agreement, and expenditures pursuant thereto, may be made only after the Department's express written approval, but do not require a written amendment to this Agreement.

3. Other Funding Sources

Where the Sources and Uses set forth in this Exhibit B identify funds other than Program funds, those funds shall be expended and applied to Project costs as provided therein. Recipient agrees that it will make best efforts to ensure that the other funds specified in the Sources and Uses are available for disbursement as provided in this Exhibit, and approved for the use specified in the Sources and Uses, except to the extent the Sources and Uses may be updated and modified by the Disbursement Agreement described below. The Recipient shall provide evidence and assurance of the commitment and availability of such other sources of funding identified in the Sources and Uses as provided in the Disbursement Agreement. The terms and conditions of all construction financing to be used in conjunction with the Program funds shall be subject to the Department's review and approval.

4. Completion Dates

- A. Program funds must be disbursed no later than December 31, 2024.
- B. All un-disbursed funds remaining as of December 31, 2024, shall be disencumbered.
- C. All invoices for payment must be submitted to the Department no later than July 30, 2024.
- D. This Agreement shall expire on June 30, 2039.

5. Method of Payment

- A. Payment shall be made as reimbursed progress payments as set forth in the Disbursement Agreement. Recipient shall request payment for work completed on forms provided by the Department and subject to such documentation as the Department may require.
- B. The Department shall not authorize payments unless it determines that the Program funds shall be expended and disbursed in compliance with the terms and provisions of the Guidelines, the NOFA, this Agreement and the Disbursement Agreement.

6. Disbursement Agreement

- A. The Recipient, the Department and such other parties as may be reasonably required by the Department, shall enter into a Disbursement Agreement in a form provided by the Department. The Disbursement Agreement shall contain a specific description of the Work and an updated Sources and Uses therefore, including an updated table of Sources and

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Uses, and the specific terms and conditions for the disbursement of Program funds. In the event of a conflict between this Agreement and the Disbursement Agreement, as determined by the Department, the terms of the Disbursement Agreement, being the later and more specific document, shall govern; provided however, that no resolution of any such conflict shall be contrary to, or result in a waiver or violation of, the Guidelines or the NOFA.

B. The requirement for a Disbursement Agreement set forth in this paragraph may be waived by the Department where, at its sole discretion, it determines that:

- 1) Satisfactory completion of the Work has occurred,
- 2) Proper disbursement and use of Program funds have occurred,
- 3) Performance of, and compliance with, all the obligations, terms and conditions of this Agreement have occurred, and,
- 4) Compliance with all applicable statutes, laws, guidelines, and regulations, all have been or will be achieved without the execution of a Disbursement Agreement. The Department may require the submittal by the Recipient of such information, records, documents, certificates and other material, as it deems necessary to make this determination.

C. Payee record information is required for payment(s) to be made. All payee(s) receiving grant funds shall be listed below:

<u>Payee Name:</u>	<u>Activity:</u>	<u>Award Amount:</u>
City of East Palo Alto	Sustainable Transportation Infrastructure	\$5,000,000.00
City of East Palo Alto	Transit-Related Amenities	\$1,000,000.00
Eden Housing, Inc.	Programs	\$348,705.00

EXHIBIT B

SOURCES AND USES - HRI
PROJECT BUDGET

INFRASTRUCTURE DEVELOPMENT BUDGET AND SOURCES					
LIGHT TREE APARTMENTS			EDEN HOUSING, INC.		
ESTIMATED HRI CAPITAL IMPROVEMENT PROJECT COSTS			DEVELOPMENT COSTS BY FUNDING SOURCE		
DEVELOPMENT COSTS					
COST CATEGORY		TOTAL AMOUNT	AHSC Grant Program		
PROJECT ACTIVITY (Hard Costs)					
Total Project Activity Costs		\$N/A	\$N/A	\$	\$
SOFT COST S AND OTHER PROJECT RELATED COSTS					
Total Soft Cost and Other Project Related Costs		\$N/A	\$N/A	\$	\$
TOTAL PROJECT COSTS		\$N/A	\$N/A	\$	\$

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SOURCES AND USES – PROGRAM COSTS
PROJECT BUDGET

BUDGET AND SOURCES					
LIGHT TREE APARTMENTS			EDEN HOUSING, INC.		
ESTIMATED PROGRAM COSTS			DEVELOPMENT COSTS BY FUNDING SOURCE		
DEVELOPMENT COSTS					
COST CATEGORY		TOTAL AMOUNT	AHSC Grant Program		
SOFT COST AND OTHER PROJECT RELATED COSTS					
Total Soft Cost and Other Project Related Costs		\$348,705.00	\$348,705.00	\$	\$
TOTAL PROGRAM COSTS		\$348,705.00	\$348,705.00	\$	\$

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EXHIBIT B

SOURCES AND USES - STI
PROJECT BUDGET

INFRASTRUCTURE DEVELOPMENT BUDGET AND SOURCES					
LIGHT TREE APARTMENTS			CITY OF EAST PALO ALTO		
ESTIMATED STI CAPITAL IMPROVEMENT PROJECT COSTS			DEVELOPMENT COSTS BY FUNDING SOURCE		
DEVELOPMENT COSTS					
COST CATEGORY		TOTAL AMOUNT	AHSC Grant Program		
PROJECT ACTIVITY (Hard Costs)					
Total Project Activity Costs		\$0.00	\$0.00	\$	\$
SOFT COSTS AND OTHER PROJECT RELATED COSTS					
Total Soft Cost and Other Project Related Costs		\$5,000,000.00	\$5,000,000.00	\$	\$
TOTAL PROJECT COSTS		\$5,000,000.00	\$5,000,000.00	\$	\$

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EXHIBIT B

SOURCES AND USES – TRA
PROJECT BUDGET

INFRASTRUCTURE DEVELOPMENT BUDGET AND SOURCES					
LIGHT TREE APARTMENTS			CITY OF EAST PALO ALTO		
ESTIMATED TRA CAPITAL IMPROVEMENT PROJECT COSTS			DEVELOPMENT COSTS BY FUNDING SOURCE		
DEVELOPMENT COSTS					
COST CATEGORY		TOTAL AMOUNT	AHSC Grant Program		
PROJECT ACTIVITY (Hard Costs)					
Total Project Activity Costs		\$0.00	\$0.00	\$	\$
SOFT COST S AND OTHER PROJECT RELATED COSTS					
Total Soft Cost and Other Project Related Costs		\$1,000,000.00	\$1,000,000.00	\$	\$
TOTAL PROJECT COSTS		\$	\$	\$	\$

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Prep. Date: 10/22/2019

GTC 04/2017

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT**: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT**: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES**: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE**: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support

enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D**AHSC PROGRAM TERMS AND CONDITIONS****GENERAL****1. Effective Date, Commencement of Work and Completion Dates**

- A. This Agreement is effective upon approval by all parties and the Department, which is evidenced by the date signed by the Department on page one, Standard Agreement, STD 213 (the "Effective Date"). The Recipient agrees that neither the construction of the Housing Development nor the Work has commenced as of the deadline for submittal of applications set forth in the Notice of Funding Availability. The Recipient agrees that the Work shall be completed as specified in this Agreement, and as set forth in the Project Report, hereby incorporated in this Agreement by this reference subject to the Agreement expiration date specified on page 1, number 2, of this Agreement (STD 213), and in Exhibit B, unless a written request for an extension is submitted and written approval by the Department is provided within 90 days prior to the expiration date of the Agreement. Any extension to the expiration date shall require an amendment to this Agreement.
- B. Pursuant to §111(a) and (b) of the Guidelines, construction of the Affordable Housing Development and the housing designated in the Application, must commence within two years of the Program award date and be completed (including completion of all phases identified in the Application and accounting for the total number of units on which the Grant award is based) within five years of the Program award date.

2. Termination

Notwithstanding any other provision of this Agreement, the Department may terminate this Agreement at any time for cause by giving at least 14 days' notice in writing to the Recipient. Cause shall consist of violations by Recipient of any General or Special Terms and Conditions of this Agreement, to include but not limited to Paragraph 43 of this Exhibit. Upon termination of this Agreement, unless otherwise approved in writing by the Department, any unexpended funds received by the Recipient shall be returned to the Department within 14 days of the Notice of Termination. In the event of withdrawal of the Department's expenditure authority, all obligations of the Department to continue funding any amounts, whether for the benefit of Recipient or any other persons, shall fully and immediately cease and terminate, and the Department shall thereafter have no duty or obligation to undertake or perform any act that it is not legally or practically able to. Department makes no representation or warranty, express or implied, to Recipient or any other persons that all or any portion of the Program Grant Documents will be enforceable after the withdrawal of the Department's funding authority.

EXHIBIT D**3. Affordable Housing and Sustainable Communities Grant Documents**

In addition to this Agreement, the Recipient shall execute and enter into a Disbursement Agreement which shall govern the terms, disbursement and use of the Program funds, the Covenant described below, and other additional agreements and documents, as the Department may deem reasonable and necessary to meet the requirements of the Program and the terms and conditions of this Agreement. The Department may request, and if requested, the Recipient shall agree to and record a performance deed of trust ensuring the completion of the Work. Said performance deed of trust shall be recorded against the entire legal parcel underlying the object which it ensures is being constructed.

4. Covenant Regarding the Affordable Housing Development

Prior to the disbursement of Program funds, the Recipient shall enter into a written Covenant Regarding the Affordable Housing Development ("Covenant") with the Department, and including such other parties as the Department may reasonably require, which shall require the development and construction of the Affordable Housing Development with, the number of units and the number of bedrooms per unit, the extent and depth of affordability, as set forth in the Project Report and Exhibit A, and other uses and amenities for which points were granted to the Application. The Covenant shall be recorded against the parcel or parcels of real property on which the Affordable Housing Development is to be located and shall be binding on all successors, transferees, and assignees acquiring an interest in the Affordable Housing Development as follows:

- A. For rental housing developments, the Covenant shall require the continuation of the affordability of the Affordable Housing Development for a period of not less than 55 years from the date of the filing of a notice of completion for Affordable Housing Development.
- B. For homeownership housing developments, the Covenant shall require the continuation of the affordability for a period of not less than 30 years from the date of a filing of a Notice of Completion for the Affordable Housing Development. The affordability will be ensured through a resale restriction or equity sharing upon resale.
- C. The Department may waive this requirement for the Covenant upon the Department's determination that sufficient protections are in place to ensure the development and continued operation and occupancy of the Affordable Housing Development in accordance with this Agreement.
- D. In addition to the Covenant, the Department may request, and if requested, the Recipient shall agree to and record a performance deed of trust ensuring the completion of the Work. Said performance deed of trust shall be recorded against the entire legal parcel underlying the object which it ensures is being constructed. Alternatively, the Department may require that the Covenant contain a power of sale clause, which may be exercised in the

EXHIBIT D

event that the Work is not timely completed, or in the event of an uncured breach of this Agreement.

5. Site Control

The Recipient shall ensure that site control of the real property associated with the Work is sufficient to meet the requirements of the Program. This shall include, but not be limited to, ensuring the timely commencement of the Work as determined by the Department. Site control of the Work may be evidenced by one of the following:

- A. Fee title;
- B. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit, prior to grant funding, compliance with all program requirements;
- C. An enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;
- D. An executed disposition and development agreement, right of way, or irrevocable offer of dedication to a Public Agency;
- E. An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
- F. An executed agreement with a public agency that gives the applicant exclusive rights to negotiate with the agency for the acquisition of the site; provided that the major terms of the acquisition have been agreed to by all parties;
- G. A land sales contract or enforceable agreement for acquisition of the property; or
- H. Other forms of site control that give the Department equivalent assurance that the applicant or developer will be able to complete the Work and all housing designated in the Application in a timely manner and in accordance with all the requirements of the Program.

The Recipient shall also obtain all licenses, easements and rights-of-way or other interests required for completion of the Work, and provide evidence of such instruments prior to the first disbursement of Program funds.

6. Appraisals

Recipient shall, at the request of the Department, provide an appraisal of the real property to be acquired as part of the Work, prepared in a form, and by a qualified appraiser, acceptable to the Department.

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EXHIBIT D**7. Relocation Plan**

If there is or will be any residential or commercial displacement directly or indirectly caused by the Work, as defined in state law, the Recipient shall provide a relocation plan conforming to the requirements of state law and the regulations adopted by the Department in California Code of Regulations, Title 25, section 6000 et seq. The project and/or the development budget shall contain sufficient funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan accepted by the Department. Should a relocation plan not be required, Recipient must provide documentation for Department approval that there are no relocation requirements.

8. Article XXXIV

The Recipient shall deliver to the Department satisfactory evidence that the requirements of Article XXXIV of the California Constitution are inapplicable or have been satisfied.

9. Environmental Conditions

The Recipient shall provide to the Department the following:

- A. All Environmental Site Assessment (“ESA”) Reports (to include Phase I, II, III, supplemental or update assessments and reports) for the Work, in conformance with ASTM Standard Practice E 1527, evaluating whether the Work is affected by any recognized environmental conditions.
- B. Documentation and/or a certification satisfactory to the Department that all ESA Report recommendations including remediation and/or mitigation work have been completed.
- C. Mitigation requirements required as a result of the Final Environmental Impact Report (“EIR”) or Mitigated Negative Declaration if applicable and evidence satisfactory to the Department that all mitigation requirements have been satisfied.

10. Compliance with State and Federal Laws, Rules, Guidelines and Regulations

The Recipient agrees to comply with all State and Federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Work, the Recipient, its Contractors or Subcontractors, and any grant activity.

11. Litigation

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.

EXHIBIT D

- B. The Recipient shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

12. Milestones

Recipient shall ensure the completion of the PERFORMANCE MILESTONES set forth in the Project Report and Exhibit A of this Agreement, and as further set forth in the Disbursement Agreement by the designated dates. Recipient shall timely inform the Department when a milestone is missed or at risk of being missed, provide an update of these timelines and provide assurances from the Recipient for timely completion of the remaining Milestones. Failure to timely notify the Department shall be considered a default under this Agreement.

13. Insurance

The Recipient shall have and maintain in full force and effect forms of insurance, at such levels and for such periods, in accordance with the Disbursement Agreement.

14. Change of Conditions

Notwithstanding the Department's obligations to provide payments pursuant to Exhibit B hereof, the Department reserves the right to evaluate the Recipient's need for Program funds based on new information or funding sources associated with the Work. If the Department determines that the Program funds, or a portion thereof, are no longer necessary to complete the Work, the Department may reduce the amount of the Grant accordingly. In the event the Department determines the Work is no longer financially feasible, any Grant commitment issued by the Department and this Agreement may be terminated.

15. Obligations of Recipient with Respect to Certain Third Party Relationships

The Recipient shall remain fully obligated under the provisions of this Agreement, notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Work with respect to which assistance is being provided under this Agreement. The Recipient shall comply with all lawful requirements of the Department necessary to ensure the completion, occupancy and use of the Work in accordance with this Agreement.

16. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Recipient of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

EXHIBIT D**17. Identity of Interests**

As a condition of disbursement, Recipient shall execute a Certificate of Identity of Interest (“Certificate”) listing all relationships constituting an identity of interest with entities providing goods or services in connection with Recipient’s performance of the Work. The Certificate shall be in a form provided by the Department. At the Department’s request, Recipient shall submit contracts, instruments, documents, correspondence or other writings relating to Recipient’s relationship with entities listed in the Certificate. The existence and nature of such relationships shall be subject to the review and approval of the Department to the extent necessary to ensure compliance with Program requirements and this Agreement.

DESIGN REQUIREMENTS**18. Architect**

The Recipient shall utilize the services an architect and/or an engineer to provide professional design and engineering services for the Work. The contract shall require an architect and/or an engineer to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor’s payment requests, prepare or review change orders, and, upon completion of construction, provide the certification described in paragraph 33 of these AHSC Program Terms and Conditions. At the request of the Department, Recipient shall submit any and all contracts for these services to the Department for its review and approval.

19. Plans and Specifications and Project Cost Estimates

At the request of the Department, the Recipient shall submit plans and specifications and project cost estimates for the Work to the Department for its review and approval. The Work shall be constructed in substantial compliance with the plans and specifications, subject to any change order(s) accepted by the Department where such acceptance is required.

20. Reasonable Development Costs

At the request of the Department, the Recipient shall provide evidence acceptable to the Department that the total costs of the Work are reasonable and necessary for the proposed improvements. To verify cost reasonableness, the Department may require qualified third party verification of cost, evidence of the competitive bidding of major cost components and appraisals.

21. Adaptability and Accessibility

The Work shall comply with all applicable federal, state and local laws regarding adaptability and accessibility for persons with disabilities in the design, construction and rehabilitation of projects.

EXHIBIT D**22. Acoustics Report**

Upon request, the Recipient shall provide the Department with an acoustics report for the Affordable Housing Development in form acceptable to the Department.

23. Approval by Public Works Department

Where approval by a local public works department, or its equivalent, is required for the Work, the Recipient must submit, prior to the disbursement of Grant funds, a statement from that department, or other documentation acceptable to the Department, indicating that the Work has been approved by that department.

CONSTRUCTION REQUIREMENTS**24. Construction Contract**

Except for work performed by its own employees, the Recipient shall enter into a written construction contract or contracts ("Construction Contract(s)") with a duly licensed contractor or contractors ("Contractor(s)") for the construction activities of the Work. The Construction Contract(s) shall require, where applicable, prevailing wages be paid in conformance with Labor Code section 1720 et seq. and applicable provisions of this Agreement. The Construction Contract(s) and any amendments thereto shall be subject to the prior approval of the Department.

25. Contractor's Assurance of Completion

The Contractor(s) shall provide security to assure completion of the Work by furnishing the Recipient with Performance and Payment Bonds, or a Letter of Credit, which shall remain in effect during the entire term of the Construction Contract(s), and which shall be in a form and from an issuer which is acceptable to the Department. The Performance Bond shall be in an amount at least equal to 100 percent of the approved construction costs included in the Construction Contract(s) to provide security for the faithful performance of the Construction Contract(s) including a warranty period of at least 12 months after completion. The Payment Bond shall be in an amount at least equal to 100 percent of the approved construction costs included in the Construction Contract(s) to provide security for the payment of all persons performing labor on the Work and furnishing materials in connection with the Construction Contract. A Letter of Credit shall be in an amount equal to at least 20 percent of the approved construction costs included in the Construction Contract(s), in the form of an unconditional irrevocable, stand-by letter of credit. The Department shall be named as an additional obligee in the Bonds or an additional beneficiary under the Letter of Credit.

26. Prevailing Wages

Pursuant to Section 113 of the Guidelines, for the purposes of the State Prevailing Wage Law (Labor Code Sections 1720-1781), a grant under the Program shall be considered public funding

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for the construction, rehabilitation, demolition, relocation, preservation, or other physical improvement of the Work subject to the provisions of the State Prevailing Wage Law. Program funding of the Work shall not necessarily, in and of itself, be considered public funding of a Housing Development unless such funding is otherwise considered public funding under the State Prevailing Wage Law. It is not the intent of the Department to subject Housing Developments to the State Prevailing Wage Law by reason of Program funding of the Work in those circumstances where such public funding would not otherwise make the Housing Developments subject to the State Prevailing Wage Law. Although the use of Program funds does not require compliance with federal Davis-Bacon wages, other funding sources may require compliance with federal Davis-Bacon wages. The Recipient shall prepare a plan for compliance with this section, which plan shall be subject to the review and approval of the Department.

27. Construction Phase Information

If requested by the Department, the Recipient shall provide the Department:

- A. Information during the construction period, including but not limited to all change orders and modifications to the construction documents, and all inspection reports of the Work. Upon written notice to Recipient, the Department may require its advance written approval of all future change orders and modifications. Deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they shall be deemed accepted if not rejected in writing within 10 business days of receipt by the Department. Recipient shall not authorize or approve any change orders rejected by the Department where the Department's approval is required.
- B. Information during the construction period including but not limited to all change orders and modifications to the construction documents, all inspection reports prepared by the Housing Development architect and other consultants, and information relative to the Housing Development income, expenses, occupancy, relocation benefits and expenses, contracts, operations and conditions of the Housing Development. Upon written notice to Recipient, the Department may require its advance written approval of all future change orders and modifications. Deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they shall be deemed accepted if not rejected in writing within 10 business days of receipt by the Department. Recipient shall not authorize or approve any change orders rejected by the Department where the Department's approval is required.

EXHIBIT D**28. Signage**

- A. Recipient shall place signs on the construction site for the Work stating that the Department is providing financing through the Program in an appropriate location(s), typeface and size containing the following message:

LIGHT TREE APARTMENTS

**THIS PROJECT HAS BEEN MADE POSSIBLE
BY FINANCING FROM**

**CALIFORNIA CLIMATE INVESTMENTS
(Funded through the GREENHOUSE GAS REDUCTION FUND)
AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM
THROUGH THE
STRATEGIC GROWTH COUNCIL AND
THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

- B. The sign shall be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders or grantors, the acknowledgement and logos required by this Paragraph 28 shall also be displayed in a similar size and layout. Copies of the Department, SGC and California Climate Investments ("CCI") logos can be obtained by contacting the HCD Contract Coordinator.
- C. Upon installation of the sign, the Recipient shall submit a digital photograph thereof to the Department. The Recipient will also provide the Department, upon its request, with copies of any photographs that may be taken of the Work by or on behalf of the Recipient or its architect. The Recipient will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

INSPECTION OF GRANT ACTIVITIES**29. Site Inspection**

The Department reserves the right, upon reasonable notice, to inspect the Work site and any structures or other improvements thereon to determine whether the Work site meets the requirements of Program and this Agreement. If the Department reasonably determines that the site is not acceptable for the proposed Work in accordance with the Guidelines, the Department reserves the right to cancel its funding commitment and this Agreement.

EXHIBIT D

30. Work Inspection

- A. The Department and any authorized representative of the Department shall have the right, during construction and thereafter, to enter upon and inspect the construction of the Work to ensure that the construction is being and has been performed in accordance with the applicable Federal, State, and /or local requirements, the Guidelines and the terms of this Agreement. Such right to inspect shall include, but shall not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection shall be exercised in a reasonable manner.
- B. The Recipient shall be required to correct all circumstances found by such inspections not to conform to the applicable Program requirements, and to withhold payment to the Contractor and/or Subcontractor(s) until action(s) to correct the non-conforming circumstances is/are corrected by the Recipient and approved by the Department.
- C. The Department reserves the right to withhold payment for any costs found not to conform to applicable Program requirements until such actions have been taken to correct the non-conforming circumstances and such corrective actions have been approved by the Department.
- D. The Department shall have no affirmative duty to inspect the Work and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Recipient, the contractor, the construction lender, the architect, the structural engineer, the locality or anyone else of any obligation to inspect the Work.

31. Audit/Retention and Inspection

- A. The Department, its representatives or employees, or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Recipient shall provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Recipient further agrees to maintain such records for a minimum period of four years after final payment under the Agreement, unless a longer period of records retention is stipulated.
- B. Payment for any cost which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Recipient.

EXHIBIT D

- C. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Work. At the Department's request, the Recipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.
- D. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- E. If there are audit findings, the Recipient shall submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends and the Department will notify the Recipient in writing. If the Department is not in agreement, the Recipient will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.
- F. If so directed by the Department upon termination of this Agreement, the Recipient shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

COMPLETION OF CONSTRUCTION

32. Relocation Plan Implementation Report

The Recipient shall provide a report, in a form acceptable to the Department, summarizing the actions taken and identifying all recipients of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each recipient.

33. Architect Certification

Where required by the Department, the Recipient shall cause the Work architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the "as-built" Plans and Specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

34. Cost Certification

At the request of the Department, the Recipient shall submit a Work cost certification that shall have been audited by an independent certified public accountant in accordance with the requirements of the Department and the California Tax Credit Allocation Committee, if applicable. The Recipient (and the developer or builder if there is an identity of interest with the Recipient) shall keep and maintain records of all construction costs not representing work done under the construction contract and to make such records available for review by the Department.

EXHIBIT D**35. Recorded Notice of Completion**

The Recipient shall provide to the Department a certified copy of any Notice of Completion for the Housing Development recorded in the county in which the Housing Development is located.

36. “As-Built” Plans and Specifications

Upon completion, at the request of the Department, the Recipient shall submit “as-built” plans and specifications for the Work and Housing Development acceptable to the Department.

AFFORDABLE HOUSING DEVELOPMENT REQUIREMENTS**37. Confirmation of Permitted Housing Units**

Conditions precedent to the first disbursement of Program funds shall include receipt of all required public agency entitlements and all required funding commitments for the Affordable Housing Development. The housing units to be developed in the Affordable Housing Development must be completed, as evidenced by receipt of a certificate of occupancy, within the time period established in this Agreement.

REPORTING REQUIREMENTS**38. Reports on California Climate Investments**

Upon Department’s request, Recipient shall provide to the Department any and all necessary data that it is legally and factually able to provide that is required to be reported pursuant to the most recently adopted Funding Guidelines for California Climate Investments by the California Air Resources Board.

39. Reports on Work

Recipient shall submit, upon request of the Department, a periodic performance report regarding the construction or implementation of the Work. The reports will be filed on forms provided by the Department.

40. Reports on Affordable Housing Development

Recipient shall submit to the Department periodic reports, as required by the Department, but not less than annually, describing the development, construction and occupancy of the Affordable Housing Development and the housing designated in the Application. The report shall include, but not limited to, information regarding unit affordability and occupancy, construction and permanent financing evidenced by commitment letters, and a construction and completion schedule demonstrating compliance with this Agreement and the Guidelines. The reports will be filed on forms provided by the Department.

EXHIBIT D**41. Updated Information**

Recipient shall provide the Department updated documentation for any substantial change in the information previously provided relating to the Work and the conditions described above.

42. Monitoring Requirements

The Program may perform program and/or fiscal monitoring of the Grant. The Recipient agrees to cooperate with any such monitoring and provide reasonable access to all Work files, records, documents and other information to employees or representatives of the Department. The Recipient shall resolve any monitoring findings to the Program's satisfaction by the deadlines set by the Department.

REPAYMENT OF GRANT FUNDS**43. Breach of this Agreement**

In the event of a breach or violation by the Recipient of any of the provisions of this Agreement, including without limitation, the times for commencement and completion of the construction of the Affordable Housing Development and the housing designated in the Application as set forth in Paragraph 1.B. of this Exhibit D, the Department may give written notice to the Recipient to cure the breach or violation within a period of not less than 30 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default of the Agreement and may seek remedies for the default, including the following:

- A. The Department may terminate this Agreement and demand repayment of the Program funds to the extent that work for costs to be paid by Program funds as provided in Exhibit B remains unperformed or uncompleted. Recipient shall be liable for all costs to complete all such uncompleted or unperformed work.
- B. The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the Work in accordance with Program requirements.
- C. The Department may seek such other remedies as may be available under this Agreement or any law.
- D. This Agreement may be canceled by the Department under any of the following conditions:
 - 1) An uncured breach or violation by Recipient of this Agreement or the Disbursement Agreement;
 - 2) The objectives and requirements of the Program cannot be met by continuing the commitment or this Standard Agreement;

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Prep. Date: 10/22/2019

EXHIBIT D

- 3) Construction of the Work or Housing Development cannot proceed in a timely fashion in accordance with the Performance Milestones in Exhibit A of this Agreement; and,
- 4) Funding or disbursement conditions have not been or cannot be fulfilled within required time periods.

44. Cross-Default Provision

This award was based on the total points awarded the Recipient's Application, during a highly competitive process. The Application proposed an integrated combination of some or all of the following Project components:

Affordable Housing Development (AHD);
 Housing-Related Infrastructure (HRI);
 Sustainable Transportation Infrastructure (STI);
 Transportation-Related Amenities (TRA); and
 Program (PGM)

The Application's point score was based, in part, on the Project's total projected reduction of greenhouse gas (GHG) emissions. The Project components (AHD, HRI, STI, TRA, and PGM) that were proposed in the Application and approved by the Department must be completed in order to achieve this projected reduction of GHG emissions. By executing this Standard Agreement, the Recipient acknowledges and agrees, that in the event the AHD component is not timely completed pursuant to Program requirements, that the Recipient will no longer qualify for the Grant award. In that event, all disbursements of Grant funds would cease and the Recipients would be responsible for repayment of all disbursed Grant funds.

EXHIBIT E
SPECIAL CONDITIONS

The following Special Conditions are applicable to this Standard Agreement:

1. Applicable law, including the Department's and the AHSC Program's statutes, regulations and Guidelines (the "AHSC Requirements") shall apply and be enforced in the event any conflict between the AHSC Requirements and the project documentation becomes apparent to the Department at any time, notwithstanding the Department's prior review of project documentation prior to or at the time of construction loan closing.
2. Other Departmental Funding. In the event the Development is or has been awarded any ~~other Departmental~~ other Departmental grant or loan funding in addition to the AHSC Loan and AHSC Grant contemplated by the Award ~~Letter dated~~ Letter dated July 8, 2019 from the Department to Recipient (each such funding, including the AHSC Loan and AHSC Grant referenced in the Award Letter, being a "**Departmental Funding**"), then each Departmental Funding will be cross-defaulted to the other Departmental ~~Fundings~~ Funding's so that:
 - (i) the compliance by the obligated party(ies) under the Department's documentation relating to one Departmental Funding shall be a condition precedent to the funding and disbursement of the funds to be provided under all of the other Departmental ~~Fundings~~ Funding's; and
 - (ii) a default under one Departmental Funding shall constitute a default under all of the other Departmental ~~Fundings~~ Funding's.

The loan and grant documentation for each Departmental Funding shall reflect the cross-defaulted nature of all such ~~fundings~~ funding's.

1. None.

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER
19-AHSC-12802

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME

Eden Housing Inc., and City of East Palo Alto

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

06/30/2039

3. The maximum amount of this Agreement is:

\$6,348,705.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	10
Exhibit B	Budget Detail and Payment Provisions	7
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	AHSC Program Terms and Conditions	14
Exhibit E	Special Conditions	1
TOTAL NUMBER OF PAGES ATTACHED		32 pages

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

[See Attached](#)

CONTRACTOR BUSINESS ADDRESS

[See Attached](#)

CITY

[See Attached](#)

STATE

[See Attached](#)

ZIP

[See Attached](#)

PRINTED NAME OF PERSON SIGNING

[See Attached](#)

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

[See Attached](#)

DATE SIGNED

[See Attached](#)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Synthia Rhinehart

TITLE

Contracts Manager,
Business & Contract Services Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

California Department of General Services Approval (or exemption, if applicable)

Exempt per; SCM Vol. 1 4.04.A.3 (DGS memo dated 6/12/1981)

Attachment: STD 213 to Standard Agreement AHSC (Grant) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

AGREEMENT SUMMARY

STD 215 (Rev. 08/2017)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

AGREEMENT NUMBER 19-AHSC-12802	AMENDMENT NUMBER
--	-------------------------

1. CONTRACTOR'S NAME Eden Housing Inc., and City of East Palo Alto		2. FEDERAL I.D. NUMBER N/A
3. AGENCY TRANSMITTING AGREEMENT Housing and Community Development	4. DIVISION, BUREAU, OR OTHER UNIT Financial Assistance	5. AGENCY BILLING CODE N/A
6a. CONTRACT ANALYST NAME Wendy Barnes	6b. EMAIL wbarnes@hcd.ca.gov	6c. PHONE NUMBER (916) 263-6916
7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE? <input checked="" type="checkbox"/> No <input type="checkbox"/> YES (If Yes, enter prior contractor name and agreement number) PRIOR CONTRACTOR NAME: N/A PRIOR AGREEMENT NUMBER: N/A		

8. BRIEF DESCRIPTION OF SERVICES
 Land-use, housing, transportation, and land preservation projects to support infill and compact development that reduce greenhouse gas ("GHG") emissions.

9. AGREEMENT OUTLINE (Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)
 The AHSC Program, funded from the Greenhouse Gas Reduction Fund, will assist project areas by providing grants and/or loans, or any combination thereof, that will achieve GHG emissions reductions and benefit Disadvantaged Communities through increasing accessibility between destinations resulting in fewer vehicle miles traveled through shortened or reduced trip length or mode shift from Single Occupancy Vehicle use to transit, bicycling or walking.

10. PAYMENT TERMS (More than one may apply)

<input type="checkbox"/> Monthly Flat Rate	<input type="checkbox"/> Quarterly	<input type="checkbox"/> One-Time Payment	<input checked="" type="checkbox"/> Progress Payment
<input type="checkbox"/> Itemized Invoice	<input type="checkbox"/> Withhold 0%	<input type="checkbox"/> Advanced Payment Not To Exceed	
<input type="checkbox"/> Reimbursement/Revenue		\$ _____ 0.00	or _____ 0%
<input type="checkbox"/> Other (Explain) _____			

11. PROJECTED EXPENDITURES

FUND TITLE	ITEM	FISCAL YEAR	CHAPTER	STATUTE	PROJECTED EXPENDITURE
Greenhouse Gas Reduction Fund	2240 601 3228 Cat.	2019/2020	36	2014	\$ 6,348,705

FUND INFORMATION 22402000/45302 = \$6,348,705.00 5432000 - Grants and Subventions - Governmental	AGREEMENT TOTAL	\$ 6,348,705
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OPTIONAL USE	AMOUNT ENCUMBERED BY THIS DOCUMENT	\$ 6,348,705.00
<i>I certify upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure state above.</i>	PRIOR AMOUNT ENCUMBERED THIS AGREEMENT YEAR	\$ 0.00
	TOTAL AMOUNT ENCUMBERED TO DATE	\$ 6,348,705.00

ACCOUNTING OFFICER'S SIGNATURE	ACCOUNTING OFFICER'S NAME (Print or Type)	DATE SIGNED
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Attachment: STD 215 to Standard Agreement AHSC (Grant) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

12. AGREEMENT

AGREEMENT	TERM FROM	TERM THROUGH	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	Upon HCD Approval	06/30/2039	\$ 6,348,705.00	Exempt
Amendment No. 1				
Amendment No. 2				
Amendment No. 3				
TOTAL			\$ 6,348,705.00	

13. BIDDING METHOD USED:

- Request for Proposal (RFP) *(Attach justification if secondary method is used)*
 Use of Master Service Agreement
 Invitation for Bid (IFB)
 Exempt from Bidding *(Give authority for exempt status)*
 Sole Source Contract *(Attach STD. 821)*
 Other *(Explain)* SCM 5.80,B.2.b

Note: Proof of advertisement in the State Contracts Register or an approved form STD.821, Contract Advertising Exemption Request, must be attached.

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank.)*

15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, PLEASE EXPLAIN REASON(S). *(If an amendment, sole source, or exempt, leave blank.)*

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?

N/A

17a. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*

- Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.
 Contracting out is justified based on Government Code 19130(b). If this box is checked, a completed JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 54760 must be attached to document.
 Not Applicable *(Interagency / Public Works / Other PCC § 10348)*

17b. EMPLOYEE BARGAINING UNIT NOTIFICATION **N/A**

By checking this box, I hereby certify compliance with Government Code section 19132(b)(1).

AUTHORIZED SIGNATURE N/A	SIGNER'S NAME <i>(Print or Type)</i> N/A	DATE SIGNED N/A
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<p>18. FOR AGREEMENTS IN EXCESS OF \$5,000: Has the letting of the agreement been reported to the Department of Fair Employment and Housing? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A</p> <p>19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A</p> <p>20. FOR CONSULTING AGREEMENTS: Did you review any contractor evaluations on file with the DGS Legal Office? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A</p> <p>21. IS A SIGNED COPY OF THE FOLLOWING FILE AT YOUR AGENCY FOR THIS CONTRACTOR? A. Contractor Certification Clauses <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A B. STD.204 Vendor Data Record <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A</p>	<p>22. REQUIRED RESOLUTIONS ARE ATTACHED <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A</p> <p>23. IS THIS A SMALL BUSINESS AND/OR A DISABLED VETERAN BUSINESS CERTIFIED BY DGS? <input type="checkbox"/> No <input type="checkbox"/> Yes SB/DVBE Certification Number: N/A</p>
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24. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? *(If an amendment, explain changes, if any)* No *(Explain Below)* Yes ___ % of Agreement

N/A

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN THREE YEARS? No Yes *(If Yes, provide justification below)*

N/A

I certify that all copies of the referenced Agreement will conform to the original Agreement sent to the Department of General Services.

SIGNATURE	NAME/TITLE <i>(Print or Type)</i> Wendy Barnes / Contracts Analyst	DATE SIGNED
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Attachment: STD 215 to Standard Agreement AHSC (Grant) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

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 East Palo Alto Community Alliance and Neighborhood Development Organization, Inc.
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EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

This Standard Agreement, STD 213, (the "Agreement") is the result of the Sponsor's application (the "Application") for funding under the Affordable Housing and Sustainable Communities Program ("Program") pursuant to:

- A. Part 1 of division 44 of the Public Resources Code (commencing with Section 75200);
- B. The Round 4 Program Guidelines dated October 29, 2018 (the "Guidelines") as may be amended from time to time; and
- C. The Program's Notice of Funding Availability (the "NOFA") issued by the Department of Housing and Community Development (hereinafter the "Department" or "HCD"), dated November 1, 2018.

This Agreement is entered under the authority of, and in furtherance of the purposes of the AHSC Program.

2. Purpose

In accordance with the authority cited above, Sponsor's Application was made to HCD for financial assistance from the Program for the purpose of assisting in the development, operation and maintenance of a residential rental Affordable Housing Development on certain real property (the "Property") as identified in the Application. The Application, including all representations made therein, and the Project Report dated October 25, 2019 (the "Project Report") are hereby incorporated in this Agreement by this reference. The financial assistance from the Program shall be in the form of a permanent loan (the "Loan") to the Sponsor, or its approved affiliate (the "Borrower"), as owner of the Development evidenced by a promissory note, secured by a deed of trust and subject to a regulatory agreement between the Sponsor and the Department. The purpose of the Loan is to ensure that the Development is constructed, owned, managed, maintained and operated in accordance with the requirements of the Program, the requirements of the Guidelines, and the representations of the Application, and to ensure that certain residential units therein shall be occupied by eligible households at affordable rents as defined in the Guidelines for the full term of the Loan, regardless of sale or transfer of the Property or prepayment of the Loan. To further effect this purpose, if Borrower is an entity other than the Sponsor identified in the Application, HCD may require the Sponsor to enter into a Sponsor Operating Guaranty as a condition of closing the Loan.

By entering into this Agreement and thereby accepting the award of Program Loan funds, the Sponsor agrees to comply with applicable statutory law, the Guidelines, the NOFA, and this

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EXHIBIT A

Agreement, and to abide by the representations contained in the Application, and in the Project Report.

3. Definitions

Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines, and in page 2 of this Exhibit A, in addition:

- A. The “Development” refers to the residential rental Affordable Housing Development described in the Application and meeting the criteria set forth in the Project Report providing the affordable housing units, as described therein, in consideration of the AHSC Loan. The Development shall meet all criteria as set forth in the Guidelines.
- B. “Agreement” refers to this Standard Agreement.
- C. “Sponsor” refers to the entity or entities that made the Application to the Department for the Development (the “Development”) and identified as “Contractor” on page 1 to this Agreement (STD 213). “Sponsor” also includes any affiliate or assignee of the Sponsor approved by the Department and undertaking all the obligations of the Sponsor hereunder (e.g., the Borrower). In the case of joint applicants, “Sponsor” shall refer to each applicant or the approved assignee of such applicant. Each joint applicant shall be jointly and severally liable for all obligations of a Sponsor as set forth herein.
- D. “TCAC” refers to the California Tax Credit Allocation Committee.
- E. Any reference to a specific “Section” or “section” of the Guidelines shall initially refer to that specific numbered section of the Guidelines adopted on and dated October 29, 2018. Notwithstanding, if and when the Strategic Growth Council (“SGC”) amends any portion of the Guidelines, all references herein to any such portion of the Guidelines shall be deemed to refer to the updated version of the Guidelines, either in whole or in part, as may be applicable. To the extent that any Guidelines section or sections (Section or Sections) provision is or are amended, and thereafter receive(s) a new Guidelines section number(s), any reference herein to the old Guidelines section(s) number(s) shall be interpreted to refer instead to the Guidelines section(s) that is (or are) intended to replace the content and substance of the former Guidelines section(s).

