CITY COUNCIL AGENDA
REGULAR MEETING
CITY OF HALF MOON BAY

TUESDAY, OCTOBER 5, 2021

REMOTE PARTICIPATION (SEE NEXT PAGE)

Robert Brownstone, Mayor
Debbie Ruddock, Vice Mayor
Joaquin Jimenez, Councilmember
Deborah Penrose, Councilmember
Harvey Rarback, Councilmember

7:00 PM

This agenda contains a brief description of each item to be considered. Those wishing to address the City Council on any matter not listed on the Agenda, but within the jurisdiction of the City Council to resolve, may come forward to the podium during the Public Forum portion of the Agenda and will have a maximum of three minutes to discuss their item. Those wishing to speak on a Public Hearing matter will be called forward at the appropriate time during the Public Hearing consideration.

Please Note: Anyone wishing to present materials to the City Council, please submit seven copies to the City Clerk.

Copies of written documentation relating to each item of business on the Agenda are on file in the Office of the City Clerk at City Hall and the Half Moon Bay Library where they are available for public inspection. If requested, the agenda shall be available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132.) Information may be obtained by calling 650-726-8271.

In compliance with the Americans with Disabilities Act, special assistance for participation in this meeting can be obtained by contacting the City Clerk's Office at 650-726-8271. A 48-hour notification will enable the City to make reasonable accommodations to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

http://hmbcity.com/

SPECIAL REMOTE PARTICIPATION PROTOCOLS

This meeting will be held entirely by teleconference. All Councilmembers and staff will only participate via the Zoom platform using the process described below. The meeting is being conducted pursuant to recent amendments to the teleconference rules required by the Ralph M. Brown Act allowing teleconferencing during a proclaimed state of emergency when local officials have recommended social distancing (AB 361). The purpose of AB 361 is to provide the safest environment for the public, elected officials, and staff while allowing for continued operation of the government and public participation during the COVID-19 pandemic.

This meeting will be conducted via Zoom Webinar and live Spanish interpretation will be available within the Zoom platform. Members of the public are welcome to login into the webinar as Attendees. During any public comment portions, attendees may use the "raise your hand" feature and will be called upon and unmuted when it is their turn to speak. The meeting will also be streamed on Channel 27, on pacificcoast.tv, and on Facebook at www.facebook.com/cityofhalfmoonbay. Please click to join the webinar: https://us06web.zoom.us/j/99588947925 or join by phone at 669-900-9128, using Webinar ID 995-8894-7925.

CALL TO ORDER / ROLL CALL

PUBLIC FORUM

PROCLAMATIONS AND PRESENTATIONS
NATIONAL INDIGENOUS PEOPLES DAY PROCLAMATION
LGBTQ HISTORY MONTH PROCLAMATION
PG&E WILDFIRE SAFETY UDPATE

MAYOR'S ANNOUNCEMENTS OF COMMUNITY ACTIVITIES AND COMMUNITY SERVICE

REPORT OUT FROM RECENT CLOSED SESSION MEETINGS

CITY MANAGER UPDATES TO COUNCIL
COASTSIDE RECOVERY INITIATIVE UPDATE

1. CONSENT CALENDAR

1.A WAIVE READING OF RESOLUTIONS AND ORDINANCES

1.B OCEAN VIEW PARK PLAYGROUND IMPROVEMENTS (CIP PROJECT NO. 0609)

Staff Recommendation: Adopt a resolution awarding a construction contract in the amount of $130,519.55 with Miracle Playsystems, Inc. for the purchase and installation of playground equipment and rubberized play surfaces at Ocean View Park and Oak Park.

STAFF REPORT

RESOLUTION

ATTACHMENT 1

ATTACHMENT 2

1.C ACCEPTANCE OF THE PREQUALIFIED LIST OF FIRMS FOR ON-CALL MATERIAL TESTING AND SPECIAL INSPECTION SERVICES FOR VARIOUS CITY PROJECTS

Staff Recommendation: Adopt a resolution accepting Consolidated Engineering Laboratories, RES Engineers Inc., Apex Testing Laboratories Inc., Inspection Services, Inc., Twinning, and Bay Area Geotechnical Group (BAGG Engineers) as the prequalified firms to provide On-Call Material Testing and Special Inspection Services for various capital projects.

STAFF REPORT

RESOLUTION

1.D AMENDMENT OF CITYWIDE TRAFFIC REGULATIONS FOR EMERGENCY ACCESS AND SAFETY ON CHESTERFIELD AVENUE AND PABLO COURT/ARROYO LEON DRIVE

Staff Recommendation: Adopt a resolution amending Resolution No. C-05-11 (Citywide Traffic Regulations) to incorporate a fire lane/turnaround on Chesterfield Avenue east of St. James Avenue and a red-curb at the intersection of Pablo Court and Arroyo Leon Drive.

STAFF REPORT

RESOLUTION

ATTACHMENT 1

1.E APPROVE CITY'S RESPONSE TO THE JUL 27,2021 GRAND JURY REPORT ENTITLED "BUILDING GREATER TRUST BETWEEN COMMUNITY & LAW ENFORCEMENT VIA THE RACIAL AND IDENTITY PROFILING ACT"

Staff Recommendation: By motion, authorize the Mayor to sign and submit a letter of response to the July 27, 2021 Grand Jury Report titled “Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act.”

STAFF REPORT

ATTACHMENT 1

ATTACHMENT 2

1.F MEMORANDUM OF UNDERSTANDING WITH THE NATIONAL SKI PATROL FOR VOLUNTEER BIKE PATROL SERVICES

Staff Recommendation: Adopt a resolution authorizing the City Manager to execute a Memorandum of Understanding with National Ski Patrol, Inc. for Volunteer Bike Patrol Services on the California Coastal Trail.

STAFF REPORT

RESOLUTION

ATTACHMENT 1

1.G RESOLUTION TO CONTINUE HOLDING PUBLIC MEETINGS REMOTELY (AB 361)

Staff Recommendation: In accordance with Assembly Bill 361, adopt a resolution to continue conducting the City's Council, Commission, and Committee meetings remotely due to health and safety concerns to the public due to COVID-19.

STAFF REPORT

RESOLUTION

ATTACHMENT 2

2. ORDINANCES AND PUBLIC HEARINGS

3. RESOLUTIONS AND STAFF REPORTS

3.A AWARD OF PROFESSIONAL SERVICES CONTRACT FOR CONSTRUCTION MANAGEMENT OF THE JOHN L. CARTER PARK RENOVATION PROJECT (CIP NO. 611)

Staff Recommendation: Adopt a resolution authorizing the Administrative Services Director to amend the FY 2021-22 Capital Budget by adding $245,000 from the unallocated capital budget to CIP Project No. 611 and authorizing the City Manager to award and execute a professional services agreement with Griffin Structures, Inc., in an amount not to exceed $245,000, for project and construction management services for the John L. Carter Park Project.

STAFF REPORT

RESOLUTION

3.B BUILDING ELECTRIFICATION ORDINANCE STUDY SESSION (CONTINUED)

Staff Recommendation: Conduct follow-up study session on the Draft Building Electrification Ordinance and provide policy direction to staff regarding potential revisions to the April Draft Building Electrification Ordinance.

STAFF REPORT

COMMISSION / COMMITTEE UPDATES

CITY COUNCIL REPORTS / ITEMS

ADJOURNMENT

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Todd Seeley, Public Works Superintendent

TITLE: **OCEAN VIEW PARK PLAYGROUND IMPROVEMENTS (CIP PROJECT NO. 0609)**

RECOMMENDATION:
Adopt a resolution awarding a construction contract in the amount of $130,519.55 with Miracle Playsystems, Inc. for the purchase and installation of playground equipment and rubberized play surfaces at Ocean View Park and Oak Park.

FISCAL IMPACT:
The Fiscal Year 2021-22 Capital Budget includes $310,000 toward construction of parks and playground improvements. The proposed improvements were included in the list of Program related improvements and there are sufficient funds available.

STRATEGIC ELEMENT:
This recommendation supports the Infrastructure and Environment, Healthy Communities and Public Safety Elements of the Strategic Plan.

BACKGROUND:
Ocean View Park is one of the most utilized public parks in Half Moon Bay. For many years, the community has indicated a desire to see the restroom facilities improved. As part of the 2018-19 Capital Budget, the City Council prioritized design and anticipated construction of new restrooms for the park. This project was completed in 2020. As part of this project, several sets of swings had to be removed to facilitate the large construction equipment necessary to construct the new restroom facilities.

The play equipment was scheduled to be replaced as part of the FY 2019-20 CIP in the late spring but was put on hold when the COVID-19 Pandemic significantly impacted City revenues resulting in extensive budget cuts, including cancellation of most non-essential programs and projects. For the FY 2020-21 budget, staffing, program, and project expenditures were kept at reduced levels, and funding for parks projects remained on-hold.

Because of the heavy usage at Ocean View Park, staff felt it was necessary to address the lack of equipment at this park since Council approved funding for parks improvements and upgrades as part of the FY2021-22 CIP. Community feedback along with discussions with licensed playground safety inspectors was incorporated into a revised plan that included replacing the removed playground equipment with newer equipment that better fit the character and needs of the neighborhood, along with adding accessible swings that can be accessed and used by all.

DISCUSSION:

The proposed project has many unique features which will be beneficial to the community and the users of Ocean View and Oak Parks. In addition to replacing the swings at Ocean View Park that were removed as part of the restroom construction, a Lillie Swing will be added along with an Inclusive Whirl and two therapeutic swings. The Inclusive Whirl is designed for children in wheelchairs to be able to enjoy the park in a way not previously available to them as a wheelchair can be rolled directly onto the feature. This feature can also be used by other children and will be the first inclusive playground feature in Half Moon Bay.

The proposed work also allows staff to address various other pieces of small equipment. Some of the smaller pieces of play equipment at Ocean View have outlived their useful life and need to be replaced. This project will address those pieces of equipment.

As part of this project, Miracle Playsystems will also be resurfacing the rubberized playground surface at Oak Park. The play structure at Oak Park is still in relatively good shape, and no safety issues have been identified over numerous site visits. However, the rubber surface under the play structure at that park has deteriorated and needs replacement. Since rubberized surfaces will also be installed at Ocean View Park, the same crew from Miracle Playsystems will be able to do the work without incurring any additional mobilization costs.

This project was bid through Sourcewell, a government agency and service cooperative based in Minnesota. Through this cooperative, this City was able to secure the best pricing possible for the proposed equipment without the need to solicit for formal bids. This was done in accordance with the City's purchasing policy. While this Capital Project amount falls within the City Manager signing authority, it was determined that bringing the item forward to the City Council agenda would provide the community and Council information on a critical element of Parks Master Plan implementation.

ATTACHMENTS:

1. Resolution
2. Project Bid from Miracle Playsytems
3. Sourcewell Cooperative Contract

Resolution No. C-2021-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO AWARD A CONSTRUCTION CONTRACT TO MIRACLE PLAYSYSTEMS OF ALAMO, CALIFORNIA FOR OCEAN VIEW PARK PLAYGROUND IMPROVEMENTS IN THE AMOUNT OF $130,519.55

WHEREAS, the City of Half Moon Bay owns and maintains Ocean View Park; and

WHEREAS, the swing sets were removed from the park in 2019 to facilitate construction of a new restroom facility; and

WHEREAS, the swings were not replaced due to financial constraints the City faced as a result of Covid-19; and

WHEREAS, staff has evaluated new play equipment and received funding for this project through the FY2021-22 Capital Improvement Budget

WHEREAS, the department has solicited a bid through the Sourcewell government cooperative program which provides the lowest possible pricing to qualified governmental agencies**.**

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby awards a construction contract to MIRACLE PLAYSTSTEMS for Ocean View Park Playground Improvements and Oak Park rubberized surface replacement and authorizes the City Manager to execute the contract.