4. Scope of Work

The Scope of Work (“Work”) for this Agreement shall consist of the development and construction by or on behalf of Sponsor of the Affordable Housing Development identified in the Award Letter and described in the Application. The Affordable Housing Development is to be developed and constructed by the Sponsor, or by a developer on behalf of the Sponsor, as provided in the Application, and must meet the following criteria:

Affordable Housing and Sustainable Communities (AHSC) Program
 Round IV - Loan
 NOFA Date: 11/01/2018
 Approved Date: 10/18/2019
 Prep. Date: 10/22/2019

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East Palo Alto Community Alliance and Neighborhood Development Organization, Inc.

EXHIBIT A

Location of Housing Development (APN, address, parcel map, specific plan or similar reference) City and County		Light Tree Apartments 1805 East Bayshore Road East Palo Alto, CA 94303 APN: 063-492-350 San Mateo County		
Enter the number of units by bedroom size and income level.				
# of Bedrooms	# of Project Units	AHSC Assisted Units* (Affordable Housing Development)	Income Limit (% of AMI)	TOTAL RESTRICTED UNITS**
0	2	2	30%	2
0	2	0	50%	2
1	19	19	30%	19
1	55	0	50%	55
2	3	3	30%	3
2	25	0	50%	25
2	5	0	60%	5
2	1	0	MGR	0
3	2	2	30%	2
3	8	0	50%	8
3	5	0	60%	5
3	1	0	MGR	0
Total Project Units	128	26		126

Affordable Housing and Sustainable Communities (AHSC) Program
Round IV - Loan
NOFA Date: 11/01/2018
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Prep. Date: 10/22/2019

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*AHSC Assisted Units must equal at least 20 percent of the total residential units.

**Total Restricted units include all units restricted by AHSC and TCAC. The AHSC loan amount was calculated based on the number of Total Restricted Units.

Additionally, upon completion, the Affordable Housing Development must meet or exceed the applicable minimum Net Density as set forth in Section 103(a)(1)(A)(iv) of the Guidelines.

Further, the Sponsor shall take such actions, pay such expenses and do all things necessary to complete the Affordable Housing Development as identified in the Award Letter and described in the Application, and in the Project Report in accordance with the schedule for completion set forth therein and within the terms and conditions of this Agreement. All written materials or alterations submitted as addenda to the original Application and which are approved in writing by a Division of Financial Assistance Operations Manager or higher Departmental official, as appropriate, are hereby incorporated as part of the Agreement. The Department reserves the right to review and approve all Work to be performed by the Sponsor in relation to this Agreement. Any proposed revision of the Work must be submitted in writing for review and approval by the Department. Any approval shall not be presumed unless such approval is made by the State Department in writing.

5. Evidence of Point Generating Activities

Based on the points awarded to its Application, Sponsor assures the Department of the existence or planned aspects of all point generating activities as detailed in the Project Report. At the request of the Department, Sponsor shall provide further and additional evidence sufficient to demonstrate the existence and/or completion of the items for which the Sponsor's Application received points. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reduction or cancellation of the award, require repayments of any disbursed Program funds, and result in the disencumbrance of Program funds awarded.

6. Performance Milestones

Sponsor shall ensure the completion of the Performance Milestones set forth in the Project Report, by the designated dates. Sponsor may apply to the Department for an extension of these timelines based on good cause shown and best efforts and assurances from the Sponsor for timely completion of the remaining Milestones.

7. HCD Coordinator

The coordinator of this Agreement for HCD is the Loan Closing AHSC Program Manager for the Affordable Housing and Sustainable Communities, Division of Financial Assistance. Any notice,

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EXHIBIT A

report, or other communication required by this Agreement shall be mailed by first class mail to the AHSC Program Manager at the following address:

Loan Closing, AHSC Program Manager
 Department of Housing and Community Development
 Division of Financial Assistance – Loan Closing Section
 P.O. Box 952054
 Sacramento, California 94252-2054

8. Sponsor Contract Coordinator

The Sponsor's Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the contact at the following address:

Sponsor:	Eden Housing, Inc.
Authorized Representative Name:	Andre Madeira
Authorized Representative Title:	Senior Vice President
Address:	22645 Grand Street Hayward, CA 94541
Phone No.:	510-247-8118
Email Address:	amadeira@edenhousing.org

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EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Terms of Loan

- A. Principal Amount. The principal amount of the Loan shall be the lesser of (i) the principal amount as stated in the Application, or (ii) the amount later approved by the Department as consistent with the requirements of the Guidelines, which incorporate section 7307 of the Multifamily Housing Program Regulations by reference.
- B. Interest and Payment. The Loan shall bear interest at the rate and be payable as provided in section 104 of the Guidelines, which incorporates section 7308 of the Multifamily Housing Program Regulations by reference, and under the terms of the Department's promissory note to be executed at loan closing. The Loan may not be prepaid without the prior written consent of the Department.

2. Invoicing and Payment

- A. **All Loan proceeds shall be disbursed through an independent escrow/title company. The Department shall prepare and submit instructions to the escrow holder, detailing the requirements for the release of Loan proceeds to the Borrower.**
- B. The Loan shall be released through escrow upon the Sponsor's, or its assignee's, submittal of the Request for Funds form and the satisfaction of the terms of the Award Letter and this Agreement. HCD reserves the right to retain 10 percent of the approved loan proceeds pending receipt and acceptance of the cost audit and any remaining loan closing checklist items.

3. Payees

- A. The authorized Payee(s) record information is required for payment(s) to be made. Payee(s) is/are as specified below (NOTE: if more than one payee, the dollar amount to be received by payee, must be listed):

<u>Payee Name:</u>	<u>Activity:</u>	<u>Award Amount:</u>
Light Tree Two LP	Affordable Housing Development	\$13,651,295

EXHIBIT D

AHSC PROGRAM TERMS AND CONDITIONS

1. Effective Date, Commencement of Work and Completion Dates

This Agreement is effective upon approval by all parties and the Department, which is evidenced by the date signed by the Department on page one, Standard Agreement, STD. 213 (the "Effective Date"). The Sponsor agrees that the construction of the Development has not commenced as of the deadline for submittal of applications set forth in the Notice of Funding Availability. The Sponsor agrees that the Work shall be completed as specified in this Agreement, as set forth in the Project Report, incorporated herein by reference, and subject to the Agreement expiration date specified on page 1, number 2, of this Agreement (STD 213), and in Paragraph 3 below, unless a written request for an extension is submitted and written approval by the Department is provided within 90 days prior to the expiration date of the Agreement. Any extension to the expiration date shall require an amendment to this Agreement executed by all parties.

2. Termination

The Department may terminate this Agreement at any time for cause by giving at least 14 days' notice in writing to the Sponsor. The Department shall have cause if the Sponsor violates any of the General Terms and Conditions, or Special Conditions, of this Agreement. Examples of cause for termination include but are not limited to:

- A. Failure of the Loan to close on or before the Loan closing deadline as stated under Paragraph 3, "Timing", in these General Terms and Conditions.
- B. Failure of the Sponsor to satisfy in a timely manner each of the conditions set forth in these General Terms and Conditions, Special Conditions set forth in Exhibit E of this Agreement, and the Award Letter.
- C. Determination by the Department that: (a) any material fact or representation made or furnished to the Department by the Sponsor in connection with the Application, or the Award Letter shall have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue, or (b) the Sponsor shall have concealed any material fact from the Department related to the Application or the Development.
- D. Filing a petition by Sponsor, or any affiliate or general partner of Sponsor, for relief under the Bankruptcy Code; the filing of any pleading or an answer by Sponsor, or any general partner of Sponsor, in any involuntary proceeding under the Bankruptcy Code; a general assignment by Sponsor, or any affiliate or general partner of Sponsor, for the benefit of creditors; or the filing of an application for the appointment of a receiver, trustee, custodian or liquidator of Sponsor or any of its property, or any affiliate or general partner of Sponsor or any of its property.

EXHIBIT D

- E. Failure of Sponsor, or any general partner of Sponsor, to effect a full dismissal of any involuntary petition under the Bankruptcy Code that is filed against Sponsor, or any general partner of Sponsor, or that in any way restrains or limits Sponsor, or any general partner of Sponsor, or the Department regarding the AHSC Loan or the Development, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or 30 days after the date of filing of such involuntary petition.
- F. Attachment, levy, execution, or other judicial seizure of any portion of the Development, or any substantial portion of the other assets of Sponsor, or any general partner of Sponsor, that is not released, expunged, bonded, discharged, or dismissed within 30 days after the attachment, levy, execution, or seizure.
- G. Pendency of any proceeding challenging the legal existence or authority of Sponsor, or any general partner of Sponsor, or any proceeding challenging the legality of the Development.
- H. Failure of Sponsor to close the Department approved construction financing on or before the date indicated under Paragraph 3, "Timing", in these General Terms and Conditions. Any reference in this Agreement to "construction" shall include rehabilitation construction, if applicable.

3. Timing

- A. The Sponsor shall close the construction financing approved by the Department and commence construction of the Development in accordance with the development schedule set forth in the Project Report. Upon the Department's request, the Sponsor shall promptly provide evidence of recorded deeds of trust for all construction financing, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement) and notice to proceed delivered to the contractor. If no construction lender is involved, and the project is receiving low-income housing tax credits, evidence must be submitted that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred.
- B. Pursuant to section 111 of the Guidelines, construction of the Affordable Housing Development must commence within two years of the Program award and must be completed within five years of the Program award date.
- C. The Sponsor shall satisfy all conditions required to close the AHSC Loan on or before **December 31, 2024**. In order to ensure this disbursement happens, the Sponsor must provide the Department with a certificate of occupancy (or an equivalent form of occupancy certification or approval) for the Project by no later than **July 30, 2024**. If the AHSC Loan does not ultimately close by **December 31, 2024**, the AHSC funds will be disencumbered from the Project.

EXHIBIT D

- D. This Agreement shall expire on **June 30, 2039**, the date specified on page 1, number 2, of this Agreement (STD 213).

4. Disputes

Applicable law, including the Department's and the AHSC Program's statutes, rules, regulations, and Guidelines shall apply and be enforced in the event of any conflict that becomes apparent to the Department at any time, notwithstanding the Department's preliminary prior review of Project documentation at the time of construction loan closing.

5. Consent

The parties agree that wherever the consent or approval of the Department or the Sponsor is **required under this Agreement, such consent or approval will not be unreasonably withheld or delayed**, unless the same is specified as being in that party's sole discretion or other words of similar import.

PRE-CONSTRUCTION LOAN REQUIREMENTS

Unless otherwise approved in writing by the Department, the following conditions require compliance prior to the close of the construction loan(s) for the Development (construction loan includes a rehabilitation loan):

6. Site Control

The Sponsor shall have Site Control of the real property on which the Development is located, as required by the Guidelines. Such control shall not be contingent on the approval of any other party. The status and nature of the Sponsor's title and interest in the property shall be subject to the Department's approval. Site Control may be evidenced by one of the following:

- A. Fee title;
- B. A leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance, prior to loan closing, with all Program requirements;
- C. An enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;
- D. An executed disposition and development agreement right of way, or irrevocable offer of dedication to a Public Agency;

EXHIBIT D

- E. An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
- F. An executed agreement with a public agency that gives the Sponsor exclusive rights to negotiate with that agency for acquisition of the site, provided that the major terms of the acquisition have been agreed to by both parties; or
- G. A land sales contract or other enforceable agreement for the acquisition of the property.
- H. Other forms of site control that give the Department assurance (equivalent to A-G above) that the applicant or developer will be able to complete the Project and all housing designated in the application in a timely manner and in accordance with all the requirements of the Program.

If the Sponsor's interest in the property is a leasehold, the lease must provide adequate security for the Loan and comply with the requirements of the Uniform Multifamily Regulations ("UMR"), Section 8316. The Sponsor shall provide a copy of the ground lease for the Department's approval and review of its compliance with UMR Section 8316. The lessor and lessee will be required to sign the Department's standard form Lease Rider and Estoppel Agreement, unless the lessor agrees to sign the Loan documents as required by the Department and encumber all its interest in the Development. Where the lessee and the lessor are affiliated or related private parties, both the lessee and the lessor must execute the Loan documents so as to encumber both the leasehold and fee interests in the Development.

7. Title Report

The Sponsor shall provide a current title report for the real property on which the Development is located. If the Sponsor's interest in the property is leasehold, then the Sponsor shall provide a current title report for the leasehold interest and the fee interest.

8. Site Inspection

The Department reserves the right, upon reasonable notice, to inspect the Development site and any structures or other improvements thereon to determine whether the Development site meets the requirements of the Program Guidelines and the criteria set forth in the Project Report. If the Department reasonably determines that the site is not acceptable for the proposed Development in accordance with the Guidelines, the Department reserves the right to rescind the award and the Loan.

EXHIBIT D**9. Adaptability and Accessibility**

The Sponsor and the Development shall comply with all applicable federal, state and local laws regarding adaptability and accessibility in the design, construction and rehabilitation of residential projects for persons with disabilities.

10. Physical Needs Assessment

If the Development involves rehabilitation of existing units, the Sponsor shall provide a post-rehabilitation physical needs assessment acceptable to the Department, in accordance with instructions provided by the Department.

11. Reserve Study

Upon request by the Department, Sponsor shall provide an independent, third-party replacement reserve study acceptable to the Department.

12. Development Budget

Unless otherwise approved in writing by the Department, prior to the close of any construction financing, the Sponsor shall provide to the Department for its review and approval, a copy of the construction lender(s)' approved development budget.

13. Reasonable Development Costs

Sponsor shall provide to the Department evidence that total development costs are reasonable and necessary for the proposed improvements. To verify cost reasonableness, the Department may require qualified third party verification of costs, evidence of the competitive bidding of major trades and real estate appraisals. Where the Development is a component of a larger development, the Sponsor shall submit to the Department for its approval, a development cost sharing breakdown for the entire development which covers all development costs for each of the individual components of the entire development and includes a discrete development budget for the Development consistent with the budget in the Application and Project Report. Eligible costs for Developments are limited to costs as specified in 25 CCR Section 7304 (a) & (b).

14. Sponsor Control of Development

Sponsor shall provide evidence satisfactory to the Department that the Sponsor identified in the Application and who demonstrated the requisite experience, pursuant to Section 106 (a)(12) of the Guidelines, in the application process, has and will retain full control over the development, construction, ownership and management of the Development through control of the Sponsor entity by the Sponsor either directly as Borrower, or as a managing general partner of Borrower, or as the member/manager of the general partner of the Borrower, if Borrower is a partnership.

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The same control requirement applies to any Borrower organized as a limited liability company. The failure to demonstrate the requisite control of the Sponsor entity by the Sponsor may result in significant delay in the processing, or potentially the cancellation, of the Loan. The Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, shall execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Development. The organizational structure of the Borrower, including the control and ownership by the Sponsor or Sponsors, and any changes thereto, must be reviewed and approved by the Department and must comply with all Program requirements.

15. Relocation Plan

If there is or will be any residential or commercial displacement directly or indirectly caused by the Development, the Sponsor shall provide a relocation plan conforming to the requirements of state law and the regulations adopted by the Department in California Code of Regulations, Title 25, Section 6000 et seq. The Development budget shall contain sufficient funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan accepted by the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.

16. Architect Contract

The Sponsor shall enter into a contract with an architect to provide professional services for the Development. The contract shall require an architect to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor's payment requests, prepare or review change orders, and, upon completion of construction, provide the certification described in paragraph 31 of these General Conditions.

17. Appraisals

If the property for the Development is being purchased, the Sponsor shall provide an appraisal acceptable to the Department of the as-is value of the property, prepared by a qualified, licensed appraiser.

18. Non-Department Financing

The Sponsor shall qualify for and obtain the financial assistance, loans and grants described in the Application for both the construction and permanent periods. Final terms and conditions of the non-Department financing must substantially conform to the terms and conditions of the Sponsor's Loan Application. The terms and conditions of all financing shall be subject to the Department's review and approval.

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19. Senior Loan Terms and Disclosures

The terms of loans in a lien position senior to the Loan must comply with all the underwriting standards of UMR Sections 8310 and 8315.

No subordination may limit the Department's remedies and must comply with UMR Section 8315.

Balloon payments are not allowed on senior debt, except as provided in UMR section 8310. Senior loans are prohibited from including call option language in the terms of the loan other than is reasonable in case of default, nor may Sponsor be required to remarket Bonds prior to expiration of the senior loan. Financial instruments on senior loans (including but not limited to swaps, collars, and interest rate hedges) must extend for the full term of the senior loan and cannot be required to be renewed or extended prior to the end of the full term.

Sponsors must obtain an interest rate cap on any interest rate that is not fixed for the full term of the senior loan. The interest rate at the cap must not jeopardize project feasibility. Interest rate resets, renewals, extensions of letters of credit, or other senior loan provisions, must not require the Sponsor to re-qualify.

All payments, lender fees, bond fees, issuer fees, trustee fees, letter of credit fees, swaps fees, hedge fees, enhancement fees, credit facility and liquidity fees, and other fees, charges and costs, in addition to principal and interest payments, must be fully disclosed to the Department in the loan closing transaction summary and in the operating budget.

The Department's lien shall not be subordinated to the liens of a lender affiliated with an entity that has an ownership interest in the Project unless a covenant, regulatory agreement, or similar instrument is recorded senior to the lender's documents that includes the provisions of UMR Section 8310(f).

20. Environmental Conditions

The Sponsor shall provide a Phase I Environmental Site Assessment ("ESA") for the Development, in conformance with ASTM Standard Practice E 1527, evaluating whether the Development is affected by any recognized environmental conditions. In the event the Phase I ESA indicates evidence of recognized environmental conditions and the Sponsor desires to proceed with the Development, the Sponsor shall provide the Department with a Phase II report and such further reports as required by the Department in form acceptable to the Department. Any remediation work to be performed shall be subject to Department approval. The Sponsor shall also provide an asbestos assessment and a lead-based paint report for the Department's approval if the Development involves rehabilitation or demolition of existing improvements.

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21. Article XXXIV

All Projects shall comply with Article XXXIV, section 1 of the California Constitution ("Article XXXIV"), as clarified by the Public Housing Election Implementation Law (Health & Safety Code, §§ 37000 – 37002). Prior to construction loan closing, the Sponsor shall submit documentation which shows, to the Department's satisfaction, that the Project complies with or is exempt from Article XXXIV.

CONSTRUCTION PHASE REQUIREMENTS

22. Construction Phase Information

If requested by the Department, the Sponsor shall provide the Department information during the construction period including but not limited to all change orders and modifications to the construction documents, all inspection reports prepared by the Development architect and other consultants, and information relative to Development income, expenses, occupancy, relocation benefits and expenses, contracts, operations and conditions of the Development. Upon written notice to Sponsor, Department may require its advance written approval of all future change orders and modifications. Deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they shall be deemed accepted if not rejected in writing within 10 business days of receipt by the Department. Sponsor shall not authorize or approve any change orders rejected by the Department.

23. Inspection

The Department and any authorized representative of the Department shall have the right, during construction and thereafter, to enter upon and inspect the construction of the Development. Such right to inspect shall include, but shall not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection shall be exercised in a reasonable manner. The Department shall have no affirmative duty to inspect the Development and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Sponsor, the contractor, the construction lender, the architect, the structural engineer, the locality or anyone else of any obligation to inspect the Development.

24. Updated Information

Sponsor shall provide the Department updated documentation for any change in the information previously provided relating to the Loan, including updated sources and uses and income

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information. All changes shall be subject to Department approval. However, if the Development is changed in any way as to make it ineligible under Section 103(a)(1) and 106 of the Guidelines, then the Loan commitment will be cancelled and all Loan funds awarded to the Sponsor shall be disencumbered.

25. Evidence of Existence of Application Selection Criteria

Upon request, Sponsor shall provide to the Department evidence of the existence of the amenities, services, improvements, features and characteristics of the Development which were included in the Application and as set forth in the Project Report and awarded points under Section 107 of the Guidelines in the Department's rating of the Application.

26. Signage

Sponsor shall place signs on the construction site for the Work stating that the Department and SGC are providing financing through the AHSC Program in an appropriate location(s), typeface and size containing the following message:

LIGHT TREE APARTMENTS**THIS PROJECT HAS BEEN MADE POSSIBLE
BY FINANCING FROM****CALIFORNIA CLIMATE INVESTMENTS****(funded through the GREENHOUSE GAS REDUCTION FUND)****AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM****THROUGH THE****STRATEGIC GROWTH COUNCIL AND****THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

The sign shall be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders, the acknowledgment and logos required by this Paragraph 26 shall also be displayed in a similar size and layout. Copies of the Department, SGC, and California Climate Investments ("CCI") logos can be obtained by contacting the AHSC Program Manager.

Upon installation of the sign, the Sponsor shall submit a digital photograph thereof to the Department to verify compliance with these signage requirements.

27. Photographs

The Sponsor will provide the Department, upon request, with copies of any photographs that may be taken of the Development by or on behalf of the Sponsor or the Development's architect. The

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Sponsor will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

COMPLETION OF CONSTRUCTION

28. Relocation Plan Implementation Report

The Sponsor shall provide a report, in a form acceptable to the Department, summarizing the actions taken and identifying all Sponsors of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each Sponsor.

29. Architect Certification

Where required by the Department, the Sponsor shall cause the Development architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the "as-built" plans and specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

30. Cost Certification

At the request of the Department, the Sponsor shall submit a Development cost certification audited by an independent certified public accountant in accordance with the requirements of the Department and TCAC, if applicable. The Sponsor (and the developer or builder if there is an identity of interest with the Sponsor) shall keep and maintain records of all construction costs not representing work done under the construction contract and to make such records available for review by the Department.

31. Recorded Notice of Completion

The Sponsor shall provide to the Department a certified copy of any Notice of Completion for the Development recorded in the county in which the Development is located.

PROGRAM LOAN CLOSING REQUIREMENTS

The Department shall not be obligated to close or fund the Loan unless the Sponsor has complied with and satisfied all the terms and conditions of the Guidelines, the NOFA, this Agreement, representations made in the Application and the criteria set forth in the Project Report, all in a manner satisfactory to the Department in its sole discretion, on or before the earlier of the Loan closing, the Loan closing deadline or such earlier time, all as indicated herein.

32. Development Construction

The Development shall be constructed in compliance with the plans and specifications, subject to any change order(s) accepted by the Department where such acceptance is required.

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33. Title Insurance

The Sponsor shall provide an updated title report and an ALTA As-Built Survey acceptable to the Department. The Sponsor shall provide a pro forma ALTA lender's policy of title insurance if requested by Department. The Sponsor shall ensure the issuance to the Department of an ALTA lender's policy of title insurance. The condition of title, insurer, liability amount, form of policy and endorsements shall be subject to the approval of the Department. Such endorsements shall include, but not be limited to a CLTA endorsement 100, and may include, but shall not be limited to, CLTA endorsements 105, 110.9 and 116 (modified for apartments). The policy shall insure that the Sponsor holds good and marketable fee simple title (or leasehold, if approved by Department) and that the Department holds a fee mortgage (or leasehold) lien on the Development, free and clear of all encumbrances, encroachments, other interests and exceptions to title other than as shall have been previously approved in writing by the Department. The Department's Deed of Trust and Regulatory Agreement and the other loans indicated under "Permanent Funding" in the Application shall have the lien priority as indicated in the Application.

34. Sponsor's Status

The Sponsor shall provide the Department with copies of all organizational documents, including but not limited to, partnership agreements, operating agreements, corporate documents, and related documents and agreements, as required by the Department. As of the date of the Loan closing, the Sponsor and Borrower shall be a duly organized and validly existing limited or general partnership, corporation, limited liability company, nonprofit public benefit corporation, or other valid legal entity under California law. The Sponsor or Sponsor-controlled Borrower has and shall have the authority to enter into the Loan and related loan documents.

35. Prevailing Wage Compliance

Where applicable, prevailing wage rates shall be paid with respect to the construction work, as the term is defined in the Standard Agreement, performed in connection with the Development. Prior to closing the Loan, a certificate signed by the general contractor(s) and the Sponsor is required, certifying that prevailing wages have been, or will be, paid in conformance with Labor Code Section 1720 et seq., and that labor records shall be maintained and made available to any enforcement agency upon request.

36. Insurance

The Sponsor shall obtain and maintain for the term of the Loan hazard and liability insurance for the Development in accordance with the Department's requirements, including flood insurance if applicable. The Department shall be named as a loss payee or an additional insured on all such policies. Such policies also shall provide for notice to the Department in the event of any lapse of coverage and in the event of any claim thereunder. The Sponsor shall provide evidence satisfactory to the Department of compliance with these insurance requirements.

EXHIBIT D**37. Program Loan Documents**

The Sponsor shall enter into this Standard Agreement with the Department, which shall govern the encumbrance by the Department of the funds to be used to fund the Loan. In addition, the Sponsor shall enter into a Regulatory Agreement with the Department, governing certain matters related to the use, operation and occupancy of the Development, including, but not limited to, the imposition of certain low income occupancy requirements, regulation of rents on the low income units, audits and other financial controls and reserve requirements, management oversight by the Department, compliance with federal and state laws, and other Department requirements. In addition to the Regulatory Agreement, the Loan shall be evidenced by a Promissory Note and secured by a Deed of Trust. The Regulatory Agreement shall be recorded prior to the Department's Deed of Trust. The Sponsor shall execute and enter into additional agreements and documents, as the Department may deem reasonable and necessary to meet the AHSC requirements and the terms and conditions of this Agreement. The Sponsor and any affiliate of the Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, must execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Development.

38. Restrictions on Transfer and Change of Ownership

The Sponsor shall not, without the prior written approval of the Department: a) sell, transfer, convey, encumber, hypothecate or pledge any of the Development or the Development property, or any portion or interest in either of them; b) discharge or replace any general or managing partner if Sponsor is a partnership, or amend, modify or add to its partnership agreement except that the Sponsor may sell or transfer limited partnership interests without the Department's approval; c) if Sponsor is a limited liability company: change the manager(s), amend, modify or add to its operating agreement or management structure; d) wind up, liquidate or dissolve its affairs or enter into any transaction of merger or consolidation; or e) change the organizational structure of the Sponsor.

39. Rental Subsidy Contract

The Sponsor shall provide the Department with complete copies of all contracts and amendments thereto, regarding rental subsidies to be provided to tenants residing in the Development.

40. Substitution of Rent or Social Service Subsidy

Sponsor may substitute a source of funding equivalent to the original rent or social service subsidy. The amount, terms and conditions of the new source of funding must provide an equivalent or greater level of subsidy to the project, acceptable to the Department.

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41. **Final Certificate of Occupancy**

The Sponsor shall provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

42. **Environmental Conditions Remedial Work**

All remedial work on recognized environmental conditions shall be completed prior to Loan closing. The Sponsor shall provide the Department with an environmental update/operations and maintenance plan if remedial work was required with evidence of lead-based paint and/or asbestos-containing materials remediation if applicable.

43. **Reserve Accounts**

The Sponsor shall establish and maintain reserve accounts as required by the Department and as further described in the Regulatory Agreement. All withdrawals shall require prior written approval from the Department, as provided in the Regulatory Agreement.

44. **Operating Reserve Account**

The Sponsor shall fund an operating reserve account in accordance with Section 8308 of the UMRs and subject to the requirements thereof. The specific amount of the Operating Reserve Account shall be set forth in the Regulatory Agreement.

45. **Replacement Reserve Account**

The Sponsor shall establish a replacement reserve account in accordance with Section 8309 of the UMRs. The replacement reserve account shall be funded by monthly deposits from operating income or a combination of operating income and development sources as indicated in the Regulatory Agreement. The amount of the monthly deposits may be adjusted, as determined by the Department, in its sole discretion, based on reserve studies performed by an independent third party at the Sponsor's expense as requested by the Department or as based on other reliable indicators of future reserve needs.

46. **Capitalized Reserve Accounts**

If Program funds are used to fund a reserve account, the Department shall disburse such funds in a manner to ensure the proper funding of the reserve. The proceeds of the Loan may be used to capitalize only operating and replacement reserve accounts and amounts required by UMRs Sections 8308 and 8309. Proceeds of the Loan may not be used to capitalize rental subsidy reserves, except as authorized in accordance with Section 103 of the Guidelines, or any reserves established to pay recurring operating costs, including, but not limited, to the required 0.42 percent annual payment on the Loan.

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47. CalHFA and HUD Funded Projects

Projects subject to the HUD Section 811 and 202 programs or receiving a permanent loan from CalHFA shall not be subject to Program reserve requirements during the time such projects are regulated by HUD or CalHFA and the Sponsor complies with the applicable CalHFA or HUD reserve requirements.

48. Property Management Documents

The Sponsor shall obtain the MHP Operations Manual, which sets forth the obligations and requirements for the use, operation and occupancy of the Development, including but not limited to the Department's approval of the following (in the format provided or approved by the Department): a) a proposal for management agent with management agent's qualifications attached; b) a management contract; c) a management plan; d) an operating budget; e) a residential tenant lease; f) long-term cash flow projection reports; and g) audits. Prior to close of the Loan, the Sponsor shall obtain the Department's review and approval of the above-mentioned items a) through f) and any additional property management documents required by the Department.

49. Affirmative Fair Housing Marketing Plan and Fair Housing Compliance

Sponsor shall develop and implement an affirmative fair housing marketing plan satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for assisted units in the Development. Sponsor is encouraged to refer to HUD's guidelines for Affirmative Fair Housing Marketing Plans. Sponsor shall comply with all state and federal fair housing laws. At the request of the Department, Sponsor will submit documentation acceptable to the Department demonstrating that the proposed tenant selection criteria in the tenant selection plan do not violate any applicable state or federal fair housing laws.

50. Identification of Elderly and Veteran Units

If applicable, Sponsor must submit a report that specifically identifies the number of units rented to the elderly. The report must also specifically identify the number of units rented to military veterans.

51. TCAC and Other Regulatory Agreements

The Sponsor shall provide the Department with a copy of the TCAC Regulatory Agreement if the Development budget includes tax credits and any other regulatory agreements pertaining to the Development.

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52. **Property Tax Exemption**

Unless expressly waived in writing by the Department, Sponsor shall provide evidence of eligibility for property tax exemption for the Development and a copy of the tax exemption application to the local tax assessor(s).

53. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

The Sponsor agrees to comply with all State and Federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Sponsor, its Contractors or Subcontractors, and any loan activity.

54. **Change of Conditions**

The Department reserves the right to re-underwrite the Development based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Development and the maintenance of the security position of the Loan. If the new information demonstrates a reduction or elimination of financing gap being addressed by the Loan, the Department will reduce the amount of the Loan Request stated in the Application and the amount of the award accordingly. If the Department has underwritten the Loan using CalHFA or HUD requirements and the Development subsequently does not utilize the CalHFA or HUD financing, the Loan will be re-underwritten by the Department using Program requirements. In the event the Department determines the Development is no longer financially feasible, the award and any Loan commitment issued by the Department may be revoked.

55. **Investor Commitments**

If the Development will be receiving an allocation of tax credits from TCAC, the Sponsor shall provide the Department with a copy of all tax credit investor commitments, including referenced financial projections and any amendments.

56. **Restricted Units**

All units designated in the Application approved by the Department as restricted units that are not also assisted units, shall be restricted on a long-term basis by a public agency at the income and rent levels shown in the Application. Similarly, all units designated in the Application as restricted units and that are not also assisted units, shall be restricted on a long-term basis by a public agency to the designated target population.

57. **Asset Management Fees**

Asset management, partnership management, and similar fees shall be in compliance with UMR Section 8314(a)(1)(B).

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58. Reduction of AHSC Loan Amount

Notwithstanding any development agreement, in the event that development costs are less than predicted in the development budget, the Department shall reduce its Loan for the amount of the cost savings prorated with other residual receipt lenders.

59. Sponsor Representations

- A. Sponsor represents and warrants that as of the date of this Agreement, the Sponsor is a duly organized and validly existing entity under California law and the person signing this Agreement on behalf of Sponsor has the authority to act on behalf of and bind the Sponsor in accordance with the terms of this Agreement.
- B. Sponsor represents and warrants that as of the date of the Loan closing, the Sponsor may be a duly organized and validly existing limited partnership under California law and that such limited partnership will have the authority to enter into the Loan and related loan documents.
- C. Sponsor further represents and warrants that as of the date of the Loan closing, the person(s) executing the Loan documents will have full authority to act on behalf of and bind the Sponsor in accordance with the terms of those documents.

60. Survival of Obligations

The obligations of the Sponsor as set forth in this Agreement shall survive the Loan closing, and the Sponsor shall continue to cooperate with the Department and perform acts and provide documents as provided herein.

61. Litigation

If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable. The Sponsor shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

62. Obligations of Sponsor with Respect to Certain Third Party Relationships

The Sponsor shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Development with respect to which assistance is being provided under this Agreement. The Sponsor shall

EXHIBIT D

comply with all lawful requirements of the Department necessary to ensure the completion, occupancy and use of the Development in accordance with this Agreement.

63. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Sponsor of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

64. Audit/Retention and Inspection

- A. The Department, its representatives or employees, or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Sponsor shall provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Sponsor further agrees to maintain such records for a minimum period of four years after final payment under the Agreement, unless a longer period of records retention is stipulated.
- B. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Development. At the Department's request, the Sponsor shall provide, at its own expense, a financial audit prepared by a certified public accountant.
- C. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- D. If there are audit findings, the Sponsor shall submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends and the Department will notify the Sponsor in writing. If the Department is not in agreement, the Sponsor will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.
- E. If so directed by the Department upon termination of this Agreement, the Sponsor shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

EXHIBIT D

65. Reporting Requirements

Upon Department's request, the Sponsor shall provide to the Department any and all necessary data that it is legally and factually able to provide that is required to be reported pursuant to the most recently adopted Funding Guidelines for California Climate Investments by the California Air Resources Board.

66. Cross-Default Provision

- A. This award was based on the total points awarded Sponsor's Application during a highly competitive process. That application proposed an integrated combination of some or all of the following Project components: Affordable Housing Development (AHD); Housing-Related Infrastructure (HRI); Sustainable Transportation Infrastructure (STI); Transportation-Related Amenities (TRA); and Programs (PGM). The Application's point score was based, in part, on the Project's total projected reduction of greenhouse gas (GHG) emissions. The Project components (AHD, HRI, STI, TRA, and PGM) that were proposed in the Application and approved by the Department must be completed in order to achieve this projected reduction of GHG emissions.
- B. By executing this Agreement, Sponsor acknowledges and agrees that if the HRI, STI, TRA, or PGM component, as applicable, is not timely completed pursuant to Program requirements, then Sponsor will no longer qualify for the Loan award. In the event the Loan has not yet been disbursed, the Loan award will be disencumbered. In the event the Loan has been disbursed, the Department will avail itself of any and all remedies available to it as set forth in the Loan documents in order to recapture the amount of the Loan disbursement, subject to the limitations set forth in subparagraph C. below.
- C. The Department and Sponsor further acknowledge that the Loan funds provided pursuant to this Agreement constitute a non-recourse loan (NR-Loan) secured against the AHD real property as required by the Program (and as may be required in order to comply with tax credit requirements). Any proceeds from the foreclosure of the NR-Loan may only be used to satisfy financial obligations owed under the NR-Loan's promissory note; additionally, a foreclosure may also be appropriate and necessary to remedy a substantial breach under the associated regulatory agreement. The Department hereby represents and warrants that, in the absence of the foregoing, the Department shall not foreclose upon the NR-Loan to obtain proceeds to satisfy any liability related to or arising out of the failure of the timely completion of the HRI, STI, TRA, or PGM components, as applicable.
- D. The Department recognizes that the Sponsor may enter into a separate side agreement to address each individual Sponsor entity's responsibilities with respect to each other and with regard to the Loan and Program Grant funds; provided, however, in no event shall any such agreement alter or amend the respective obligations of the Sponsors to the Department under the applicable Loan Documents or Program Grant Documents. (Section 105(a)(3)(A) of the Guidelines).

Light Tree Two LP
 City of East Palo Alto
 East Palo Alto Community Alliance and Neighborhood Development Organization, Inc.
 Eden Development, Inc.
 Eden Housing, Inc.
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SPECIAL CONDITIONS

The following Special Conditions are applicable to this Standard Agreement.

1. Exhibit A, Paragraph 3C –Definition of Sponsor: This provision is amended to add the following:

 Light Tree Two, L.P., a California limited partnership (“**LP**”) is an affiliate of Eden Housing, Inc., a California nonprofit public benefit corporation (“**Corp**”). Corp is the manager of Light Tree Two LLC, a California limited liability company (“**LLC**”), the general partner of LP. Corp, East Palo Alto Community Alliance and Neighborhood Development Organization, a California nonprofit public benefit corporation (“**EP Corp**”), and the City of East Palo Alto, a municipal corporation (“**City**”) were awarded the AHSC Loan funds contemplated by this Agreement (the “**AHSC Loan**”) pursuant to the Award Letter, dated July 8, 2019 (the “**Award Letter**”). The Department acknowledges that the LP will be considered the ultimate borrower of the AHSC Loan funds and as such will execute the regulatory agreement, note, deed of trust and other loan documents contemplated herein. For the purposes of this Standard Agreement, LP, Corp, EP Corp, and City will be collectively referred to herein as “**Sponsor**”. As such, the LP, Corp, EP Corp, and City shall be jointly and severally liable for all the obligations of a Sponsor as set forth herein. Performance satisfactory to the Department by the LP, Corp, Ep Corp, or City of any duties and obligations under this Standard Agreement, or under any other agreements as required by the Department, will be deemed as performance by the Sponsor.

2. Amended & Restated LPA. Prior to construction loan closing: (i) the Sponsor shall provide all drafts of the proposed amended and restated agreement of limited partnership for the LP (the “**LPA**”) to the Department for its review, which LPA shall comply with the AHSC Program’s statutes, regulations and Guidelines, including without limitation the requirements of UMR Section 8313.2; and (ii) the LPA shall have been fully executed by all of the constituent partners of the LP.

3. Other Departmental Funding. In the event the Development is or has been awarded any other Departmental grant or loan funding in addition to the AHSC Loan and AHSC grant contemplated by the Award Letter (each such funding, including the AHSC Loan and AHSC grant referenced in the Award Letter, being a “**Departmental Funding**”), then each Departmental Funding will be cross-defaulted to the other Departmental Funding’s so that:
 - (i) the compliance by the obligated party(ies) under the Department’s documentation relating to one Departmental Funding shall be a condition precedent to the funding and disbursement of the funds to be provided under all of the other Departmental Funding’s; and

Affordable Housing and Sustainable Communities (AHSC) Program
 Round IV - Loan
 NOFA Date: 11/01/2018
 Approved Date: 10/18/2019
 Prep. Date: 1/28/2020

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- (ii) a default under one Departmental Funding shall constitute a default under all of the other Departmental Funding's.

The loan and grant documentation for each Departmental Funding shall reflect the cross-defaulted nature of all such funding's.

4. **Default Notice.** The Department hereby agrees that: (i) any cure of any default hereunder offered by the investor limited partner shall be accepted or rejected on the same basis as if cure was offered by the Sponsor, and (ii) copies of all notices of default sent by the Department hereunder shall be sent to the investor limited partner at the notice address to be provided the investor limited partner prior to closing the construction financing for the project.

In no event or circumstance shall the Department's failure to provide a copy of any such notice as provided above: (1) constitute a breach or default by the Department under this Standard Agreement, the AHSC Loan Documents or any other agreements related to the Project or the Property, or (2) prohibit, delay, condition, limit, alter, impair or otherwise affect any of the Department's rights or remedies with respect thereto, or the exercise thereof, whether with respect to the LP, the other persons comprising Sponsor or any other persons, as applicable. Nothing contained in this Section 2 shall have the effect, or be deemed or interpreted as having the effect, of extending any applicable cure periods.

5. **Removal of GP.** The Department agrees to not unreasonably withhold its consent to the removal of a general partner of the LP to the extent it is being removed for material cause in accordance with the terms of the LPA. Upon receiving written notice of the planned removal a general partner, which notice shall include the reason(s) for such removal and the proposed new substitute general partner replacing the general partner to be removed, the Department shall have an independent duty to, within 30 days, send notice in writing, on Department letterhead, from a Department manager level staff or higher, that the Department has received notice of the planned removal ("Acknowledgment of Notice"). The Department's failure to provide its consent or object to such removal or replacement of a general partner within 30 days of sending the Acknowledgment of Notice shall be deemed consent by the Department to the subject removal or replacement. In no event shall consent to the removal or replacement be deemed given if the Department has not sent an Acknowledgment of Notice therefore. Any such removal and replacement shall comply with the Department's applicable Program statutes, regulations and Guidelines.

In no event or circumstance shall the Department's consent under this Section 3 have the effect, or be deemed or interpreted as having the effect, of releasing or exonerating LP, Corp, EP Corp, City, or any other person from any of their respective obligations under this Agreement,

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 Prep. Date: 1/28/2020

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the AHSC Loan Documents, the Sponsor Operating Guaranty or any other agreements or instruments executed in connection with this or any other Department funding related to the Project, as applicable, or of amending or modifying any such obligations.

Attachment: Exhibit E to Standard Agreement AHSC (Loan) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER
19-AHSC-12801

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME

Light Tree Two LP, City of East Palo Alto, East Palo Alto Community Alliance and Neighborhood Development Organization, Inc., Eden Development, Inc., and Eden Housing Inc.

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

06/30/2039

3. The maximum amount of this Agreement is:

\$13,651,295.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	5
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	AHSC Program Terms and Conditions	18
Exhibit E	Special Conditions	1
TOTAL NUMBER OF PAGES ATTACHED		25 pages

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

See Attached

CONTRACTOR BUSINESS ADDRESS

See Attached

CITY

See Attached

STATE

See Attached

ZIP

See Attached

PRINTED NAME OF PERSON SIGNING

See Attached

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

See Attached

DATE SIGNED

See Attached

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Synthia Rhinehart

TITLE

Contracts Manager,
Business & Contract Services Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

California Department of General Services Approval (or exemption, if applicable)

Exempt per; SCM Vol. 1 4.04.A.3 (DGS memo dated 6/12/1981)

Attachment: STD 213 to Standard Agreement AHSC (Loan) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

AGREEMENT SUMMARY

STD 215 (Rev. 08/2017)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

AGREEMENT NUMBER 19-AHSC-12801	AMENDMENT NUMBER
--	-------------------------

1. CONTRACTOR'S NAME Light Tree Two LP, City of East Palo Alto, East Palo Alto Community Alliance and Neighborhood Development Organization, Inc., Eden Development, Inc., and Eden Housing Inc.	2. FEDERAL I.D. NUMBER N/A
3. AGENCY TRANSMITTING AGREEMENT Housing and Community Development	4. DIVISION, BUREAU, OR OTHER UNIT Financial Assistance
5. AGENCY BILLING CC N/A	6a. CONTRACT ANALYST NAME Wendy Barnes
6b. EMAIL wbarnes@hcd.ca.gov	6c. PHONE NUMBER (916) 263-6916

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?
 No YES (If Yes, enter prior contractor name and agreement number)
 PRIOR CONTRACTOR NAME: N/A PRIOR AGREEMENT NUMBER: N/A

8. **BRIEF DESCRIPTION OF SERVICES**
 Land-use, housing, transportation, and land preservation projects to support infill and compact development that reduce greenhouse gas ("G") emissions.

9. **AGREEMENT OUTLINE** (Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)

 The AHSC Program, funded from the Greenhouse Gas Reduction Fund, will assist project areas by providing grants and/or loans, or any combination thereof, that will achieve GHG emissions reductions and benefit Disadvantaged Communities through increasing accessibility between destinations resulting in fewer vehicle miles traveled through shortened or reduced trip length or mode shift from Single Occupancy Vehicle use to transit, bicycling or walking.

10. **PAYMENT TERMS** (More than one may apply)
 Monthly Flat Rate Quarterly One-Time Payment Progress Payment
 Itemized Invoice Withhold 0% Advanced Payment Not To Exceed
 Reimbursement/Revenue \$ _____ 0.00 or _____ 0%
 Other (Explain) _____

11. **PROJECTED EXPENDITURES**

FUND TITLE	ITEM	FISCAL YEAR	CHAPTER	STATUTE	PROJECTED EXPENDITURE
Greenhouse Gas Reduction Fund	2240 601 3228 Cat.	2019/2020	36	2014	\$ 13,651,295

FUND INFORMATION 22402000/45302 = \$13,651,295.00 5438000 - Loans, Transfers and Other Disbursements	AGREEMENT TOTAL	\$ 13,651,295
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OPTIONAL USE
 I certify upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure state above.

AMOUNT ENCUMBERED BY THIS DOCUMENT	\$ 13,651,295.00
PRIOR AMOUNT ENCUMBERED THIS AGREEMENT	\$ 0.00
TOTAL AMOUNT ENCUMBERED TO DATE	\$ 13,651,295.00

ACCOUNTING OFFICER'S SIGNATURE	ACCOUNTING OFFICER'S NAME (Print or Type)	DATE SIGNED
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Attachment: STD 215 to Standard Agreement AHSC (Loan) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

12. AGREEMENT

AGREEMENT	TERM FROM	TERM THROUGH	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	Upon HCD Approval	06/30/2039	\$ 13,651,295.00	Exempt
Amendment No. 1				
Amendment No. 2				
Amendment No. 3				
TOTAL			\$ 13,651,295.00	

13. BIDDING METHOD USED:

- Request for Proposal (RFP) *(Attach justification if secondary method is used)*
 Use of Master Service Agreement
 Invitation for Bid (IFB)
 Exempt from Bidding *(Give authority for exempt status)*
 Sole Source Contract *(Attach STD. 821)*
 Other *(Explain)* SCM 5.80,B.2.b

Note: Proof of advertisement in the State Contracts Register or an approved form STD.821, Contract Advertising Exemption Request, must be attached.

14. SUMMARY OF BIDS *(List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank.)*

15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, PLEASE EXPLAIN REASON(S). *(If an amendment, sole source, exempt, leave blank.)*

16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?
N/A

17a. JUSTIFICATION FOR CONTRACTING OUT *(Check one)*

- Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.
 Contracting out is justified based on Government Code 19130(b). If this box is checked, a completed JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 54760 must be attached to document.
 Not Applicable *(Interagency / Public Works / Other PCC § 10348)*

17b. EMPLOYEE BARGAINING UNIT NOTIFICATION **N/A**

By checking this box, I hereby certify compliance with Government Code section 19132(b)(1).

AUTHORIZED SIGNATURE	SIGNER'S NAME <i>(Print or Type)</i>	DATE SIGNED
N/A	N/A	N/A

<p>18. FOR AGREEMENTS IN EXCESS OF \$5,000: Has the letting of the agreement been reported to the Department of Fair Employment and Housing? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A</p> <p>19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A</p> <p>20. FOR CONSULTING AGREEMENTS: Did you review any contractor evaluations on file with the DGS Legal Office? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A</p> <p>21. IS A SIGNED COPY OF THE FOLLOWING FILE AT YOUR AGENCY FOR THIS CONTRACTOR? A. Contractor Certification Clauses <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A B. STD.204 Vendor Data Record <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A</p>	<p>22. REQUIRED RESOLUTIONS ARE ATTACHED <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A</p> <p>23. IS THIS A SMALL BUSINESS AND/OR A DISABLED VETERAN BUSINESS CERTIFIED BY DGS? <input type="checkbox"/> No <input type="checkbox"/> Yes SB/DVBE Certification Number: N/A</p>
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24. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? *(If an amendment, explain changes, if any)*
 No *(Explain Below)* Yes _____ % of Agreement
N/A

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN THREE YEARS? No Yes *(If Yes, provide justification below)*
N/A

I certify that all copies of the referenced Agreement will conform to the original Agreement sent to the Department of General Services.

SIGNATURE	NAME/TITLE <i>(Print or Type)</i>	DATE SIGNED
	Wendy Barnes / Contracts Analyst	

Attachment: STD 215 to Standard Agreement AHSC (Loan) (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

AHSC IMPLEMENTATION AND COOPERATION AGREEMENT

THIS AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES ("AHSC") PROGRAM IMPLEMENTATION AND COOPERATION AGREEMENT (the "**Agreement**") is made and entered into as of September 1, 2019, by and amongst the San Mateo County Transit District (the "**District**"), the City of East Palo Alto (the "**City**"), East Palo Alto Community Alliance and Neighborhood Development Organization, a California nonprofit public benefit corporation ("**EPA**"), Eden Development, Inc., a California nonprofit public benefit corporation ("**EDI**") and Eden Housing, Inc., a California nonprofit public benefit corporation ("**EHI**", and collectively with EPA and EDI, the "**Developer**"), each of which is referred to herein individually as "Party" and jointly as "Parties."

RECITALS

A. The State of California, the Strategic Growth Council ("**SGC**") and the Department of Housing and Community Development ("**HCD**") issued a Notice of Funding Availability dated November 1, 2018 (the "**AHSC NOFA**"), under the AHSC Program established under Division 44, Part 1 of the Public Resources Code, commencing with Section 75200.

B. Developer and City applied for, and were awarded, AHSC Funds in response to the AHSC NOFA to provide funding for (A) construction of the Light Tree Apartments affordable housing project in East Palo Alto, California (the "**Housing Project**"); (B) the purchase of no less than three electric buses by the District (the "**District Transportation Project**"); (C) the construction of certain sustainable transportation infrastructure and transit related amenities (the "**City Transportation Project**"); and (D) certain costs related to the Housing Project residents' program costs (the "**AHSC Programs**"). These improvements and programs are described in more detail in the Final Application submitted to HCD (collectively, the "**AHSC Application**"), a copy of which is on file with the Developer.

C. In accordance with the AHSC Application, the Parties obtained an award in an aggregate amount of \$20,000,000 in AHSC Funds consisting of: (A) \$13,651,295 of AHSC loan funds for a permanent loan ("**AHSC Loan**") which will be disbursed to Developer's payee, Light Tree Two, L.P., a California limited partnership (the "**Partnership**"), for construction of the Housing Project; (B) \$2,250,000 of AHSC grant funds shall be used for the purpose of reimbursing the cost of the District Transportation Project; (C) \$3,750,000 of the AHSC grant funds for the purpose of reimbursing the cost of the City Transportation Project; and (D) \$348,705 of AHSC grant funds for reimbursing the costs of the AHSC Programs. The AHSC grants shall be referred to collectively as the "**AHSC Grants**". The AHSC Loan and the AHSC Grants are collectively referred to herein as the "**AHSC Financing**."

D. The District shall be responsible for performing and completing the District Transportation Project (the "**District Obligations**") and for all costs and expenses necessary to implement the District Transportation Project in accordance with the NOFA, AHSC Application,

and the Standard Agreement, the City shall be responsible for performing and completing the City Transportation Project (the “**City Obligations**”) and for all costs expenses related thereto, and Developer shall be responsible for constructing and developing the Housing Project and for implementing the AHSC Programs (together, the “**Developer Obligations**”), and for all costs and expenses related thereto. In connection with the AHSC Grants and AHSC Loan, Developer and City are required to enter into standard agreements, disbursement agreements, and regulatory agreements with HCD where Developer and City will have certain obligations with respect to the Housing Project, , District Obligations, City Obligations, and funding of the AHSC Programs. The AHSC Application and all standard agreements, disbursement agreements, regulatory agreements and any other agreements required by HCD in connection with the AHSC Financing shall be collectively referred to herein as the “**AHSC Documents**”.

E. The Parties acknowledge and agree that the inability or failure by any of the Parties to fully and timely complete its respective obligations required by the AHSC Documents may affect the timing and right of the other Parties to receive disbursement of AHSC Financing due the other Parties notwithstanding the other Parties’ full and timely performance of its obligations.

F. The Parties previously entered into that certain Cooperative Agreement dated February 1, 2019 pursuant to which the Parties agreed to perform their respective obligations should an AHSC award be obtained. As further set forth in that Cooperative Agreement, the Parties agreed that should an award be obtained, the Parties would enter into an implementation agreement to provide reasonable assurances to each other regarding implementation of the AHSC Grant. The purpose of this Agreement is to set forth such terms. Accordingly, the Parties agree the Cooperative Agreement shall be terminated and superseded by this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

AGREEMENT

1. Obligations. The District shall, in its sole responsibility, complete the District Obligations in accordance with the terms of the AHSC Documents and this Agreement. The City shall, in its sole responsibility, complete the City Obligations in accordance with the terms of the AHSC Documents, this Agreement and the approved design and construction documents. The Developer shall, in its sole responsibility, complete the Developer Obligations in accordance with the terms of the AHSC Documents, this Agreement and the approved design and construction documents. Each Party will provide the other Parties with copies of all requisitions for work related to their respective work, the notice of completion, and other documents related to their respective work that another party may reasonably request.

2. District Indemnity. District is responsible for carrying out the District Obligations using AHSC Grant proceeds in accordance with the AHSC Documents, including, but not limited to, any disbursement deadlines contained therein. District shall indemnify, defend, protect, and hold harmless Developer, City, and their respective affiliates, directors, officers, partners, members, agents and employees (each, an “**Developer Indemnified Party**”

and “**City Indemnified Party**”, respectively) against any and all claims, actions, suits, causes of action, losses, liabilities, injuries, costs, damages, or expenses (collectively, “**Claims**”), including, without limitation, any direct loss, liability, damage, or expense, court costs and attorneys’ fees, arising out of or in connection with the District’s negligence or failure to perform its obligations to complete the District Transportation Project, in the manner and within the time periods, and the District’s failure to otherwise perform any covenants constituting District Obligations set forth in the AHSC Documents, including any claims, losses or liabilities of the Partnership caused by a breach or default by the District under the AHSC Documents that triggers a default under the AHSC Loan. However, in no event shall the Developer Indemnified Party or City Indemnified Party be indemnified hereunder for any Claims resulting from such party’s negligence or willful misconduct. District agrees to pay all of the Developer Indemnified Party’s and City Indemnified Party’s costs and expenses, including attorneys’ fees, which may be incurred in any effort to enforce any terms of this indemnification against the District, including, but not limited to, all such costs and expenses which may be incurred by any Developer Indemnified Party or City Indemnified Party in any legal action, reference or arbitration proceeding brought by HCD or other third party against the District.

3. Developer Indemnity. Developer is responsible for carrying out the Developer Obligations using AHSC Grant proceeds and AHSC Loan funds in accordance with the AHSC Documents, including, but not limited to, any disbursement deadlines contained in the AHSC Documents. Developer shall indemnify, defend, protect, and hold harmless the District and its affiliates, directors, officers, partners, members, agents and employees (each, a “**District Indemnified Party**”) and the City Indemnified Party against any and all Claims, including, without limitation, any direct, indirect or consequential loss, liability, damage, or expense, court costs and attorneys’ fees, arising out of or in connection with Developer’s performance of or failure to perform its Developer Obligations, to complete construction and development of the Housing Project, in the manner and within the time periods set forth in the AHSC Documents, and to otherwise perform any covenants constituting Developer Obligations set forth in the AHSC Documents. However, in no event shall the District Indemnified Party or City Indemnified Party be indemnified hereunder for any Claims resulting from such party’s sole negligence or willful misconduct. Developer agrees to pay all of the costs and expenses of the District Indemnified Party and City Indemnified Party, including attorneys’ fees, which may be incurred in any effort to enforce any term of this indemnification, including, but not limited to, all such costs and expenses which may be incurred by any District Indemnified Party or City Indemnified Party in any legal action, reference or arbitration proceeding brought by HCD or other third party.

4. City Indemnity. City is responsible for carrying out the City Obligations using AHSC Grant proceeds in accordance with the AHSC Documents, including, but not limited to, any disbursement deadlines contained in the AHSC Documents. City shall indemnify, defend, protect, and hold harmless the District Indemnified Party and the Developer Indemnified Party against any and all Claims, including, without limitation, any direct, indirect or consequential loss, liability, damage, or expense, court costs and attorneys’ fees, arising out of or in connection with City’s performance of or failure to perform its City Obligations to complete construction and development of the City Transportation Project, in the manner and within the time periods set forth in the AHSC Documents, and to otherwise perform any covenants constituting City Obligations set forth in the AHSC Documents. However, in no event shall the District

Indemnified Party or Developer Indemnified Party be indemnified hereunder for any Claims resulting from such party's sole negligence or willful misconduct. City agrees to pay all of the costs and expenses of the District Indemnified Party and Developer Indemnified Party, including attorneys' fees, which may be incurred in any effort to enforce any term of this indemnification, including, but not limited to, all such costs and expenses which may be incurred by any District Indemnified Party or Developer Indemnified Party in any legal action, reference or arbitration proceeding brought by HCD or other third party.

5. Schedule of Performance; Progress Reports. The Parties shall each comply with its specific schedule of performance set forth in Exhibit A attached hereto and incorporated herein, for the completion of their respective obligations hereunder (the "**Schedule of Performance**"). The Parties agree to give the other party a written quarterly status report on the progress toward their respective milestones listed in the Schedule of Performance, i.e., the Developer will report on the Developer's progress on the Housing Project, the District will report on the District's progress on the District Transportation Project, and the City will report on the City's progress on the City Transportation Program. Status reports should be in the format of a memorandum and transmitted by a Party's representative to the other Party's representatives. If any Party anticipates not meeting the targeted construction and grant disbursement milestones as established in the AHSC Documents, that Party will promptly notify the other parties in writing and will meet with the other Parties to discuss the reasons why the milestone dates may not be met and what actions the delayed party intends to take to meet the milestones or otherwise rectify the Schedule of Performance in order to maintain good standing with the terms and conditions established in the AHSC Documents.

6. Delegation. Notwithstanding the obligations of each party under this Agreement, each party shall be entitled to enter into sub-agreements with each other or with other third parties to provide any assistance or services needed for each party to perform its obligations under this Agreement and the AHSC Documents.

7. Cost Overruns. Developer shall be responsible for paying all costs required to complete the Housing Project and implement the AHSC Programs, irrespective of whether such costs exceeds the AHSC Loan and the portion of the AHSC Grant designated for the Housing Project and AHSC Programs. District shall be responsible for paying all costs required to implement the District Transportation Project in accordance with the NOFA and AHSC Documents irrespective of whether such costs exceed the portion of the AHSC Grant designated for the District Transportation Project. City shall be responsible for paying all costs required for the City Transportation Program irrespective of whether such costs exceed the portion of the AHSC Grant designated for the City Transportation Program.

8. Intentionally Omitted.

9. Disbursement of AHSC Grant Funds and AHSC Loan Funds. The Parties agree that the City will use AHSC Grant funds it receives from HCD to reimburse the District for costs and expenses incurred by the District in carrying out the District Obligations. The District will submit draw requests to the City to pay for the costs associated with the District Obligations in the form required by the AHSC Documents, including any back up documentation required by the AHSC Documents or HCD. The City will reimburse the District for such costs upon receipt of the AHSC Grant funds from HCD.

HCD will use AHSC Grant funds to directly reimburse the City and Developer for costs and expenses incurred by each in carrying out their respective City Obligations and Developer Obligations. The City and the Developer will submit draw requests to HCD in the form required by the AHSC Documents, including any back up documentation required by the AHSC Documents or HCD. Each Party will apply any AHSC Grant proceeds received to pay the costs and expenses stated on the draw request. The parties further agree that all of the AHSC Loan funds will be disbursed by HCD directly to the Partnership.

10. Audit/Inspection of Records.

(a) The District shall retain the following records (collectively “**District Records**”) for a minimum of three (3) years from the date of the final payment to the District under this Agreement or for any longer period required by law:

- All ledgers, books of accounts, invoices, vouchers, canceled checks, and other records relating to the District’s charges for performing the District Obligations, or to the District’s expenditures and disbursements charged to the AHSC Grant; and
- All Work Product and other records evidencing District’s performance.

(b) At any time during the Agreement term or during the period of time that the District is required to retain the District Records, the City may request, in writing, production of all or a portion of the District Records. The District shall produce the requested District Records at City Hall during normal business hours, or at any other location and time mutually agreed upon by the Parties. The District shall produce the requested District Records at no cost to the City.

(c) In accordance with Government Code Section 8546.7, the District may be subject to audit by the California State Auditor with regard to the District’s performance of this Agreement.

(d) In addition to complying with the audit and records maintenance requirements set forth in Section 4 of Exhibit C: State of California General Terms and Conditions (GTC 04/2017) of the Standard Agreement, the City will retain the following records (collectively “**City Records**”) for a minimum of three (3) years from the date of the final payment to the District under this Agreement or for any longer period required by law: all records pertaining to the City’s performance of the Standard Agreement and this Agreement. At the District’s request during the term of this Agreement or during the period of time that the City is required to retain City Records, the City will provide, at no cost to the District, copies of and/or access to requested City Records at a time and place mutually agreed to by the District and the City.

(e) In addition to complying with the audit and records maintenance requirements set forth in Section 4 of Exhibit C: State of California General Terms and Conditions (GTC 04/2017) of the Standard Agreement, the Developer will retain the following records (collectively “**Developer Records**”) for a minimum of three (3) years from the date of the final payment to the District under this Agreement or for any longer period required by law: all records pertaining to the Developer’s performance of the Standard Agreement and this Agreement. At the District’s request during the term of this Agreement or during the period of time that the Developer

is required to retain Developer Records, the Developer will provide, at no cost to the District, copies of and/or access to requested Developer Records at a time and place mutually agreed to by the District and the Developer.

11. Notices. Formal notices, demands, and communications between the parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the parties as follows:

San Mateo County Transit District:
 1250 San Carlos Ave.
 San Carlos, CA 94070
 Attn: Peter Skinner
 skinnerp@samtrans.com
 650-622-7818

Developer: Eden Housing, Inc.
 22645 Grand Street
 Hayward, CA 94541
 Attn: Andre Madeira
 amadeira@edenhousing.org
 510-247-8118

With copy to: Eden Development, Inc.
 22645 Grand Street
 Hayward, CA 94541
 Attn: Andre Madeira
 amadeira@edenhousing.org
 510-247-8118

City of East Palo Alto
 2415 University Avenue
 East Palo Alto, CA 94303
 Attn: Patrick Heisinger
 pheisinger@cityofepa.org
 650-853-3193

East Palo Alto Community Alliance and Neighborhood
 Development Organization
 2369 University Avenue
 East Palo Alto, CA 94303
 Attn: Duane Bay
 dbay@epacando.org
 650-473-9838

12. Events of Default. The occurrence of any of the following events shall constitute an Event of Default under this Agreement:

(a) A Party fails to perform any of its obligations under this Agreement, and does not cure such failure within 30 days after written notice of such failure has been delivered to the defaulting party; or

(b) A Party purports to revoke this Agreement or this Agreement becomes ineffective for any reason.

13. Termination. This Agreement shall terminate upon the earlier of: (i) completion of the all obligations under the AHSC Documents; or (ii) mutual written agreement of the parties hereto.

14. Third Party Beneficiary. The Partnership shall be a third party beneficiary of this Agreement and shall be entitled to the rights and benefits hereunder and may enforce the provisions hereof as if it were a party to this Agreement.

15. Assignment. District and City hereby acknowledge and approve the assignment by Developer and the Partnership to the Housing Project's senior lender ("Construction Lender") of all of their respective right, title and interest in, to and under the Agreement (the "Collateral") as collateral security for the Partnership's obligations to Construction Lender under, and in connection with Construction Lender's loan to the Partnership. In the event Construction Lender forecloses upon the Collateral, District and City hereby agree that Construction Lender shall have all of Developer's rights and interests under the Agreement. Construction Lender is hereby made an express third party beneficiary of this Section 14, and the parties hereto shall not amend, modify or terminate the Agreement without Construction Lender's express written consent.

16. Miscellaneous.

(a) Nothing in this Agreement shall be construed to limit any claim or right which any party may otherwise have at any time against an Indemnitor or any other person arising from any source other than this Agreement, including any claim for fraud, misrepresentation, waste, or breach of contract other than this Agreement, and any rights of contribution or indemnity under any federal or state environmental law or any other applicable law, regulation, or ordinance.

(b) If any party delays in exercising or fails to exercise any right or remedy against a Party, that alone shall not be construed as a waiver of such right or remedy. All remedies of any Party against the other Party are cumulative.

(c) This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective representatives, heirs, executor, administrators, successors, and assigns. This Agreement may not be amended except by a written instrument executed by the parties hereto.

(d) This Agreement shall be deemed to have been delivered and accepted in the State of California and governed exclusively by the internal substantive laws of the State of

California as the same may exist at the date hereof. The parties hereto hereby agree that any action hereon between the parties hereto and their successors in interest may be maintained in a court of competent jurisdiction located in the State of California, and consent to the jurisdiction of any such California court for the purposes connected herewith.

(e) Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto.

(f) This Agreement may be executed in multiple counterpart copies, any one of which when duly executed, with all formalities hereof, shall be fully binding and effective as the original of this Agreement.

(g) This Agreement shall be effective as of the date first written above.

17. Termination of Prior Cooperative Agreement. The Parties hereby terminate the Cooperative Agreement dated February 1, 2019. As of the effective date of this Agreement, this Agreement will supersede the Cooperative Agreement dated February 1, 2019 and will govern the implementation of the AHSC Financing.

[Signatures on following page]

Each of the undersigned hereby executes this Agreement in the spaces provided below to evidence their respective agreement to the terms of this Agreement.

San Mateo County Transit District

By: Jim Hartnett
Its: General Manager/CEO

Approved as to form:

Attorney for the District

City of East Palo Alto

By: Jaime M. Fontes
Its: City Manager

Approved as to form:

Rafael E. Alvarado Jr.
Attorney for the City

Eden Housing, Inc.
a California nonprofit public benefit corporation,

By: Andre Madeira
Its: Senior Vice President
Real Estate Development

Eden Development, Inc.,
a California nonprofit public benefit corporation,

By: Andre Madeira

Its: Senior Vice President
Real Estate Development

East Palo Alto Community Alliance and Neighborhood Development Organization,
a California nonprofit public benefit corporation,

By: Duane Bay
Its: Executive Director

Attachment: Exhibit B to Resolution AHSC Cooperation and Implementation Agreement (1129 : Actions Related to the Light Tree Affordable

**EXHIBIT A
SCHEDULE OF PERFORMANCE**

Developer Schedule of Performance for Affordable Housing Development Scope

AHD – Light Tree Apartments

Light Tree Apartments is a 128-unit low-income family affordable housing development in East Palo Alto. The affordable housing community will consist of (4) studios, (74) one-bedroom, (34) two-bedroom, and (16) three-bedroom units, including (2) unrestricted manager's units.

Affordability levels range from 30% AMI to 60% AMI; with 26 units restricted to extremely low income residents.

Performance Milestone	Date
Complete Preliminary Design Drawings	10/15/2018
Receive Entitlements	02/15/2019
CEQA/NEPA Approval	02/15/2019
General Contractor Construction RFP	01/30/2019
Submit Final Construction Drawings and Specifications to Appropriate Local Building Department	03/01/2020
Secure Building Permits	05/01/2020
Commencement of Construction	05/01/2020
Complete Construction	11/01/2022
Conversion to Permanent Loan	04/01/2023
Disbursement of AHSC Loan	04/01/2023

City Schedule of Performance for Sustainable Transit Infrastructure Scope (STI)

STI 1 – East Palo Alto Citywide Bikeway Improvements:

This project includes bikeway improvements (Class II and Class III) per the City's Bicycle Transportation Plan. The proposed bikeways will provide connectivity to existing bike trails and a safe bikeway system throughout the City. Approximately 1.5 miles of Class II and 7.1 miles of Class III bikeway will be installed.

Performance Milestone	Date
Complete Preliminary Design Drawings	11/11/2019
Receive Entitlements	N/A
CEQA/NEPA Approval	CEQA Exempt
Submit Final Construction Drawings to City Council for Approval	4/28/2021
Issue Construction RFB	5/3/2021
Construction Contract Award	6/1/2021
Secure Permits	N/A
Notice to Proceed with Construction	7/1/2021

Complete Construction	04/01/2023
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STI 2 - Addison and Clarke Pedestrian Improvements:

The first pedestrian improvement will be on Addison Ave from East Bayshore Road to Bay Road. This project includes sidewalk, curb ramp, and other improvements in conjunction with the development of an ecologically friendly "Green" street. This creates approximately 3,600 linear feet of ADA compliant sidewalk and substantial urban greening. This project will also provide 3 intersections of new crosswalks to increase pedestrian safety. The second pedestrian improvement will be on Clarke Ave between Tinsley St and O'Connor St. This project includes installing sidewalks in accordance with the City's ADA (Americans with Disabilities Act) Plan. The project will add 200 linear feet of safe ADA-compliant pathways connecting housing to Brentwood Elementary School.

Performance Milestone	Date
Complete Preliminary Design Drawings	11/11/2019
Receive Entitlements	N/A
CEQA/NEPA Approval	CEQA Exempt
Submit Final Construction Drawings to City Council for Approval	4/28/2021
Issue Construction RFB	5/3/2021
Construction Contract Award	6/1/2021
Secure Permits	N/A
Notice to Proceed with Construction	7/1/2021
Complete Construction	04/01/2023

City Schedule of Performance for Transit Related Amenities Scope (TRA)

TRA 1 - City of East Palo Alto Bus Stop Replacement and Improvement, Bus Stops Utilized by SamTrans

This project includes improvements to the furniture and sidewalks at City-owned bus stops utilized by SamTrans. The City will be replacing 8 bus stop shelters and 20 benches to bolster the usage of the transit system.

Performance Milestone	Date
Complete Preliminary Design Drawings	11/1/2020
Receive Entitlements	N/A
CEQA/NEPA Approval	CEQA Exempt
Submit Final Construction Drawings to City Council for Approval	4/28/2021
Issue Construction RFB	5/3/2021
Construction Contract Award	6/1/2021
Secure Permits	N/A
Notice to Proceed with Construction	7/1/2021
Complete Construction	04/01/2023

District Schedule of Performance for Sustainable Transit Infrastructure Scope

STI 3 - SamTrans Limited Stop Route - East Palo Alto to San Bruno:

New limited stop express route operated by SamTrans between East Palo Alto and San Bruno serving multiple points in between including Menlo Park, Redwood City, Redwood Shores, and SFO. SamTrans will acquire three electric-powered express buses as part of the Project and will be responsible for operations and maintenance of the new buses on the proposed limited stop express bus route. Route was designed as part of US-101 Express Bus Feasibility Study and will launch with opening of planned San Mateo County Managed Lanes project in 2022. Route designed to run at 20-minute headways on weekdays.

Performance Milestone	Date
Develop contract and obtain Board approval to award	05/04/2021
Award Bus Procurement Contract	06/01/2021
Final Bus Delivery and Complete STI Scope	04/01/2023

Attachment: Exhibit B to Resolution AHSC Cooperation and Implementation Agreement (1129 : Actions Related to the Light Tree Affordable

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**AUTHORIZING THE CITY MANAGER TO WAIVE THE PARKS AND TRAILS AND PUBLIC
FACILITIES IMPACT FEES FOR THE LIGHT TREE PROJECT**

WHEREAS, the Light Tree Apartments is an existing 94-unit affordable family apartment development located at 1805 East Bayshore Road in East Palo Alto (Property), co-owned and operated by a partnership of Eden Housing and EPA CAN DO (jointly, Developer), both non-profit public benefit corporations; and

WHEREAS, in September 2018, the Developer submitted a Planning Application to the City for the Property that would substantially renovate 57 existing apartments, selectively demolish 37 townhomes, and construct 128 new apartments, resulting in 182 affordable apartments and three management staff units, yielding a new total of 185 apartments and a net increase of 91 new affordable apartments (Project); and

WHEREAS, the City of East Palo Alto (City) applied jointly for Affordable Housing and Sustainable Community (AHSC) Program funds with the Developer for the Project; and

WHEREAS, the Department of Housing and Community Development (Department) awarded the Project with up to \$20 million in AHSC Program funds (up to \$13.5 for the AHSC Loan and up to \$6.5 for the AHSC Grant); and

WHEREAS, \$3.75M in AHSC Grant funds will support public infrastructure improvements that will benefit residents throughout the city;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY authorizes and directs the City Manager to waive the Affordable Housing, Parks and Trails, and Public Facilities impact fees, which will reduce the total project cost by \$713,440.

Attachment: Resolution Light Tree Impact Fees (1129 : Actions Related to the Light Tree Affordable Housing Development Project)

PASSED AND ADOPTED this 3rd day of March 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Resolution Light Tree Impact Fees (1129 : Actions Related to the Light Tree Affordable Housing Development Project)



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Marie McKenzie, Administrative Services Director
Maurice Baker, Interim Administrative Grants Coordinator

SUBJECT: Extend Grant Term Agreement Dates

Recommendation

Adopt a Resolution authorizing the City Manager to provide the adequate extension for each of the following community grants to fully administer and properly close out: Catholic Charities; Greyhounds Collaborative; Able Works; Job Train Collaborative; MOP Collaborative; Renaissance Mid Pen; and Razorhawks Rugby Club.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 1: Enhance Public Safety and Emergency Preparedness
Priority No. 6: Create a Healthy and Safe Community

Background

Grants that are currently in contract and received council approval were not fully completed prior to their grant term expiration. In order to fully administer and close out the agreements, we need to extend the grant terms. This will allow city staff time to properly review and apply final allocations. The current practice of the City is to provide one fiscal year from grant acceptance to grant expiration. Given the changes to the Administrative Services staff and delays in executing agreements, several grants have exceeded their term limits.

Grantee	Source	Amount	Outstanding	New Term
Catholic Charities Collaborative	Measure C Lg	\$25,000.00	\$16,875.00	7/1/18-3/31/20
Greyhounds Collaborative	Measure C Lg	\$25,000.00	\$8,125.00	1/1/19-3/31/20
Able Works	Measure C Lg	\$100,000.00	\$55,000.00	12/1/18-3/31/20
Job Train Collaborative	Measure C Lg	\$100,000.00	\$32,500.00	1/1/19-3/31/20
MOP Collaborative	Measure C Lg	\$100,000.00	\$32,500.00	1/1/19-3/31/20
Renaissance Mid Pen	Comm. Benefit	\$100,000.00	\$50,000.00	8/20/18-6/30/20

Razorhawks Rugby Club	TOT Small	\$15,965.00	\$15,965.00	6/15/19-6/15/20
Grand Total		\$465,965.00	\$210,965.00	

Analysis

On January 15 and May 7, 2019 respectively, City staff presented recommendations for allocation of Measure C and Transit Occupancy Tax (TOT) funding to the City Council. Detailed below are the steps required to begin distribution of the funds through small and large grants awards.

- **Requests for Grant Proposals** – Bidders attend meeting to learn about requirements and timeline for grant selection process. Panels are convened to select most appropriate applications. Finance confirms availability of funds to disperse. Recommendations are made to City Council.
- **Council Approval** – Requires Council approval and resolution for disbursement of city funds. Council reviews recommendations and either confirms or suggests alternative options.
- **City Staff Approval** – Agreements are drafted by Administrative Grants Coordinator and sent to City Attorney Office for review. Following approval of CAO, agreements are directed to office of City Manager. Upon CM approval, Finance is notified, and purchase orders are created.
- **Grant Agreement Execution** – Grantees receive final contracts for execution and initial disbursement.
- **Reporting**: Requires the grantees to do quarterly reporting with programming update, expense breakdown, and City Staff provide site visits.
- **Closeout** – Upon completion of grant term and stated activities, the grantee submits final reporting. That report is reviewed and approved by City staff based on grant agreement.

Fiscal Impact

There is no direct Fiscal Impact associated with the City Council's consideration of extending current Grant Terms as they have been previously resolved with no additional expenditures and funding has already been allocated.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo County Library located at 2415 University Avenue, East Palo Alto.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal

activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Attachments

1. Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

AUTHORIZING THE EXTENSION OF GRANT TERM DATES

WHEREAS, in 2019, the City Council issued community grants from Measure C and Transit Occupancy Tax (TOT) funding for Fiscal Year 2019-2020; and

WHEREAS, due to changes to staff in the Administrative Services Department, City staff did not fully complete in contract grant agreements with the grantees; and

WHEREAS, in order to fully complete and close out the relationship with the grantees, City staff requests authority to extend the term of the grants listed on table below in order to completely administer said grants; and

Grantee	Source	New Term
Catholic Charities Collaborative	Measure C Lg	7/1/18-3/31/20
Greyhounds Collaborative	Measure C Lg	1/1/19-3/31/20
Able Works	Measure C Lg	12/1/18-3/31/20
Job Train Collaborative	Measure C Lg	1/1/19-3/31/20
MOP Collaborative	Measure C Lg	1/1/19-3/31/20
Renaissance Mid Pen	Comm. Benefit	8/20/18-6/30/20
Razorhawks Rugby Club	TOT Small	6/15/19-6/15/20

WHEREAS, such an extension will allow time for grant award winners to submit all requirements and for such agreements to be administered completely by Administrative Services staff.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY authorizes the City Manager to provide the adequate extension for each of the following community grants to fully execute and properly close out: Catholic Charities; Greyhounds Collaborative; Able Works; Job Train Collaborative; MOP Collaborative; Renaissance Mid Pen; and Razorhawks Rugby Club.

Attachment: Resolution (1127 : Extend Grant Term Agreement Dates)

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

Walfred Solorzano, Deputy City Clerk

APPROVED AS TO FORM:

Rafael E. Alvarado, Jr., City Attorney

Attachment: Resolution (1127 : Extend Grant Term Agreement Dates)



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Rachel Horst, Housing Project Manager

SUBJECT: Contract with Baird & Driskell Community Planning for Housing and Planning-Related Services

Recommendation

Adopt a resolution authorizing the City Manager to:

1. Execute an agreement with Baird & Driskell Community Planning, in a form approved by the City Attorney, for housing and planning related services in an amount not to exceed \$104,000 for a three-year term, with up to two (2) one-year extensions at the sole discretion of the City Manager; with funds allocated as follows:
 - a. \$54,000 from the General Fund, to be paid in semi-annual installments, for participation in "21 Elements +" over three years; and
 - b. \$50,000 in SB 2 Planning Grant funds for the development of an affordable housing overlay zone; and
2. Waive the City's bidding requirements pursuant to section 2.84.070(D) of the East Palo Alto Municipal Code.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 6: Create a Healthy and Safe Community

Background

Baird & Driskell/21 Elements

Baird & Driskell Community Planning (Baird & Driskell) staff 21 Elements, a housing planning and policy service that the City of East Palo Alto participates in as one of the 21 jurisdictions in

San Mateo County. 21 Elements was created 12 years ago by San Mateo County Department of Housing (DOH) and the City/County Association of Governments of San Mateo County (C/CAG) to help cities collaborate on their Housing Element updates and address related housing policy questions.

Over time, the work of 21 Elements has evolved to meet the needs of local jurisdictions. In recent years, as the volume of state housing legislation has increased, 21 Elements has been an indispensable resource to City staff as they attempt to navigate implementation of the new laws. Baird & Driskell staff coordinate regular 21 Elements calls and meetings to cover timely topics such as ADUs, inclusionary housing, new housing laws, and new funding sources. 21 Elements also acts as an information hub on how peer jurisdictions are addressing housing and community development needs by providing access to model policies, ordinances, and best practices.

The County maintains a master contract with Baird & Driskell for 21 Elements, and each city pays biannual dues to participate. All participating cities receive a base level of support. The most recent membership fee, paid by the City in 2018, totaled \$1,800.

Affordable Housing Overlay Zone

The City's Affordable Housing Strategy, adopted in October 2018, includes a goal of 500 new units of affordable housing. In order to achieve this, the Strategy Workplan includes intensification of underutilized properties, potentially through the creation of an affordable housing overlay zone. On July 16, 2019, City Council adopted Resolution 5156, authorizing the City Manager to submit an application to the Department of Housing and Community Development (HCD) for an SB 2 Planning Grant. Also on July 16, 2019, staff recommended allocating a portion of SB 2 Planning Grant funds to engage a consultant to create an affordable housing overlay zone in the City.