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I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of October 2021 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

_____
Jessica Blair, City Clerk

APPROVED:

_____
Robert Brownstone, Mayor

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Sourcewell

Solicitation Number: RFP #010521

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and PlayPower, Inc., 11515 Vanstory Drive #100, Huntersville, NC 28078 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Playground and Water Play Equipment with Related Accessories and Services from which Vendor was awarded a contract.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires February 17, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.

C. SURVIVAL OF TERMS. Articles 11 through 14 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

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All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable

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time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing

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restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

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Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entitles may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

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B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Vendor's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

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Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. AUDIT. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. ASSIGNMENT. Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

D. WAIVER. If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

E. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their

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respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:

   a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use theTrademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.

   b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.

2. *Limited Right of Sublicense*. The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

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a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.

b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.

c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.

5. Termination. Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. ENDORSEMENT. The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

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15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

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- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*
Workers' Compensation: As required by any applicable law or regulation.
Employer's Liability Insurance: must be provided in amounts not less than listed below:
Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.
Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for Products-Completed operations
$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.
Minimum Limits:
$1,000,000 each accident, combined single limit

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4. *Umbrella Insurance*. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:
$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:
$2,000,000 per claim or event
$2,000,000 – annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance

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maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to “federal” should be interpreted to mean the United States federal government.

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The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40

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hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of $150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any

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agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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22. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell	PlayPower, Inc.
DocuSigned by: Jeremy Schwartz C0FD2A139D06489...	DocuSigned by: W. Todd Brinker B286C633F68749C...
By: _____	By: _____
Jeremy Schwartz	W. Todd Brinker
Title: Director of Operations & Procurement/CPO	Title: Senior Vice President Global Sales & Marketing Outdoor Play
Date: 2/15/2021 | 10:36 PM CST	Date: 2/15/2021 | 2:23 PM CST

Approved:

DocuSigned by: Chad Coauette 7E42B8F817A64CC...

By: _____

Chad Coauette

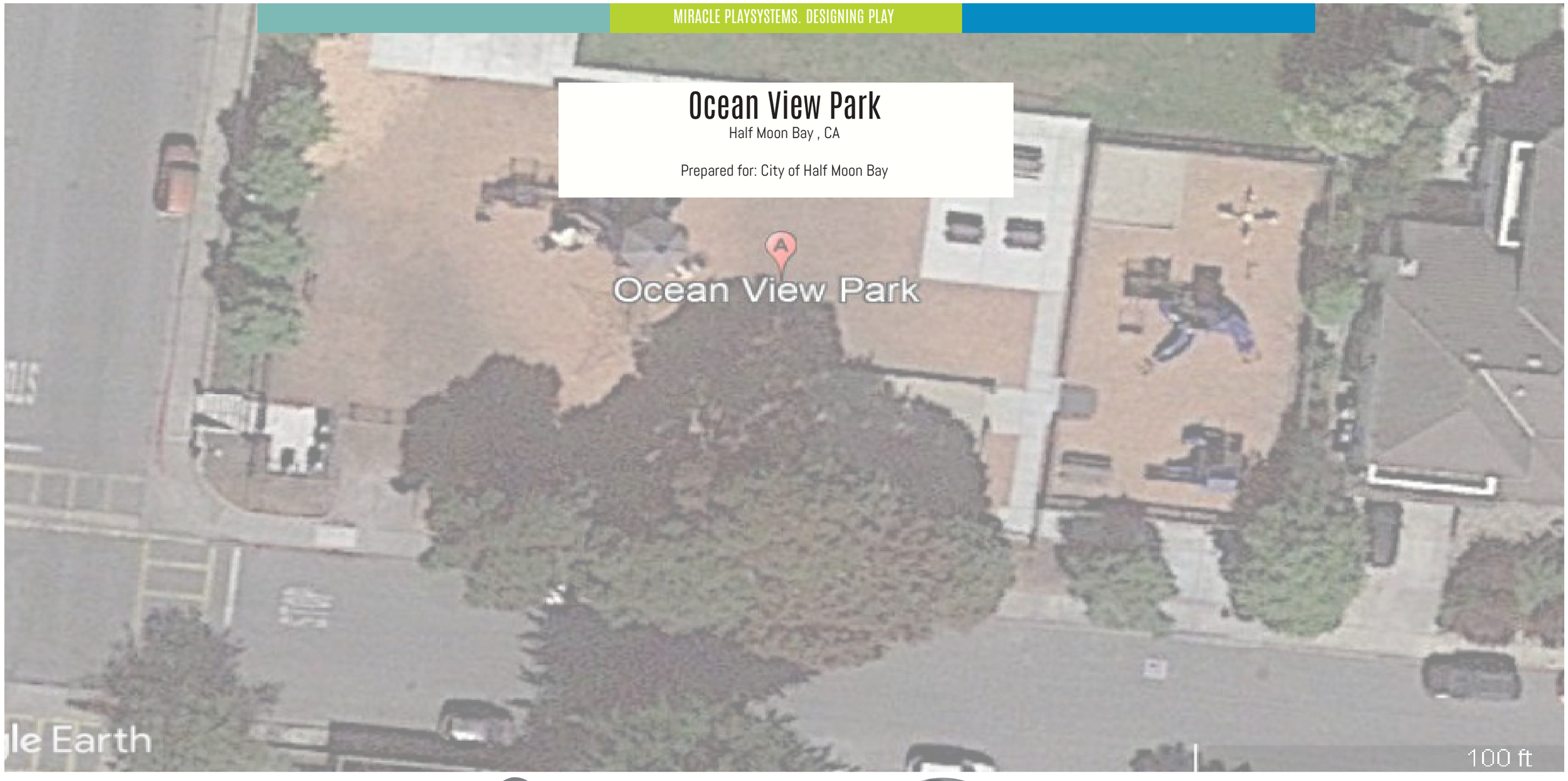
Title: Executive Director/CEO

Date: 2/15/2021 | 10:46 PM CST

Ocean View Park

Half Moon Bay , CA

Prepared for: City of Half Moon Bay



MIRACLE playsystems DESIGNING PLAY

Prepared By

Jean Tyan
Sales Account Manager
Miracle Playsystems Inc
jean@miracleplaygroup.com
(650)930-0459



Creating Fun Play Environments to Enrich Communities



AGE COUNTS CHART FOR NEW EQUIPMENT ONLY		
PLAY AREA = AGE APPROPRIATE 5-12 YEARS:	CAPACITY: 25-27 CHILDREN	
ELEVATED PLAY ACTIVITIES (TOTAL):	0	
ELEVATED PLAY ACTIVITIES ACCESSIBLE BY TRANSFER:	0	REQ'D: 0
ELEVATED PLAY ACTIVITIES ACCESSIBLE BY RAMP:	0	REQ'D: 0
GROUND LEVEL ACTIVITY TYPE:	3	REQ'D: 0
GROUND LEVEL ACTIVITY QUANTITY:	10	REQ'D: 0

NOTES:
1. TRANSFER STEPS TO BE STRIPED PER 11B-504.4.1
2. USE ZONES FINISH SURFACE OF PLAYGROUND COMPLIES WITH ASTM F1292-99.
3. GROUND SURFACING COMPLIES WITH ASTM 1951-99
4. PLAYGROUND EQUIPMENT SHALL COMPLY WITH ASTM F1487-99.
5. THIS PLAY AREA MEETS CBC SECTION 11B-1008.

CRITICAL FALL HEIGHT = AS SHOWN
SITE AREA: SF / LF AS SHOWN
DRAWN BY: CG

NORTH

0 8' 16' 32'

Scale: 1/16" = 1'-0"

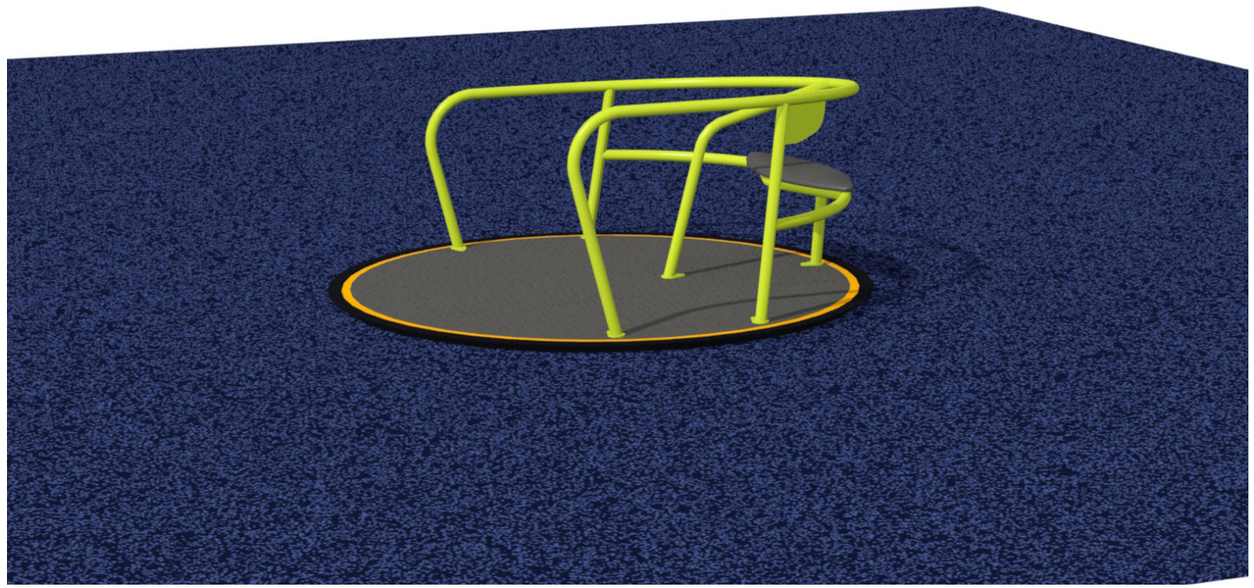
Ocean View Park

Half Moon Bay, CA

LINEAR FEET:	AS SHOWN	SITE AREA:	N/A
CRITICAL FALL HEIGHT:	AS SHOWN	SCALE:	1/16"=1'-0"
21_0778_Ocean View Park_002		DATE:	08/23/2021
		DRAWN BY:	CG

MIRACLE playsystems DESIGNING PLAY

ALL DRAWINGS ARE SUBJECT TO CHANGE AND SHOULD BE REVIEWED BEFORE FINAL SALE. ALL SITE DIMENSIONS WILL NEED TO BE VERIFIED PRIOR TO SALE AND INSTALLATION.



INCLUSIVE WHIRL



ARCH SWING FRAME W/
(2) THERAPEUTIC SWING SEATS

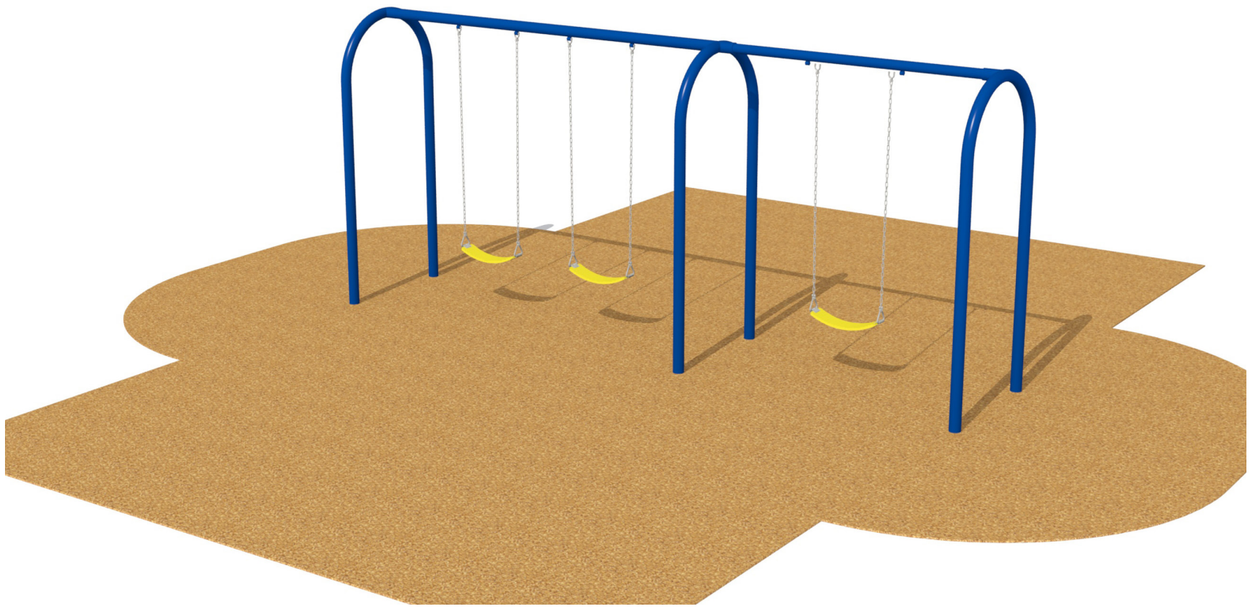
Colors Used In Rendering

Chartreuse

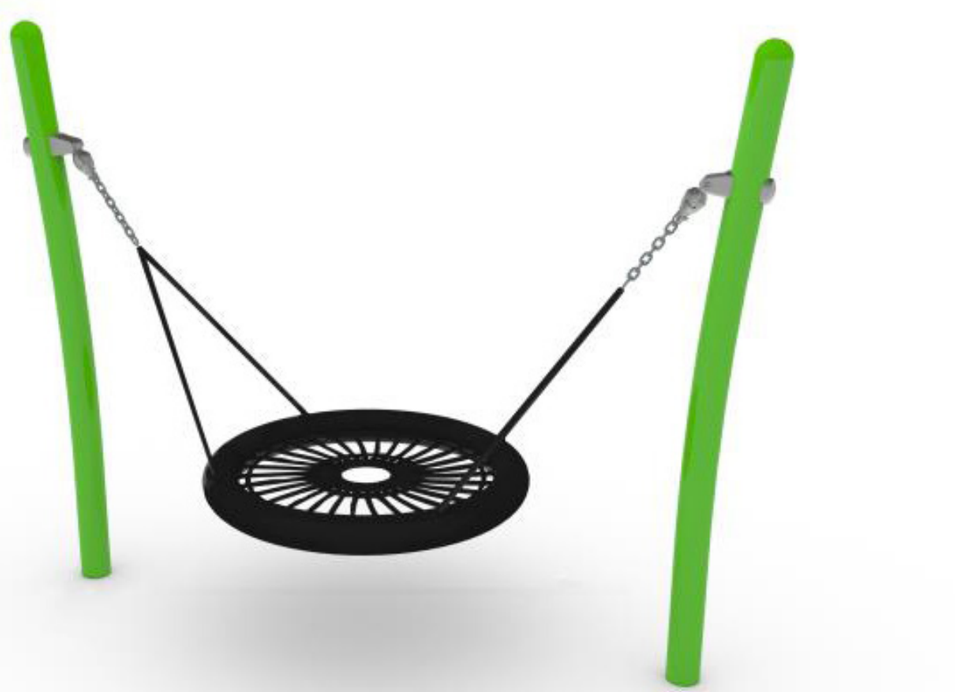
Blue

*Colors shown in rendering is for illustrative purposes only. Actual color and pattern may vary slightly.

08/23/2021
21_0778_OceanViewPark_002



ARCH SWING FRAME W/ EXTENSION &
(3) SLASH PROOF BELT SEATS



HAGS, LILLIE SWING WITH DOLLY
SEAT

Colors Used In Rendering

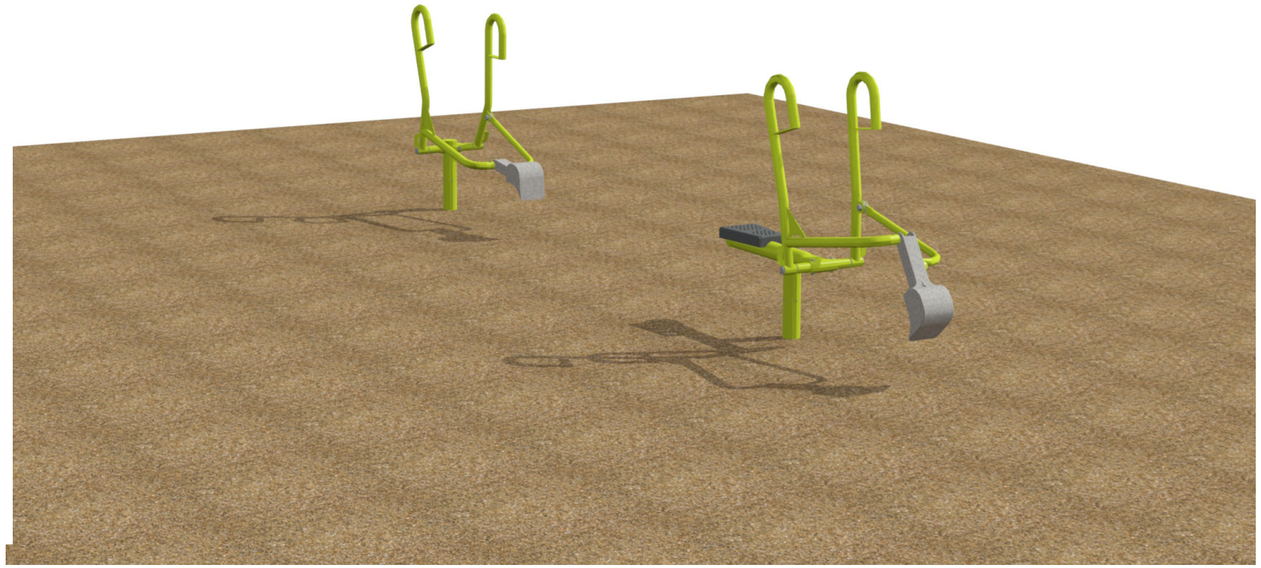
Blue Yellow

*Colors shown in rendering is for illustrative purposes only. Actual color and pattern may vary slightly.

08/23/2021
21_0778_OceanViewPark_002



SAND AND SEA TABLE



ADA X-CAVATOR

SEATED X-CAVATOR

Colors Used In Rendering

Chartreuse Orange Blue Dark Gray

*Colors shown in rendering is for illustrative purposes only. Actual color and pattern may vary slightly.

08/03/2021
21_0778_OceanViewPark_001



NORTH

0 4' 8' 16'

Scale: 1/8" = 1'-0"

Oak Avenue Park

Half Moon Bay, CA

LINEAR FEET:	148'-0" LF	SITE AREA:	1,225 SF
CRITICAL FALL HEIGHT:	N/A	SCALE:	1/8"=1'-0"
21_0777_Oak Avenue Park_DIMS		DATE:	08/03/2021
		DRAWN BY:	CG

MIRACLE playsystems DESIGNING PLAY

ALL DRAWINGS ARE SUBJECT TO CHANGE AND SHOULD BE REVIEWED BEFORE FINAL SALE.
ALL SITE DIMENSIONS WILL NEED TO BE VERIFIED PRIOR TO SALE AND INSTALLATION.

August 25, 2021

Job: P21_0778_Ocean View Park
Quote Name: 21_0778_Ocean View Park_002
Quote Number: 00009853

Prepared by:
Jean Tyan
jean@miracleplaygroup.com

Terms: Net 30
Remit to:
Miracle Playsystems, Inc.
1276 S Main St., Salinas, CA 93901

Sub Total $121,697.96
Freight $4,183.80
Tax $4,637.79
Total $130,519.55

Item	Qty	Rate	Total	Tax (if applicable)
Miracle Play Equipment per plan_21_0778_Ocean View Park_002_BOM. Sourcewell Contract 010521 Discount Applied.	1	$26,426.00	$22,990.62	$2,155.37
#8070758 - HAGS - Lillie Base Module w/ Dolly Seat, Cast in Place, Color Green. Sourcewell Contract #010521 Discount Applied.	1	$3,488.00	$3,034.56	$284.49
Install (1) HAGS Lillie Swing Dolly. Installation only of owner provided HAGS Lillie Swing Dolly to manufacturer recommendations through soil. Footings spoils disposed off site.	1	$2,909.40	$2,909.40	
Install (1) Arch Swing w/ Extension. Installation only of owner provided MREC Arch Swing Fram w/ Extension & (3) Splash Proof Belt Bests to manufacturer recommendations through soil. Footing spoils disposed off site.	1	$4,161.20	$4,161.20	
Install (1) Single Bay Therapeutic Swings. Install only of owner provided single bay Therapeutic Swings through soil to manufacturer specifications. All hardware to be provided by manufacturer. Disposal of spoils offsite.	1	$2,933.33	$2,933.33	
79' LF Loose-Fill Turndowns (Ramp Edgings) @ Therapeutic Swings To & Fro Entry Area. Provide labor and materials to pour approx 79' LF of perimeter ramp edge loose-fill transition containment curb, to have overlay of rubber surfacing.	1	$9,086.01	$9,086.01	

MIRACLE PLAYSYTEMS, INC. • PO BOX 263, ALAMO, CA 94507 • (800) 879-7730 • (510) 893-2163 (FAX)
CSL: 981433 (Exp Date 03/23) • DIR: 1000015853