Analysis

21 Elements +

This year, Baird & Driskell is offering "21 Elements +", a higher level of service that includes customized assistance designed to fill the capacity gap many cities are experiencing while they implement new state housing mandates. Specifically, Baird & Driskell proposes 120 hours of staff time, provided on an on-call basis, to draft reports and presentations for City Council, assist with the revision or drafting of new ordinances, and lead community engagement efforts on a housing-related topic. The cost of participation is \$18,000, to be paid in addition to the annual membership dues.

Staff believe that this option would greatly benefit the City, particularly as the Planning and Housing Divisions conduct a comprehensive review and revision of the City's Development Code to comply with new state laws. This includes revision of the City's ADU ordinance. An overview of services by Baird & Driskell staff, along with a draft scope of work for East Palo Alto (Exhibit A) in Year 1, is provided in Attachment 2.

Table 1 provides a comparison of the services included with the base 21 Elements membership and those of the 21 Elements + membership.

Table 1

21 Elements (current)	21 Elements +
Countywide data and information on housing issues	Tailored, jurisdiction-specific assistance (time and products) on housing matters
Generalized technical assistance through conference calls and meetings with staff from all 21 jurisdictions	Staff act as “extension of city staff”: writing staff reports, making council presentations or doing jurisdiction specific analysis
Guidance for jurisdictions on how to lead community meetings on a housing-related topic	Planning and facilitating a community meeting about a housing related topic
Advice/guidance on housing-related ordinances when 21 Elements staff are available	Custom support with updates on a housing-related ordinance (e.g. ADU ordinance, inclusionary zoning, ADU updates, etc.)

Affordable Housing Overlay Zone

On October 8, 2019, staff were informed that the City would be awarded an SB 2 Planning Grant in the amount of \$160,000. Staff are currently reviewing the Standard Agreement with HCD in order to receive the funds and have taken initial steps to implement the SB 2 grant, which must be completed by December 2022. This includes a search of available consultants to assist with development of the affordable housing overlay zone. In inquiring with other jurisdictions that have previously adopted an affordable housing overlay zone, staff were referred to Baird & Driskell.

Staff found that Baird & Driskell (on behalf of 21 Elements) has assisted other jurisdictions with development of an affordable housing overlay zone, and that the staff have specialized knowledge of recent laws such as AB 1573 (Affordable Housing Density Bonus) that affect the implementation of an overlay zone. Staff therefore recommend disregarding bid procedures, pursuant to section 2.84.070(D) of the East Palo Alto Municipal Code, based upon the special circumstance that Baird & Driskell is uniquely positioned to perform the work and can do so most efficiently given its relationship with the County and cities within it.

Staff propose executing a single agreement with Baird & Driskell to encompass both the housing policy and research assistance and the affordable housing overlay zone in the scope of work, for a term of 3 years, with up to two (2) one-year extensions, at the sole discretion of the City Manager.

Table 2 below shows the proposed scope of work.*

Table 2

Proposed Scope	Deliverables	Timeline	Estimated Cost
Housing Policy and Research through 21 Elements +	Assistance with comprehensive review of City’s Development Code based on new state housing legislation	March-September 2020	\$18,000
	Council reports and presentations at up to	March 2020 Second	

	2 meetings on housing issue at City's discretion (housing law, ADUs, funding displacement, short-term rentals, etc.)	meeting TBD, if needed	
	Assistance with ordinance development: drafting staff report, conducting analysis, surveying other jurisdictions	March-April 2020	
Affordable Housing Overlay Zone Development*	Development of workplan with staff	March-September 2020	\$1,850
	Background research on density bonus options	September-December 2020	\$19,800
	Public meetings and outreach	September-December 2020	\$11,100
	Planning Commission or City Council presentation	Spring 2021	\$2,960
	Development of overlay zone proposal	Summer 2021	\$11,100
Total			\$46,810

**Costs will vary significantly depending on whether the City chooses to rely on the State "Super Density Bonus," provided through AB 1763 (Chiu), or pursue a traditional affordable housing overlay zone, with the former incurring far fewer costs than the latter. Additionally, the scope of work may require minor changes prior to drafting of the final agreement. However, the deliverables will remain the same.*

Potential of a Future Amendment

On January 21, 2020, staff presented the City Council with the Semi-Annual Update of the Affordable Housing Strategy. During that discussion, staff reiterated to the City Council that the City's RHNA (Regional Housing Needs Allocation) figures will likely be increased, and therefore the City will need to take action to comply with various state laws.

On January 27, 2020, the State Department of Housing and Community Development (HCD) released the NOFA for Local Early Action Planning (LEAP) Grants, and elsewhere on this agenda, staff is seeking City Council authorization to apply for these funds. If the City is successful in acquiring these funds, staff may return to the City Council to amend this agreement (if approved) due to the fact that Baird & Driskell is uniquely positioned to help the

City with this work given their history.

Next Steps

If City Council approves staff's recommendation to opt in to 21 Elements + and engage their staff to develop an affordable housing overlay zone, staff will finalize and execute the contract with Baird & Driskell.

In line with SB 2 Planning Grant requirements, the affordable housing overlay work is set to begin in Spring of 2020 and result in a final recommendation for City Council consideration by Summer of 2021.

Fiscal Impact

If City Council authorizes the City's participation in 21 Elements +, up to \$54,000 (\$18,000 per year) will be funded through the General Fund. The affordable housing overlay work will be fully funded through the SB 2 Planning Grant up to \$50,000.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo Co. Library located at 2415 University Avenue, East Palo Alto.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Attachments

1. Resolution
2. 21 Elements Plus East Palo Alto Draft Scope

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH
BAIRD & DRISKELL COMMUNITY PLANNING FOR HOUSING AND PLANNING-RELATED
SERVICES IN AN AMOUNT NOT TO EXCEED \$104,000**

WHEREAS, on July 16, 2019, via Resolution No. 5156, the City Council authorized the City Manager to submit an application (“Application”) to the Department of Housing and Community Development (“Department”) for an SB 2 Planning Grant, and if awarded, to enter into, execute, and deliver a State of California Standard Agreement and any and all other documents required or deemed necessary or appropriate to evidence and secure the award; and

WHEREAS, in its Application, the City allocated \$30,000 to increase the City’s capacity to process Accessory Dwelling Units (“ADUs”) and related development proposals; \$50,000 for the creation of an affordable housing overlay zone in the City; and \$80,000 for site feasibility analysis of underutilized properties for affordable housing; and

WHEREAS, on October 8, 2019, the Department informed the City that it would be awarded an SB 2 Planning Grant in the amount of \$160,000; and

WHEREAS, the City has contacted local and regional jurisdictions to identify a consultant or consulting firm qualified to complete the required analysis; and

WHEREAS, the City Council finds that Baird & Driskell Community Planning (“Baird & Driskell”), as the staff of 21 Elements, is uniquely qualified to conduct the affordable housing overlay analysis, based upon its experience working with jurisdictions in San Mateo County; and

WHEREAS, Baird & Driskell is offering customized technical assistance for jurisdictions through “21 Elements +”, at an annual rate of \$18,000, which the City may use for assistance with a comprehensive review of its Development Code and related activities thereafter.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY authorizes the City Manager to:

1. Execute an agreement with Baird & Driskell Community Planning, in a form approved by the City Attorney, for housing and planning related services in an amount not to exceed \$104,000 for a three-year term, with up to two one-year extensions at the sole discretion of the City Manager; with funds allocated as follows:
 - a. \$54,000 from the General Fund, to be paid in semi-annual installments, for participation in “21 Elements +” over three years to assist with a comprehensive review of the City’s Development Code and related activities thereafter; and
 - b. \$50,000 in SB 2 Planning Grant funds for the development of an affordable housing overlay zone; and
2. Waive the City’s bidding requirements pursuant to section 2.84.070(D) of the East Palo Alto Municipal Code.

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Resolution (1130 : Baird & Driskell Agreement)



MEMORANDUM

Date: September 25th, 2019
 From: 21 Elements Staff (Josh Abrams and Jeff Baird)
 To: Community Development Directors
 Re: Customizing 21 Elements products for jurisdictions

Summary

Starting in the 2019/2020 fiscal year, cities that are interested will be able to opt-in and receive jurisdiction-specific housing products from 21 Elements. These could include appearances at City Council meetings or help with housing related ordinances. The cost for the first year will be billed at \$18,000 per jurisdiction, invoiced in two equal installments. 21 Elements support for cities that do not opt-in would not change. This added level of support is called “21 Elements +.”

Background

21 Elements was founded 12 years ago to help cities collaborate about housing elements, housing policy and implementing programs. Formed originally to assist jurisdictions with their housing element updates, the role of 21 Elements has expanded to provide assistance and coordination in a wide variety of areas – from special studies related to impact fees, short-term vacation rentals, tenant displacement, etc.. The goal has always been to save jurisdictions time, staffing resources and money while enabling cities to share best practices and develop more effective housing solutions.

In the period when Housing Elements are due, 21 Elements has traditionally given cities several options about what level of support and customization they want. All cities received a base package that included county level data and generalized support material. For an optional higher fee, cities could receive jurisdiction specific reports. More than 80 percent of cities chose the more customized products.

During non-Housing Element years, we have provided cities with material tailored to San Mateo County, but, in most cases, cities have had to do any final, jurisdiction-specific customization on their own. Even though 21 Elements staff have always been available for calls and providing other assistance to help jurisdictions with any questions they have, the bulk of the work was left to jurisdiction staff. This has created a gap between 21 Elements and the finishing work that may be needed to fully complete the work.

Starting in Fiscal Year 2019/2020, 21 Elements is offering a similar opt-in package as we do with housing elements for cities that want more individualized support, called 21 Elements +. We have discussed this for many years, and the final impetus to move forward arose when we heard from staff from multiple jurisdictions about spending days in mastering the details of the ever-changing housing-related laws being approved by the state legislature. To us, it did not feel like a good use of your staff time, considering all of the other pressing tasks cities are currently required to undertake. It was clear that if 21 Elements could help with those staff reports, or even making a council presentation, cities would benefit.

This will not change the assistance or services currently offered through 21 Elements that has funding for essentially FTE position. Cities that do not opt-in will still continue to enjoy the same products and



help that they are accustomed to receiving. The additional work will involve very tailored, city-specific products benefiting from the expertise and the knowledge gained through our work in San Mateo County and throughout California.

Our goal is about providing better support for jurisdictions and supporting better housing policy.

Role and Benefits to Cities

1. Save jurisdictions time and money.
2. Provide tailored, jurisdiction-specific assistance (time and products) on housing matters.
3. Supplement the capabilities of city staff on housing-related matters (to enhance 21 Elements' ability to function as an extension of city staff).
4. Provide a more active link and dialogue between jurisdictions' needs and 21 Elements work products and assistance.
5. Further enhance cross-city sharing of information and best practices.
6. Benefit from 21 Elements' efficiencies of working on similar products in multiple jurisdictions.

Assistance Offered

Overall, 21 Elements + would function on an on-call basis as supplemental staff housing planners. We anticipate approximately 120 hours per participating jurisdiction per year.

- 1) **Council Reports and Presentations** – Present at up to two city council or planning commission meetings on topics of cities choice, including preparing staff reports and presentation materials. These will be on topics where multiple jurisdictions are interested in the same subject. For example:
 - Laws being considered in the legislature
 - New laws passed by the legislature
 - Affordable housing policy options
 - ADU trends
 - Funding opportunities
 - Options to address displacement
 - Options for regulating short-term vacation rentals
 - Other assistance as needed
- 2) **Assistance with ordinances** – Provide custom support with updates on housing-related ordinances (e.g. ADU ordinance, inclusionary zoning, handout updates, etc.). This could include summarizing policies in neighboring jurisdictions, writing staff reports, making council presentations or doing jurisdiction specific analysis. The exact scope of the assistance will be discussed with city staff. There are some projects that may be too large for this task. In that case, we would discuss an appropriate scope with city staff. Generally, the appropriate scale of a project is something that a staff person could complete if they were working on it full time for about two weeks, or the equivalent hours spread out over more time.

Or

Community meeting – Assist staff with planning and facilitating a community meeting about a housing related topic. City staff would be responsible for outreach, logistics and direct costs, but



21 Elements staff can help strategize around the outreach approach, shape the program, develop material, arrange speakers, facilitate the meetings, help document comments, etc.

Or

Other tasks – Assist with other tasks based on jurisdiction needs.

Logistics

Cities that are interested can sign an agreement directly with Baird + Driskell Community Planning. We, in turn, will make copies of all the agreements available to the San Mateo County Department of Housing (DOH), who oversees the 21 Elements contract.

Quarterly, 21 Elements will prepare a short summary memo of the work being done for all of the participating jurisdictions. The cost is \$18,000 per year, which would be billed in two installments in November and March. It should be noted that this amount is in addition to the regular 21 Elements dues required of every city for the base level assistance and participation in 21 Elements.

We are purposely trying our best to keep the costs low to make this extra work feasible for as many jurisdictions as possible. Most of the savings comes from the fact that many of the hours we spend will be on topics of shared interest. For example, 21 Elements might spend 40 hours analyzing and summarizing the new state laws, which can then be used as the baseline material for the tailored work needed by several cities. Then, if a jurisdiction wanted a staff report or presentation, it might only take us eight hours or so to adapt this broader work so it is tailored to specific circumstances and needs. Hours will be tracked for each jurisdiction and available upon request, but bi-annual billing would be a fixed amount.

The scope and budget assumes support will average 120 hours per jurisdiction per year. Please contact Baird + Driskell for more information on our assumptions for hours.

See next page for agreement to participate



Agreement to Participate in 21 Elements +

21 Elements has worked with all the cities in San Mateo County for the past twelve years on housing related planning topics. 21 Elements is staffed by Baird + Driskell Community Planning. All the cities pay annual dues to support 21 Elements. During Housing Element preparation periods, cities have been given the option of participating in 21 Elements at different levels. The different packages offered more (or less) custom support with corresponding different annual fees. The goal of this arrangement is to allow cities that want more custom support to receive it, without charging higher fees for cities that do not need it.

Starting this year, 21 Elements will offer this model to cities on an annual basis. The cost is \$18,000 which would be billed in two installments of \$9,000 in December and March.

The scope of work is summarized in Exhibit A.

By signing below, the City agrees to participate.

Jurisdiction Signature:

Baird + Driskell Signature:

Name:

Name: Joshua Abrams

Title:

Title: Principal, Baird + Driskell Community Planning

Date:

Date:

Attachment: 21 Elements Plus East Palo Alto Draft Scope (1130 : Baird & Driskell Agreement)



Exhibit A

1. **Council Reports and Presentations** – Present at up to two city council or planning commission meetings on topics of cities choice, including preparing staff reports and presentation materials. These will be on topics where multiple jurisdictions are interested in the same subject. For example:
 - Laws being considered in the legislature
 - New laws passed by the legislature
 - Affordable housing policy options
 - ADU trends
 - Funding opportunities
 - Options to address displacement
 - Options for regulating short-term vacation rentals
 - Other assistance as needed

- 2) **Assistance with ordinances** – Provide custom support with updates on a housing-related ordinance (e.g. ADU ordinance, inclusionary zoning, ADU updates, etc.). This could include summarizing policies in neighboring jurisdictions, writing staff reports, making council presentations or doing jurisdiction specific analysis. The exact scope of the assistance will be discussed with city staff. There are some projects that may be too large for this task. In this case we would discuss an appropriate scope with city staff. Generally, the scale or project is something that a staff person could complete if they were working on it full time for two weeks, or the equivalent hours spread out over more time.

In particular, 21 Elements will assist East Palo Alto with a comprehensive review of the City's Development Code based on new state housing laws. This includes advising City Council on specific areas where it has discretion.



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Rachel Horst, Housing Project Manager

SUBJECT: Local Early Action Planning Grant (LEAP)

Recommendation

Adopt a resolution authorizing the City Manager to:

1. Apply for and submit to the Department of Housing and Community Development (“Department”) a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment; and
2. If the Application is approved by the Department, to submit the Application, enter into, execute, and deliver on behalf of the City, a State of California Agreement (“Standard Agreement”) for the amount of up to \$150,000 and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto, in a form approved by the City Attorney.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 6: Create a Healthy and Safe Community

Background

On January 27, 2020, the State Department of Housing and Community Development (Department) released a NOFA for the Local Early Action Planning Grants Program (LEAP). Similar to the SB 2 Planning Grant, which the City of East Palo Alto was awarded in 2019, LEAP provides support to jurisdictions to engage in planning activities that will accelerate

housing production.

LEAP may be utilized for a variety of housing-related planning activities, including preparations for the sixth cycle of the Regional Housing Needs Assessment (RHNA). Applications will be accepted on an over-the-counter, rolling basis through July 1, 2020.

Analysis

New laws governing RHNA have updated the methodology that the State and Councils of Government (COGs) use to determine each region's, and each individual jurisdiction's, share of new housing units. Staff are working with 21 Elements to keep apprised of RHNA developments, including regular updates from the Association of Bay Area Governments/Metropolitan Transportation Commission (ABAG/MTC) Housing Methodology Subcommittee.

The sixth-cycle RHNA from the Department is expected to be released in April. The Bay Area RHNA is expected to be much higher than in previous cycles: based on the methodology changes and the allocations to COGs in Southern California, ABAG/MTC anticipates that the region's allocation could increase by 200 percent.

In the fifth RHNA cycle (2015-2023), the City of East Palo Alto received a RHNA of 467. Table 1 shows the breakdown of the City's RHNA.

Table 1

2017-2023 Regional Housing Needs Allocation (RHNA) for East Palo Alto		
Income Level	# of Units	% of Total
Extremely Low (0% - 30% AMI)	32	6.9%
Very Low (31% - 49% AMI)	32	6.9%
Low (50% - 80% AMI)	54	11.6%
Moderate (81% - 120% AMI)	83	17.8%
Above Moderate (greater than 120% AMI)	266	57.0%
Total	467	100.0%

While the sixth RHNA cycle does not take effect until 2024, jurisdictions must begin their planning activities, including preparation for a comprehensive update of their Housing Element, far in advance. Final allocations to individual jurisdictions are expected in Fall 2021 (this is subject to change), and Housing Elements must be submitted to the Department by December 2022. Given the sweeping changes to RHNA, cities are encouraged to begin their planning for the new RHNA cycle now.

LEAP funding amounts are determined based on population size. The City of East Palo Alto may receive up to \$150,000 in LEAP funds. Staff recommend requesting the full \$150,000 to support preparation of the updated Housing Element and all other actions required to comply with the sixth RHNA cycle and engaging Baird & Driskell Community Planning, as the staff of 21 Elements, to lead this work with the City. As referenced in a separate staff report on an agreement with 21 Elements/Baird & Driskell from March 3, 2020, the firm is uniquely qualified

to assist jurisdictions in San Mateo County with their Housing Element updates.

Next Steps

If directed, Staff will apply for LEAP to increase the City's capacity to prepare for the sixth RHNA cycle. If the City's application is funded, staff will return to the City Council with a recommendation that the City enter into contract with a qualified consultant to provide the services in question.

Fiscal Impact

These activities will be fully funded through LEAP and will not have any impact on the General Fund.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo Co. Library located at 2415 University Avenue, East Palo Alto.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Awarding this contract is not a project under The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) because the action has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Attachments

1. Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**AUTHORIZING THE CITY MANAGER TO APPLY FOR THE LOCAL GOVERNMENT
PLANNING SUPPORT GRANT PROGRAM FUNDS**

WHEREAS, pursuant to Health and Safety Code 50515 et. seq, the Department of Housing and Community Development (“Department”) is authorized to issue a Notice of Funding Availability (“NOFA”) as part of the Local Government Planning Support Grants Program (hereinafter referred to by the Department as the Local Early Action Planning Grants program or LEAP); and

WHEREAS, the City Council of the City of East Palo Alto desires to submit a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment; and

WHEREAS, the Department has issued a NOFA and Application on January 27, 2020 in the amount of \$119,040,000 for assistance to all California Jurisdictions.

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF EAST PALO ALTO HEREBY RESOLVES AS FOLLOWS:

1. The City Manager is hereby authorized and directed to apply for and submit to the Department the Application package.
2. In connection with the LEAP grant, if the Application is approved by the Department, the City Manager is authorized to submit the Application, enter into, execute, and deliver on behalf of the City, a State of California Agreement (“Standard Agreement”) for the amount of up to \$150,000 and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto, in a form approved by the City Attorney.
3. The City shall be subject to the terms and conditions as specified in the NOFA, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the NOFA and in conjunction with the terms of the Standard Agreement, the City hereby agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.

Attachment: Resolution (1134 : Local Early Action Planning Grant (LEAP))

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Resolution (1134 : Local Early Action Planning Grant (LEAP))



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Humza Javed, City Engineer

SUBJECT: On-call traffic engineering contract with TJKM

Recommendation

Authorize the City Manager to waive normal bid procedures, and to execute a contract, in a form to be approved by the City Attorney, with TJKM in an amount not to exceed \$50,000 for on-call traffic engineering related services through December 31, 2023.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 3: Increase Organizational Effectiveness and Efficiency
 Priority No. 4: Improve Public Facilities and Infrastructure
 Priority No. 6: Create a Healthy and Safe Community

Background

The Public Works Department requires traffic engineering related services in order to perform its regular duties. This includes traffic surveys, traffic plans (signals and striping), assistance with transportation related grant applications, and other traffic related on-call work.

The Public Works Department has an approved short list of consulting firms for on-call engineering services which was approved by City Council per Resolution 4849. Staff is recommending that a \$50,000 contract be executed with the Transportation Engineering firm TJKM for on-call Traffic engineering services.

Analysis

On May 16, 2017, City Council adopted Resolution No. 4849 approving a pre-qualified list of consulting firms for on-call engineering services. TJKM was selected as one of the Traffic/Transportation Engineering firms.

TJKM is familiar with the City of East Palo Alto and has recently completed the Metropolitan Transportation Commission's (MTC) PASS project under contract with the City/County Association of Governments (CCAG).

The work under this contract will be used for on-call traffic engineering services. This includes traffic surveys in accordance with the Manual of Uniform Traffic Control Devices (MUTCD); preparation of traffic striping or signal plans related to Capital improvements or regular maintenance; assistance with transportation related grant applications, and other traffic related on-call work.

TJKM's professional assistance will also be valuable in assisting the City with preparation of the upcoming Cycle 5 Active Transportation Program (ATP) grant. Due to the familiarity of TJKM with the ATP grant process, knowledge of traffic patterns along University Avenue, and the timing of submitting the grant application, it is recommended that normal bidding procedures be waived. There is \$440 million available through this grant and the City will be competing for funds to construct the University Avenue Pedestrian Overcrossing project.

Fiscal Impact

There is a fiscal impact of \$50,000. Of this amount, \$25,000 was planned and budgeted, the remaining amount will be transferred from the Maintenance funds in the State Gas Tax Fund 201.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo Co. Library located at 2415 University Avenue, East Palo Alto.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Attachments

1. Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

AUTHORIZING THE CITY MANAGER TO WAIVE NORMAL BID PROCEDURES, EXECUTE A CONTRACT IN A FORM TO BE APPROVED BY THE CITY ATTORNEY, WITH TJKM IN AN AMOUNT NOT TO EXCEED \$50,000 FOR ON-CALL TRAFFIC ENGINEERING RELATED SERVICE

WHEREAS, the Public Works Department requires traffic engineering related services in order to prepare traffic surveys, traffic plans, transportation related grant applications, and other traffic related on-call work; and

WHEREAS, On May 16, 2017, City Council adopted Resolution No. 4849 approving a pre-qualified list of consulting firms for on-call engineering services with TJKM selected as one of the Traffic/Transportation Engineering Firms.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY authorizes the City Manager to waive normal bid procedures pursuant to Section 2.84.070(D), and execute a contract, in a form to be approved by the City Attorney, with TJKM in an amount not to exceed \$50,000 for on-call traffic engineering related services through December 31, 2023.

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Resolution (1101 : On-call traffic engineering contract with TJKM)



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Rachel Horst, Housing Project Manager

SUBJECT: Agreement with EPACANDO to Expedite Review and Approval of Second Units

Recommendation

Adopt a resolution authorizing the City Manager to enter into a one-year contract with EPACANDO in an amount not to exceed \$30,000 to increase the City's capacity to process ADUs and related development proposals, with up to a one-year extension at the sole discretion of the City Manager, in a form approved by the City Attorney.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 3: Increase Organizational Effectiveness and Efficiency

Priority No. 5: Improve Communication and Enhance Community Engagement

Priority No. 6: Create a Healthy and Safe Community

Background

On October 16, 2018, the City Council approved the City's 5-Year Affordable Housing Strategy (Strategy). A key item included in the Strategy was to add 50 Accessory Dwelling Units (ADUs) over five years.

The State of California adopted multiple housing laws in 2019 that aimed to incentivize the production of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) by significantly loosening regulations and requiring local jurisdictions to simplify and expedite the approval process of second units. These laws took effect on January 1, 2020.

On October 8, 2019, the City was notified that it would be awarded \$160,000 in SB 2 Planning Grant funds to increase the City's capacity to accelerate housing production. On November 19, 2019, the City Council adopted Resolution 5193, authorizing the use of \$30,000 of SB2

Planning Grant Funds to more efficiently process ADUs and related project proposals, and directed staff to release an RFP to identify a qualified consultant.

Staff released an RFP on January 21, 2020. A copy of the RFP can be found in Attachment 2. The RFP period closed at 5:00pm on February 4, 2020.

Analysis

Staff received one (1) response to the RFP, submitted by EPACANDO (Respondent), on February 4, 2020. The full RFP response can be found in Attachment 3.

The Respondent proposed to subcontract with City Systems, a City partner in the Second Unit Working Group (Working Group). City Systems has worked directly with East Palo Alto homeowners since 2018 through the Garage Conversion Initiative and was integral to the development of the Second Unit & Anti-Displacement Task Force Final Report that was presented to City Council on January 21, 2020.

The Respondent proposes to leverage its ongoing partnership with City staff through the Working Group, including monthly meetings, to develop process improvements that will minimize delays and simplify the process for East Palo Alto homeowners interested in developing a second unit. Key components of the proposal include an outreach plan, including visual and written materials in multiple languages and community meetings, and technical assistance to comply with Planning and Building requirements.

Based on the Respondent's qualifications, staff recommend that the City Council direct the City Manager to enter into a one-year contract with the Respondent to provide the following services:

- Development of materials in collaboration with City staff to guide homeowners through second unit permitting process
- Development of pre-approved templates in collaboration with City staff to expedite Planning and Building permit review
- Informational community meetings (with translation)
- Other tools, services, or products as requested by the City to inform residents of second unit permitting process

All details of the scope have yet to be finalized and are subject to minor modifications.

Next Steps

If approved by City Council, staff will finalize the scope of work with the Respondent and execute an agreement in an amount not to exceed \$30,000.

Fiscal Impact

The allocated \$30,000 of SB 2 Planning Grant funds will directly support work intended to increase City efficiency in processing ADUs and related project proposals. These activities will not impact the General Fund.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo Co. Library located at 2415 University Avenue, East Palo Alto.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Attachments

1. Resolution
2. RFP SB 2 Funds ADU Review Streamlining
3. EPACANDO - City Systems RFP Response ADU Review Streamlining

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EPACANDO FOR AN AMOUNT NOT TO EXCEED \$30,000 TO ASSIST THE CITY WITH STREAMLINING REVIEW AND APPROVAL OF ACCESSORY DWELLING UNITS AND RELATED DEVELOPMENT PROPOSALS

WHEREAS, on October 8, 2019, the City of East Palo Alto (“City”) was awarded an SB 2 Planning Grant in the amount of \$160,000; and

WHEREAS, on November 19, 2019 via Resolution No. 5193, the City Council authorized the use of \$30,000 of SB2 Planning Grant Funds to more efficiently process Accessory Dwelling Units (“ADUs”) and related project proposals and directed staff to release a Request for Proposals (“RFP”) to identify a qualified consultant; and

WHEREAS, City staff issued the RFP on January 21, 2020; and

WHEREAS, on February 4, 2020, EPACANDO submitted a proposal to assist the City with streamlining review and approval of second units.

NOW, THEREFORE, BE IT RESOLVED BY THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY authorizes the City Manager to enter into a one-year contract, with up to a one-year extension at the sole discretion of the City Manager, in a form approved by the City Attorney, with EPACANDO in the amount of \$30,000 to increase the City’s capacity to process ADUs and related development proposals.

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Resolution (1131 : EPACANDO Agreement Second Unit Processing)



**CITY OF EAST PALO ALTO
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
1960 TATE STREET
EAST PALO ALTO, CA 94303**

To: Interested Parties

From: Daniel Berumen, Senior Planner
Rachel Horst, Housing Project Manager

Release: January 21, 2020

Deadline: February 4, 2020 by 5:00PM

Subject: **Request for Proposals (RFP) to Assist the City with Streamlining Review and Approval of Second Units**

Background

On November 19, 2019, the City Council authorized the use of \$30,000 in SB 2 Planning Grant funds to increase City capacity to process ADUs and related development proposals.

Purpose of the Request for Proposals (RFP)

Individuals and firms responding to this RFP (Respondents) must submit a proposal that thoroughly describes their experience, capacity, and ability to perform the services being sought by the City. The City intends to enter into an agreement with individuals or firms for these services.

The City is currently updating its Development Code, including significant revisions to its ADU ordinance, in response to changes in state law. The City seeks assistance from a qualified consultant to develop policies and procedures that will make it more efficient for residents to have their second unit projects reviewed and approved by the City.

The selected consultant will be expected to work with members of the public as well as City staff. Key deliverables could include, but are not limited to, development of materials in collaboration with City staff to guide homeowners through the second unit permitting process.

The City is requesting a Statement of Qualifications outlining the Respondent's ability to provide these services.

Key Items to Address in Response

The City desires a contract with a professional consultant individual or firm with the necessary expertise to provide the services described in this RFP. Key elements of the response should include:

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 January 21, 2020

1) Detailed Cover Letter

Respondents shall submit a detailed cover letter that describes the services for which the individual or firm is submitting a proposal(s). The cover letter shall make a declarative statement that the Respondent has reviewed all aspects of the City’s Contractor and Professional Services Agreement, including the City’s insurance requirements, and is in alignment with these documents. If the Respondent has concerns about the City’s standard forms, those concerns shall be identified in the cover letter.

2) Experience and Expertise

Respondents shall submit a narrative describing their experience and expertise, providing the professional services for which the firm wants to be considered. Specific examples of similar consultant work shall be provided.

Further, Respondents shall provide resumes for key personnel who would be assigned to work on the City’s projects. Respondents shall provide three references.

3) Cost Structure

Respondents shall submit a detailed schedule of hourly rates for all staff positions that would be assigned to the proposed consulting services. Any additional proposed costs should also be described in this section.

Selection Criteria

When City staff has identified the highest rated Respondent, the City will work in conjunction with the respective Respondent to draft a scope of work that the City Council will consider.

Proposals will be evaluated solely based on the Respondent’s ability and capacity to perform the work outlined in the RFP, in the areas detailed in the table below.

Evaluation Criteria

CRITERIA	DESCRIPTION	WEIGHT
Experience	Respondents shall demonstrate experience providing the services outlined in the RFP with successful results.	45 Points

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Capacity to Perform	Respondents shall demonstrate the capacity to provide the services described in the RFP and to respond to the public, the City, and other stakeholders in a timely manner. Defined expectations for timeliness of service delivery and stakeholder communication should be outlined with the submittal.	35 Points
Familiarity with East Palo Alto	Respondents will be scored based on their knowledge and experience working in the City of East Palo Alto and/or with community groups that currently service residents in the City.	10 Points
Extra Credit Points	Local organizations (from the City of East Palo Alto) will receive bonus points.	10 Points

Contractor and Professional Services Agreement

All services shall be provided in accordance with the terms listed in the City's Standard Consulting Agreement, which may be found in Attachment A. Prospective consultants shall be familiar with, and willing to execute, all terms contained in the Agreement before submitting a proposal. Any potential exceptions to the scope of services or terms of the Agreement should be clearly identified in the response to this RFP.

The City of East Palo Alto is an equal opportunity employer. The selected Respondent shall comply with Federal, State, and County equal opportunity requirements.

Insurance Requirements

All proposals shall confirm in writing the ability to fully comply with the below insurance requirements of the City or specify items for further discussion and possible modification. Prior to entering into contract with the City, Respondent will provide evidence of:

1) Types of Insurance

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- a. Commercial General Liability Insurance: Contractor's General Liability insurance shall include contractual liability coverage. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the Contractor's operations under this Agreement, whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000), in aggregate or Three Million Dollars (\$3,000,000) combined single limit bodily injury and property damage for each occurrence. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- b. Automobile Liability Insurance: Contractor shall take out and maintain during the life of this Agreement such Automobile Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) for each occurrence combined single limit or not less than One Million Dollars (\$1,000,000) for any one (1) person, and One Million Dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- c. Worker's Compensation and Employer's Liability Insurance: Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement".
- d. Professional Liability Insurance: Contractor shall take out and maintain during the life of this Agreement a policy of professional liability insurance, protecting it against claims arising out of the acts, errors, or omissions of Contractor pursuant to this Agreement, in the amount of not less than One Million Dollars (\$1,000,000) per claim. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

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2) Additional Requirements

- a. Broader Insurance Coverage: In the event that Contractor maintains broader coverage and/or higher limits than the City's minimum requirements, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance shall be called upon to protect it as a named insured.
- b. Additional Insured Status: The City of East Palo Alto, its subsidiary agencies, directors, officers, employees, agents, independent contractors and volunteers shall be named as additional insureds on any such policies of comprehensive general and automobile liability insurance.
- c. Primary and Non-Contributory Coverage: Except for professional liability and worker's compensation insurance, the policies shall also contain a provision that the insurance afforded to the City, its subsidiary agencies, and their directors, officers, employees, agents, independent contractors and volunteers based on additional insured status shall be primary and non-contributory insurance to the full limits of liability of the policy, and that if the City, its subsidiary agencies and their directors, officers, employees, agents, independent contractors and volunteers have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- d. Verification of Coverage: Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause). All certificates and endorsements are to be received and approved by the City Attorney's Office at least five days before Contractor commences work to be performed pursuant to the agreement.
- e. Notice of Cancellation: Contractor shall provide thirty (30) days' notice, in writing, to the City, at 2415 University Avenue, East Palo Alto, CA 94303, of any pending change or cancellation of the policy.
- f. Deductibles or Self-Insured Retentions: Prior to the execution of this Agreement, any deductibles or self-insured retentions must be declared to and approved by City.
- g. Breach: In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, City, at its option, may, notwithstanding any other provision of this Agreement

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to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

Discretion and Liability Waiver

The City reserves the right to reject all proposals or to request and obtain, from one or more of the Respondents, supplementary information as may be necessary for City staff to analyze. The City may require Respondents to participate in additional rounds of more refined submittals before the final selection is made. The City may negotiate with one or more respondents and may contract with one or more respondents as the City deems appropriate.

Disclosure of Responses

All responses to this RFP accepted by the City of East Palo Alto shall become the exclusive property of the City. If disclosure is required or permitted under the California Public Records Act or otherwise by law, the City shall not in any way be liable or responsible for the disclosure of any such records or part thereof.

City Council Consideration

City staff anticipates seeking City Council approval for contractual agreements with individuals and firms to provide the consulting services described in this RFP in February 2020.

Proposed Timeline, Submittal Requirements, and Due Date

EVENT	DATE
Release of RFQ	Tuesday, January 21, 2020
Q&A Period	January 21-24, 2020
Q&A Addendum Release	Monday, January 27, 2020
Submission Deadline	Tuesday, February 4, 2020 by 5:00 PM
City Evaluation Process	February 2020
Notice of Results	March 2020

Q&A Period

All questions regarding this RFP must be submitted by email to Rachel Horst, Housing Project Manager at rhurst@cityofepa.org by **Friday, January 24, 2020 at 5:00pm**. An addendum with responses to all questions will be released on **Monday, January 27, 2020**

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Submittal Requirements

Respondents must submit three (3) hard copies of each proposal submitted as well as an electronic version of each proposal on a flash drive.

Due Date

Respondents must their proposals on a flash drive, email an electronic copy of the proposal at rhorst@cityofepa.org, and mail three hard copies of the proposal, postmarked by **5:00 PM on Tuesday, February 4, 2020** to the following address:

1960 Tate Street
East Palo Alto, CA 94303
Attention: Rachel Horst, Housing Project Manager

Questions

Please forward any questions regarding the RFP to Rachel Horst, Housing Project Manager (rhorst@cityofepa.org).

Attachments

Attachment A—City of East Palo Alto Contract and Professional Services Agreement

February 4, 2020

From:

Duane Bay, Executive Director
 East Palo Alto Community Alliance and Neighborhood Development Organization
 2369 University Avenue
 East Palo Alto, CA 94303

To:

1960 Tate Street
 East Palo Alto, CA 94303
 Attention: Rachel Horst, Housing Project Manager

Dear Ms. Horst,

East Palo Alto Community Alliance and Neighborhood Development Organization (EPACANDO) is pleased to submit a proposal to the City of East Palo Alto's **Request for Proposals to Assist the City with Streamlining Review and Approval of Second Units**. As City staff are aware, EPACANDO has been an active participant in the Second Unit & Anti-Displacement Task Force process, particularly the Working Group that has met monthly with City staff since 2018, culminating recently in the Task Force Recommendations report presented to staff and City Council. Given this history of collaboration, we believe the Working Group is the most effective pool of candidates for "a qualified consultant to develop policies and procedures that will make it more efficient for residents to have their second unit projects reviewed and approved by the City." Specifically, EPACANDO will subcontract with City Systems, led by Derek Ouyang who has been deeply involved in the Working Group's activities and particularly led the development of technical tools and resources, to perform the services sought by the City, such as development of materials in collaboration with City staff to guide homeowners through the second unit permitting process, and engagement with the public. As a local community organization, we will supervise Ouyang's work and ensure that all materials are effective for local engagement, though past experience has already demonstrated excellence in this regard. Further qualifications for the proposed Project are detailed in the narrative response.

We have reviewed all aspects of the City's Contractor and Professional Services Agreement, including the City's insurance requirements, and are in alignment with these documents. We look forward to the opportunity to work with you.

Sincerely,



Duane Bay

Executive Director, EPACANDO

Statement of Qualifications: Experience and Expertise

The respondent team consists of East Palo Alto Community Alliance and Neighborhood Development Organization (EPACANDO) as Supervisor (about 10% of total project budget) and City Systems as Project Manager (about 90% of total project budget).

EPACANDO is a community development corporation whose mission is “To create affordable housing and to promote community and economic development in the city of East Palo Alto.” EPACANDO was founded to address the housing needs of lower and moderate income (LMI) East Palo Alto (EPA) residents who, according to 2014-18 American Communities Survey 5-Year Estimates, are 62% Latinx, 12% African American, and 11% Pacific Islander. About 41% of residents are foreign-born and 13% live below the poverty line. EPACANDO has co-developed 349 affordable multi-family units and provided over 6,000 homeowners with foreclosure counseling and loans to prevent displacement of LMI people of color in EPA and preserve San Mateo County’s last historic African American community. The current Board of Directors and staff are composed of African Americans, Latinx, and Pacific Islanders, three populations that represent the LMI residents most at risk of being displaced from the City. EPACANDO continually works to identify and support professional and leadership development among local residents of color so they can engage in housing systems change.

As part of the three-year process of the EPA Second Unit & Anti-Displacement Task Force, a variety of nonprofit organizations, including EPACANDO, have stepped in to play key roles in an emerging ADU ecosystem that includes monthly meetings with City staff as part of a Task Force Working Group, project management for new construction or legalization of existing unpermitted ADUs, community outreach, and financing. January 2020 marked a key milestone in this community-driven process when the Task Force presented a report of final ecosystem-wide recommendations to City Council (<http://bit.ly/epaadutaskforce>) across ten strategic areas. EPACANDO expects to take a leadership role moving forward with the establishment of the East Palo Alto Accessory Dwelling Unit ADU and Anti-Displacement Consortium, which would retain the thought leadership across multiple civic organizations that contributed to the development of the Task Force recommendations and sustain collaboration among the City, nonprofits, and community members to advance holistic housing production and preservation policies and programs in EPA, specifically ADUs. (Separate funding from the San Francisco Foundation is also being sought to support the establishment of this Consortium.) In addition to facilitating Consortium activities, and separate from this Project, EPACANDO will specifically focus its internal operations on developing a case management system for homeowners interested in ADUs, active project management as part of a newly streamlined ADU permitting process, and development of financial instruments for ADU development and construction.