	Base Rock 463 SF at 8.5" for Therapeutic Swing Rubber Surfacing. Supply and install approx 25 TN of crushed stone compacted at 8.5" depth, area 463 SF.	1	$5,331.21	$5,331.21	$499.80
	Rubber Surfacing Material Only at Therapeutic Swings. Supply approx 463 SF (+SF at Turndowns) of new PIP rubber surfacing at 3.5" depth (meets 8' fall) consisting of 50% Black and 50% STandard Color with standard "Aromatic" binder.	1	$5,091.00	$5,091.00	$477.28
	Rubber Surfacing Install Only at Therapeutic Swing Area. Install approx 463 SF (+119 SF at Turndowns) of new PIP rubber surfacing at 3.5" depth (meets 8' fall) consisting of 50% Black/50% Standard Color with standard "Aromatic" binder.	1	$7,636.50	$7,636.50	
	Install (1) Inclusive Whirl. Install only of owner provided Inclusive Whirl through soil to manufacturer specifications. All hardware to be provided by manufacturer. Disposal of spoils offsite.	1	$7,600.00	$7,600.00	
	Excavate 561 SF at 6" at Inclusive Whirl. Excavate and dispose of approx 11 CY of existing soil at approx 6" depth, area 561 SF.	1	$4,413.33	$4,413.33	
	Mow Band 6"x12" for Inclusive Whirl Rubber Surfacing. Supply labor and material to create a 6" wide, 12" tall, 52 LF concrete mow band along existing sidewalk and concrete pad as shown on drawing 21_0778_Ocean View Park_001.	1	$6,400.00	$6,400.00	
	Base Rock 561 SF at 4" for Inclusive Whirl Rubber Surfacing. Supply and install approx 10 TN of crushed stone compacted at 4" depth, area 561 SF.	1	$2,954.00	$2,954.00	
	Rubber Surfacing Material Only at Inclusive Whirl. Supply approx 561 SF of new Poured-in-Place rubber surfacing at 2" depth consisting of 50% Black and 50% Standard Color with standard "Aromatic" binder	1	$4,188.80	$4,188.80	$392.70
	Rubber Surfacing Install Only at Inclusive Whirl. Install approx 561 SF of new Poured-in-Place rubber surfacing at 2" depth consisting of 50% Black and 50% Standard Color with standard "Aromatic" binder.	1	$6,284.00	$6,284.00	

MIRACLE PLAYSYTEMS, INC. • PO BOX 263, ALAMO, CA 94507 • (800) 879-7730 • (510) 893-2163 (FAX)

CSL: 981433 (Exp Date 03/23) • DIR: 1000015853

	Remove/Replace (2) X-Cavators. Remove/dispose of existing(2) Sand Diggers and replace with owner provided(1) ADA X-Cavator and (1) Seated X-Cavator through soild to mger specs. All hardware to be provided by manufacturer. Spoils disposed offsite.	1	$3,400.00	$3,400.00	
	Install (1) Sand & Sea Table. Install only of owner provided Sand & Sea Table in toddler area sandbox through soil to manufacturer specifications. All hardware to be provided by manufacturer. Disposal of spoils offsite.	1	$1,200.00	$1,200.00	
	Oak Ave Park Pour-in-Place Rubber Surface Material. Provide 1250 SF of a 1.5" Cap of PIP safety surfacing directly over the existing surfacing. 1/2" min. thickness wear layer to be 50% standard color/50% black mixed with standard aromatic resin.	1	$8,833.60	$8,833.60	$828.15
	Oak Ave Park Pour-in-Place Install. Install 1250 SF of a 1.5" Cap of PIP safety surfacing directly over the existing surfacing. Edges to be cut back and tapered in to maintain a smooth trip-free transition at access points.	1	$13,250.40	$13,250.40	

Sub Total $121,697.96
Total Freight $4,183.80
Total Tax $4,637.79
Grand Total $130,519.55

Company: _____
Signature: _____
Name: _____
Date: _____

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CSL: 981433 (Exp Date 03/23) • DIR: 1000015853

Please confirm or edit order information below	
End User Company: City of Half Moon Bay **End User Contact:** **End User Email:** **Delivery Contact:** **Delivery Email:** **Delivery Phone:** **Delivery Address:** **Site Address:** 627 Alsace Lorraine Ave Half Moon Bay	**Bill To Email:** **Bill To:** City of Half Moon Bay 880 stone pine road Half Moon Bay, CA 94019 **Customer Reference #:**

INDEMNITY

Client/Owner shall defend, indemnify and hold harmless Miracle Playsystems, Inc., its officers, directors, board of trustees, agents, or employees and each of them, from any and all claims, demands, causes of action in law or in equity, damages, penalties, costs, expenses, reasonable attorneys' fees, reasonable experts' fees, reasonable consultants' fees, judgments, losses or liabilities, of every kind and nature whatsoever arising out of or in any way connected with or incidental to, the performance of the services under this Agreement or any of the obligations contained in this Agreement ("Claims"). Without limitation, "damages" include personal injury, including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Miracle Playsystems, Inc., or any other person; or other damages of any kind to anyone including, without limitation, economic loss, property damage and loss of use thereof. It is expressly acknowledged and agreed that each of the foregoing indemnities is independent, that each shall be given effect, and that each shall apply despite any acts or omissions, misconduct or negligent conduct, whether active or passive, on the part of, or other contractor(s); provided, however, Miracle Playsystems, Inc. duty to indemnify shall be limited to the percentage or the degree Miracle Playsystems, Inc. comparative negligence caused any damages.

STANDARD NOTES

- Price quotation is good for 30 days. Accurate color selections must be made in writing prior to equipment going into production. Colors to be confirmed with your local sales representative.
- PLEASE MAKE PURCHASE ORDER TO MIRACLE PLAYSYSTEMS, INC at PO Box 263 Alamo, CA 94507
- PLEASE REMIT CHECKS TO: MIRACLE PLAYSYSTEMS INC., 1276 S MAIN ST, SALINAS, CA 93901
- Please email/fax quotation with your signature to accept this quote and place order. Fax 510-893-2163 or email Info@MiraclePlayGroup.com
- Unless otherwise specified, Miracle Playsystems, Inc **DOES NOT** include the following in this proposal:
    - Engineered drawings
    - Installation of equipment or other site amenities
    - Specialty trades, equipment, power supply required to install equipment
- Any insurance requiring in excess of $1M/$2M per occurrence, special insurance coverage or wording, Prevailing/Certified wage rates, local permitting, bid/performance bonds, temp fencing, geo tech surveys, playground safety inspection, equipment offload, and testing services.
- Inspect equipment upon delivery. Color discrepancy must be reported at time of delivery. Installation constitutes acceptance of colors.
- Warranty does not cover labor for reinstallation.

TERMS & CONDITIONS

- Purchase contract terms & conditions of sale: The client/customer's acceptance and understanding of these terms & conditions and all other supporting documentation provided as part of this package is evidenced by signing of this estimate/quote.
- Payment terms: Standard terms (on approved credit), unless otherwise noted are 50% with order and balance to ship equipment (no retention). Should any changes be required to the products after order is placed, modifications or changes will be at client/customers expense. Miracle Playsystems, Inc maintains a no return policy and asks all clients to determine feature, layout and color selection prior to ordering. Should any order be cancelled after production has started a 30% restocking fee will be charged to client. Credit card convenience fee is 3.5% which will be added to all credit card charges
- Lead times: Estimated lead times for the time the order is released into production until it is delivered will vary.
- **Lead times may currently be extended due to reasons such as supply chain issues, shipping delays, raw material shortages, and other COVID-19 related impacts.**
- Custom play feature lead times are determined on a case by case basis.

MIRACLE PLAYSYTEMS, INC. • PO BOX 263, ALAMO, CA 94507 • (800) 879-7730 • (510) 893-2163 (FAX)

CSL: 981433 (Exp Date 03/23) • DIR: 1000015853

CONSTRUCTION SERVICES (if applicable)

Unless otherwise noted, we exclude responsibility for material delivery & offloading equipment, removal & disposal of packaging accumulated by equipment packaging, project security, landscape & hardscape repair based on access route to site, delays or returns due to layout conflicts or delay of other trades, removal of spoils from job site, locating underground: utilities, pipes, obstructions in work area, conditions unforeseen and/or not disclosed at time of estimate, permits, engineering, material testing, soil samples, CPSI. Conditions: Grades; stable, compacted & workable with 95% compaction and less than 1% grade, adequate access to site for labor, materials, tools and equipment. Estimate good for 90 days from quote or Dec. 31 of current calendar year, whichever comes first. Terms: Upon completion.

GENERAL TERMS

- THIS QUOTE IS LIMITED TO AND GOVERNED BY THE TERMS CONTAINED HEREIN: Miracle Playsystems, Inc. objects to any other terms proposed by client, in writing or otherwise, as material alterations, and all such proposed terms shall be void. Client authorizes Miracle Playsystems, Inc. to ship equipment and agrees to pay the total specified. Shipping terms are FOB the place of shipment via common carrier.
- Client and owner/operator agree to indemnify and hold Miracle Playsystems, Inc. harmless from and against all liabilities, losses, penalties, damages and expenses, including costs and attorney fees, resulting from any and all claims, liens, damages, actions, suits, judgments or settlements, injuries arising or alleged to arise out of their failure, or failure of architect, contractors, subcontractors, installers, employees, agents and assigns to assemble, install, inspect and/or maintain the play equipment and impact absorbing surfacing in full compliance with each manufacturers installation instructions and safety requirements and their misuse and/or alteration of the play equipment.

Company: _____

Signature: _____

Name: _____

Date: _____

MIRACLE PLAYSYTEMS, INC. • PO BOX 263, ALAMO, CA 94507 • (800) 879-7730 • (510) 893-2163 (FAX)

CSL: 981433 (Exp Date 03/23) • DIR: 1000015853

Miracle® Limited Warranty

Miracle Recreation Equipment Company warrants its products against structural failure due to defects in materials and workmanship for the warranty periods and material categories prescribed below.

Buyer agrees that products sold by Miracle Recreation Equipment Company carry only the following warranties:

1. LIMITED WARRANTY FOR AS LONG AS YOU OWN THE PRODUCT: Aluminum deck posts, steel deck posts, VersaLok® fastening system, cast aluminum parts, and stainless steel hardware.
2. LIMITED FIFTEEN (15) YEAR WARRANTY: All rigid steel playground components, decks, steps, and weldments, rotationally molded and sheet plastic components, plastic lumber, roof panels, and stainless steel slides, except as otherwise specified below.
3. LIMITED TEN (10) YEAR WARRANTY: Fabric shade steel frames, and Shadesure™ and Colourshade FR fabrics (Note Exception: Limited Five (5) Year Warranty on Shadesure™ fabrics in colors Red, Yellow, Electric Purple, Zesty Lime, Cinnamon, and Olive.)
4. LIMITED EIGHT (8) YEAR WARRANTY:
   - Fiberglass signage, accessible swing seats, precast PolyFiberCrete or precast concrete products.
   - Play Terrain Synthetic Turf safety surfacing against deterioration of specified attenuation performance and appearance.
   - Integrated shade fabric and components against rot, UV deterioration and defects in materials and workmanship (Note Exception: Limited Three (3) Year Warranty for fabric in shades of red).
5. LIMITED FIVE (5) YEAR WARRANTY:
   - Heavy duty diamond barrier mesh and Kidrox™ Climbing Rocks.
   - Mira-Therm™ PVC coating and PE coating against cracking or peeling.
   - Park and Site Amenities (i.e. benches, tables, trash receptacles, etc.).
   - GFRP (Glass Fiber Reinforced Polymer) Products.
   - Steel core cable nets and rope fittings and connections (Note Exception: Warranty does not cover normal wear and tear such as fraying or facing of cable coating).
6. LIMITED THREE (3) YEAR WARRANTY: Flexible belting, plastic border timbers and accessories, and electronic panel speakers, sound chips, and circuit boards.
7. LIMITED ONE (1) YEAR WARRANTY:
   - Slashproof Swing Seats, 360° Bucket Tot Swing Seats, and Tuff Net no climbing mesh.
   - Pool slide support structures, stairways, landings and railings.
   - All other products, components and custom pieces that are not specifically listed above, including, without limitation, all moving parts, such as swing hangers and bearings, swivels, chains, whirls, springs and flexible components, and all high wear items, such as trolleys, cables, wheels, and bumper stops related to rail and cable ride products.