City Systems is a 501(c)(3) nonprofit incorporated in California whose mission is “To build lasting solutions to systemic challenges within cities through data-driven decision-making,

innovative solutions, consensus-building, and collaborative governance.” City Systems is primarily the individual work of Derek Ouyang, who has B.S. degrees in Architectural Design and Civil Engineering and an M.S. degree in Structural Engineering from Stanford University, and is currently a Lecturer at Stanford in the Future Bay Initiative. City Systems also engages interns, current or recent Stanford students, on a project-by-project basis. City Systems has developed a familiarity with EPA over the last four years through personal relationships with local community members, project management of ADU submissions for homeowners, including those under the Working Group’s Garage Conversion Initiative, a key role in community outreach and Task Force engagement leading into the final Task Force recommendations report, and presentations to the Planning Commission (3/11/19) and City Council (1/21/20) summarizing the work of the Working Group and Task Force. Ouyang has also participated actively in a separate community effort called the EPA Climate Change Community Team, led by Acterra and involving City staff representative Michelle Daher, helping to design and implement a door-to-door survey of climate change awareness and concern with dozens of local volunteers that took place in Fall 2019. City Systems intends to remain a key participant in the proposed Consortium led by EPACANDO, with the scope of services in this Project exemplifying the type of continued engagement we believe is essential to carrying on the recommendations of the Second Unit & Anti-Displacement Task Force.

Two tools that City Systems has developed as part of the Working Group’s Garage Conversion Initiative demonstrate experience providing the kinds of services that are relevant to the Project, and the capacity to deliver new services of similar quality.

1. *Template ADU drawing sets.* One goal of the Garage Conversion Initiative (ongoing) has been to make PDF template drawing sets available to the public, either through Consortium partners or hosted on the City’s website. Template drawing sets specifically would include placeholders for the notes and architectural details that we have learned are necessary as part of Planning and Building Department review (e.g. Construction Management plan, reference to specific building codes, specific calculations, etc.), which, if left out by the homeowner, lead to extra time from City staff to provide comments back to the homeowner, and extra time from the homeowner to understand and resolve those comments before resubmitting. We’ve discovered that for many homeowners, this is exactly the bottleneck that has made the permitting process un navigable. So far, City Systems has developed familiarity with all building codes and local ordinances related to ADUs, developed one template based on one garage conversion completed (garage-to-bedroom conversion), and is in the process of developing two additional templates for the next two garage conversions (garage-to-studio-ADU, garage-to-1BR-ADU) that are in the process of review. The template design process has been delayed through 2018-2019 due to delays in the permits themselves, and more use cases are required before these templates are ready for publishing widely. City Systems would leverage the work-to-date on these templates as part of its scope of services offered to the City in the proposed Project, assuming that through engagement in EPACANDO’s own ADU permit processes, these templates will

be further refined in 2020 and ready for publishing, and can produce additional templates for other ADU types (e.g. detached).

2. *Parcel lookup tool.* As part of the Garage Conversion Initiative, City Systems developed an online address lookup tool (https://citysystems.shinyapps.io/epa_dashboard/) that provides homeowners with basic eligibility information (recently updated to consider new state legislation) as well as multiple-choice questions that dynamically update a basic garage conversion cost estimate. This tool was used as part of in-person outreach events and considered valuable by community members. City Systems has discussed with City staff the possibility of this tool one day being hosted on the City's website, and would see the final execution of this as an appropriate part of its scope of services with the City in the proposed Project. City Systems has developed a similar lookup tool that is part of a resource website in Napa and Sonoma County (<https://napasonomaadu.org/>).

Besides the two specific tools described above, which may or may not be considered relevant to the services sought by the City, City Systems has developed knowledge and skills in the process of producing those tools, and in the process of contributing to the Task Force recommendations report, that it can leverage in providing other specific services requested by the City during the Project. For example, City Systems is prepared to produce visual and written communication materials modeled off of successful examples such as San Mateo County's Second Unit Resource Center, and to give public presentations similar to those it has already given as part of the Working Group process. Where translation services are required, City Systems will pull funds from its own portion of the project budget to seek the services of specific individuals who have provided oral and written translation services for Spanish, Tongan, and Samoan as part of the Working Group process.

Ouyang is also a member of the steering committee of the San Mateo County Housing Endowment and Regional Trust (HEART) Green and Livable ADU Resource (GLADUR) Program (<https://www.heartofsmcadu.org/>) which is developing four ADU designs that could be made available to homeowners in San Mateo County and possibly pre-approved by specific jurisdictions. While EPA has not been part of pre-approval discussions yet, Ouyang could use his experience in this committee to guide conversations about how such ADU designs could possibly be streamlined for approval in EPA, and/or marketed effectively to EPA homeowners.

City Systems is prepared to offer the same timeliness of service delivery and stakeholder communication that the City has experienced through the Working Group process. City Systems is prepared to commit to at least two in-person City staff meetings per month, at least four public engagement opportunities in 2020, and prompt email communication. EPACANDO can be available to join meetings and outreach events as appropriate, and will be part of all email communication related to the Project.

EPACANDO fully complies with the insurance requirements of the City as described in the RFP, for work to be performed by itself and its subcontractors, and will provide evidence prior to entering into a contract with the City.

Resumes for the following key personnel are provided as attachments to this Response.

EPACANDO Executive Director: Duane Bay
City Systems Project Manager: Derek Ouyang

Our three references are:

Ofelia Bello, Executive Director
Youth United for Community Action
2135 Clarke Ave
East Palo Alto, CA 94303
650.322.9165
ofeliabello@youthunited.net

Cari Pang Chen, Associate Director
Rebuilding Together Peninsula
841 Kaynyne Street | Redwood City | 94063
650.366.6597 x224
cari@rebuildingtogetherpeninsula.org

Joshua Abrams, Principal
Baird + Driskell Community Planning
2809A Telegraph Ave (Office)
2635 Benvenue Ave (Mail)
Berkeley, CA 94704
510.761.6001
abrams@bdplanning.com

Cost Structure

Amount of Request: \$30,000

Budget Period: April 1, 2020 - December 31, 2020 (anticipated)

COST STRUCTURE			
Project Expenses	\$/Hour	Hours	Project Budget
EPACANDO Executive Director	\$125	24	\$3,000
City Systems Project Manager	\$75	360	\$27,000
TOTAL EXPENSES NOT TO EXCEED			\$30,000

Derek Ouyang

1075 Market St Apt 202 • San Francisco, CA 94103
derekouyang@gmail.com • (626)246-8299

Education

Stanford University, California

2015 M.S. in Structural Engineering & Geomechanics

2013 Dual B.S. in Civil Engineering & Architectural Design with Distinction

Work

2010: Kornberg Associates – *Menlo Park, California*

Architectural Design Intern under Ken Kornberg and Waldek Kaczmarek

2010: Camargo Associates – *San Jose, California*

Architectural Design Intern under Maurice Camargo

2010: Stanford University – *Department of Civil & Environmental Engineering*

Research Assistant under Sarah Billington, Biocomposites & Fiber-reinforced Concrete

2011: Judlau Contracting – *New York City, New York*

Construction Management Intern, Corbin Building Historical Restoration, MTA Project

2011: Stanford University – *Department of Civil & Environmental Engineering*

Research Assistant under Renate Fruchter, Project-Based Learning Lab

2012: Cody Anderson Wasney Architects – *Palo Alto, California*

Architectural Design Intern under Christopher Wasney and Monty Anderson

2012-2013: Stanford University Solar Decathlon Team

Project Manager, led a team to design and build a 1,000 ft², net-zero home

2014-2017: Cloud Arch Studio LLC – *cloud-arch.com*

Design & Engineering consultant, clients included Google, City of San Francisco

2015-2017: The Nueva Upper School – *San Mateo, CA*

Instructor, Architecture Elective for 9th-12th graders

2015-2019: Stanford University – *Department of Civil & Environmental Engineering*

Lecturer, Sustainable Urban Systems Initiative

2017-Present: City Systems, 501(c)(3) – *city.systems*

CEO, clients include City of East Palo Alto, Metropolitan Transportation Commission

2019-Present: Stanford University – *School of Earth, Energy, and Environmental Sciences,*

Department of Geophysics

Lecturer, Future Bay Initiative

Publications

Bick, I. A., Santiago Tate, A., Serafin, K. A., Miltenberger, A., Evans, M. A., Suckale, J., Ortolano, L., & Ouyang, D. (2019). *Quantifying Effects of Sea Level Rise on Household Discretionary Income*. Manuscript in preparation.

Duane Bay is currently Executive Director of East Palo Alto Community Alliance and Neighborhood Development Organization (EPACANDO) as well as the nascent Pahali Community Land Trust in East Palo Alto, returning to intensely place-based projects after five years of regional focus on housing, hazard resilience and equity with the Association of Bay Area Governments (ABAG).

For eight years prior, Duane led San Mateo County's Department of Housing and Housing Authority. In this and previous positions, Duane was instrumental in the development of several sub-regional housing organizations: a 21-jurisdiction policy collaborative, a housing trust fund, and an advocacy coalition.

To these roles Duane brought earlier local experience as a councilmember and mayor during a period of rapid development, resident displacement and cultural transition; and life skills as a day care and middle school teacher and early executive in two tech start-ups.



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Brenda Olwin, Finance Director

SUBJECT: Monthly Cash Treasury Report for January 2020

Recommendation

Accept and File the Monthly Cash Treasury Report for the month of January 2020.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 3: Increase Organizational Effectiveness and Efficiency

Priority No. 5: Improve Communication and Enhance Community Engagement

Background

Pursuant to Section 53646 of the Government Code of the State of California, the City Treasurer may submit a quarterly report to the City Council regarding the funds and investments of the City. Further, City Investment Policy Section XVIII requires monthly reporting of investment transactions, as specified. Because the City participates in State and County investments pools and does not independently broker or engage outside investment advisors to transact investments; the monthly reporting provides a snapshot of overall cash receipting, transfers, and disbursements on a monthly basis.

Analysis

This report covers cash and investments of the City in the three cash and investment accounts: Wells Fargo Bank, San Mateo County Pool, and the California State Local Agency Investment Fund. The monthly report does not include petty cash or the California State Community Infrastructure Program (SCIP) bond proceeds held by a trustee in the name of the City. For investment purposes, City cash is pooled, except for bond proceeds held by a trustee. The City does not have, nor is it legally required to have, separate bank accounts for each individual fund. However, all cash is segregated in the City's accounting records. Monthly cash transactions for the monthly period ending January 31, 2020 are as follows:

Account	Beginning Balance	Receipts	Disbursements	Quarterly Interest Allocation	Inter-Account Transfers	Ending Balance
Wells Fargo Bank	2,074,576.77	5,025,819.60	(3,274,247.51)	-	(2,500,000.00)	1,326,148.86
San Mateo County Pool	49,707,396.54	2,974,215.25	-	199,665.77	5,000,000.00	57,881,277.56
LAIF	34,598,565.01	-	-	211,881.06	(2,500,000.00)	32,310,446.07
Total	86,380,538.32	8,000,034.85	(3,274,247.51)	411,546.83	-	91,517,872.49

The Wells Fargo cash balance reflects the book value balance i.e. total outstanding checks not cashed are deducted from the account balance. Total cash and investment balances increased approximately \$5.1M. Major receipts consist of quarterly interest income, property tax (\$5M), charges for services from rent stabilization and development deposits (\$1M), and business license tax (\$0.6M). Major disbursements consist of payroll (\$1.3M), and quarterly residential solid waste (\$0.6M).

December and January economic data reflected below-trend growth in manufacturing indices, improved housing starts, supportive mortgage loan rates, and continued consumer confidence through January. More recent data in February reflects increased fears about the effects of the coronavirus (COVID-19) on China's economic growth. After a somewhat mild response to potential economic consequences of the virus; equity, bond, and gold markets reacted to fears of COVID-19 affecting major global economic activity as outbreaks intensified in South Korea and Italy in late February. These fears resulted in continued yield reductions across the treasury yield curve beyond those depicted in the table below. Notably, on February 24th, the 5-year treasury yield was 1.21 bps.

	Jan-20	Dec-19	Jan-19
6-month Treasury Bill	1.54	1.60	2.46
2-year Treasury Note	1.33	1.58	2.45
5-Year Treasury Note	1.32	1.69	2.43

LAIF average effective monthly (annualized) yields continue to decline from 2.04 in December to 1.97 in January. San Mateo County Pool weighted average quarterly yields continue to decline following treasury yield curve trends.

Due to elevated cash levels, budgeted interest income is reasonably in line with projected interest income, although Finance is monitoring current intensification of yield deterioration. Staff believes the City has investment liquidity and anticipated revenues to meet the City's anticipated expenditure requirements for the month of February 2020.

Fiscal Impact

This report is informational only.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Jaime Zarate, Administrative Services Manager
Albert Pardini, Chief of Police

SUBJECT: Authorization to Waive Formal Bid Procedure for Purchases and Installation of Emergency Communication Equipment for Unmarked Police Vehicle in an Amount Not to Exceed \$ 4,871.48

Recommendation

Adopt a Resolution authorizing City Manager to accept the informal bid from Telepath Communications to install emergency safety equipment for one 2019 Chevrolet Impala unmarked vehicles in an amount not to exceed \$4,871.48.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 1: Enhance Public Safety and Emergency Preparedness
Priority No. 2: Enhance Economic Vitality

Background

On November 16, 2019, an unmarked police vehicle was involved in a traffic collision caused by the driver of a private vehicle. The driver of the private vehicle failed to notice traffic was stopped in front of them and subsequently drove their car into the rear of the unmarked police vehicle causing major damage to the unmarked police vehicle and injuring the detective driving it. The California Highway Patrol investigated the collision and determined the driver of the private vehicle was 100% responsible for the collision. The City's insurance carrier determined that the damage was so extensive, it was too costly to repair the vehicle and declared the vehicle a total loss. The insurance company notified the City that a check would be issued to cover the entire expense of replacing the vehicle and emergency equipment.

Analysis

In sum, Telepath Communications was the only responsive bidder: Staff recommends Telepath Communications be the selected bidder to provide the installation of emergency and communication equipment for the unmarked police vehicle. Selecting this vendor would meet the needs of our Police Department, save time and cost, and would give us efficiency and consistency in standardizing equipment and service. The quoted amount of work is under \$10,000.00.

Vendor- Telepath Communications	Final Cost
Emergency Equipment and Radios installations	\$4,871.48

Fiscal Impact

The \$4,871.48 cost of the emergency safety equipment and installation will be charged to the Equipment Replacement Reserve Fund (#012). Our Insurance carrier is funding the total loss.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin outside City Hall and making the agenda and report available at the City's website and the San Mateo County Library at 2145 University Avenue.

Environmental

The action being considered by the City Council is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" pursuant to 15378(b)(4) because it is a fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment.

Attachments

1. Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID FROM TELEPATH
COMMUNICATIONS TO PROVIDE EMERGENCY SAFETY EQUIPMENT FOR ONE
2019 CHEVROLET IMPALA AN AMOUNT NOT TO EXCEED \$4,871.48**

WHEREAS, a Police Department vehicle was damaged in a traffic collision, and deemed by the City of East Palo Alto’s insurance carrier to be beyond repair and in need of replacement; and

WHEREAS, the City’s insurance carrier will reimburse the Police Department for the cost to replace the vehicle and emergency equipment; and

WHEREAS, Telepath Communications is the only responsive bidder and the only authorized installer of our Motorola radios; and

WHEREAS, the City Council finds that special circumstances exist that warrant disregarding bid procedures pursuant to East Palo Alto Municipal Code Section 2.84.070(D), which allows the dispensing of bidding when “special circumstances require, and the City Manager recommends disregarding bid procedures, and City Council approval is obtained to disregard bid procedures.”

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO HEREBY hereby authorizes the City Manager to accept the informal bid from Telepath Communications to install emergency safety equipment for one unmarked 2019 Chevrolet Impala vehicle in an amount not to exceed \$4,871.48.

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NAES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado, Jr., City Attorney

Attachment: Resolution (1120 : Purchase /Insatflation of Emergency and radio equipment)



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020
TO: Honorable Mayor and Members of the City Council
VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*
BY: Walfred Solorzano, City Clerk
SUBJECT: San Mateo County Library Presentation

Recommendation

Receive the presentation.

Background

Anne-Marie Despain, Director of Library Services, San Mateo County Libraries, will make a presentation on library conceptual design plans.

Attachments

1. Presentation

EAST PALO ALTO LIBRARY CONCEPTUAL DESIGN PRESENTATION

Attachment: Presentation (1125 : San Mateo County Library Presentation)



NEEDS ASSESSMENT RECAP

- Places connect, explore, learn and relax – a town center
- A spacious library – greater breathing room, with privacy/separation of different uses
- Variety of outdoor spaces for reading, play, programs and connection with nature
- Ample seating and personal space for work and study
- Filled with natural light and views to outside
- Greater access to technology, particularly desk/laptops
- Separate children's area with better infrastructure, play opportunities, and space for events
- Art making and exhibition (including crafts, theater, music and dance)
- Access to community resources – from tutoring to housing assistance to taxes
- The ability to play – to let off steam and to explore new things
- Explore culinary literacy

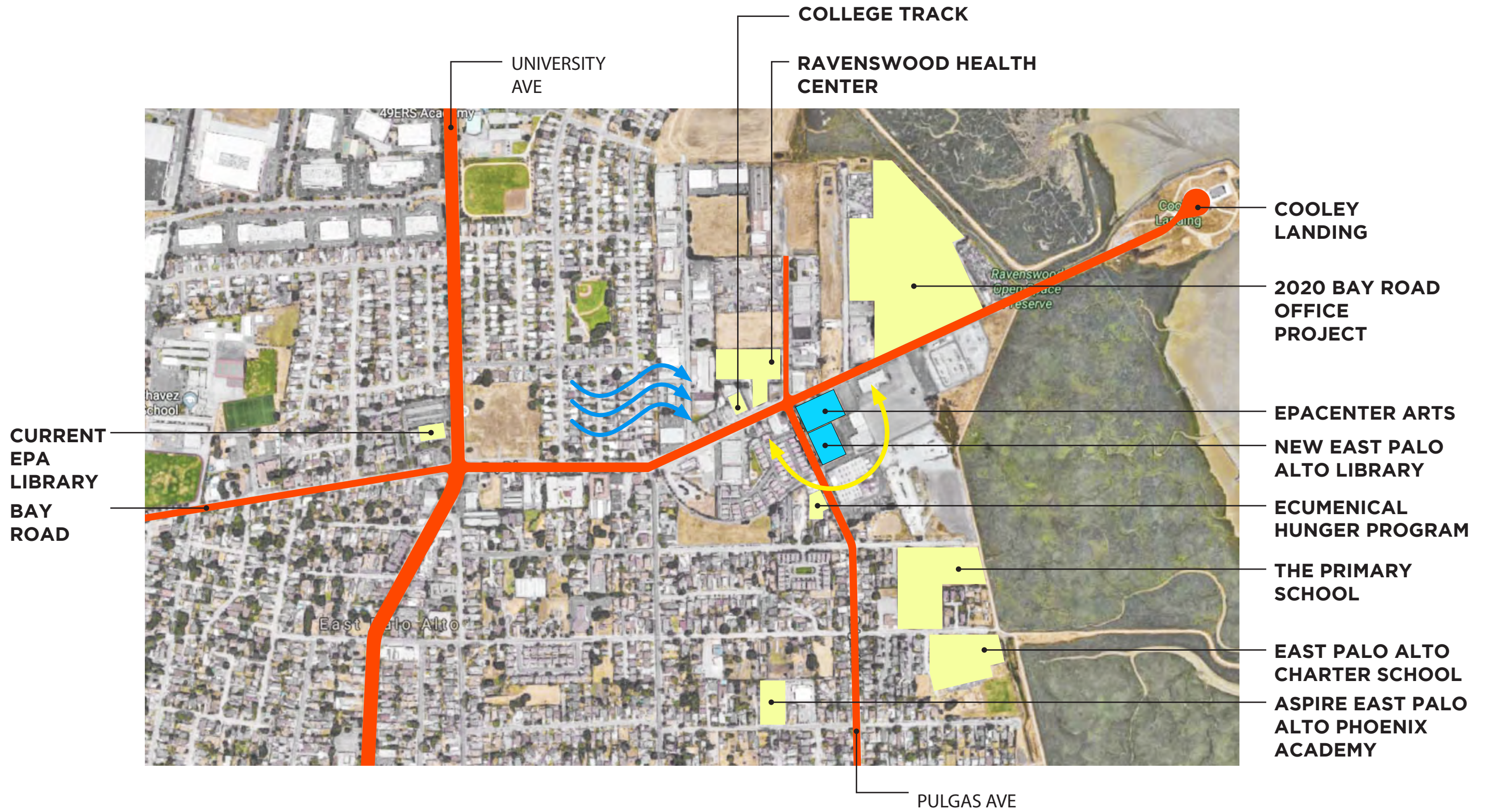
PROJECT INTENTIONS

- STIMULATING:** ENCOURAGES LEARNING THROUGH EXPLORATION, PLAY, AND EXCITEMENT
- ENABLING:** PUTS RESOURCES WITHIN REACH, ENCOURAGES NEW CONNECTIONS
- FLEXIBLE:** ADAPTS TO EVOLVING COMMUNITY AND NEEDS
- INTEGRATED:** CREATES THE CIVIC COMMONS, SEAMLESSLY INTEGRATES WITH EPA CENTER

Attachment: Presentation (1125 : San Mateo County Library Presentation)

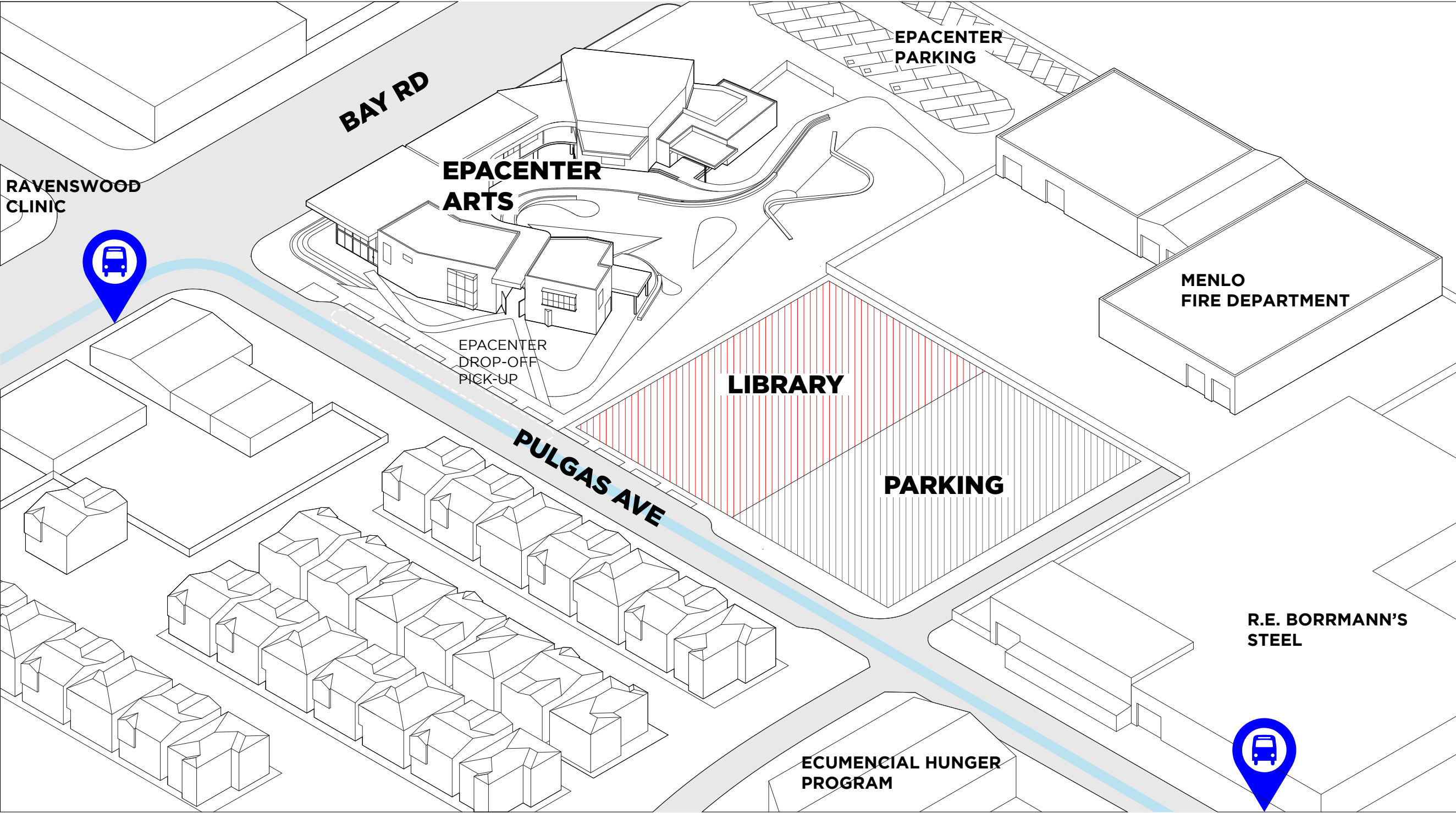


ABOUT THE SITE



Attachment: Presentation (1125 : San Mateo County Library Presentation)

ABOUT THE SITE



Attachment: Presentation (1125 : San Mateo County Library Presentation)

PROPOSED PROGRAM FOR A NEW EAST PALO ALTO LIBRARY

Attachment: Presentation (1125 : San Mateo County Library Presentation)



PROPOSED PROGRAM: WELCOME / ENTRY

NARRATIVE:

- Conveys a sense of welcome and a buzz of activity
- A central location from which most functions are visually or intuitively accessible
- Warm and inviting stations for greeting, information and check-out
- Seating for informal work and reading
- Ability to house large gatherings and events like readings, concerts, and open mic nights

FUNCTIONS:

- Entry / Lobby
- Concierge Stations
- Cart Cubby
- Self Check-out
- Holds
- Seating
- Restrooms



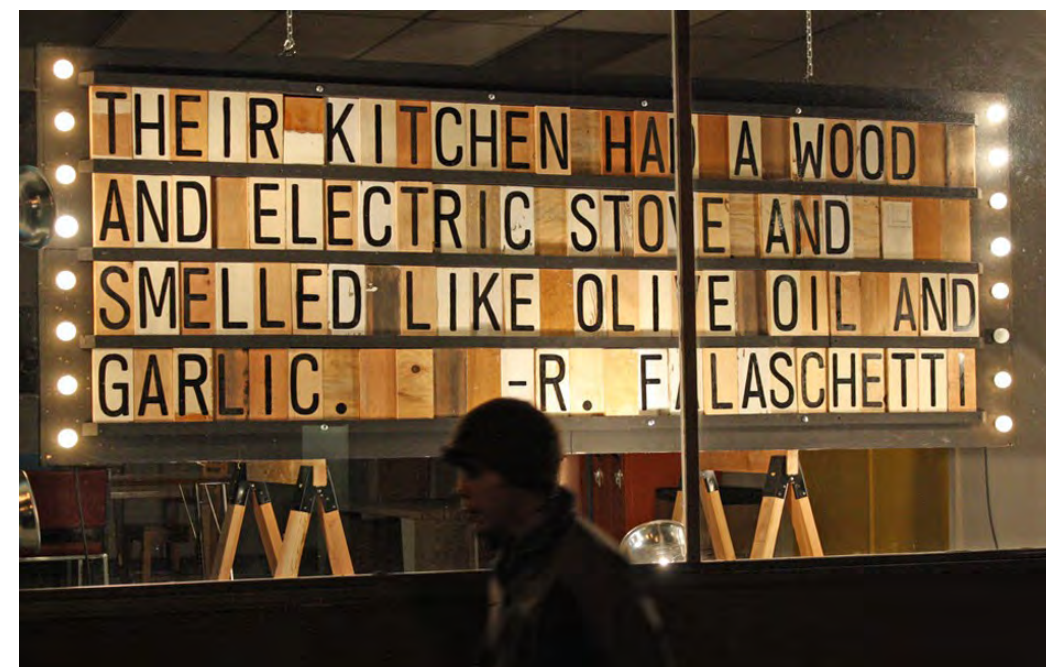
PROPOSED PROGRAM: COMMUNITY RESOURCE CENTER

NARRATIVE:

- A community hub for meeting and access to community resources
- Multi-purpose meeting room for events, presentations, meetings and classes
- Small meeting rooms for group work and community partners
- Open co-work type environment
- A community message board with upcoming events, resource information and more

FUNCTIONS:

- Medium Activity Room
- Small Activity Room
- Activity Room Storage
- Partner/Resource Rooms
- Communal Lounge
- Homework Center



PROPOSED PROGRAM: CULINARY LITERACY CENTER

NARRATIVE:

- A nutrition, health and wellness resource for the community
- Domestic teaching kitchen for cooking and related classes
- A place to serve nutritious and tasty snacks for patrons
- Reading lounge with cooking, health, wellness, and gardening literature
- Access to a domestic demonstration garden

FUNCTIONS:

- Teaching Kitchen
- Storage
- Office
- Outdoor Seating
- Demonstration Garden



PROPOSED PROGRAM: KIDS & FAMILY AREAS

NARRATIVE:

- A place for children of all ages and families to explore, play, learn and read
- Break-out areas for storytelling, play, and various media
- Adjacent outdoor space for working off energy, physical play, access to nature
- Playful elements to explore and discover, accommodating different ways of learning
- A room that grows with kids, promoting learning and exploration as fun

FUNCTIONS:

- New Books
- Table Seating
- Books
- Audio/ Visual & New Media
- Storytelling
- Storage
- Outdoor Area
- Family Restroom



Attachment: Presentation (1125 : San Mateo County Library Presentation)

PROPOSED PROGRAM: CABINET OF CURIOSITY

NARRATIVE:

- A dynamic space for learning through doing, socializing, and engaging technologies
- Visible to all who enter the library to inspire curiosity
- A 'maker space' for all ages – sewing, dj, domestic skills, digital fabrication, etc.
- A place teens can call their own for reading, socializing, and individual and group activities with access to digital and physical resources
- Access to a multitude of environments and programs through virtual means to broaden horizons
- Flexible furniture to accommodate various activities and programs

FUNCTIONS:

- Teen Room
- Maker Room
- Virtual Reality Experience Alcove
- Office
- Storage



Attachment: Presentation (1125 : San Mateo County Library Presentation)

PROPOSED PROGRAM: COLLECTIONS & STUDY

NARRATIVE:

- Large, open, naturally lit space for reading and quiet work
- Ample opportunities for independent study with comfortable seating, natural light, and power
- Flexible shelving to accommodate the evolution of the collection
- An East Palo Alto focused resource area, with the ability to house memorabilia and even record oral histories
- Workstations and laptop check-out machines, as well as printing stations
- Private rooms for small group study and tutoring

FUNCTIONS:

- Main Space
- New Books / Media / Periodicals
- Adult Collections
- East Palo Alto History
- Reader Seating
- Public Computers
- Printing
- Study Rooms
- Literacy center
- Quiet Room
- Restrooms



PROPOSED PROGRAM: STAFF RESOURCE AREA

NARRATIVE:

- Stimulating, naturally lit work environment
- An ability to see the comings and goings of the library
- Open work spaces for permanent and temporary staff
- Wall space for sharing ideas and mapping out projects and schedules
- Privacy nook for quiet work and calls
- Easy access to book processing area

FUNCTIONS:

- Collection Processing Room
- Staff Open Office
- Enclosed Office
- Staff Break Area
- Storage
- Data / Telecom
- Staff Restroom w/Shower



PROPOSED PROGRAM: SITE & OUTDOOR AMENITIES

NARRATIVE:

- A place to connect with the outdoors and enjoy nature
- Space for larger gatherings as well as outdoor ‘nooks’ for solitude
- A demonstration garden for growing food
- Secure play areas for children
- Outdoor classroom and storytime area

FUNCTIONS:

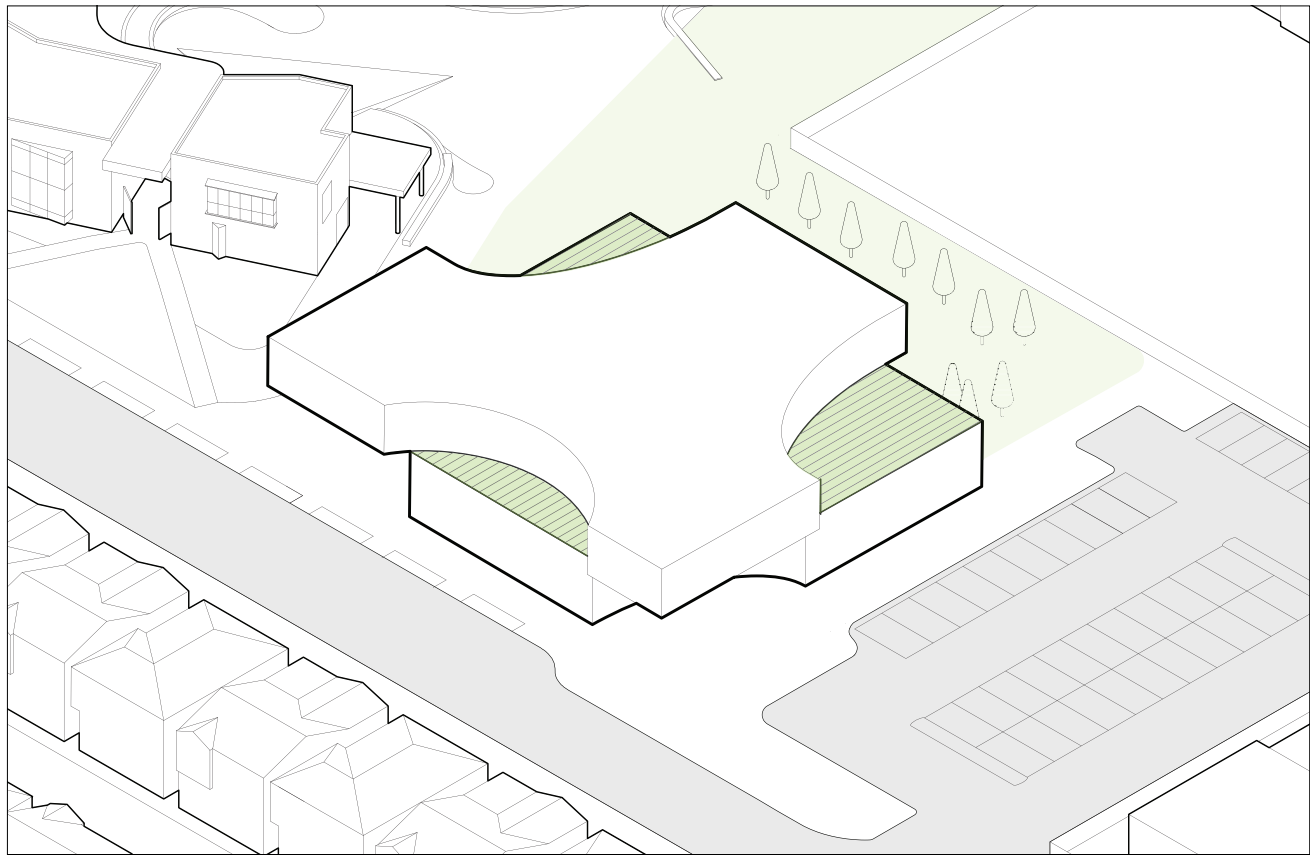
- Outdoor Reading
- Outdoor Eating
- Youth Play Area
- Demonstration Garden
- Bike Racks
- Parking Spaces
- Loading