BUYER'S REMEDY: If any products prove defective or non-conforming under normal use and within the above-prescribed warranty periods and material categories, Buyer must promptly notify Miracle in writing at 878 E. Hwy 60, Monett, MO 65708 USA. Miracle does not warranty that any particular color will be available for any period of time, and reserves the right to discontinue any color for any reason, without recourse by the Purchaser or Owner of the discontinued color. Miracle may elect to inspect the alleged defect at Buyer's site or at Miracle's facility. Buyer shall not return products to Miracle unless authorized by Miracle to do so. Authorized returns must be properly packaged and shipped prepaid and insured, at Buyer's expense. Upon verification of warranty coverage, Miracle may elect, in its sole discretion, to repair defective or non-conforming products, or replace them by delivering products or part(s) of similar functionality free of charge to the site. Miracle's limited warranties do not cover the cost of labor to remove defective or non -conforming part(s) or to install repaired or replacement part(s). By use of these limited warranties, Buyer accepts their terms and limitations, and waives any rights it would otherwise have to claim or assert that such warranties fail of their essential purpose. Buyer agrees that venue for any court action to enforce these limited warranties shall be in Barry or Greene Counties in the State of Missouri.

LIMITATIONS: All warranty periods begin on the date of Miracle's invoice. Repaired and/or replacement part(s) are warranted only for the balance of the original limited warranty period. Warranties extend only to the original Buyer/end user for products purchased from Miracle or a Miracle authorized reseller, and are not transferrable.

Warranties apply only to Miracle products that are erected and installed in conformance with Miracle's installation instructions, and that are maintained and inspected in conformance with Miracle maintenance and operational instructions.

Warranties specifically do not cover Miracle products:

- for cosmetic damage or flaws occurring under normal use, such as surface scratches, minor chips, hairline cracks, dents, marring, efflorescence, color fade (except for shade fabric as noted above), discoloration, corrosion/rust, fraying, or warping of recycled plastic lumber;
- that have been modified, altered, or repaired by unauthorized third parties;
- that have not been used as designed or intended, or misused;
- to which non-Miracle parts have been added or substituted;
- that have been removed from their original location and re-installed elsewhere, without pre-approval by Miracle;
- or that have been damaged due to excessive wear and tear, vandalism, abnormal use, abuse, negligence, environmental factors (such as wind-blown sand, salt spray, or airborne emissions from industrial sources), extreme weather (such as hail, flooding, lightning, tornados, sandstorms, earthquakes, or wind storms), and acts of God.

THE FOREGOING LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY FOR SELLER'S PRODUCTS, AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT. SELLER SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE, AND ANY IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING OR PERFORMANCE OR TRADE USAGE. SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, OR ANY LOSS OF REVENUE, PROFIT OR USE, ARISING OUT OF A BREACH OF THIS WARRANTY OR IN CONNECTION WITH THE SALE, INSTALLATION, MAINTENANCE, USE, OPERATION OR REPAIR OF ANY PRODUCT. IN NO EVENT WILL SELLER BE LIABLE FOR ANY AMOUNT GREATER THAN THE PURCHASE PRICE OF A DEFECTIVE PRODUCT.

Prices are subject to change without notice and are exclusive of installation, surfacing, transportation, insurance, taxes, license fees, customs fees, duties, premiums, fees, and other changes.

Miracle

878 E Highway 60 / Monett, Missouri, USA 65708 / Miracle-Recreation.com

USA 888-458-2752 **CANADA** 866-516-0245 **INTERNATIONAL** +1 417-235-6917

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BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Director of Public Works
Maziar Bozorginia, City Engineer
Jonathan Woo, Assistant Engineer

TITLE: **ACCEPTANCE OF THE PREQUALIFIED LIST OF FIRMS FOR ON-CALL MATERIAL TESTING AND SPECIAL INSPECTION SERVICES FOR VARIOUS CITY PROJECTS**

RECOMMENDATION:
Adopt a resolution accepting Consolidated Engineering Laboratories, RES Engineers Inc., Apex Testing Laboratories Inc., Inspection Services, Inc., Twinning, and Bay Area Geotechnical Group (BAGG Engineers) as the prequalified firms to provide On-Call Material Testing and Special Inspection Services for various capital projects.

FISCAL IMPACT:
There is no fiscal impact associated with this action. Each CIP Project incorporates budget for material testing and special inspections based on project type and specific requirements. The current CIP budget has sufficient funds to cover On-Call Material Testing and Special Inspection Services.

STRATEGIC ELEMENT:
This action supports the Infrastructure and Environment, and the Healthy Communities and Public Safety elements of the Strategic Plan.

BACKGROUND:
Construction Material Testing is the testing of materials used to construct new infrastructure or retrofit/repair existing infrastructure. Material testing can involve the investigation of soils, concrete, asphalt, steel, masonry, and timber by doing various tests, either in the field or in the laboratory, to ensure the integrity and the safety of the material based on AASHTO Materials Reference Laboratory Standards (AMRL), California Division of State Architect's Office Standards (DSA), Concrete and Cement Reference Laboratory Standards (CCRL), California Department of Transportation (Caltrans) Standards, any many more standards.

A Special Inspection is the monitoring of materials, installation, fabrication, erection and placement of components and connections that require special expertise that are critical to the structural integrity of a building or infrastructure. Special inspections include reinforced concrete, structural steel welding, structural masonry, structural steel and high strength bolting, spray applied fireproofing, non-destructive testing of structural steel welds, density testing of structural fills using Nuclear Density Gauges, and many more. Special inspectors who perform the above inspections ensure that they comply with the International Code Council (ICC) Standards, American Welding Society (AWS) Standards, American Concrete Institute (ACI) Standards, DSA Standards, Caltrans Standards, and many more.

Material Testing and Special Inspection services are necessary expenditures and are an important piece of the project construction. A quality inspection, on-field testing, and testing laboratory will assist with engineering decisions, reduce the risk of construction errors down the line, and ultimately reduce the risk of potential lawsuits and insurance claims.

DISCUSSION:
On Tuesday, July 20, 2021, the City released a request for qualification (RFQ) for On-Call Material Testing & Special Inspection Services. The City received a total of twelve (12) Statement of Qualifications (SOQs) on Tuesday, August 10, 2021. The qualified firms are listed below:

Achievement Engineering Corp.	Geocon Consultants, Inc.
Apex Testing Laboratories, Inc.	Inspection Services, Inc.
Applied Materials & Engineering, Inc.	Ninyo & Moore
BAGG Engineers	RES Engineers, Inc.
Consolidated Engineering Laboratories	Smith-Emery San Francisco
Construction Testing Services	Twinning, Inc.

Public Works staff reviewed the submitted proposals based on qualifications, experience, demonstrated knowledge and capabilities, understanding of the scope of work and proposed approach. Although all met the requirements of the request, from the above-mentioned criteria it was determined that the following firms were the most qualified to provide the City services: Consolidated Engineering Laboratories, RES Engineers Inc., Apex Testing Laboratories Inc., Inspection Services, Inc., Twinning and Bay Area Geotechnical Group (BAGG Engineers). Staff recommends accepting these prequalified firms for On-Call Material Testing and Special Inspection Services.

ATTACHMENTS:
Resolution

Resolution No. C-2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY TO ACCEPTING THE PREQUALIFIED LIST OF FIRMS FOR ON-CALL MATERIAL TESTING AND SPECIAL INSPECTION SERVICES FOR VARIOUS CITY PROJECTS

WHEREAS, on Tuesday, July 20, 2021, the City released a request for qualifications (RFQ to identify three qualified professionals to provide on-call material testing and special inspections services; and

WHEREAS, the City received twelve (12) Statement of Qualifications (SOQs) on Tuesday, August 10, 2021.

WHEREAS, after careful review and consideration of the proposals, it was determined that Consolidated Engineering Laboratories, RES Engineers Inc., Apex Testing Laboratories Inc., Inspection Services, Inc., Twinning and Bay Area Geotechnical Group (BAGG Engineers) were the size (6) best qualified firms to provide On-Call Material Testing and Special Inspection Services for various project for the City of Half Moon Bay.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby accepts the prequalified list of firms for on-call material testing and special inspection services for various City projects.

****

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of October, 2021 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

_____
Jessica Blair, City Clerk

APPROVED:

_____
Robert Brownstone, Mayor

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Maziar Bozorginia, City Engineer
Jonathan Woo, Assistant Engineer

TITLE: **AMENDMENT OF CITYWIDE TRAFFIC REGULATIONS FOR EMERGENCY ACCESS AND SAFETY ON CHESTERFIELD AVENUE AND PABLO COURT/ARROYO LEON DRIVE**

RECOMMENDATION:
Adopt a resolution amending Resolution No. C-05-11 (Citywide Traffic Regulations) to incorporate a fire lane/turnaround on Chesterfield Avenue east of St. James Avenue and a red-curb at the intersection of Pablo Court and Arroyo Leon Drive.

FISCAL IMPACT:
There is minimal fiscal impact to incorporate the recommended changes. Red-curb markings and accompanying signage are part of the City's regular maintenance program and will be completed by staff. It is anticipated the approximate cost of the improvements including labor is less than $2,000 which is contained within the adopted Public Works operations budget.

STRATEGIC PLAN:
This project supports the Infrastructure and Environment and the Healthy Communities and Public Safety Elements of the Strategic Plan.

BACKGROUND:
Resolution No. C-05-11 was approved by the City Council to establish Citywide Traffic Regulations which regulate and allow enforcement of limited time parking hours, no parking zones, disabled parking, passenger loading and unloading zones, stop signs, and to enable the City to maintain digital records of all City approved traffic regulations. The Citywide Traffic Regulations were further amended by Resolution No. C-2017-89 adding new designated red curbs on Kelly Avenue and white curbs on Church Street.

The Citywide Traffic Regulations identify four general types of parking zones: (1) no-parking zones, (2) time-limited parking zones, (3) loading zones, and (4) disabled-parking zones for the physically challenged. Red zones are no-parking zones, where parking is not allowed at any time. Red means no stopping, standing, or parking at any time, except that a bus may stop in a red zone marked or signed as a bus zone.

DISCUSSION:
On August 25, 2021, a meeting of the traffic safety group which includes the Community Development Department, Public Works, California Highway Patrol, San Mateo County Sheriff and CalFire met to discuss various requests and areas of concern related to traffic regulation and discussed the following items.

Chesterfield Avenue is a dead-end road that has a 50-foot-wide right-of-way with unregulated parallel parking along both the north and the south curbs. The Coastside Fire Protection District has requested for a fire turnaround on Chesterfield Avenue east of St. James Avenue. Per the 2001 California Fire Code, dead-end roads exceeding 150 feet shall be provided with a turnaround. To create the fire lane/turnaround, 80 feet on the northern side of Chesterfield Avenue east of St. James Avenue is marked with red-curb and appropriate signage (as shown in attachment 2). With the implementation of this fire turnaround, emergency response vehicles will have better access and space to maneuver in and out of Chesterfield Avenue. This improvement was recommended by the Fire Marshall and has been installed and staff is asking for formal approval through this report.

Both Pablo Court and Arroyo Leon Drive have 50-foot-wide rights-of-way with parallel parking along the streets including the curvature of the corners of Pablo Court. This has caused safety concerns and requests by residents for staff to address the lack of sight distance when making a turn into and out of Pablo Court. By painting red curb over a total of 95 feet located at the northwestern and northeastern corners at the intersection of Pablo Court and Arroyo Leon Drive, better visibility will be provided for motorists, cyclists, and pedestrians in this residential area (as shown in attachment 2). Staff, including the traffic safety group, is recommending the approval of the listed traffic regulations.

ATTACHMENTS:
1. Resolution
2. Site Maps

Resolution No. C-2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AMENDING THE CITYWIDE TRAFFIC REGULATIONS RESOLUTION NO. C-05-11 TO INCORPORATE RED CURBS/FIRE LANES ON MINOR PORTIONS OF CHESTERFIELD AVENUE AND PABLO COURT/ARROYO LEON DRIVE

WHEREAS, the City of Half Moon Bay adopted Resolution C-05-11 (Citywide Traffic Regulations) on February 1, 2011 consolidating past traffic regulations and certain new regulations; and,

WHEREAS, City staff recommends amending the Citywide Traffic Regulations by adding red paint curb parking restrictions/fire turnaround access eliminating four (4) unregulated parking spaces on Chesterfield Avenue east of St. James Avenue due to the Coastside Fire Protection District's request for a fire turnaround due to the length of the dead-end road; and,

WHEREAS, City staff also recommends amending the Citywide Traffic Regulations by adding red paint curb parking restrictions eliminating five (5) unregulated parking spaces on the northwestern and northeastern corners of the intersection of Pablo Court and Arroyo Leon Drive.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby approves and amends the Citywide Traffic regulations as follows:

1. Designate a red curb/fire lane parking restriction over 80 feet on the northern side of Chesterfield Avenue east of St. James Avenue; and,

2. Designate a red paint curb parking restriction over 95 feet on the northwestern and northeastern corners of the intersection of Pablo Court and Arroyo Leon Drive.

Traffic Regulations at Chesterfield Avenue and at the intersection of Pablo Court and Arroyo Leon Drive will become effective upon installation of required red curb markings and/or signage.

****

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of October, 2021 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

_____
Jessica Blair, City Clerk

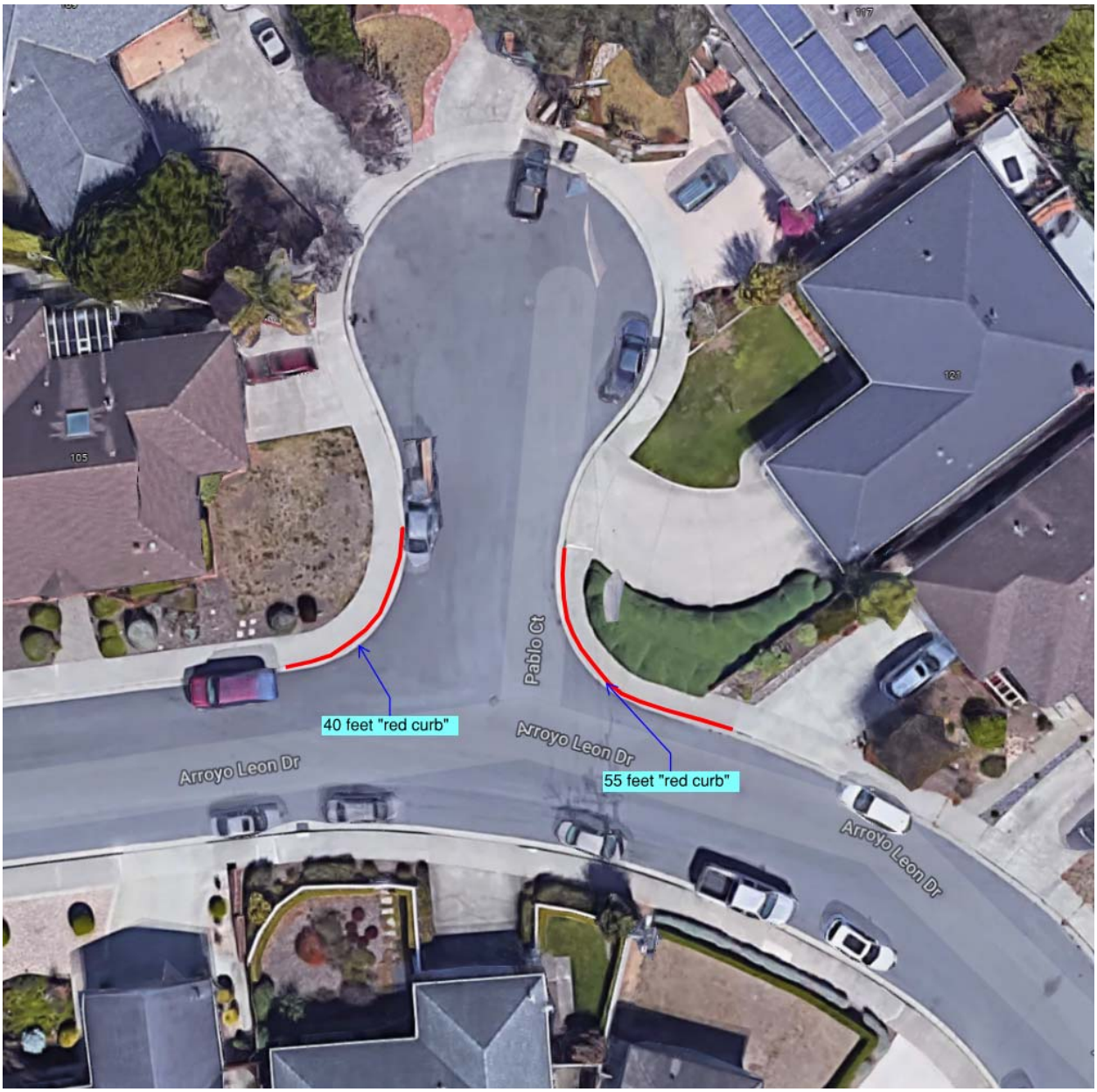
APPROVED:

_____
Robert Brownstone, Mayor

CHESTERFIELD AVENUE



PABLO COURT/ARROYO LEON DRIVE



BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

FROM: Bob Nisbet, City Manager

TITLE: **APPROVE CITY'S RESPONSE TO THE JULY 27, 2021 GRAND JURY REPORT ENTITLED "BUILDING GREATER TRUST BETWEEN THE COMMUNITY & LAW ENFORCEMENT VIA THE RACIAL AND IDENTITY PROFILING ACT"**

RECOMMENDATION:
By motion, authorize the Mayor to sign and submit a letter of response to the July 27, 2021 Grand Jury Report titled "Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act".

FISCAL IMPACT:
There is no fiscal impact associated with responding to the Grand Jury Report.

STRATEGIC ELEMENT:
This action supports the Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:
The Grand Jury issued a report on July 27, 2021 on implementation of the Racial and Identity Profiling Act (RIPA) passed as AB 953, which was passed in 2015. The San Mateo County Grand Jury report is included as Attachment 1.

DISCUSSION:
As required by the San Mateo County Civil Grand Jury, each City in San Mateo County, the San Mateo County Sheriff's Office, and one law enforcement special District (Broadmoor) are obligated to respond to the Findings and Recommendations contained in the report by October 27, 2021. Attachment 2 includes the City's draft letter of response.

The purpose of the report, or the "Issue" as summarized in the report is as follows:

> California enacted the Racial and Identity Profiling Act in 2015 (RIPA Assembly Bill 953), to highlight one of the more serious problems that can obstruct effective and fair law enforcement: implicit bias and racial and identity profiling. By requiring "stop data," be documented and reported, law enforcement agencies will gain a tool to improve racial and identity awareness in law enforcement.
>
> Are the San Mateo County Law Enforcement (LEAs) ready to collect and report the RIPA

stop data?

Will the LEAs use the data to build trust within the community and improve their departments?

The City generally concurs with the Grand Jury report. However, since the City contracts with the Sheriff for law enforcement services, seven of the eight recommendations do not pertain to the City.

ATTACHMENT:

1. San Mateo County Grand Jury Report "Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act"
2. Response Letter to San Mateo Grand Jury

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

NEAL TANIGUCHI
COURT EXECUTIVE OFFICER
CLERK & JURY COMMISSIONER

(650) 261-5066
FAX (650) 261-5147
www.sanmateocourt.org

July 27, 2021

City Council
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Re: Grand Jury Report: "Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act"

Dear Councilmembers:

The 2020-2021 Grand Jury filed a report on July 27, 2021 which contains findings and recommendations pertaining to your agency. Your agency must submit comments, within 90 days, to the Hon. Amarra A. Lee. Your agency's response is due no later than October 27, 2021. **Please note that the response should indicate that it was approved by your governing body at a public meeting.**

For all findings, your responding agency shall indicate one of the following:

13. The respondent agrees with the finding.

14. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Additionally, as to each Grand Jury recommendation, your responding agency shall report one of the following actions:

25. The recommendation has been implemented, with a summary regarding the implemented action.

26. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

27. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.

28. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

Kindly submit your responses in ALL of the following formats:

19. **Responses to be placed on file with the Clerk of the Court by the Court Executive Office.**

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

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

20. **Responses to be placed at the Grand Jury website.**

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

21. **Responses to be placed with the clerk of your agency.**

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

For up to 45 days after the end of the term, the foreperson and the foreperson's designees are available to clarify the recommendations of the report. To reach the foreperson, please call the Grand Jury Clerk at (650) 261-5066.

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

Very truly yours,

Neal Taniguchi
Court Executive Officer

Enclosure

cc: Hon. Amarra A. Lee
David Silberman

BUILDING GREATER TRUST BETWEEN THE COMMUNITY & LAW ENFORCEMENT VIA THE RACIAL AND IDENTITY PROFILING ACT

ISSUE

California enacted the Racial and Identity Profiling Act in 2015 (RIPA, Assembly Bill 953), to highlight one of the more serious problems that can obstruct effective and fair law enforcement: implicit bias and racial and identity profiling. By requiring "stop data," be documented and reported, law enforcement agencies will gain a tool to improve racial and identity awareness in law enforcement.

Are San Mateo County Law Enforcement Agencies (LEAs) ready to collect and report the RIPA stop data? Will the LEAs use the data to build trust within the community and improve their departments?

SUMMARY

Professor Paul Butler of Georgetown University Law Center in an NPR interview shared:

> In my class at Georgetown, I have a real-life police officer come and talk to my students about what it's like to be a cop in D.C. And to demonstrate how much power he has, he plays a game with the students where he invites them to come on a ride-along, sit in the back seat of his car for a night, and the game is called "**Pick That Car**." And he tells the student, **pick any car you want on the street, and I'll stop it. He's a *good* cop. He waits until he finds a legal reason.** But he says that he can follow any car for four or five minutes, and he'll find a reason. There are so many traffic infractions that any time you drive, you commit one. And **that gives police an extraordinary amount of power**, and we know that they selectively use this power against Black and brown people.[1]

Peace officers[2] have a great deal of individual discretion on who they stop. And, as is true of all humans, they have implicit biases. Addressing implicit bias is key to addressing racism, reducing inequities in policing, and helping to eliminate needless or unwarranted peace officer-initiated

[1] NPR Interview with Paul Butler, April 16, 2021, https://www.npr.org/transcripts/987956420 (emphasis added)

[2] The terms peace officer and police officer are used interchangeably in this report. The RIPA Board prefers "peace officer."

shootings.[3] The connection between racism and implicit bias is well documented,[4] as is the fact that racism is present at individual and institutional levels.[5]

California's 2015 Racial and Identity Profiling Act, AB 953, seeks to address potential racial and identity profiling by peace officers.[6] RIPA requires law enforcement agencies (LEAs) to collect data on every stop[7] and capture the officer's *initial perception* of the people stopped. This data can help identify whether one demographic group is being stopped and searched more frequently than others due to implicit biases. The data collection requirement began in 2018 for the State's largest LEAs and expanded each year to the next largest LEAs. Every LEA in the County must collect stop data starting January 1, 2022 and submit stop data to the California Department of Justice (CA DOJ) annually, starting April 1, 2023.