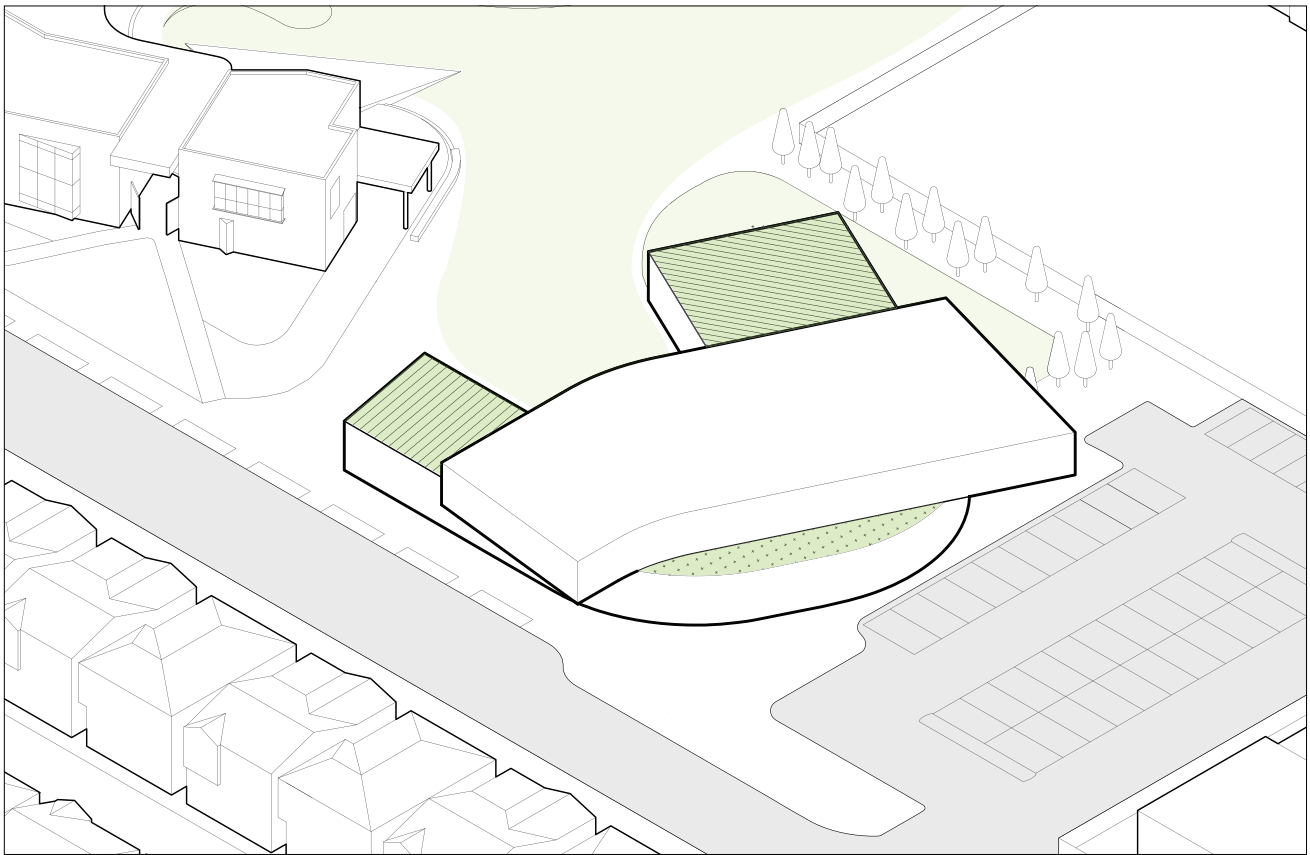
DESIGN CONCEPT



TWO APPROACHES



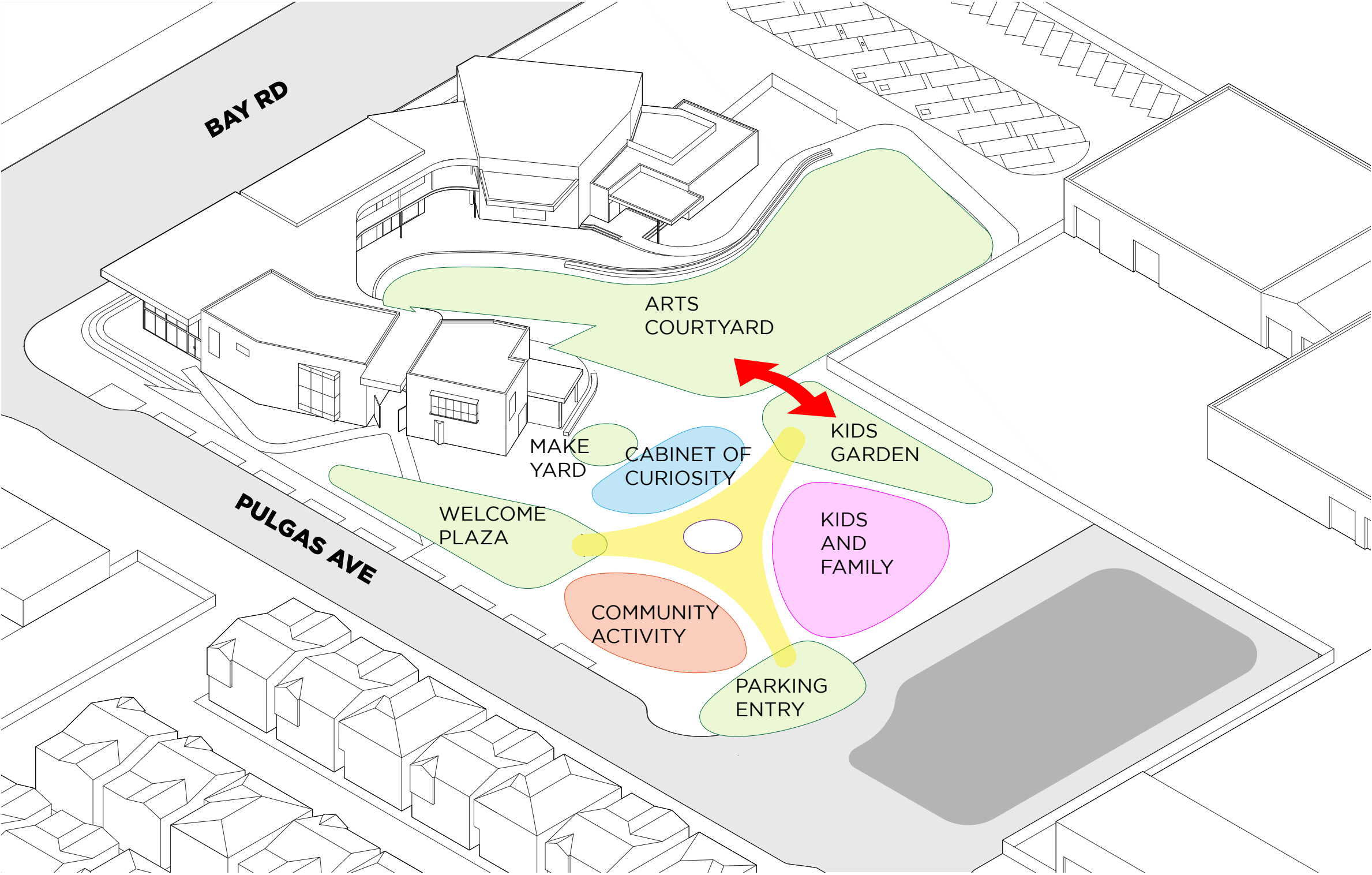
JIGSAW PUZZLE



BOOMERANG

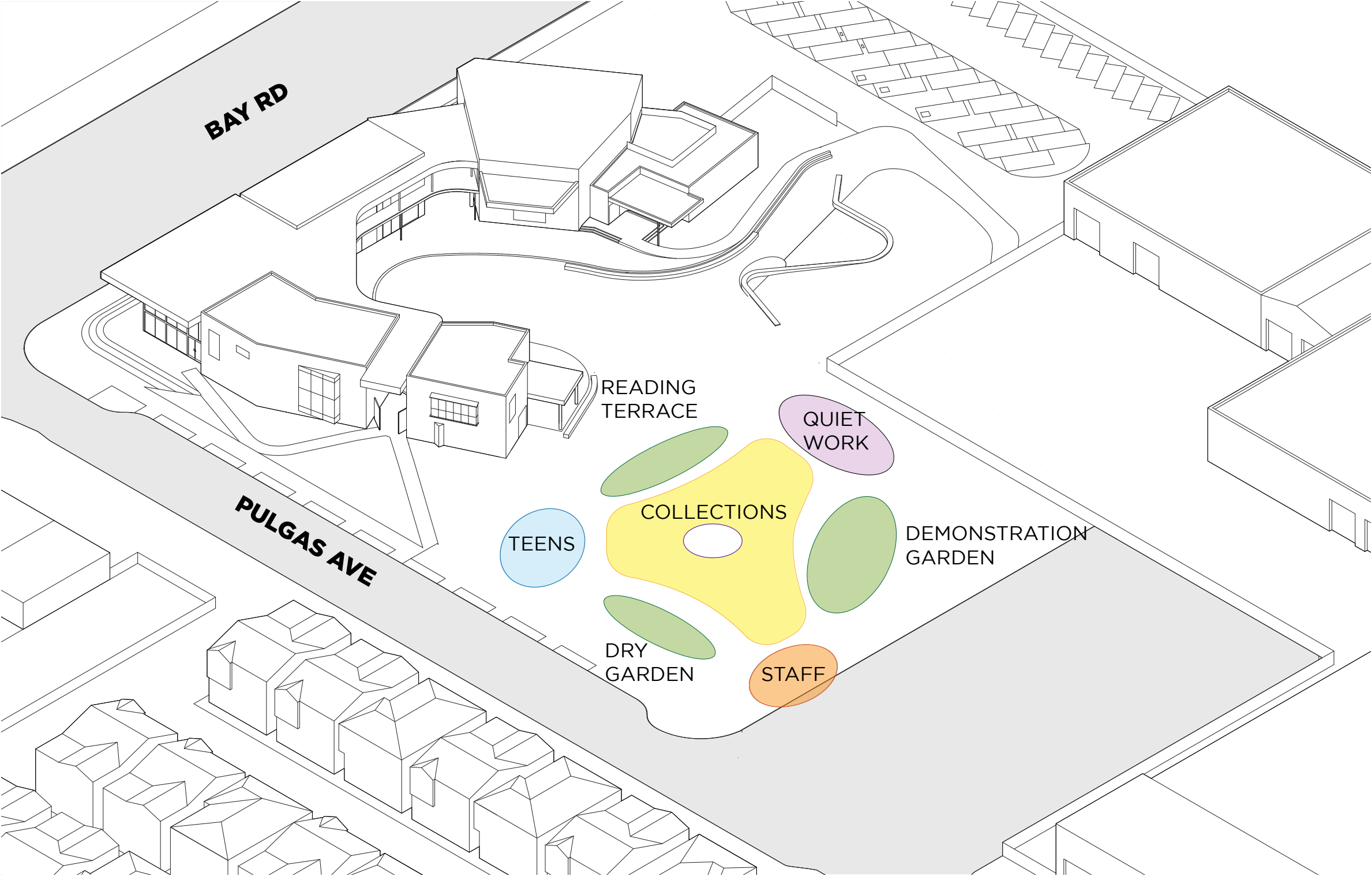
Attachment: Presentation (1125 : San Mateo County Library Presentation)

JIGSAW PUZZLE DESIGN



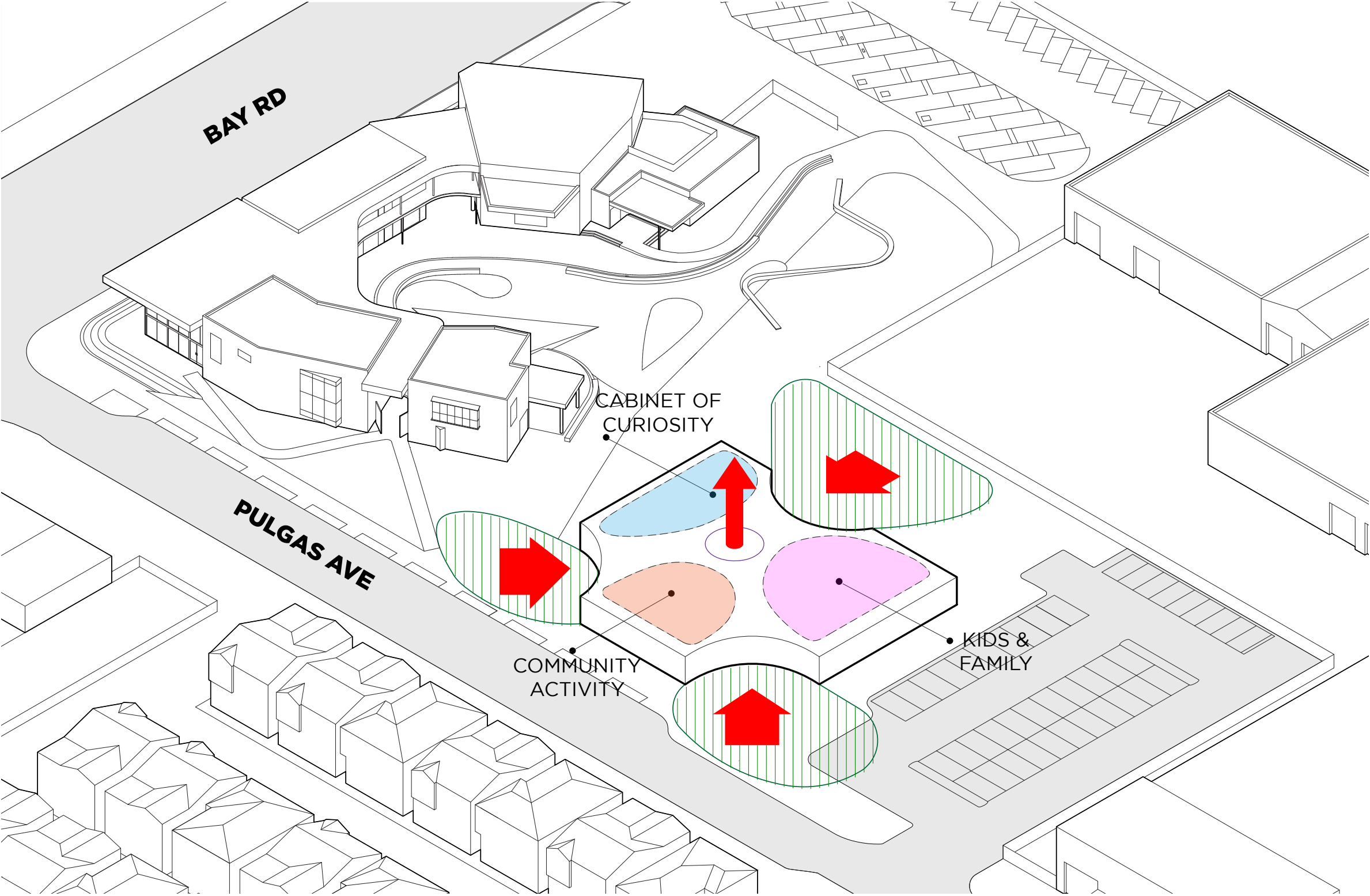
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JIGSAW PUZZLE DESIGN



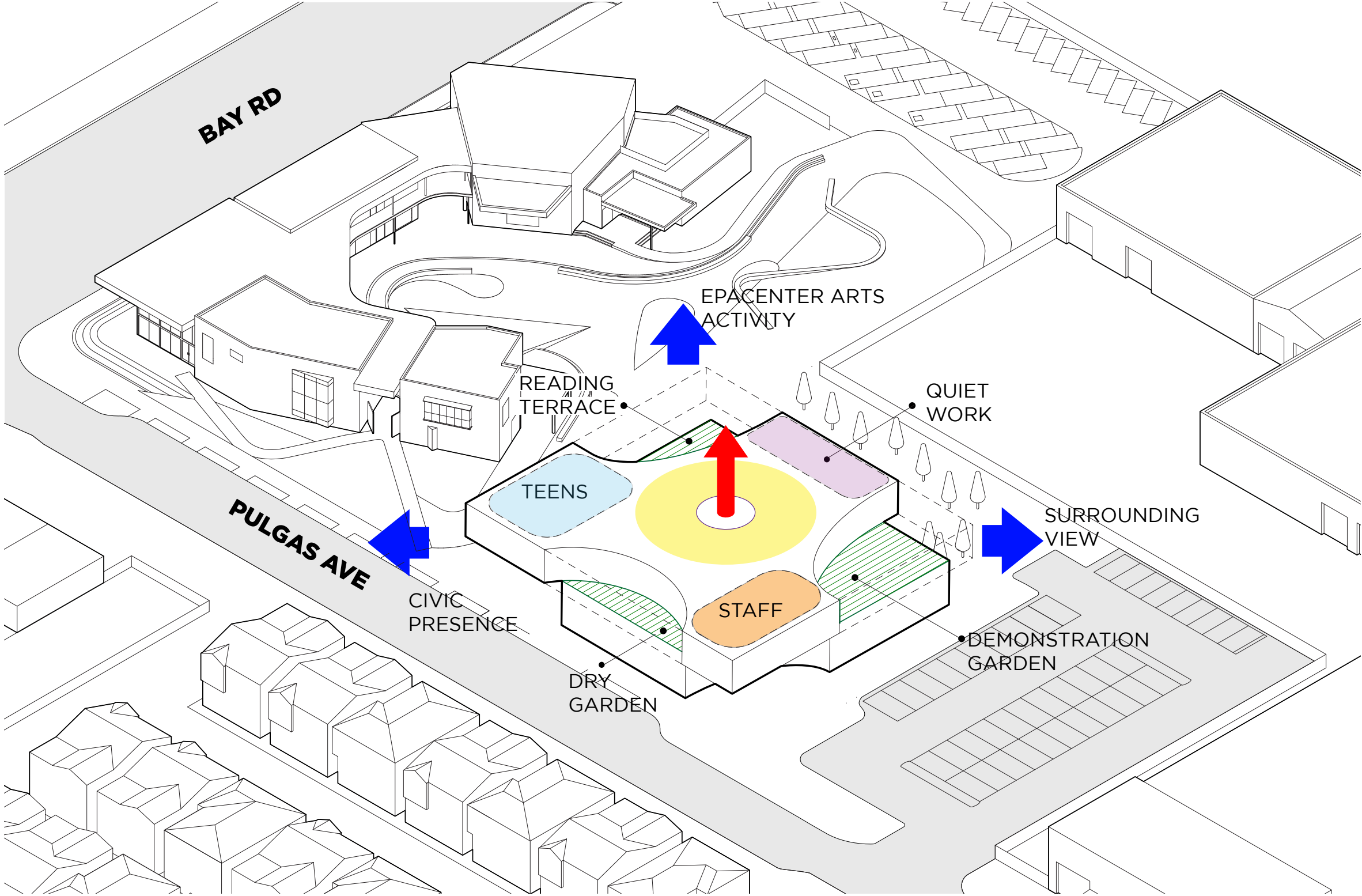
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JIGSAW PUZZLE DESIGN

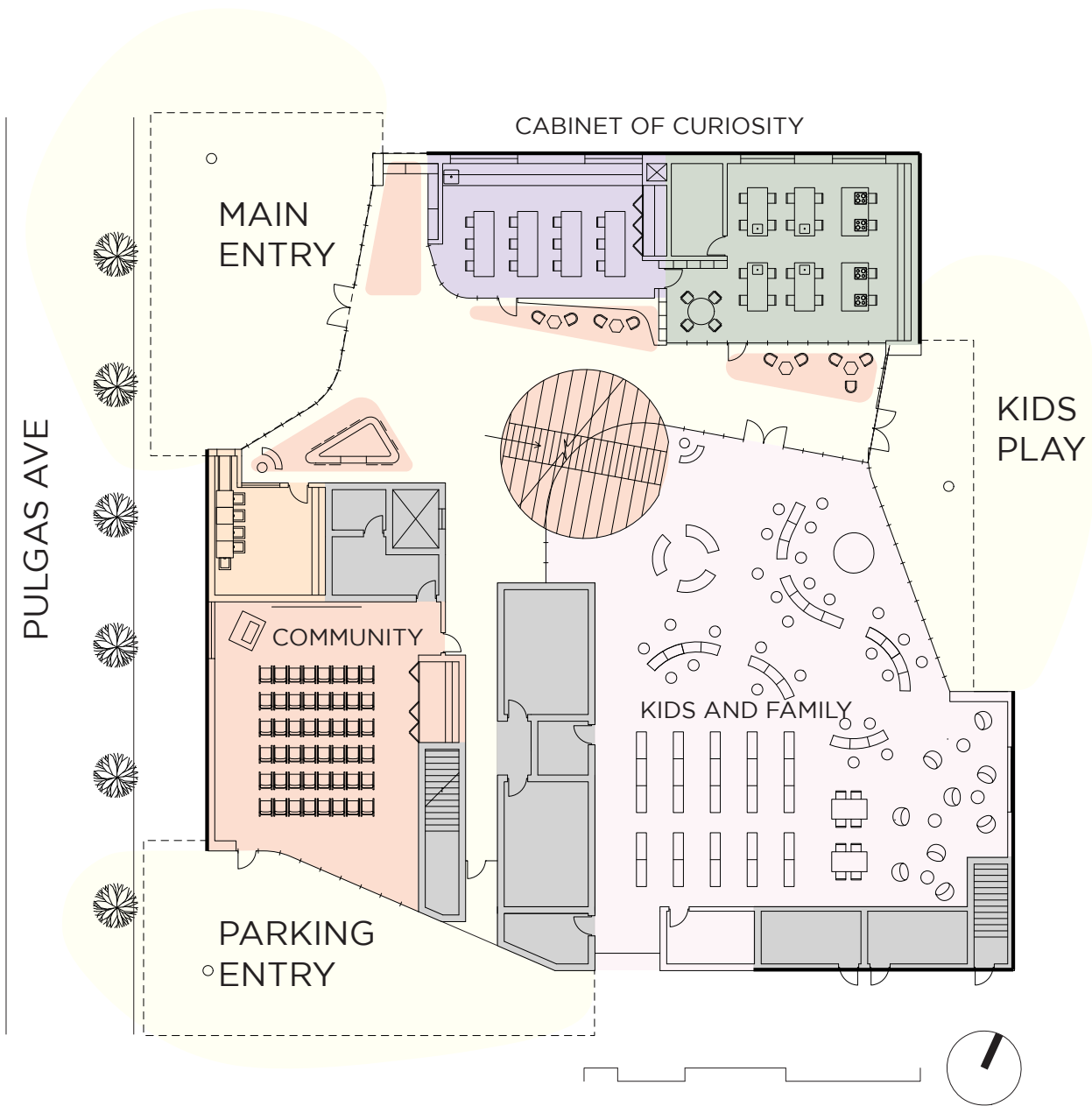


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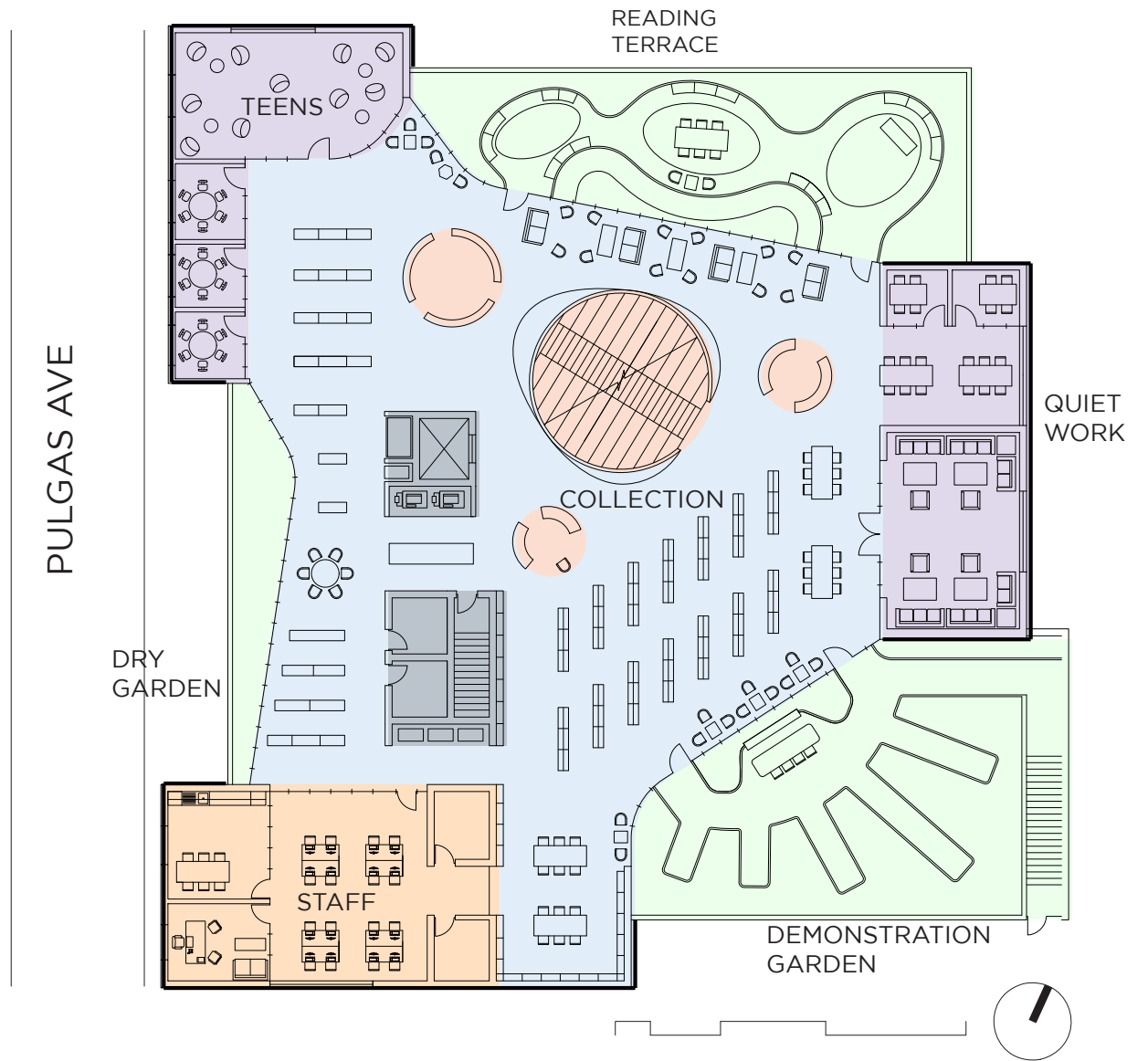
JIGSAW PUZZLE DESIGN



Attachment: Presentation (1125 : San Mateo County Library Presentation)



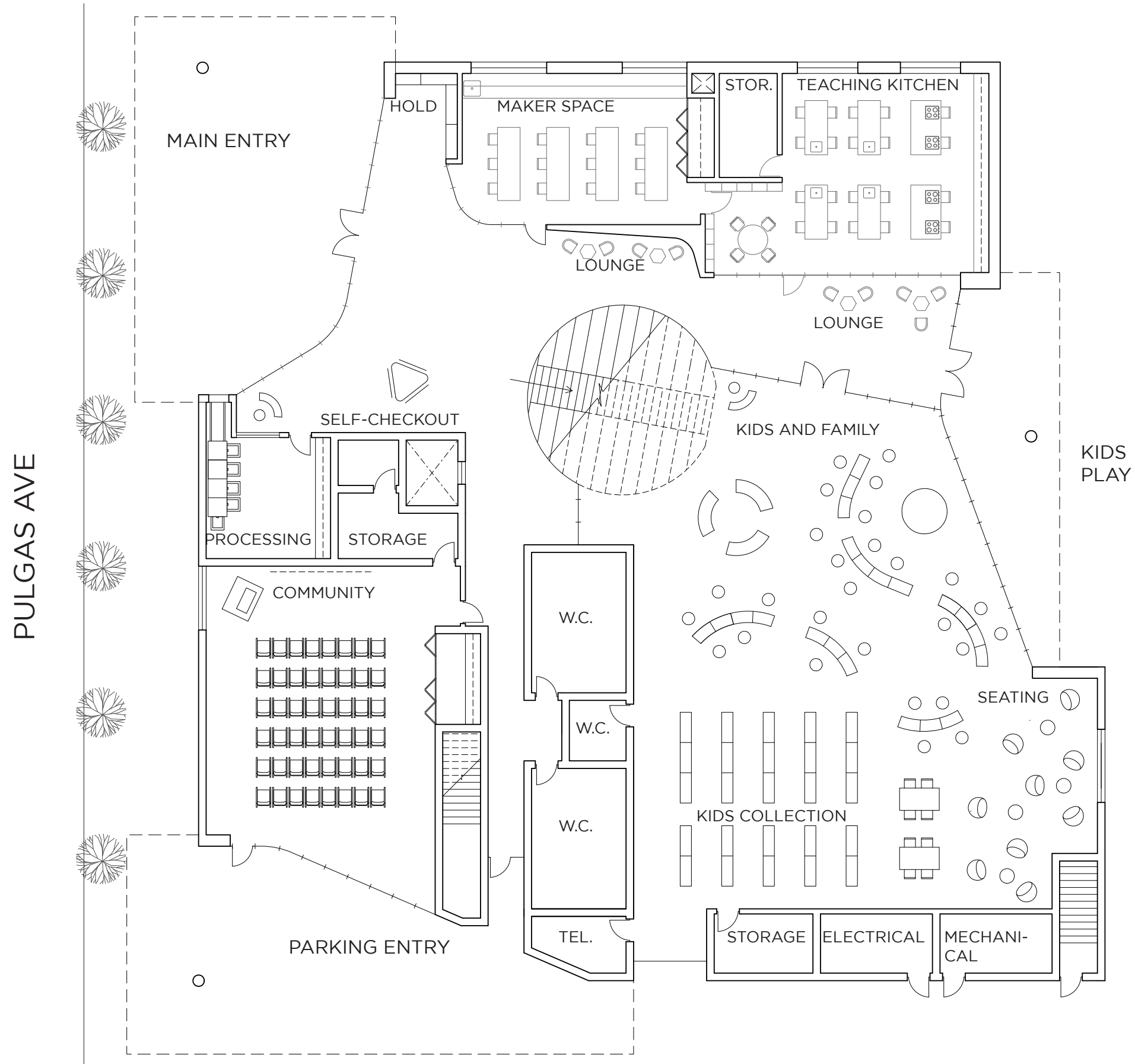
GROUND FLOOR



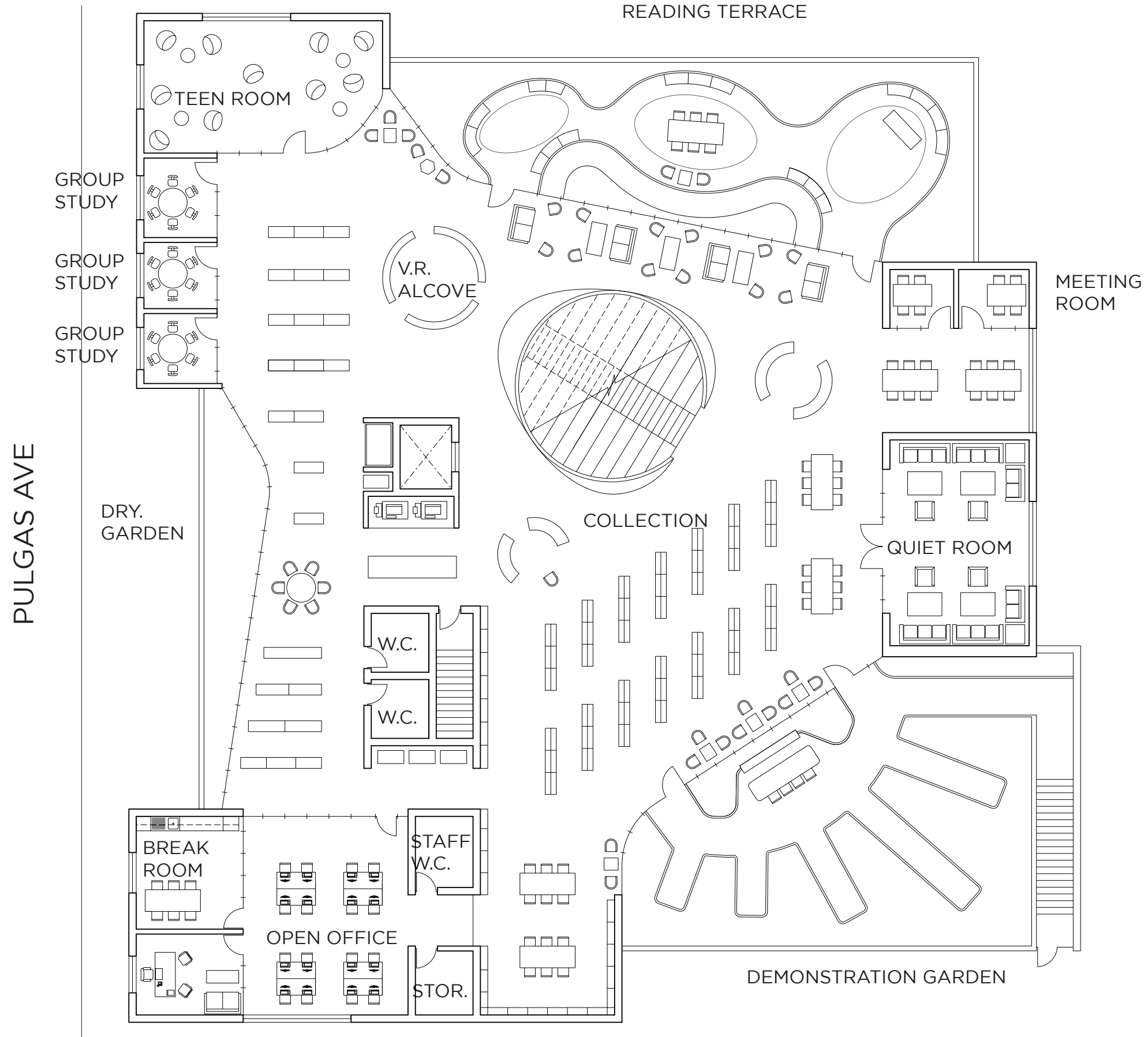
SECOND FLOOR

Attachment: Presentation (1125 : San Mateo County Library Presentation)

GROUND FLOOR PLAN



SECOND FLOOR PLAN



LANDSCAPE PLAN





CONCEPT DESIGN COST PLAN

Overall Summary

	SF	\$/SF	TOTAL \$x1,000
New Construction			
Library	23,878	857.00	20,474
TOTAL BUILDING CONSTRUCTION	23,878	857.00	20,474
Sitework			
Existing Building Demo			N/A
Sitework	43,527	47.00	2,044
TOTAL SITEWORK			2,044
TOTAL BUILDING AND SITEWORK			22,518
Escalation To Start Date (January 2021)	8.00%		2,000
TOTAL ESCALATED CONSTRUCTION COST			24,518
Project Soft Costs (To Be Reviewed and Verified With Owner)			
Acquisition Costs			Excluded
Design and Engineering Services	13%		3,190
Furnishings, Fixtures and Equipment		23,878	30.00
Public Art	1%		Excluded
Testing, Inspection and Permit	2%		370
Other Owner's Soft Costs	5%		1,230
Contingencies	10%		2,450
TOTAL PROJECT SOFT COSTS	32%		7,956
RECOMMENDED BUDGET FOR PROJECT			32,474

Add Alternates:

01 Premium for LEED Platinum over Gold	1,000
02 Net Zero - incl PV Panels	3,000

Excludes:

- Land and easement acquisition
- Environmental impact mitigation
- Move in and Pre-opening Costs
- Financing and Legal
- Offsite Development (B Permit)





EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Annie Lin, Deputy City Attorney

SUBJECT: Ordinance Banning Electronic Nicotine Delivery Systems and Flavored Tobacco

Recommendation

Waive the first reading and introduce an ordinance amending Chapters 5.80 and 8.56 of the East Palo Alto Municipal Code to ban the sale of flavored tobacco, including menthol tobacco products, electronic cigarettes, and prohibit the sale of any tobacco products by pharmacies located in City limits.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 6: Create a Healthy and Safe Community

Background

The City of East Palo Alto currently regulates smoking in public spaces and the sale of tobacco products. However, the City's smoking and tobacco retailer regulations do not specifically address the sale of flavored tobacco products or electronic cigarettes.

The City's Business License Regulations, codified in Chapter 5.80, currently require retailers that sell tobacco products to obtain a tobacco retailer's permit from the City for each location where such sales are conducted. The San Mateo County Department of Health is City's agent for acceptance of the applications for and issuance of such permits, and is authorized to take enforcement action.

The City's Smoking Regulations, codified in Chapter 8.56 of the East Palo Alto Municipal Code, prohibits or regulates smoking in certain places in order to protect the health and welfare of East Palo Alto residents. The Smoking Regulations make it unlawful to smoke in the following category of places within the City: Elevators; Public restrooms; Restaurants; Health care facilities; The location of city-sponsored events; City owned and leased properties; Parks, open space and facilities; Public meeting rooms; Public lobbies and hallways; Theaters

and auditoriums; Museums, libraries and galleries; Hotel and motels; Polling places; and Business establishments.

In order to restrict the sale of flavored tobacco products or electronic cigarettes in the City of East Palo Alto, the City Council will need to adopt an ordinance to amend existing local law.

Flavored Tobacco

In October 2009, Congress adopted “The Family Smoking Prevention and Tobacco Control Act” that bans cigarettes with flavors other than menthol or tobacco. Consequently, the Federal Drug Administration does not regulate menthol in tobacco products and menthol may be found in cigarettes, cigars, smokeless tobacco, and other tobacco products. Furthermore, the FDA also does not ban other flavored tobacco products, including cigars, cigarillos, hookahs, snuffs, chews, and liquid nicotine solution (e-liquids).

Mentholated cigarettes and tobacco products are a significant concern. Menthol is an anesthetic additive added to cigarettes and other tobacco products, which may provide a mint flavor that effectuates a cooling sensation and reduces the harsh taste of cigarette smoke. Studies have shown that the anesthetic effect of mentholated cigarettes allows for a deeper draw of cigarette smoke, masks early warning system of respiratory problems, and smokers of menthol cigarettes have been found with higher levels of cotinine and carbon monoxide in the bloodstream as non-menthol smokers.¹

In 2016, the California Medical Association identified the following key points in its white paper titled “Flavored and Mentholated Tobacco Products”:

- Consumption of flavored tobacco products such as cigars, smokeless tobacco, hookah tobacco, and liquid nicotine solution (used in electronic smoking devices) have increased among youth in recent years, while menthol cigarettes continue to corner a large part of the U.S. cigarette market.
- Flavorings used in tobacco products do not reduce the health impacts and risks associated with tobacco use, and are not safer than non-flavored tobacco products.
- Flavored and mentholated tobacco products are “starter” products that help new users establish daily habits and promote addiction to tobacco products, make it harder to quit, and may result in the concurrent use of multiple tobacco products.
- The tobacco industry has marketed these flavored and mentholated tobacco products to account for user preferences that skew younger, and reinforce sociocultural messages with priority populations.
- Strong evidence supports the finding that youth, certain racial/ethnic groups, and other targeted priority populations (i.e., LGBT and women) are particularly vulnerable to sweet flavors and menthol, and are largely driving this increased uptake and sustained use of flavored tobacco products.

Electronic Cigarettes

¹ [Flavored and Mentholated Tobacco Products: Enticing a New Generation of Users](#), May 2016.

The term “electronic cigarette” or “e-cigarette” is a term commonly used in conjunction with products that use “e-liquids.” These e-liquids are generally held in pods or cartridges, which are designed to send the e-liquid into the atomizer while sending vapor to the mouthpiece, and are the subject of the FDA’s priority enforcement.

The Federal Drug Administration categorizes what is commonly referred to as “e-cigarettes” or “electronic cigarettes” as Electronic Nicotine Delivery Systems (ENDS), which includes: Vaporizers, E-Cigarettes, Vapes, Vape Pens, Hookah Pens, and E-Pipes. These ENDS use an “e-liquid” which may contain nicotine and, in many instances, flavors. These liquids are then heated to create an aerosol that the user inhales.² These e-liquids would also be categorized under flavored tobacco.

In 2015, the California Department of Public Health issued a health advisory identifying e-cigarettes as a public health concern. E-cigarettes contain nicotine, flavoring agents, propylene glycol and toxic chemicals known to cause cancer, birth defects and other reproductive harm.³ E-cigarette aerosol have been found to contain at least ten chemicals that are on California’s Proposition 65 list of chemicals known to cause cancer, birth defects or other reproductive harm, including acetaldehyde, benzene, cadmium, formaldehyde, isoprene, lead, nickel, nicotine, n-nitrosornicotine, and toluene. Health advocates are concerned that e-cigarette use among youths and accidental poisonings among small children have been rapidly rising since 2012.

On November 19, 2019, the American Medical Association (AMA) called for a total ban on all e-cigarette and vaping products that do not meet Food and Drug Administration (FDA) approval as cessation tools (i.e., a tool to quit) in the wake of the recent lung illness outbreak linked to more than 2,000 illnesses and over 40 deaths across the country and a spike in youth e-cigarette use.⁴

On January 20, 2020, the Food and Drug Administration (FDA) expressed in a news release that it will prioritize the enforcement against illegally marketed Electronic Nicotine Delivery System (ENDS) products, specifically any flavored, cartridge-based ENDS products, which are defined as “a type of ENDS product that consists of, includes, or involves a cartridge or pod that holds liquid that is to be aerosolized when the product is used.”⁵

City Council Direction

On November 19, 2019, the East Palo Alto City Council discussed the sale of electronic cigarettes and flavored tobacco in the City. At this meeting, the City Council directed staff to draft a memorandum with information for a proposed ordinance regulating the sale of electronic cigarettes and flavor tobacco.

On January 21, 2020, City staff presented to City Council information about a potential ordinance banning the sale of electronic cigarettes and flavored tobacco, including information about similar ordinances adopted by the County of San Mateo and the City of Menlo Park.

² [Vaporizers, E-Cigarettes, and other Electronic Nicotine Delivery Systems \(ENDS\)](#)

³ [California Department of Public Health, Health Advisory](#), January 2015

⁴ [American Medical Association, Press Release](#), November 2019

⁵ [Federal Drug Administration, Press Release](#), January 2020

The City Council then instructed staff to draft an ordinance prohibiting the sale of flavored tobacco, including menthol flavored cigarettes and e-cigarettes.

Analysis

Currently, the City's smoking and tobacco retailer regulations do not specifically address the sale of flavored or electronic cigarettes. The City's current zoning codes prohibit hookah lounges from operating within City limits, but does not prohibit a shop which sells tobacco products and smoking accessories.

The draft ordinance, attached to this staff report, generally bans the sale of flavored tobacco, including menthol tobacco products, and electronic cigarettes within City limits. Consistent with Council direction, the ordinance includes elements to strengthen the general ban.

The draft ordinance prohibits:

- The sale of flavored tobacco product, including those with the characterizing flavor of menthol;
- The sale of electronic cigarettes;
- The sale of tobacco products to individuals under 21;
- The sale of tobacco products from a vending machine, appliances, self-service displays, or by any means other than vendor assisted sales;
- the sale of any tobacco products by pharmacies;
- Free samples/coupons for tobacco products; and
- Out of package samples of tobacco products.

If adopted, the City of East Palo Alto would join 59 other California cities and counties that have passed restrictions on the sale of flavored tobacco products including the sale of mentholated tobacco products.⁶ As written, the ordinance would become effective 30 days after adoption. The Council can delay the effective date of the ordinance to allow existing Tobacco Retailers to sell existing stock of products proposed to be banned.

If the Council adopts the draft ordinance as outlined in this report, staff will notify affected businesses and display relevant information on the City's website to ensure business owners are aware of the new regulation.

Fiscal Impact

If adopted, the ordinance would implement a prohibition on the sale of flavored tobacco and electronic cigarettes within City limits, and may create a fiscal impact upon tobacco retail establishments in the City.