The RIPA Advisory Board (RIPA Board) publishes an annual report examining the stop data and complaint data collected in the prior year. The report notes problems, shares successes, and offers informed recommendations on preventing and addressing racial and identity profiling. The report is released to the public at the end of the year or start of the next year. Thus, there is a significant lag time between the data collection and the RIPA Board report. Accordingly, the 2021 report, issued in January of this year, covers the stop data from 2019. If an LEA submits data identifying a potential problem but takes no action until the Board report is issued, it will be a reaction to the data versus a proactive response by the LEA in a timelier fashion.

For this Grand Jury report, all seventeen of the County's LEAs were surveyed and subsequently interviewed to ascertain their progress and plans for:

- RIPA data collection and reporting;
- using insights gained from the RIPA data to improve the operation of their departments by combating implicit bias in policing; and

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[3] Racial Equity Tools, Act, Communicating, Implicit Bias
https://www.racialequitytools.org/resources/act/communicating/implicit-bias

[4] Gaertner S, Dovidio JF. "The aversive form of racism." In: Dovidio JF, Gaertner S, editors. *Prejudice, discrimination, and racism*. Orlando: Academic Press; 1986. pp. 61–89

[5] Jones CP. "Levels of racism: a theoretic framework and a gardener's tale." *Am J Public Health*. 2000;90(8):1212-1215. doi:10.2105/ajph.90.8.1212

[6] RIPA definition: "'[P]eace officer,' … is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting." (Gov. Code, § 12525.5 (g)(1).)

[7] RIPA definition: "'[S]top' means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control." (Gov. Code, § 12525.5 (g)(2).)

- pursuing greater community trust by implementing the RIPA Board's growing list of policing best practices.

Those best practices include "community-based accountability."[8]

> The Board encourages law enforcement agencies to partner with local community-based organizations or colleges or universities to help with analyzing the data that drives the implementation of these best practices.[9]

The Grand Jury found, as of the first quarter of 2021, two of the County's LEAs are ahead in preparing for RIPA data collection, others are on track and should be able to comply, and a few are lagging in implementation. The Grand Jury survey asked each LEA their "plans for RIPA recommendation: 'regularly analyze data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population.'" Their responses are summarized in the chart below:

[8] Racial & Identity Profiling Advisory Board, 2021, "Annual Report 2021," at p. 91, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2021.pdf

[9] 2021 RIPA Report Best Practices (ca.gov) https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf

What are your plans for RIPA recommendation: "regularly analyze data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population."

17 responses



The Grand Jury recommends that all LEAs, in collaboration with their governing bodies:

1. finalize, implement, and test departmental systems and processes to collect and analyze RIPA stop data;

2. *start* collecting RIPA stop data *as soon as possible,* including earlier than the mandatory data collection date, to gain time to test, validate, and improve processes, and begin evaluating the collected data to identify possible signs of biased-policing;

3. plan how to analyze the RIPA stop data to improve local policing activities by "regularly analyzing data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population;" and

4. evaluate and consider RIPA Board recommendations and peer-LEA examples of community engagement and transparency to build community trust and provide bias-free policing, sought by all stakeholders.[10]

[10] Stakeholders include local governance leaders (city/town councils, Boards of Supervisors), residents, local community leaders and organizers, to name a few.

GLOSSARY

Bias – prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair.[11]

Bias by proxy – "when an individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against."[12] The bias starts outside the agency.

BOS – Board of Supervisors, San Mateo County.

CAD – Computer Aided Dispatch; used by public safety agencies to dispatch public safety personnel and to respond to calls.

CA DOJ – California Department of Justice.

Contracting Entities – The Sheriff's Office "provides contract law enforcement services for the cities of Half Moon Bay, Millbrae, San Carlos … the towns of Portola Valley and Woodside, as well as for the Peninsula Corridor Joint Powers Board and the San Mateo County Transit District."[13] This report restricted itself to the contracting entities that are towns and cities.

County – San Mateo County.

Implicit Bias – The RIPA Board defines implicit bias as "the attitudes or stereotypes that affect a person's understanding, actions, and decisions in an unconscious manner."

LEA – Law Enforcement Agency – a police department or the County Sheriff's Office.

POST –The California Commission on Peace Officer Standards and Training (POST), established by the Legislature in 1959.

RIPA – The Racial and Identity Profiling Act of 2015, California Assembly Bill 953.[14]

RIPA Advisory Board – Racial and Identity Profiling Advisory Board, created by AB 953.

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[11] Unconscious Bias | diversity.ucsf.edu https://diversity.ucsf.edu/resources/unconscious-bias

[12] Racial & Identity Profiling Advisory Board, "2021 Best Practices," p. 3, available at Racial and Identity Profiling Advisory Board | State of California - Department of Justice - Office of the Attorney General https://oag.ca.gov/ab953/board

[13] San Mateo County Sheriff's Office. "Patrol Services." Undated. https://www.smcsheriff.com/patrol-services

[14] An act to add Section 12525.5 to the Government Code, and to amend Sections 13012 and 13519.4 of the Penal Code, relating to racial profiling.

Stop Data Collection System, the CA DOJ RIPA data input portal.

SMC – San Mateo County.

Stop – "means (1) any detention by a peace officer of a person; or (2) any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control."[15]

Stop data – the specific racial and identity data required to be collected under RIPA.

BACKGROUND

RIPA: The Racial and Identity Profiling Act (AB 953) & the RIPA Advisory Board

The 2015 Racial and Identity Profiling Act (AB 953) is designed to address potential racial and identity profiling by peace officers. Key provisions of RIPA:

1. required all LEAs in the State to collect peace officer *perceived* demographic and relevant data on all pedestrian and traffic stops and provide that data to the CA DOJ for public reporting and analysis purposes;

2. created the Racial and Identity Profiling Advisory Board (RIPA Board) to oversee RIPA implementation and guide LEAs on appropriate procedures, training and best practices; and

3. changed existing laws on the reporting of civilian complaints (Pen. Code, § 13012) and updated POST training guidelines.[16]

This report focuses on the first two provisions. The *annual* data collection requirement began with the State's largest LEAs, which submitted their initial data, covering the last half of 2018, to the CA DOJ in 2019. RIPA expanded each year to smaller LEAs each year. All County LEAs are required to start collecting RIPA data on January 1, 2022 and to submit the data to CA DOJ by April 1, 2023. The data collection focuses on implicit bias by capturing the officer's *initial perception* of the person's race, sex, gender identity, sexual preference, age, physical or mental handicap, and English fluency.

Unlike existing data on traffic citations, arrests, and other interactions, the focus of the RIPA data is on the officer's observation and *perception* of the stopped person's race and identity. AB

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[15] Cal. Govt. Code § 12525.5(g)(2)

[16] California DOJ webinar presentation "Reporting Stop Data for the Racial & Identity Profiling Act" for the California Police Chiefs Association. October 21, 2020.

953 also expanded and clarified the definition of racial and identity profiling as "the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description."[17]

The law specifically requires that "the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped."[18] RIPA also requires that *any detention* of a person by a peace officer, *or* any peace officer interaction with a person in which the officer conducts a search, including a consensual search, is recorded.[19] Thus, a traffic stop that only resulted in a warning also generates a RIPA data record, unlike previous practice where citations resulted in a record, but warnings did not.

In California there are two main types of local law enforcement agencies: first, police departments, which operate in cities and towns (or special districts) and are headed by a police chief. The police chief is hired by and reports to a city or town manager, who in turn are governed by a city or town council. The other LEA in a county is the county sheriff. A sheriff is elected by the county residents. The Sheriff does *not* report to the county board of supervisors. And a county board of supervisors is specifically barred from obstructing the "constitutionally and statutorily designated investigative … functions of the sheriff of the county…"[20]

The 19-member RIPA Board includes a wide range of stakeholders, representing law enforcement, academia, religious clergy, and the community.[21] Annually, the RIPA Board:

- analyzes the stop data information, by LEA;
- analyzes current law enforcement training;
- works in partnership with State and local law enforcement agencies to review and analyze racial/identity profiling policies/practices across geographic areas in California;

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[17] https://oag.ca.gov/ab953 The entirety of the new definition can be found in Penal Code section 13519.4, subdivision (e).

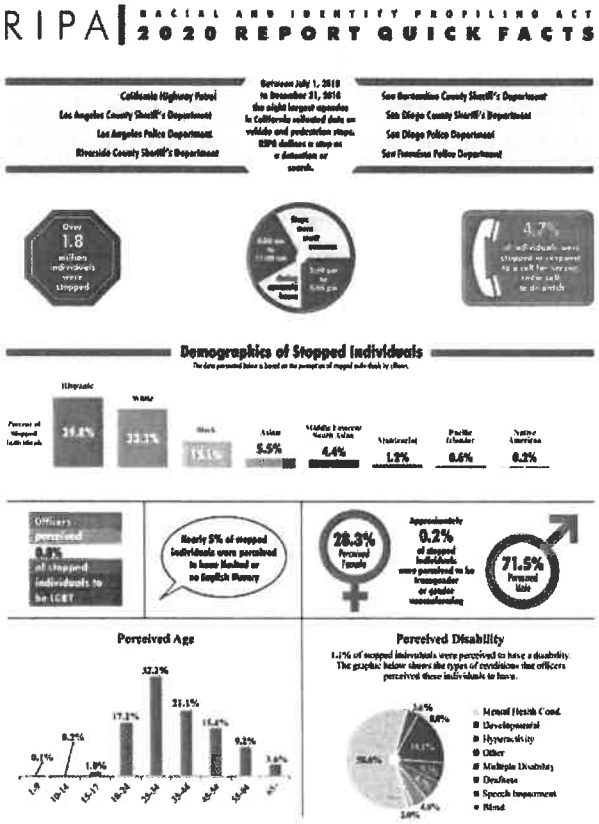
[18] Govt. Code §12525.5(b)(6)

[19] California DOJ webinar presentation "Reporting Stop Data for the Racial & Identity Profiling Act" for the California Police Chiefs Association. October 21, 2020.

[20] California Government Code Section 25303

[21] California Penal Code Section 13519.4(j)(2)

- makes policy recommendations for eliminating racial and identity profiling,[22] and
- publishes the following three reports:



- An Annual Report detailing the past and current status of racial and identity profiling,
- A Quick Facts document showing a statewide summary of the stop data (see Appendices F and G), and
- A Best Practices document[23] This Grand Jury report examines: 1) the status of local LEA preparation for compliance with the RIPA data collection and submission requirements, 2) LEA plans to use the data to improve their agency, and 3) LEA willingness to adopt RIPA Board recommendations and peer-LEA examples to build trust between their departments and the community.