Public Notice

If introduced, the ordinance will be published as required by law.

Environmental

⁶ [States & Localities That Have Restricted Flavored Tobacco Products](#), Tobacco Free Kids

The adoption of the proposed ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b) (3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that this Ordinance, by itself, may have a significant adverse effect on the environment.

Attachments

1. Ordinance
2. Current Tobacco Ordinance
3. Smoking Regulations

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**AMENDING CHAPTER 5.80 (TOBACCO RETAILERS) AND CHAPTER 8.56 (SMOKING
REGULATIONS) OF THE EAST PALO ALTO MUNICIPAL CODE TO BAN THE SALE OF
FLAVORED TOBACCO PRODUCTS AND ELECTRONIC NICOTINE DELIVERY SYSTEMS**

WHEREAS, the use of flavored tobacco products, whether through Electronic Nicotine Delivery Systems, or other more means, including cigars, cigarillos, smokeless, snuff, and chew, have been identified as a significant threat to public health; and

WHEREAS, the California Department of Public Health has issued a health advisory identifying e-cigarettes as a public health concern; and

WHEREAS, the California Medical Association issued a study indicating that the consumption of flavored tobacco products and liquid nicotine solution (used in electronic smoking devices) have increased among youth in recent years; menthol cigarettes continue to corner a large part of the U.S. cigarette market; such products are “starter” products that help new users establish daily habits and promote addiction to tobacco products; and that the tobacco industry has marketed these flavored and mentholated tobacco products to account for user preferences that skew younger, and reinforce sociocultural messages with priority populations; and

WHEREAS, the American Medical Association has called for a total ban on all e-cigarette and vaping products that do not meet Food and Drug Administration (FDA) approval as cessation tools in the wake of the recent lung illness outbreak linked to more than 2,000 illnesses and over 40 deaths across the country and a spike in youth e-cigarette use; and

WHEREAS, despite FDA’s efforts, the current state and federal laws have failed to successfully regulate the sale of flavored tobacco products, including Electronic Nicotine Delivery Systems and flavored tobacco and liquids; and

WHEREAS, at the January 21, 2020 City Council Meeting, the Council directed staff to prepare a proposed ordinance prohibiting the sale of flavored tobacco, including menthol, and electronic cigarette products within City limits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT TO CHAPTER 5.80 OF THE EAST PALO ALTO MUNICIPAL CODE

The City Council hereby amends and adds the following sections of Chapter 5.80 of the East Palo Alto Municipal Code to read as follows (with text in ~~strikeout~~ indicating deletion and double underlined text indicating addition). Sections that are not amended by this Ordinance are not included below, and shall remain in full force and effect.

5.80.010 - ~~Permit required.~~ Definitions.

~~It is unlawful for any retailer, individual, or entity to sell or offer for sale any tobacco products without~~

first obtaining and maintaining a valid tobacco retailer's permit from the city for each location where such sales are conducted. Permits are valid for one year and shall be renewed annually. The San Mateo County Department of Health, or any successor, is designated as the city's agent for acceptance of the application for and issuance of such permit and for other actions authorized in this chapter, including without limitation, actions to enforce, hold hearings, suspend permits and issue administrative fines.

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

- A. "Characterizing flavor" means a distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.
- B. "Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.
- C. "Director" shall mean the director of the San Mateo County Environmental Health Division or designee, the City Manager or designee or code enforcement officer.
- D. "Distinguishable" means perceivable by either the sense of smell or taste.
- E. "Electronic cigarette" means any of the following products:
 - (1.) Any device or delivery system that can be used to deliver nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
 - (2.) Any component, part, or accessory of such a device or delivery system that is used during its operation.
 - (3.) Any flavored or unflavored liquid or substance containing nicotine, whether Sold separately or Sold in combination with any device or delivery system that could be used to deliver nicotine in aerosolized or vaporized form.
 - (4.) Any product for use in an electronic nicotine device or delivery system whether or not it contains nicotine or tobacco or is derived from nicotine or tobacco.
- F. "Flavored tobacco product" means any tobacco product that contains a constituent that imparts a characterizing flavor.
- G. "Person" means any individual, partnership, cooperative association, private corporation, or any other legal entity.
- H. "Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.
- I. "Sell", "Sale" or "to Sell" means any transaction where, for any consideration, ownership is transferred from one Person or entity to another including, but not limited to any transfer of title

or possession for consideration, exchange, distribution or barter, in any manner or by any means.

J. "Tobacco Product" means:

1. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff;
2. Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
3. Notwithstanding any provision of subsections (1) and (2) to the contrary, "tobacco product" includes any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

K. "Tobacco retailer" or "retailer" means any store, stand, booth, concession or other enterprise that engages in the retail sale or exchange of tobacco products or electronic cigarettes.

5.80.015 Requirements and Prohibitions.

- A. Permit required. It is unlawful for any retailer, individual, or entity to sell or offer for sale any tobacco products, without first obtaining and maintaining a valid tobacco retailer's permit from the city for each location where such sales are conducted. Permits are valid for one year and shall be renewed annually. The San Mateo County Department of Health, or any successor, is designated as the city's agent for acceptance of the application for and issuance of such permit and for other actions authorized in this chapter, including without limitation, actions to enforce, hold hearings, suspend permits and issue administrative fines.
- B. Lawful business operation. It shall be a violation of this Chapter for any retailer to violate any local, state, or federal law applicable to tobacco products or the retailing of such tobacco products.
- C. Notice of minimum age for purchase of tobacco products. Retailers shall post conspicuously, at each point of purchase, a notice stating that selling tobacco products to anyone under 21 years of age is illegal and subject to penalties. Such notice shall be subject to the approval of the Environmental Health Division.
- D. Prohibition on sale of flavored tobacco products.
 1. The sale or offer for sale, by any person or tobacco retailer of any flavored tobacco product is prohibited and no person or tobacco retailer shall sell, or offer for sale, any flavored tobacco product.
 2. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor including, but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has a characterizing flavor.

- E. Prohibition on sale of electronic cigarettes. No tobacco retailer or other person shall sell any electronic cigarette to a person.
- F. Prohibition on sale of tobacco products at pharmacy. No pharmacy or pharmacy employee or agent shall sell or offer for sale any tobacco product. No new tobacco retailer permit may be issued to a pharmacy under this Chapter. No existing tobacco retailer permit issued under this Chapter 4.98 may be renewed by a pharmacy.
- G. Prohibition on sale of tobacco products to individuals under 21. No retailer shall sell any tobacco product to any individual who is under 21 years of age.
- H. Vending machines prohibited. No tobacco product shall be sold to the public from a vending machine or appliance; or any other coin, token, credit card or debit card operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.
- I. Distribution of free samples and coupons. No person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco, or smoking products for commercial purposes shall in the course of such business distribute, or direct, authorize or permit any agent or employee to distribute, (1) any cigarette, electronic cigarette or other tobacco or smoking product, or (2) coupons, certificates, or other written material which may be redeemed for tobacco products without charge, to any person.
- J. Out of package sales. No person shall sell or offer for sale cigarettes or smokeless tobacco not in the original packaging provided by the manufacturer.
- K. Self-service displays prohibited. No person, firm, association or corporation shall sell, permit to be sold or offer for sale any tobacco product by means of self-service displays, or by any means other than vendor assisted sales.

5.80.060 Enforcement of applicable law.

- A. If an agent or employee of the tobacco retailer violates any provisions of this chapter or any federal or state tobacco related law, the tobacco retailer shall immediately report the violation to the county and the City of East Palo Alto.
- B. Violation of the provisions of this Chapter is deemed to constitute a public nuisance and may be abated as such. The provisions of this Chapter may also be enforced through the mechanisms provided in Title 1 of this Code, and violations may be subject to administrative, civil, or criminal remedies as determined within the discretion of the City Attorney as prosecutor. Further, violation of this Section shall constitute grounds for revocation of a violator's business license under Section 5.80.070.

5.80.080 - Violation—Penalty.

- A. Grounds for Fine. A fine may be imposed upon findings made by the director or designee that any retailer, individual or entity who is an owner of a retail establishment:
 1. Does not have a valid tobacco retailer's permit; and
 2. Offers for sale any tobacco, flavored tobacco, electronic cigarette, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco or products prepared from tobacco.
- B. Amount of Fine. Upon findings made under subsection (A), the retailer, individual or entity who is an owner of a retail establishment shall be subject to an administrative fine as follows:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation;
3. A fine not exceeding five hundred dollars (\$500.00) for the third and subsequent violations.

C. Separate Violations. Each day that tobacco products, flavored tobacco, electronic cigarette are offered for sale without a permit shall constitute a separate violation. A finding of "offering for sale" will be made if these tobacco products are actually sold and/or displayed in the retail establishment.

D. Fine Procedures. Notice of the fine shall be served on the retailer, individual, or entity who is the owner of the establishment by certified mail. The notice shall contain an advisement of the right to request a hearing before the director of health services or designee contesting the imposition of the fine. The hearing must be requested within ten days of the date appearing on the notice of the fine by filing a letter with the director. The decision of the director shall be a final administrative order, with no administrative right of appeal.

E. Failure to Pay Fine. If the fine is not paid within thirty (30) days from the date of mailing the notice of the fine or of the notice of determination of the health director or designee after hearing, the fine may be referred for collection. In addition, any outstanding fines must be paid prior to the issuance of any permit by the county or the city.

F. Penalty for Furnishing to Minors. A civil penalty may be imposed upon any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 21 years of age, any tobacco, cigarette, flavored cigarette, electronic cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products, or any controlled substance, pursuant to and in the amounts set for the in California Business & Professions Code section 22958(a), as may be amended from time to time.

SECTION 2. AMENDMENT TO CHAPTER 8.56 OF THE EAST PALO ALTO MUNICIPAL CODE

The City Council hereby amends the following sections of Chapter 8.56 of the East Palo Alto Municipal Code to read as follows (with text in ~~strikeout~~ indicating deletion and double underlined text indicating addition). Sections that are not amended by this Ordinance are not included below, and shall remain in full force and effect.

8.56.020 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Bar" means an area or a room utilized primarily for the sale or serving of alcoholic beverages for immediate consumption by guests on the premises and in which the sale or serving of food is merely incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" does not include the restaurant dining area.

"Business establishment" means any enterprise, trade, profession, occupation, vocation or means of livelihood, whether or not carried on for gain or profit, either on a continuous or occasional basis. The term includes, but is not limited to, retail establishments, service establishments, offices, financial institutions, warehouses and industrial facilities.

"Dining area" means an enclosed area containing tables or counters upon which meals are served for immediate consumption by guests on the premises.

"Enclosed" means closed in by a roof and by solid walls or windows on at least three sides.

"Open to the public" means an enclosed area, whether publicly or privately owned, which is available for use by or accessible to the general public during the normal course of business or activity conducted thereat.

"Restaurant" means any establishment which gives, sells or offers for sale to the public any food for immediate consumption on the premises. The term includes, but is not limited to, any coffee shop, cafeteria, short-order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, public or private lunchroom or dining room. A tavern or cocktail lounge which constitutes a "bar," as defined in this section, shall not be considered a restaurant.

"Retail tobacco store" means a retail establishment engaged primarily in the sale of tobacco products and tobacco accessories and the sale of other products is merely incidental.

"Smoke" or "smoking" means inhaling, exhaling, burning or carrying any lighted tobacco product or other combustible plant or substance. "Smoking or to smoke (verb)" means possessing a lighted or ignited tobacco or nicotine product or paraphernalia; or engaging in an act that generates smoke (including, but not limited to, possessing a lighted or ignited pipe, hookah pipe, cigar, or cigarette of any kind including but not limited to an electronic cigarette); or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind including but not limited to an electronic cigarette as defined in Section 5.80.010(E).

"Tobacco or nicotine product" means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco; and any electronic cigarette as defined in Section 5.80.010(E) or other electronic device used to generate smoke; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Workplace" means an enclosed area of a structure or portion thereof which is utilized primarily for the operation of a business establishment.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The adoption of the proposed ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b) (3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that this Ordinance, by itself, may have a significant adverse effect on the environment.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect and be in full force thirty (30) days from and after the date of its adoption.

SECTION 6. PUBLICATION

The City Clerk is hereby directed to cause publication of this Ordinance as required by law.

Introduced at a regular City Council meeting held on March 3, 2020, and adopted at a regular City Council meeting held on _____2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Ordinance (1119 : E-Cigarette Ordinance)

Chapter 5.80 - TOBACCO RETAILER

Sections:

5.80.010 - Permit required.

It is unlawful for any retailer, individual, or entity to sell or offer for sale any tobacco products without first obtaining and maintaining a valid tobacco retailer's permit from the city for each location where such sales are conducted. Permits are valid for one year and shall be renewed annually. The San Mateo County Department of Health, or any successor, is designated as the city's agent for acceptance of the application for and issuance of such permit and for other actions authorized in this chapter, including without limitation, actions to enforce, hold hearings, suspend permits and issue administrative fines.

5.80.020 - Application, issuance and renewal procedure.

- A. Application for a tobacco retailer's permit shall be submitted in the name of the entity or person proposing to conduct retail tobacco sales on the business premises and shall be signed by such person or an authorized agent thereof. All applications shall be submitted on a form supplied by the San Mateo County Department of Health, or any successor, (hereafter referred to as health services agency) and contain the following information:
- (1) The name, address and telephone number of the applicant;
 - (2) The business name, address and telephone number of each location where tobacco is retailed; and
 - (3) Such other information as the director of the health services agency or designee determines is necessary to implement the provisions of this chapter.
- B. Applicants for renewal must follow the application procedures set forth in subsection A. A renewal for a tobacco retailer's permit will be denied if the application is for a person or location for which a suspension is in effect and/or if there are any outstanding fines issued by the county or city.

5.80.030 - Display of permit.

Upon receipt of an application for a tobacco retailer's permit, the director or designee shall issue a permit which must be prominently displayed at the location where tobacco retail sales are conducted.

5.80.040 - Application—Fee.

The fee for a tobacco retailer's permit shall reflect the county's costs of processing the permit and regulating compliance with this chapter and shall be as set forth in the San Mateo County Ordinance Code.

5.80.050 - Permit nontransferable.

Tobacco retailer's permits are nontransferable as between entities, retailers, individuals, locations or otherwise.

5.80.060 - Enforcement of applicable law.

If an agent or employee of the tobacco retailer violates any provisions of this chapter or any federal or state tobacco related law, the tobacco retailer shall immediately report the violation to the county.

5.80.070 - Suspension of permit.

- (A) A tobacco retailer's permit may be suspended, as set forth below, by the director of health services or designee upon a finding, after notice and opportunity to be heard, that either of the following occurred:
- (1) After the permit was issued it was determined that the application for the permit is incomplete or inaccurate
 - (2) The permittee or his or her agent has violated any provision of this chapter or any federal or state tobacco-related law.
- (B) Time Period of Suspension of Permit.
- (1) For the first time that the health director or designee makes the findings that either subsection (A)(1) or (A)(2) of this section has occurred, the permit to sell tobacco products shall be suspended for up to thirty (30) days.
 - (2) Upon the second time that the health director or designee makes the findings set forth in subsection (A)(1) or (A)(2) of this section within twenty-four (24) months of the first determination, the permit to sell tobacco products shall be suspended for not less than thirty (30) and up to ninety (90) days.
 - (3) Upon the third and each subsequent time that the health director or designee makes the findings set forth in subsections (A)(1) or (A)(2) of this section within twenty-four (24) months of the first determination, the permit to sell tobacco shall be suspended for no less than ninety (90) days and up to one year.
- (C) **Effective Date of Suspension.**
- (1) If the director or designee makes oral findings and issues an order of suspension at the hearing, the suspension will be effective ten days from the date of the hearing, unless a timely appeal is filed in accordance with subsection (D).
 - (2) If the director or designee makes written findings and issues an order of suspension by certified mail after the hearing, the suspension will be effective fifteen (15) days from the date appearing on the notice of that finding and order of suspension, unless a timely appeal is filed in accordance with subsection (D).
- (D) **Appeal of Suspension.**
- (1) The decision of the director or designee is appealable to the San Mateo County licensing board.
 - (2) An appeal must be in writing, be addressed to the director and be hand-delivered to the San Mateo County department of health.
 - (3) An appeal must be received by the county before the effective date of suspension as set forth in subsections (C)(1) or (C)(2) in order to be considered.
 - (4) The filing of a timely appeal will stay a suspension pending a decision on the appeal by the San Mateo County licensing board.
 - (5) The decision of the San Mateo County licensing board shall be a final administrative order, with no further administrative right of appeal.

5.80.080 - Violation—Penalty.

- (A) Grounds for Fine. A fine may be imposed upon findings made by the director or designee that any retailer, individual or entity who is an owner of a retail establishment:
- (1) Does not have a valid tobacco retailer's permit; and
 - (2) Offers for sale any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco or products prepared from tobacco.
- (B) Amount of Fine. Upon findings made under subsection (A), the retailer, individual or entity who is an owner of a retail establishment shall be subject to an administrative fine as follows:
- (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;
 - (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation;
 - (3) A fine not exceeding five hundred dollars (\$500.00) for the third and subsequent violations.

Each day that tobacco products are offered for sale without a permit shall constitute a separate violation. A finding of "offering for sale" will be made if these tobacco products are actually sold and/or displayed in the retail establishment.

- (C) Fine Procedures. Notice of the fine shall be served on the retailer, individual, or entity who is the owner of the establishment by certified mail. The notice shall contain an advisement of the right to request a hearing before the director of health services or designee contesting the imposition of the fine. The hearing must be requested within ten days of the date appearing on the notice of the fine by filing a letter with the director. The decision of the director shall be a final administrative order, with no administrative right of appeal.
- (D) Failure to Pay Fine. If the fine is not paid within thirty (30) days from the date of mailing the notice of the fine or of the notice of determination of the health director or designee after hearing, the fine may be referred for collection. In addition, any outstanding fines must be paid prior to the issuance of any permit by the county or the city.

Chapter 8.56 - SMOKING REGULATIONS

Sections:

8.56.010 - Findings and purposes of chapter.

- A. The city council finds and determines that numerous studies have established that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in nonsmokers. At special risk are elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, broncho-constriction and broncho-spasm.
- B. The city council further finds and determines that numerous studies have established electronic smoking devices are designed to be used in the similar manner to conventional lighted tobacco products with the user exhaling a smoke-like aerosol that mimics the exhaled smoke from lighted conventional tobacco products. Because electronic smoking devices may contain (and thus emit) nicotine, tobacco and/or other particulates; their use undermines the city's smoke-free air laws and hazardously exposes the public to secondhand aerosols that have not been scientifically proven as safe. It is an established fact that conventional tobacco smoke is a major contributor to air pollution and that breathing secondhand and third-hand smoke is a cause of disease in nonsmokers. At special risk from these exposures are those with weakened or compromised immune or respiratory systems: children, the elderly, individuals with cardiovascular disease, asthmatics and/or those with obstructive airway disease. Health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, bronchoconstriction and bronchospasm. Research suggests that the same rationale around smoke from traditional tobacco products can be applied to electronic smoking devices, as tests on the aerosols have found some of the same toxic contaminants found in secondhand smoke. While long term health impacts are not yet known, caution has been urged by federal, state, and local health officials. Moreover, city council recognizes that nicotine is highly addictive, possess a desire not to re-normalize smoking behaviors, understands the potential health risks of secondary exposure to electronic smoking device aerosols, and seeks to mitigate some consumer confusion about the safety of these unregulated products; thus deeming it necessary to take action.
- C. The purposes of the ordinance codified in this chapter are to protect the public health and welfare by prohibiting or regulating smoking in certain places; to guarantee the right of nonsmokers to breathe smoke-free air; and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

8.56.020 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Bar" means an area or a room utilized primarily for the sale or serving of alcoholic beverages for immediate consumption by guests on the premises and in which the sale or serving of food is merely incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" does not include the restaurant dining area.

"Business establishment" means any enterprise, trade, profession, occupation, vocation or means of livelihood, whether or not carried on for gain or profit, either on a continuous or occasional basis. The term includes, but is not limited to, retail establishments, service establishments, offices, financial institutions, warehouses and industrial facilities.

"Dining area" means an enclosed area containing tables or counters upon which meals are served for immediate consumption by guests on the premises.

"Enclosed" means closed in by a roof and by solid walls or windows on at least three sides.

"Open to the public" means an enclosed area, whether publicly or privately owned, which is available for use by or accessible to the general public during the normal course of business or activity conducted thereat.

"Restaurant" means any establishment which gives, sells or offers for sale to the public any food for immediate consumption on the premises. The term includes, but is not limited to, any coffee shop, cafeteria, short-order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, public or private lunchroom or dining room. A tavern or cocktail lounge which constitutes a "bar," as defined in this section, shall not be considered a restaurant.

"Retail tobacco store" means a retail establishment engaged primarily in the sale of tobacco products and tobacco accessories and the sale of other products is merely incidental.

"Smoke" or "smoking" means inhaling, exhaling, burning or carrying any lighted tobacco product or other combustible plant or substance. "Smoking or to smoke (verb)" means possessing a lighted or ignited tobacco or nicotine product or paraphernalia; or engaging in an act that generates smoke (including, but not limited to, possessing a lighted or ignited pipe, hookah pipe, cigar, or cigarette of any kind including but not limited to an electronic cigarette); or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind including but not limited to an electronic cigarette.

"Tobacco or nicotine product" means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco; and any electronic cigarette or other electronic device used to generate smoke; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Workplace" means an enclosed area of a structure or portion thereof which is utilized primarily for the operation of a business establishment.

8.56.030 - Application to city facilities.

The provisions of this chapter shall apply to all buildings and other facilities owned, leased, or otherwise occupied by the city.

8.56.040 - Smoking prohibited in certain places.

It is unlawful to smoke in any of the following places within the city:

- A. *Elevators.* Smoking is prohibited in all elevators in buildings open to the public, including elevators in office, hotel and apartment buildings irrespective of the number of units within such buildings.
- B. *Public restrooms.* Smoking is prohibited in any restrooms open to the public.
- C. *Restaurants.*
- D. *Health care facilities.* Smoking is prohibited in all individual rooms and areas open to the public, including lobbies, waiting rooms and hallways, within any public or private hospital, clinic, medical or dental office, nursing or convalescent home or other health care facility; provided; however, such facility may designate separate, outdoor contained areas where smoking is permitted. If the facility contains a cafeteria or other form of restaurant, as defined in Section 8.56.020, such restaurant shall comply with the regulations set forth in subsection C of this section.
- F. *The location of city-sponsored events.*
- G. *City owned and leased properties* ; and within thirty (30) feet in any direction from any enclosed structure owned or leased property

- H. *Parks, open space and facilities*, including but not limited to the following: Bell Street Park, Joel Davis Park, Jack Farrell Park, Cooley Landing Park, Martin Luther King Park, Pocket Park at East Bayshore, and Pocket Park at Newbridge.
- I. *Public meeting rooms*. Smoking is prohibited in meeting rooms, hearing rooms, conference rooms, chambers and other enclosed places of public assembly in which the business of the city, or any other public agency subject to the jurisdiction of the city, is conducted by any elected or appointed official, council, commission, committee, or board which requires or permits direct participation or observation by the general public.
- J. *Public lobbies and hallways*. Smoking is prohibited in lobbies, hallways, and other enclosed areas of city owned or occupied buildings which are open to the public.
- K. *Theaters and auditoriums*. Smoking is prohibited within any room, hall, auditorium or other facility used for exhibiting any motion picture, stage drama, dance, musical performance or other similar performance during the time that such room, hall, auditorium or facility is open to the public for such exhibition; provided, however, that smoking is permitted on a stage when such smoking is part of a stage production.
- L. *Museums, libraries and galleries*. Smoking is prohibited in all areas of museums, libraries, and galleries which are open to the public; provided, however, this prohibition does not prevent the designation of a separate room or area for smoking.
- M. *Hotel and motels*.
- N. *Polling places*. Smoking is prohibited in all official polling places while open to the public on election days during the designated hours for the casting of ballots.
- O. *Business establishments*. Smoking is prohibited within all enclosed areas open to the public in business establishments not otherwise mentioned in this section; provided, however, that this prohibition shall not apply to any business establishment listed in Section 8.56.060. Areas open to the public wherein smoking is prohibited under this subsection shall not include private offices of individual business persons to which clients or customers are admitted only by specific invitation or appointment.

8.56.050 - Reserved.

8.56.055 - Enforcement of Labor Code Section 6404.5.

- A. *Authority*. The provisions of Labor Code Section 6404.5, governing smoking in enclosed places of employment, will be enforced by police officers and authorized personnel employed by the city and by employees of the San Mateo County Health System, as designated by the chief of the health system; provided, however, that employees designated by the chief of the health system with the authority to enforce Labor Code Section 6404.5 may only issue citations to employers and not to patrons, customers, consumers or other guests.
- B. In the performance of their duties of monitoring and enforcing compliance with the provisions of Labor Code Section 6404.5, all persons authorized by the director of health services to engage in such enforcement activities shall have the power, authority and immunity of a public officer to issue citations.
- C. The director of health services, in coordination with the San Mateo County Sheriff, shall establish and cause to be administered an enforcement training program designed to instruct each employee so authorized by this section to exercise citation authority. Such training shall include guidance and instruction regarding the evidentiary prerequisites to proper prosecution of violation thereof, including the appropriate procedures for issuing citations.

8.56.060 - Places where smoking permitted.

- A. Smoking is not prohibited within any of the following places:
 1. Retail tobacco stores;
 2. An entire room or hall which is used exclusively for a private function which function is under the control of the sponsor of the function and not under the control of the owner or manager of the room or hall, but only while such room or hall is used for a private function. The fact that the owner or manager of the room or hall provides food or entertainment to the participants of a private function does not mean that such owner or manager has control of the function.
- B. Notwithstanding the foregoing, any owner, operator, manager or other person who controls the use of any public or private establishment or place described in subsection A of this section may voluntarily designate any portion or all of such establishment or place as a nonsmoking area.

8.56.070 - Posting of signs.

- A. "Smoking" or "No Smoking" signs, whichever may be applicable, with letters of not less than two inches in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed by a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every room, building or other place where smoking is regulated by this chapter. In addition, at every public entrance to a restaurant, a sign shall be posted indicating whether smoking has been prohibited or whether the dining area has been divided into smoking and nonsmoking sections.
- B. It shall be the responsibility of the owner, operator, manager or other person who controls the use of any place where smoking is regulated by this chapter to post the signs required by this section.

8.56.080 - Unlawful acts.

- A. It is unlawful for any person to smoke in a place where smoking is prohibited by the provisions of this chapter.
- B. It is unlawful for any person who owns, operates, manages or controls the use of any place where smoking is prohibited or regulated under this chapter to fail to properly set aside required no smoking areas, to properly post any signs required by Section 8.56.070, to provide signs for the use of employees in designating their area, to adopt a smoking restriction policy, or to comply with any other requirements of this chapter.

8.56.090 - Enforcement.

- A. The city manager, the chief of police, and every police and code enforcement officer performing law enforcement duties within the city shall have authority to enforce the provisions of this chapter. Any owner, operator, manager, employee, guest or customer of any establishment regulated by this chapter shall have the right to inform persons violating this chapter of the appropriate provisions contained in this chapter.
- B. In addition to the persons described in subsection A of this section, a private party may bring legal action to enforce the provisions of this chapter. If it is determined in such action that a violation of this chapter has occurred, then in addition to any other relief that may be granted, the court may award reasonable attorney's fees and costs to the party who brought and prosecuted the action.

8.56.100 - Violations.

The violation of any provision contained in this chapter shall constitute an infraction and a public nuisance, subject to a fine of one hundred dollars (\$100.00) for the first offense, a fine of two hundred dollars (\$200.00) for a second offense committed within one year, and a fine of five hundred dollars (\$500.00) for a third and each additional offense committed within one year.



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: March 3, 2020

TO: Honorable Mayor and Members of the City Council

VIA: Jaime M. Fontes, City Manager *Jaime M. Fontes*

BY: Jia Liu, Associate Planner

SUBJECT: Zoning Text Amendment (ZTA19-002) to add a new Section 18.48.230 of the East Palo Alto Municipal Code and amend sections 18.12.020 and 18.14.020 of the East Palo Alto Municipal Code and Ravenswood Specific Plan Table 6-1 to comply with newly adopted Assembly Bill (AB) 2162 pertaining to supportive housing

Recommendation

1. Waive the first reading; and
2. Introduce an Ordinance approving Zoning Text Amendment, ZTA19-002 that:
 - a. Amends sections 18.12.020 and 18.14.020 of the East Palo Alto Municipal Code to allow supportive housing to be a permitted or conditionally permitted use in non-residential zones where multi-family residential uses are allowed;
 - b. Adds a new Section 18.48.230 regarding supportive housing standards to Chapter 18.48 of the East Palo Alto Municipal Code;
 - c. Amends the Ravenswood Specific Plan Table 6-1 Allowed Uses in Land Use Districts to allow supportive housing to be a permitted or conditionally permitted use; and
3. Finds that the Text Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Statute and Guidelines.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority No. 1: Enhance Public Safety and Emergency Preparedness
 Priority No. 3: Increase Organizational Effectiveness and Efficiency
 Priority No. 6: Create a Healthy and Safe Community

Background

On September 26, 2018, the former Governor Brown signed Assembly Bill (AB) 2162 (see Attachment 3), amending Section 65583 and add Section 65650 of the California Government Code. The bill reduces local authority to regulate supportive housing and mandates that cities permit supportive housing as a permitted use or conditionally permitted use in zones where multi-family dwelling uses are allowed according to criteria adopted by the city as well as conditions required by the State. AB 2162 became effective on January 1, 2019 and remains effective until jurisdictions adopt a local ordinance in conformance with the new legislation.

Analysis

Changes to supportive housing enacted by AB 2162 fall into two (2) areas:

- 1) Modify sections 18.12.010 and 18.14.020 of the East Palo Alto Municipal Code (EPAMC) and Ravenswood Specific Plan (RSP) Land Use Table 6-1, where are not compliant with AB 2162, to allow supportive housing as a permitted or conditionally permitted use in non-residential zones where the City allows multi-family residential development; and
- 2) Add a new Section 18.48.230 to EPAMC Chapter 18.48 to establish detailed supportive housing standards required by AB 2162.

Permitted Use and Conditionally Permitted Use.

In accordance with AB 2162, supportive housing is required to be a “use by right” in zones where multi-family and mixed uses are allowed, so long as the proposed development meets certain criteria. A “use by right” means that the local government’s review may not require a conditional use permit, planned unit development permit, or other discretionary local government review and the approval would not constitute a “project” for purposes of CEQA.

It should be noted that AB 2162 gives the local cities the discretion to consider the supportive housing consisting of more than 50 units as a conditionally permitted use if a city has a population of fewer than 200,000 and a population of persons experiencing homelessness of 1,500 or fewer. Pursuant to the 2010 United States Census and the latest San Mateo County One Day Homeless County and Survey, 2019 (see Attachment 4), the City can justify the fact that the City has a population less than 200,000 and a homeless population less than 1,500. Therefore, staff recommends that supportive housing with 50 units or less to be allowed as a permitted use; and supportive housing with more than 50 units to be allowed as a conditionally permitted use in non-residential zoning districts where the City allow multi-family housing.

New Section 18.48.230 - Supportive Housing

In addition to amending the permitted use tables, a new Section 18.48.230 - Supportive Housing will be added to the Chapter 18.48 - Regulations for Specific Land Uses and Activities of the zoning ordinance to provide detailed regulations in compliance with the AB 2162.

This ordinance amendment is intended to address only those sections directly affected by the changes in state legislation. Attachment 2 of this report provides the text amendment in track changes to specify the modifications to the EPAMC and RSP. A clean version can be found in the Attachment 1 - Draft Ordinance. An overview of the amendments in conformance with AB 2162 is discussed below. Modifications and new regulations are provided in red.

Applicable Zoning Districts	R-LD, R-MD, R-HD, R-UHD, MUC, MUL, MUH, C-N, 4 Corners Gateway (RSP), Bay Road Central (RSP), & Urban Residential (RSP)
Zoning Compliance	Supportive housing must conform to setback, height, density, lot coverage, floor area ratio, open space, design review, fees, charges, and other zoning requirements generally applicable to underlying zoning district.
Review	<p>50 units or less - Subject to design review through Planning Commission public hearing process. Application shall be approved within sixty (60) days after it is deemed complete.</p> <p>More than 50 units: Residential Zoning Districts - Subject to design review through Planning Commission public hearing process. An application shall be approved within one hundred and twenty (120) days after it is deemed complete.</p> <p>Non-Residential Zoning Districts where multi-family housing is allowed - Subject to design review and conditional use permit through Planning Commission public hearing process. Application shall be approved within one hundred and twenty (120) days after it is deemed complete.</p>
Parking	<p>Required for main dwelling units as below:</p> <p>0 bedroom or studio suite: 1 space per unit 1 bedroom: 1.5 space per unit 2 bedroom: 1.8 spaces per unit 3 bedroom or more: 2 spaces per unit</p> <p>Guest parking spaces shall be based a minimum of 0.2 of guest parking space per unit. Additional spaces can be requested by the Director based on a parking study.</p> <p>If a supportive housing development is located within one-half mile of a public transit stop, no minimum parking standards for the units occupied by supportive housing residents shall be required.</p>
Affordability Restriction	Units within the development are subject to a recorded affordability restriction for a minimum of 55 years.
Low-Income Household and Funding	One hundred percent of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income Californians.
Target Population	At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target population. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.

Onsite Nonresidential Supportive Services	<ul style="list-style-type: none"> • For a development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services. • For a development with more than 20 units, at least 3 percent of the total nonresidential floor area or 90 square feet, whichever will be greater, shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.
Unit Design	Units within the development shall include at least one bathroom and a kitchen or other cooking facilities, including a stovetop, a sink, and a refrigerator.

Planning Commission Meeting

The proposed Zoning Text Amendment was presented to and approved unanimously by the Planning Commission on December 9, 2019 through a public hearing recommending that the City Council approve the Zoning Text Amendment, ZTA19-002.

Fiscal Impact

There is no negative fiscal impact to the City associated with the proposed policy. Most of the responsibilities of the community outreach will be taken by the developers.

Public Notice

The public was provided notice of this agenda item by posting the City Council agenda on the City's official bulletin board outside City Hall and making the agenda and report available at the City's website and at the San Mateo Co. Library located at 2415 University Avenue, East Palo Alto. A public notice of this hearing was published in the Palo Alto Daily News on February 7, 2019.

Environmental

The action being considered does not constitute a "Project" within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15061 (b)(3), in that it is a government administrative activity that will not result in direct or indirect changes in the environment.

Attachments

1. Draft Ordinance
2. Text Amendment in Track Changes
3. AB 2162 Supportive Housing Bill Text
4. 2019 One Day Homeless Count_San Mateo County

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO ADOPTING
A ZONING TEXT AMENDMENT (ZTA19-002) TO ADD A NEW SECTION 18.48.230 TO THE
EAST PALO ALTO MUNICIPAL CODE, CHAPTER 18.48, PERTAINING TO SUPPORTIVE
HOUSING DEVELOPMENT STANDARDS; AND AMENDING SECTIONS 18.12.020 AND
18.14.020 OF MUNICIPAL CODE AND
TABLE 6-1 OF RAVENSWOOD SPECIFIC PLAN**

WHEREAS, the State adopted Assembly Bill (AB) 2162, effective on January 1, 2019, which mandated that cities approve the supportive housing as a permitted or conditionally permitted use where multifamily uses or mixed uses are allowed, according to criteria adopted by the City as well as conditions required by the State; and

WHEREAS, in order to comply with AB 2162, the proposed ordinance would add Section 18.48.230 to Chapter 18.48 of the East Palo Alto Municipal Code, and modify sections 18.12.020 and 18.14.020 of the East Palo Alto Municipal Code and Ravenswood Specific Plan Table 6-1 pertaining to the supportive housing; and

WHEREAS, the Planning Commission determined that the proposal is consistent with General Plan because it supports Land Use Element Policy 3.1, which encourages infill housing and residential area within the City; and

WHEREAS, the proposed amendments are covered under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines as an activity that can be seen with certainty to have no possibility for causing a significant effect on the environment; and

WHEREAS, the Planning Commission has reviewed the Zoning Text Amendment (ZTA19-002) and recommended the City Council adopt this amendment on December 9, 2019.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES
ORDAIN AS FOLLOWS:**

SECTION 1. Section 18.12.020, Table 2-3 Allowed Uses and Permit Requirements of the East Palo Alto Municipal Code shall be amended to read as follows:

Table 2-3 Allowed Uses and Permit Requirements	Mixed-Use Zones Permit Requirements			
	P	P	P	P
P Permitted By-Right CUP Conditional Use Permit (Chapter 18.88) AUP Administrative Use Permit (Chapter 18.88) TUP Temporary Use Permit (Chapter 18.94) ---- Prohibited				
Land Use See Article 1 for land use definitions. See Chapter 18.04 for unlisted uses.	MUC	MUL	MUH	Specific Use Regulations
Residential Uses				
Multiple-Family Dwellings				
Located on 1 st floor	P	----	----	
Located above 1 st floor	P	P	P	
Single-Family Dwellings – Attached Only				
Located on 1 st floor	P	----	----	
Located above 1 st floor	P	P	P	
Supportive Housing – 50 units or less				Section 18.48.230
Located on 1 st floor	P	----	----	
Located above 1 st floor	P	P	P	
Supportive Housing – more than 50 units				Section 18.48.230
Located on 1 st floor	CUP	----	----	
Located above 1 st floor	CUP	CUP	CUP	
Two-Family Dwellings – Attached Only				
Located on 1 st floor	CUP	CUP	CUP	
Located above 1 st floor	P	P	P	
Transitional Housing	---	---	---	
Home Businesses	HBP	HBP	HBP	Section 18.48.100
Live-work Units	CUP	CUP	CUP	Not allowed on 1 st floor

Attachment: Draft Ordinance (1093 : ZTA19-002 Supportive Housing)

SECTION 2. Section 18.14.020, Table 2-5 Allowed Uses and Permit Requirements of the East Palo Alto Municipal Code shall be amended to read as follows:

Table 2-5 Allowed Uses and Permit Requirements	Commercial Zones				
	Permit Requirements				
	P	Permitted By-Right			
	CUP	Conditional Use Permit (Chapter 18.88)			
	AUP	Administrative Use Permit (Chapter 18.88)			
	TUP	Temporary Use Permit (Chapter 18.94)			
	---	Prohibited			
Land Use		C-G	C-N	C-O	Specific Use Regulations
See Article 1 for land use definitions. See Chapter 18.04 for unlisted uses.					
Residential Uses					
Multi-Family Dwellings					
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
Single-Family Dwellings – Attached Only					
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
Supportive Housing (50 units or less)				Section 18.48.230	
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
Supportive Housing (more than 50 units)				Section 18.48.230	
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	CUP	---		
Two-Family Dwellings – Attached Only					
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
Home Businesses	---	HOP	---		Section 18.48.100
Live-work Units	P	P	P		Not allowed on 1 st floor

Attachment: Draft Ordinance (1093 : ZTA19-002 Supportive Housing)

SECTION 3. Section 18.48.230 – Supportive Housing of the East Palo Alto Municipal Code shall be added to read as follows:

18.48.230 – Supportive Housing

- A. Applicability.** This section provides locational, developmental, and operational standards for supportive housing. The provisions in this section apply to supportive housing use where allowed in compliance with the following standards.
- B. Locational, developmental, and operational standards.** The following standards shall apply to supportive housing.
1. **Location.** Supportive housing shall be located in authorized zones, subject to Article 2 – Zones, Allowable Uses, and Development Standards.
 2. **Standards.** Construction of supportive housing shall comply with all of the following development standards and with the applicable standards for the zone in which they are located.
 - a. **Development and design standards.** All supportive housing shall be designed in compliance with the development standards and design standards set forth in Article 2.
 - b. **Affordability restriction.** Units within the development are subject to a recorded affordability restriction for a minimum of 55 years. A deed restriction will be required to record the duration of affordability.
 - c. **Low-income household and funding.** One hundred percent of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income Californians.
 - d. **Target Population.** At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target population. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.
 - e. **Onsite nonresidential supportive services.** Developer shall provide onsite nonresidential services for the supportive housing. Nonresidential floor area for onsite supportive services shall be subject to the following amounts:
 - (1) For a development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services.
 - (2) For a development with more than 20 units, at least 3 percent of the total nonresidential floor area or 90 square feet, whichever will be greater, shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.

- f. **Narrative of supportive services.** Developer shall provide the Department with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project, as required by Section 65651, and describing those services, which shall include all of the following:
- (1) The name of the proposed entity or entities that will provide supportive services.
 - (2) The proposed funding source or sources for the provided onsite supportive services.
 - (3) Proposed staffing levels.
- g. **Unit design.** Units within the development, excluding managers' units, shall include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.
- h. **Off-street parking.** Minimum off-street parking requirements for supportive housing is subject to *Article 3 section 18.30.50, Table 3-1 Off-Street Parking Requirements* of the zoning ordinance, except that no minimum parking standards shall be required for units occupied by supportive housing residents if the supportive housing development is located within one-half mile of a public transit stop.
- i. **Supportive housing replacement.** The developer replaces any dwelling units on the site of the supportive housing development in the manner provided in paragraph (3) of subdivision (c) of Section 65915.

C. Permit requirements and review.

1. **50 units or fewer.** Supportive housing with 50 units or less shall be in compliance with the development standards and design standards set forth in Article 2. An application shall be approved within sixty (60) days after it is deemed complete.
2. **More than 50 units.** Supportive housing with more than 50 units shall file a conditional use permit in addition to the discretionary planning design review if the development is located in all commercial zones. An application shall be approved within one hundred and twenty (120) days after it is deemed complete.

D. Reduction or termination of supportive housing. An established supportive housing can be reduced in live-in residents numbers or terminate, at the request of project owner, if the project-based rental assistance or operating subsidy for a supportive housing project is terminated through no fault of the project owner and meet the following:

- a. The owner demonstrates that it has made good faith efforts to find other sources of financial support.
- b. Any change in the number of supportive service units is restricted to the minimum necessary to maintain project's financial feasibility.

- c. Any change to the occupancy of the supportive housing units is made in a manner that minimizes tenant disruption and only upon the vacancy of any supportive housing units.

SECTION 4. Table 6-1 Allowed Uses in Land Use Districts of the Ravenswood Specific Plan shall be amended to read as follows:

TABLE 6-1 ALLOWED USES IN LAND USE DISTRICTS

Land Use	4 Corners Gateway		Bay Road Central		Ravenswood Employment Center ¹	Industrial Transition	Waterfront Office ²	Urban Residential	Additional Requirements ³
	Ground	Upper	Ground	Upper					
Residential									
Agriculture, Noncommercial	P	P	P	P	X	P	X	P	
Animal Keeping, Noncommercial	P	P	P	P	X	P	X	P	§ 6310.03
Duplex		X	X	X	X	X	X	P	
Emergency Shelters	X	X	X	X	X	P	X	X	
Family Day Care Home, Small	X	P	X	P	X	X	X	P	
Family Day Care Home, Large	X	⁴	X	⁴	X	X	X	⁴	§ 6510 et seq.
Home Occupation	X	P	X	P	X	X	X	P	
Multiple-Family Dwellings	X	P	X	P	X	X	X	P	
Supportive Housing – 50 units or fewer	X	P	X	P	X	X	X	P	§18.48.230
Supportive Housing – More than 50 units	X	CUP	X	CUP	X	X	X	CUP	§18.48.230
Residential Care Facility—Seven or More Occupants	X	CUP	X	CUP	X	X	X	CUP	§ 6515.1 et seq.
Residential Care Facility—Six Occupants or Fewer	X	P	X	P	X	X	X	P	§ 6515.1 et seq.
Single-Family Dwelling, Attached	X	X	X	X	X	X	X	P	
Single-Family Dwelling, Detached—Lot Size No Greater Than 5,000 Square Feet	X	X	X	X	X	X	X	P	

Note: All uses not permitted by right, AUP, H, or CUP are prohibited.

¹ All projects in the Ravenswood Flex Overlay shall be accompanied by a Fiscal Impact Report.

² Any R&D projects proposed in the Waterfront Office District or requested zoning changes shall be accompanied by a Fiscal Impact Report.

³ Section numbers refer to the East Palo Alto Zoning Ordinance. Pursuant to SP Policy LU-5.3, Director can require Fiscal Impact Report of any project.

⁴ Permit requirement determined according to the provisions in § 6510 et seq. of the Zoning Ordinance.

⁵ Day care as an ancillary use. Bank or Financial Service as an ancillary use

⁶ Schools prohibited east of Illinois St/Clark Ave. and north of Runnymede Street pursuant to Specific Plan Policy LU-6.5.

⁷ Parking structures that provide enclosed parking shall be wrapped with another ground-floor use along all street frontages. The ground-floor use shall have a depth of at least 40 feet.

⁸ Permit requirement determined according to the provisions in Chapter 24.5 of the Zoning Ordinance

Attachment: Draft Ordinance (1093 : ZTA19-002 Supportive Housing)

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

In accordance with California Environmental Quality Act (“CEQA”), the Zoning Text Amendment is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force thirty (30) days after the date of its adoption.

SECTION 6. PUBLICATION.

The City Clerk is hereby directed to cause publication of this Ordinance as required by Government Code Section 36933.

PASSED AND ADOPTED this 3rd day of March 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Regina Wallace-Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Walfred Solorzano, City Clerk

Rafael E. Alvarado Jr., City Attorney

Attachment: Draft Ordinance (1093 : ZTA19-002 Supportive Housing)

Attachment 2 - Text Amendment in Track Changes

SECTION 1. Section 18.12.020, Table 2-3 Allowed Uses and Permit Requirements of the East Palo Alto City Code shall be amended to read as follows:

<p>Table 2-3 Allowed Uses and Permit Requirements</p>	<p>Mixed-Use Zones Permit Requirements</p>			
	<p>P Permitted By-Right CUP Conditional Use Permit (Chapter 18.88) AUP Administrative Use Permit (Chapter 18.88) TUP Temporary Use Permit (Chapter 18.94) --- Prohibited</p>			
<p>Land Use See Article 1 for land use definitions. See Chapter 18.04 for unlisted uses.</p>	MUC	MUL	MUH	Specific Use Regulations
Residential Uses				
Multiple-Family Dwellings				
Located on 1 st floor	P	---	---	
Located above 1 st floor	P	P	P	
Single-Family Dwellings – Attached Only				
Located on 1st floor	P	---	---	
Located above 1st floor	P	P	P	
<u>Supportive Housing – 50 units or less</u>				<u>Section 18.48.230</u>
<u>Located on 1st floor</u>	<u>P</u>	<u>---</u>	<u>---</u>	
<u>Located above 1st floor</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Supportive Housing – more than 50 units</u>				<u>Section 18.48.230</u>
<u>Located on 1st floor</u>	<u>CUP</u>	<u>---</u>	<u>---</u>	
<u>Located above 1st floor</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	
Two-Family Dwellings – Attached Only				
Located on 1 st floor	CUP	CUP	CUP	
Located above 1 st floor	P	P	P	
Transitional Housing	---	---	---	
Home Businesses	HBP	HBP	HBP	Section 18.48.100
Live-work Units	CUP	CUP	CUP	Not allowed on 1 st floor

Attachment: Text Amendment in Track Changes (1093 : ZTA19-002 Supportive Housing)

SECTION 2. Section 18.14.020, Table 2-5 Allowed Uses and Permit Requirements of the East Palo Alto City Code shall be amended to read as follows:

Table 2-5 Allowed Uses and Permit Requirements	Commercial Zones				
	Permit Requirements				
	P	Permitted By-Right			
	CUP	Conditional Use Permit (Chapter 18.88)			
	AUP	Administrative Use Permit (Chapter 18.88)			
	TUP	Temporary Use Permit (Chapter 18.94)			
	---	Prohibited			
Land Use		C-G	C-N	C-O	Specific Use Regulations
See Article 1 for land use definitions. See Chapter 18.04 for unlisted uses.					
Residential Uses					
Multi-Family Dwellings					
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
Single-Family Dwellings – Attached Only					
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
<u>Supportive Housing (50 units or less)</u>				<u>Section 18.48.230</u>	
<u>Located on 1st Floor</u>	---	---	---		
<u>Located Above 1st Floor</u>	---	P	---		
<u>Supportive Housing (more than 50 units)</u>				<u>Section 18.48.230</u>	
<u>Located on 1st Floor</u>	---	---	---		
<u>Located Above 1st Floor</u>	---	CUP	---		
Two-Family Dwellings – Attached Only					
Located on 1 st Floor	---	---	---		
Located Above 1 st Floor	---	P	---		
Home Businesses	---	HOP	---		Section 18.48.100
Live-work Units	P	P	P		Not allowed on 1 st floor

Attachment: Text Amendment in Track Changes (1093 : ZTA19-002 Supportive Housing)

SECTION 3. Section 18.48.230 – Supportive Housing of the East Palo Alto City Code shall be added to read as follows:

18.48.230 – Supportive Housing

- A. Applicability.** This section provides locational, developmental, and operational standards for supportive housing. The provisions in this section apply to supportive housing use where allowed in compliance with the following standards.
- B. Locational, developmental, and operational standards.** The following standards shall apply to supportive housing.
- 1. Location.** Supportive housing shall be located in authorized zones, subject to Article 2 – Zones, Allowable Uses, and Development Standards.
 - 2. Standards.** Construction of supportive housing shall comply with all of the following development standards and with the applicable standards for the zone in which they are located.
 - a. Development and design standards.** All supportive housing shall be designed in compliance with the development standards and design standards set forth in Article 2.
 - b. Affordability restriction.** Units within the development are subject to a recorded affordability restriction for a minimum of 55 years. A deed restriction will be required to record the duration of affordability.
 - c. Low-income household and funding.** One hundred percent of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income Californians.
 - d. Target Population.** At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target population. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.
 - e. Onsite nonresidential supportive services.** Developer shall provide onsite nonresidential services for the supportive housing. Nonresidential floor area for onsite supportive services shall be subject to the following amounts:
 - (1)** For a development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services.
 - (2)** For a development with more than 20 units, at least 3 percent of the total nonresidential floor area or 90 square feet, whichever will be greater, shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.

- f. **Narrative of supportive services.** Developer shall provide the Department with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project, as required by Section 65651, and describing those services, which shall include all of the following:
- (1) The name of the proposed entity or entities that will provide supportive services.
 - (2) The proposed funding source or sources for the provided onsite supportive services.
 - (3) Proposed staffing levels.
- g. **Unit design.** Units within the development, excluding managers' units, shall include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.
- h. **Off-street parking.** Minimum off-street parking requirements for supportive housing is subject to *Article 3 section 18.30.50, Table 3-1 Off-Street Parking Requirements* of the zoning ordinance, except when the supportive housing development is located within one-half mile of a public transit stop, no minimum parking standards for the units occupied by supportive housing residents shall be required.
- i. **Supportive housing replacement.** The developer replaces any dwelling units on the site of the supportive housing development in the manner provided in paragraph (3) of subdivision (c) of Section 65915.

C. Permit requirements and review.

1. **50 units or fewer.** Supportive housing with 50 units or less shall be in compliance with the development standards and design standards set forth in Article 2. An application shall be approved within sixty (60) days after it is deemed complete.
2. **More than 50 units.** Supportive housing with more than 50 units shall file a conditional use permit in addition to the discretionary planning design review if the development is located in all commercial zones. An application shall be approved within one hundred and twenty (120) days after it is deemed complete.

D. Reduction or termination of supportive housing. An established supportive housing can be reduced in live-in residents numbers or terminate, at the request of project owner, if the project-based rental assistance or operating subsidy for a supportive housing project is terminated through no fault of the project owner and meet the following:

- a. The owner demonstrates that it has made good faith efforts to find other sources of financial support.
- b. Any change in the number of supportive service units is restricted to the minimum necessary to maintain project's financial feasibility.

- c. Any change to the occupancy of the supportive housing units is made in a manner that minimizes tenant disruption and only upon the vacancy of any supportive housing units.

SECTION 4. Table 6-1 Allowed Uses in Land Use Districts of the Ravenswood Specific Plan shall be amended to read as follows:

TABLE 6-1 ALLOWED USES IN LAND USE DISTRICTS

Land Use	<u>4 Corners Gateway</u>		<u>Bay Road Central</u>		Ravenswood Employment Center ¹	Industrial Transition	Waterfront Office ²	Urban Residential	Additional Requirements ³
	Ground	Upper	Ground	Upper					
Residential									
Agriculture, Noncommercial	P	P	P	P	X	P	X	P	
Animal Keeping, Noncommercial	P	P	P	P	X	P	X	P	§ 6310.03
Duplex		X	X	X	X	X	X	P	
Emergency Shelters	X	X	X	X	X	P	X	X	
Family Day Care Home, Small	X	P	X	P	X	X	X	P	
Family Day Care Home, Large	X	⁴	X	⁴	X	X	X	⁴	§ 6510 et seq.
Home Occupation	X	P	X	P	X	X	X	P	
Multiple-Family Dwellings	X	P	X	P	X	X	X	P	
<u>Supportive Housing – 50 units or fewer</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>\$18.48.230</u>
<u>Supportive Housing – More than 50 units</u>	<u>X</u>	<u>CUP</u>	<u>X</u>	<u>CUP</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>CUP</u>	<u>\$18.48.230</u>
Residential Care Facility—Seven or More Occupants	X	CUP	X	CUP	X	X	X	CUP	§ 6515.1 et seq.
Residential Care Facility—Six Occupants or Fewer	X	P	X	P	X	X	X	P	§ 6515.1 et seq.
Single-Family Dwelling, Attached	X	X	X	X	X	X	X	P	
Single-Family Dwelling, Detached—Lot Size No Greater Than 5,000 Square Feet	X	X	X	X	X	X	X	P	

Note: All uses not permitted by right, AUP, H, or CUP are prohibited.

¹ All projects in the Ravenswood Flex Overlay shall be accompanied by a Fiscal Impact Report.

² Any R&D projects proposed in the Waterfront Office District or requested zoning changes shall be accompanied by a Fiscal Impact Report.

³ Section numbers refer to the East Palo Alto Zoning Ordinance. Pursuant to SP Policy LU-5.3, Director can require Fiscal Impact Report of any project.

⁴ Permit requirement determined according to the provisions in § 6510 et seq. of the Zoning Ordinance.

⁵ Day care as an ancillary use. Bank or Financial Service as an ancillary use

⁶ Schools prohibited east of Illinois St/Clark Ave. and north of Runnymede Street pursuant to Specific Plan Policy LU-6.5.

⁷ Parking structures that provide enclosed parking shall be wrapped with another ground-floor use along all street frontages. The ground-floor use shall have a depth of at least 40 feet.

⁸ Permit requirement determined according to the provisions in Chapter 24.5 of the Zoning Ordinance

Attachment: Text Amendment in Track Changes (1093 : ZTA19-002 Supportive Housing)


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AB-2162 Planning and zoning: housing development: supportive housing. (2017-2018)

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Assembly Bill No. 2162

CHAPTER 753

An act to amend Section 65583 of, and to add Article 11 (commencing with Section 65650) to Chapter 3 of Division 1 of Title 7 of, the Government Code, relating to land use.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2162, Chiu. Planning and zoning: housing development: supportive housing.

The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city that includes, among other mandatory elements, a housing element. That law requires the housing element to contain, among other things, an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs and a program that sets forth a schedule of actions during the planning period, each with a timeline for implementation. That law specifies that transitional housing and supportive housing are a residential use of property, subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

This bill would make a nonsubstantive change to this requirement.

The Planning and Zoning Law requires the rezoning of sites identified in the inventory of sites by specific deadlines where the inventory does not identify adequate sites to accommodate the need for groups of all household income levels. That law further requires this rezoning to accommodate 100% of the need for housing for very low and low-income households, as specified, on sites zoned to permit owner-occupied and rental multifamily residential use by right during the planning period and defines the term "use by right" for these purposes.

This bill would require that supportive housing be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development meets specified criteria, and would require a local government to approve, within specified periods, a supportive housing development that complies with these requirements. The bill would require that a developer of supportive housing provide the planning agency with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project and describing those services, as provided. The bill would prohibit the local government from imposing any minimum parking requirement for units occupied by supportive housing residents if the development is located within ½ mile of a public transit stop. The bill would specify that its provisions do not (1) preclude or limit the ability of a developer to seek a density bonus from the local government or (2) expand or contract the authority of a local government to adopt or amend an ordinance, charter, general plan, specific plan, resolution, or other land use policy or regulation that promotes the development of supportive housing.

The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill, by authorizing supportive housing as a use by right under certain circumstances, would expand the exemption for the ministerial approval of projects under CEQA.

By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 65583 of the Government Code proposed by AB 686 to be operative only if this bill and AB 686 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) California's homeless population increased by over 16,000 from 2016 to 2017, to 134,278 Californians experiencing homelessness at any point in time. Two to three times this number experienced homelessness during the course of last year. Twenty-five percent of the nation's total homeless population and almost half of the nation's unsheltered population reside in California. California now has one of the highest rates of homelessness per resident, twice as high as the national average.

(b) Addressing homelessness is urgent, as communities across the state face public health emergencies, including widespread Hepatitis A infection among residents experiencing homelessness in several major cities, higher mortality among homeless people with HIV and AIDS, and early mortality among people experiencing chronic homelessness.

(c) Chronic patterns of homelessness—homelessness lasting at least a year or repeatedly over three years—are on the rise in California, whereas decreasing elsewhere. As of 2017, 42 percent of those experiencing chronic homelessness nationwide live in California. The vast majority of these individuals and families have lived in California since well before becoming homeless.

(d) Evidence shows supportive housing—an affordable rental with intensive services promoting housing stability—works to reduce chronic homelessness. As a result, the Legislature has invested in supportive housing, including the No Place Like Home Program, which will generate \$2 billion in revenue bonds to build supportive housing for homeless Californians with serious mental illness.

(e) Studies reveal supportive housing benefits communities by reducing homelessness locally, addressing blight, and increasing property values. Yet one of the barriers to creating supportive housing has been local delays or denials of applications to build supportive housing, based on subjective local planning standards. Delays or denials of building applications add to the costs and timeline of development, affecting the effectiveness of state dollars.

(f) Given the urgent need to provide supportive housing to Californians experiencing chronic homelessness, streamlining and expediting the process of approving supportive housing applications will offer housing opportunities in communities with few or no opportunities to exit chronic homelessness. Further, it will promote progress in addressing the growing crisis of homelessness the Legislature intended through recent initiatives.

SEC. 2. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for

housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can

accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

(7) An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.

(8) An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that

could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.

(8) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:

(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state, federal, or local agency.

(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.

(3) The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)). Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, "housing development project" means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 2.5. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

(7) An analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.

(8) An analysis of opportunities for energy conservation with respect to residential development. Cities and counties are encouraged to include weatherization and energy efficiency improvements as part of publicly subsidized housing rehabilitation projects. This may include energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each

year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government that have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs that can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program that have not been legally obligated for other purposes and that could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.

(8) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(9) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:

(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.

(iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).

(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.

(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect prior to August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.

(C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:

(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state, federal, or local agency.

(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.

(3) The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)). Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, "housing development project" means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 3. Article 11 (commencing with Section 65650) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 11. Supportive Housing

65650. For purposes of this article, the following definitions shall apply:

(a) "Supportive housing" shall have the same meaning as defined in Section 50675.14 of the Health and Safety Code.

(b) "Supportive services" shall have the same meaning as defined in Section 65582.

(c) "Target population" shall have the same meaning as defined in Section 50675.14 of the Health and Safety Code.

(d) "Use by right" shall have the same meaning as defined in subdivision (i) of Section 65583.2.

65651. (a) Supportive housing shall be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development satisfies all of the following requirements:

(1) Units within the development are subject to a recorded affordability restriction for 55 years.

(2) One hundred percent of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income Californians. For purposes of this paragraph, "lower income households" has the same meaning as defined in Section 50079.5 of the Health and Safety Code.

(3) At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target population. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.

(4) The developer provides the planning agency with the information required by Section 65652.

(5) Nonresidential floor area shall be used for onsite supportive services in the following amounts:

(A) For a development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services.

(B) For a development with more than 20 units, at least 3 percent of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens.

(6) The developer replaces any dwelling units on the site of the supportive housing development in the manner provided in paragraph (3) of subdivision (c) of Section 65915.

(7) Units within the development, excluding managers' units, include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.

(b) The local government may require a supportive housing development subject to this article to comply with objective, written development standards and policies; provided, however, that the development shall only be subject to the objective standards and policies that apply to other multifamily development within the same zone.

(c) Notwithstanding any other provision of this section to the contrary, the local government shall, at the request of the project owner, reduce the number of residents required to live in supportive housing if the project-based rental assistance or operating subsidy for a supportive housing project is terminated through no fault of the project owner, but only if all of the following conditions have been met:

(1) The owner demonstrates that it has made good faith efforts to find other sources of financial support.

(2) Any change in the number of supportive service units is restricted to the minimum necessary to maintain project's financial feasibility.

(3) Any change to the occupancy of the supportive housing units is made in a manner that minimizes tenant disruption and only upon the vacancy of any supportive housing units.

(d) If the proposed housing development is located within a city with a population of fewer than 200,000 or the unincorporated area of a county with a population of fewer than 200,000, and the city or the unincorporated area of the county has a population of persons experiencing homelessness of 1,500 or fewer, according to the most recently published homeless point-in-time-count, the development, in addition to the requirements of subdivision (a), shall consist of 50 units or fewer to be a use by right pursuant to this article. A city or county described in this subdivision may develop a policy to approve as a use by right proposed housing developments with a limit higher than 50 units.

65652. A developer of supportive housing subject to this article shall provide the planning agency with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project, as required by Section 65651, and describing those services, which shall include all of the following:

(a) The name of the proposed entity or entities that will provide supportive services.

(b) The proposed funding source or sources for the provided onsite supportive services.

(c) Proposed staffing levels.

65653. (a) The local government shall approve a supportive housing development that complies with the applicable requirements of this article.

(b) The local government shall notify the developer whether the application is complete within 30 days of receipt of an application to develop supportive housing in accordance with this article. The local government shall complete its review of the application within 60 days after the application is complete for a project with 50 or fewer units, or within 120 days after the application is complete for a project with more than 50 units.

65654. If the supportive housing development is located within one-half mile of a public transit stop, the local government shall not impose any minimum parking requirements for the units occupied by supportive housing residents.

65655. This article shall not be construed to do either of the following:

(a) Preclude or limit the ability of a developer to seek a density bonus from the local government pursuant to Section 65915.

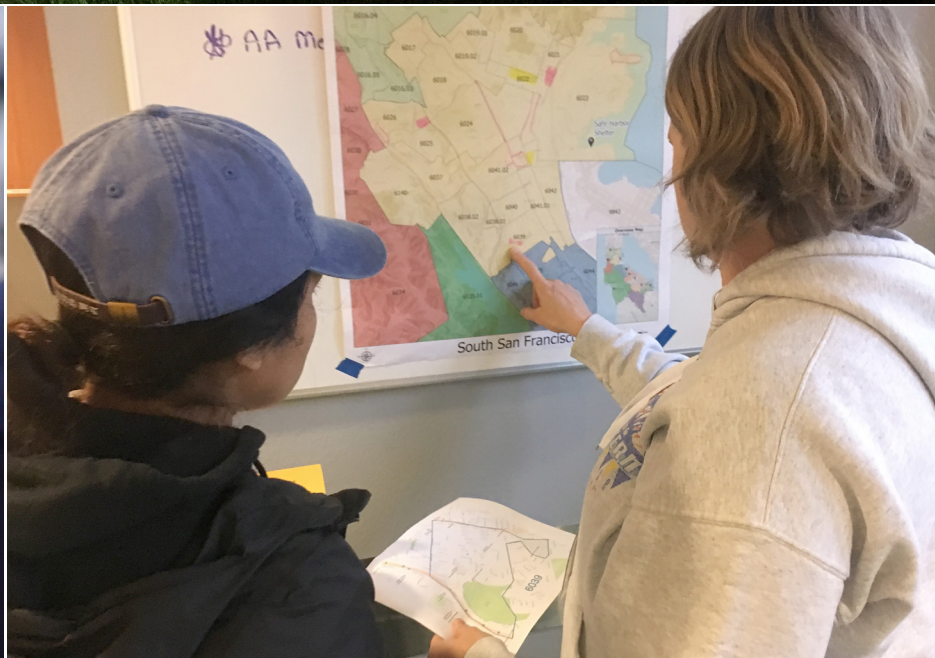
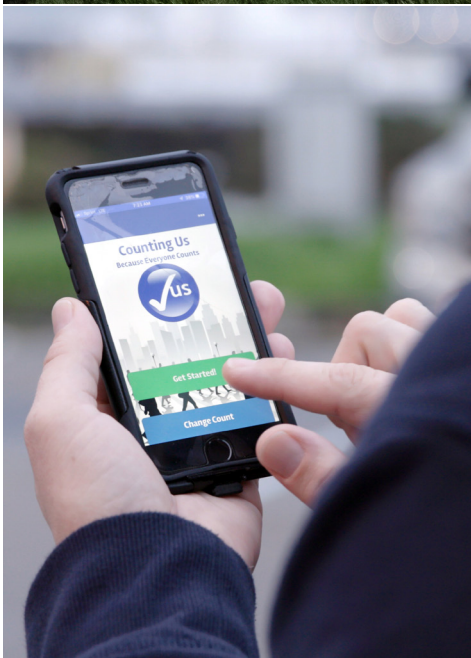
(b) Expand or contract the authority of a local government to adopt or amend an ordinance, charter, general plan, specific plan, resolution, or other land use policy or regulation that promotes the development of supportive housing.

65656. The Legislature finds and declares that the provision of adequate supportive housing to help alleviate the severe shortage of housing opportunities for people experiencing homelessness in this state and of necessary services to the target population described in Section 50675.14 of the Health and Safety Code is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this article applies to all cities, including charter cities.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 65583 of the Government Code proposed by both this bill and Assembly Bill 686. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 65583 of the Government Code, and (3) this bill is enacted after Assembly Bill 686, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

2019
SAN MATEO COUNTY
ONE DAY HOMELESS
COUNT AND SURVEY
EXECUTIVE SUMMARY



Attachment: 2019 One Day Homeless Count_San Mateo County (1093 : ZTA19-002 Supportive Housing)



EXECUTIVE SUMMARY

This executive summary provides an overview of key results from the 2019 San Mateo County One Day Homeless Count and Survey (count). The San Mateo County Human Services Agency (HSA) coordinates the count in collaboration with community and County partners. The 2019 count was conducted in the early morning hours of January 31, 2019. Approximately 400 volunteers consisting of community-based providers, members of the public, City and County staff, and community expert guides, deployed by foot and car to conduct observational counts and surveys of people experiencing homelessness in each census tract in the County. The County conducts the count every two years. The results provide one source of data, among many others, to help the County and its partners assess how to best serve homeless households and assist them with returning to housing as quickly as possible. The results are also submitted to the United States Department of Housing and Urban Development (HUD), which then compiles information about the homeless counts nationwide.

Number of People Experiencing Homelessness

The 2019 count determined that there were **1,512 people experiencing homelessness in San Mateo County on the night of January 30, 2019**, comprised of:

- **901 unsheltered** homeless people (living on streets, in cars, in recreational vehicles (RVs), in tents/encampments), and
- **611 sheltered** homeless people (in emergency shelters and transitional housing programs).

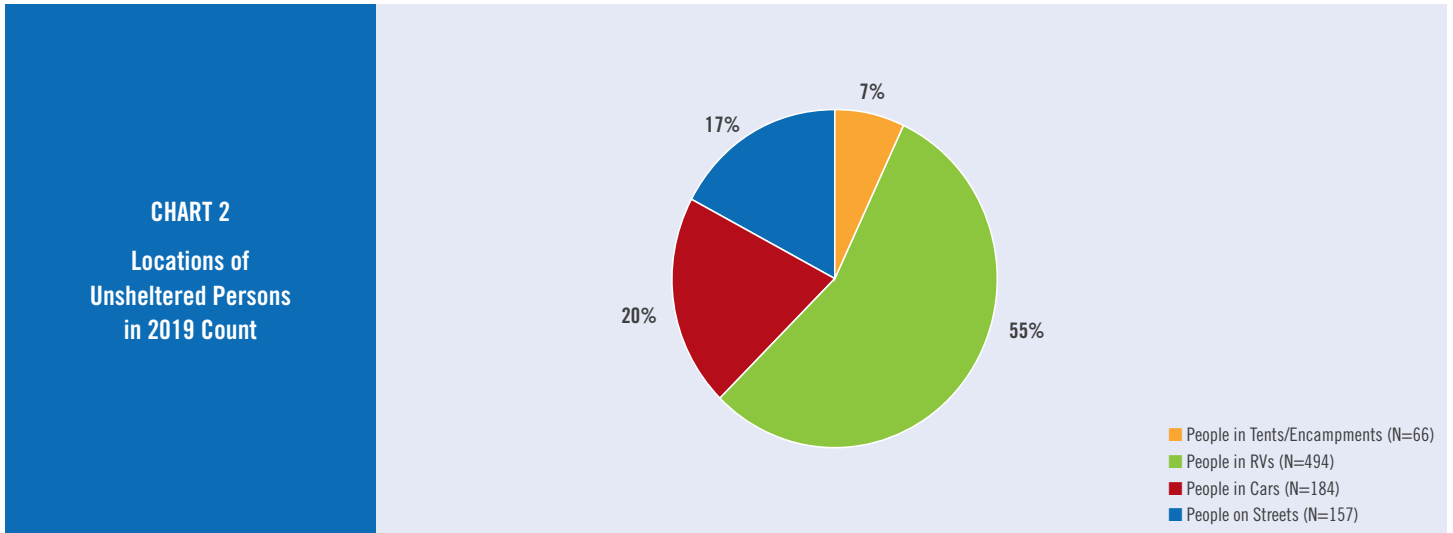
This finding of 1,512 people is higher than the 2017 and 2015 counts, but lower than the 2011 and 2013 counts. The number of people living in shelters in 2019 remains similar to the number counted in 2017. The overall increase in homelessness from 2017 to 2019 is driven primarily by a significant increase in the number of people living in RVs (127% increase). There was also an increase in the number of people sleeping on the street (24% increase). However, compared to 2017, the 2019 count found a decrease in people estimated to be sleeping in cars (7% decrease) and in tents/encampments (31% decrease).

While no unsheltered families were directly observed during the 2019 count, the number of families with children experiencing unsheltered homelessness is estimated to have been 16 (in cars, tents/encampments, and/or RVs). This number represents a 16% decrease in families from the 19 families estimated to be unsheltered in the 2017 count.

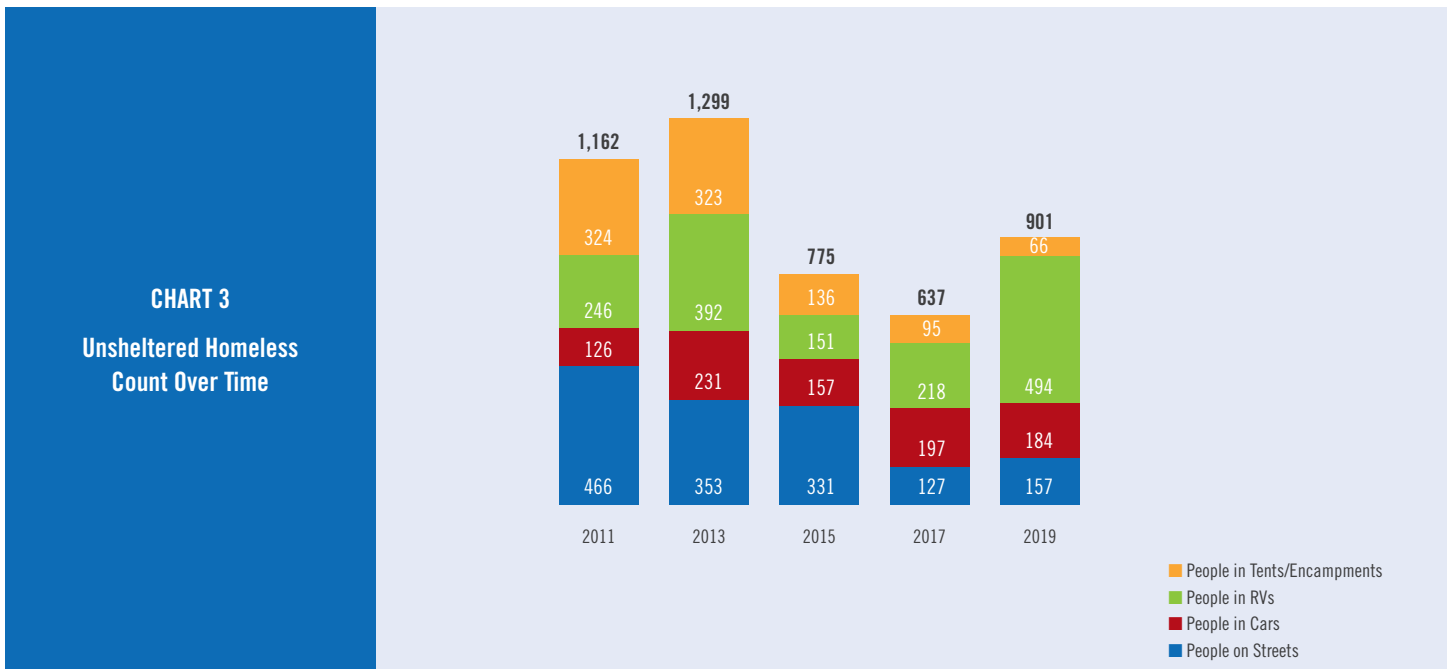
The chart below shows the number of people experiencing homelessness, including both sheltered and unsheltered, from the One Day Counts from 2011 to 2019.



The following chart illustrates the proportion of people estimated to be sleeping in each of these locations on January 30, 2019: on the street, in cars, in RVs, or in tents/encampments.



The chart below depicts the shifts over time among unsheltered sleeping situations as observed in recent counts.

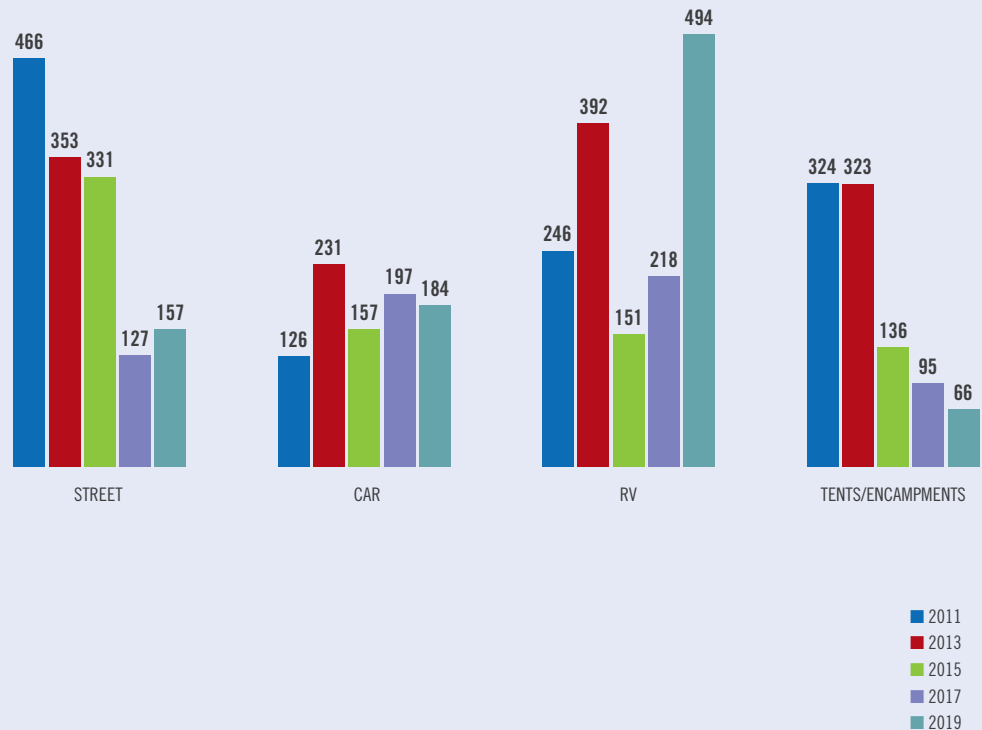


Though the number of people sleeping in shelter has varied somewhat between counts, the number of people experiencing unsheltered homelessness is the primary driver of fluctuations in overall homelessness numbers over time. The table and chart below show the changes in the number of people sleeping in unsheltered locations across the counts.

TABLE 1
Count by Location
2011 – 2019

LOCATION	2011	2013	2015	2017	2019
UNSHeltered Count					
People on Streets	466	353	331	127	157
People in Cars	126	231	157	197	184
People in RVs	246	392	151	218	494
People in Tents/Encampments	324	323	136	95	66
Subtotal Unsheltered Count	1,162	1,299	775	637	901
Sheltered Count					
People in Emergency Shelter	258	272	254	211	266
People in Transitional Housing	441	431	454	405	345
Subtotal Sheltered Count	699	703	708	616	611
Total	1,861	2,002	1,483	1,253	1,512

CHART 4
Unsheltered Persons
by Location Over Time



Geographic Information

The following table summarizes the geographic locations of people experiencing unsheltered homelessness reflected in the counts from 2011 to 2019.

TABLE 2
Counts by Jurisdiction

CITY	2011 COUNT	2013 COUNT	2015 COUNT	2017 COUNT	2019 COUNT
Atherton	1	0	1	0	1
Belmont	1	43	11	3	7
Brisbane	0	34	21	19	4
Burlingame	3	13	7	21	25
Colma	1	7	3	1	8
Daly City	44	27	32	17	66
East Palo Alto	385	119	95	98	107
Foster City	0	7	0	6	4
Half Moon Bay	41	114	84	43	54
Hillsborough	0	0	0	0	0
Menlo Park	72	16	27	47	27
Millbrae	1	21	8	7	9
Pacifica	95	150	63	112	116
Portola Valley	16	2	0	1	0
Redwood City	233	306	223	94	221
San Bruno	14	98	8	26	12
San Carlos	9	10	20	28	30
San Francisco International Airport	9	5	1	3	21
San Mateo	68	103	82	48	74
South San Francisco	122	172	55	33	42
Unincorporated	47	46	32	30	73
<i>Coastside</i>			22	22	60
<i>Central</i>			0	0	0
<i>North</i>			0	3	6
<i>South</i>			10	5	7
Woodside	0	6	2	0	0
Total	1,162	1,299	775	637	901

Conclusion

The overall finding from the count is that the number of people experiencing homelessness on the day of the count increased by 21% from 2017 to 2019, although the overall number of people experiencing homelessness is less than the numbers found in 2011 and 2013. The increase from 2017 was primarily driven by an increase in the number of people living in RVs. HSA and its community partners have noted this trend and have been working to ensure that the population of unsheltered people living in RVs is connected to the available safety net and homeless services. HSA is also exploring strategies to create new services specifically tailored to this population.

While overall homelessness has increased, the 2019 count found that there were decreases in some populations, including families with children, people sleeping in tents/encampments, and people sleeping in cars. HSA and its partners will continue implementation of strategies for these populations.

HSA and its partners will continue efforts to create a homeless crisis response system that identifies a housing solution for each individual and family who experiences homelessness. HSA and its partners will continue to utilize a variety of data to measure trends and progress.

Services will continue to be implemented to prevent homelessness whenever possible, and when homelessness does occur, the primary measure of success is whether people are assisted to secure housing as quickly as possible and do not return to homelessness. This is especially challenging given the extremely high costs and low vacancy rates in the housing market, however, HSA and its community partners are committed to continuing to implement strategies that have proven to be effective in reducing homelessness.

COUNTY OF SAN MATEO
HUMAN SERVICES AGENCY

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