To investigate their readiness to implement and utilize RIPA to identify and/or address bias and improve relationships between law enforcement and the communities it serves, the Grand Jury surveyed and followed-up with interviews of all seventeen LEAs in SMC. The aggregate results are available in the Discussion section.[24]

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[22] California DOJ webinar presentation "Reporting Stop Data for the Racial & Identity Profiling Act"

[23] RIPA Board Reports and Videos | State of California - Department of Justice - Office of the Attorney General

[24] As previously mentioned, the Grand Jury is not allowed to reveal information it obtained during interviews, or via the survey, in ways that might identify the source.

Implicit Bias

The RIPA Board defines implicit bias as "the attitudes or stereotypes that affect a person's understanding, actions, and decisions in an unconscious manner."[25] These biases could be favorable or unfavorable assessments, and they are activated involuntarily and without an individual's awareness or intention. Implicit biases differ from explicit biases, which are known to the individual and include biases that the individual may not be comfortable revealing.[26]

All humans have biases. Explicit bias is easier to identify and address, if people are willing to speak up and have a growth mindset.[27] Overt racism and racist comments are examples of explicit biases.[28]

Implicit bias affects our decision making, even when we are unaware of it. Multiple academic studies, dating back into the 1990s and repeated many times since, show that when an identical resume is sent to a large and diverse set of evaluators for a clearly defined job, a majority of evaluators – regardless of their own race, age, sex, etc. – offer the job to white males more often, and at a higher salary. The only difference is the candidate names on the resume. The researchers intentionally used names that are historically connected to a particular sex/gender, or race/ethnicity.[29]

Similarly, orchestras that recognize the problem of implicit bias switched to curtained live auditions, thus blinding the evaluator's view of the auditioning musician's visible race or gender. The result: more women and people of color were hired into nationally renowned orchestras.[30] A pop-culture acknowledgement of the role of implicit bias is seen in the TV show "The Voice," where the coaches conduct blind auditions of contestants.[31]

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[25] RIPA Board 2021 Report, p. 23.

[26] RIPA Board 2020 Report – Best Practices; see also Eberhardt 2020 Ted Talk.

[27] Great Schools Partnership, "Glossary of Education Reform, Growth Mindset" August 29, 2013, https://www.edglossary.org/growth-mindset/

[28] Lorie Fridell, "This Is Not Your Grandparents' Prejudice: The Implications of the Modern Science of Bias for Police Training," Translational Criminology, Fall 2013: 10-11, http://cebcp.org/wp-content/TCmagazine/TC5-Fall2013

[29] Steinpreis, R.E., Anders, K.A. & Ritzke, D. The Impact of Gender on the Review of the Curricula Vitae of Job Applicants and Tenure Candidates: A National Empirical Study. Sex Roles 41, 509–528 (1999). https://doi-org.stanford.idm.oclc.org/10.1023/A:1018839203698

[30] Orchestrating Impartiality: The Impact of "Blind" Auditions on Female Musicians, Claudia Goldin and Cecilia Rouse AMERICAN ECONOMIC REVIEW VOL. 90, NO. 4, SEPTEMBER 2000 (pp. 715-741)

[31] https://en.wikipedia.org/wiki/The_Voice_(American_TV_series)

Although we generally associate implicit bias in policing with racial biases, implicit bias can also be expressed in relation to non-racial factors such as gender, age, religion, or sexual orientation. As with all types of bias, implicit bias can distort one's perception and subsequent treatment either in favor of or against a given person or group. Although most police officers do not intentionally discriminate, we as a nation have been confronted with multiple episodes of officers relying on racial stereotypes in judging who to stop and search. Last year's heavily reported incidents of police violence show that implicit biases may unconsciously link African American motorists and pedestrians with crime or with a propensity towards violence or hostility. The result could explain a tendency for police to shoot unarmed black people at a higher rate than white people (per capita).[32]

What is Bias-Free Policing?

LEAs committed to bias-free policing provide services and enforce laws in a professional, nondiscriminatory, fair, and equitable manner. This keeps the community and officers safe and protected. It requires LEAs to recognize explicit and implicit biases can occur at individual and institutional levels, and a focused commitment to examining and eradicating both. This results in greater effectiveness of the LEA and builds mutual trust and respect with the diverse communities the LEAs serve.[33]

Why Stops Matter

A 2020 guidebook[34] for LEAs and stakeholders on RIPA data collection, analysis and response, prepared by New York University researchers, notes: "Despite the prominence of stops, there is much we still do not know about them, including their efficacy in achieving public safety and their impact on the public. These questions, asked by law enforcement executives and communities alike, go largely unanswered because the data needed to answer them are lacking."[35] This research indicates that vehicle stops and pedestrian stops disproportionately burden non-white communities and the operational realities of stops—particularly vehicle stops—pose dangers both to those stopped and to law enforcement officers.[36] This research concludes that collecting and analyzing stop data can shed light on all of these issues.[37] By

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[32] The Stanford Open Policing Project, https://openpolicing.stanford.edu

[33] RIPA Board 2020 Report – Best Practices, p.2

[34]Pryor, Marie, Phillip Atiba Goff, Farhang Heydari, and Barry Friedman. 2020. "*Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities.*" New York. https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

[35] Pryor, *Guidebook for LEAs*, ibid., at 7.

[36] Pryor, *Guidebook for LEAs*, ibid.

[37] Pryor, *Guidebook for LEAs*, ibid.

embracing stop data collection and analysis in a transparent way, law enforcement can realize a range of benefits, such as:

- obtaining concrete evidence about whether stops are achieving law enforcement and public safety objectives;
- providing a better understanding of how stops impact the community and whether certain groups bear a disproportionate burden from those stops;
- permitting agencies to better assess the conduct of individual officers; and
- building community trust through improved transparency and dialogue about policing practices.

Again, the only way to answer these questions is to collect and analyze data."[38]

RIPA data: What is collected? And why *perceived* identity information?

For each stop the officer will collect RIPA Data regarding the stop, the officer's perception of the person(s) stopped, and information about the officer. The 2021 RIPA Board report groups the information as shown in the table.[39]

Officer Reporting Requirements
Information Regarding Stop
1. Date, Time, and Duration 2. Location 3. Reason for Stop 4. Was Stop in Response to Call for Service? 5. Actions Taken During Stop 6. Contraband or Evidence Discovered 7. Property Seized 8. Result of Stop
Information Regarding Officer's Perception of Person Stopped

[38] Ibid.

[39] 2021 RIPA Board Annual Report, p. 21

Officer Reporting Requirements
1. Perceived Race or Ethnicity 2. Perceived Age 3. Perceived Gender 4. Perceived to be LGBT 5. Limited or No English Fluency 6. Perceived or Known Disability
Information Regarding Officer
1. Officer's Identification Number 2. Years of Experience 3. Type of Assignment

A full list of the fields for which data is collected is available in Appendix A.

The RIPA-recorded perception is intended to be the first one the officer has of the stopped person. For example, in a traffic stop of a car with tinted windows, or at night, the officer may not see the driver until they roll down the window. The perception is the one at that moment, when the officer first sees the driver.[40] Capturing perception allows implicit biases to be examined. It does not matter if the actual identity information differs; what counts is how the officer perceives the person and deals with them.

Data Integrity & Is Data Collection a Burden?

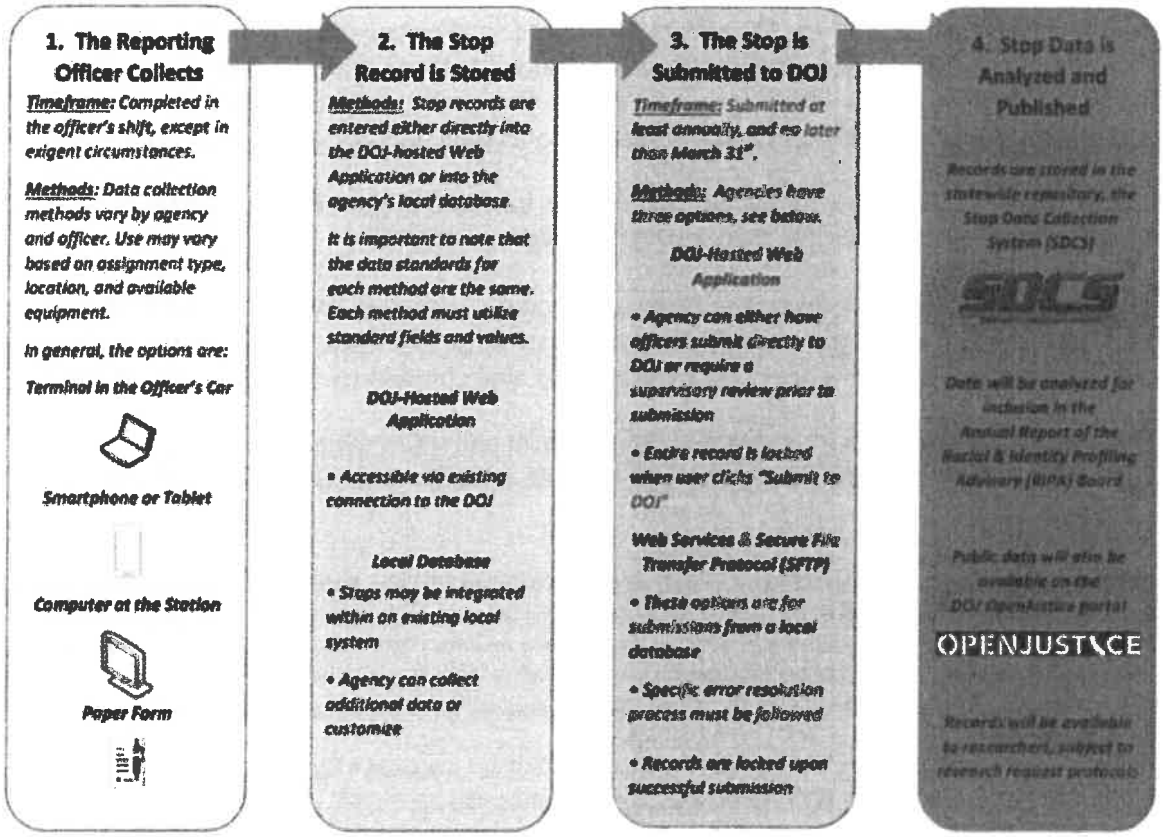
Any set of data is only as useful as the quality of its components. Incomplete and contradictory data must be minimized to make the data useful. Recognizing the importance of RIPA data integrity, the CADOJ produced a five-minute video on the subject in May 2019. RIPA – Data Integrity, available on YouTube.[41] A LEA that collects data without following the CA DOJ requirements will have its data rejected, requiring reexamination of the data and resubmission.[42]

How much time does it take to gather this valuable data? Experienced LEAs elsewhere in California have found that data collection, on average, only took three- to -five minutes per

[40] DOJ webinar, "Reporting Stop Data for the Racial & Identity Profiling Act (RIPA / AB 953)", slide 42 of 111.
[41] RIPA Data Integrity, California Department of Justice, May 2, 2019, available at https://youtu.be/F2evSclOFo0
[42] RIPA Stop Data Collection Stop Presentation, 2018, Slide 14 of 16

person stopped.[43] Private software vendors have created RIPA solutions for LEAs. See Appendix B for screenshots of one vendor's RIPA application.

The illustration below, from the 2019 RIPA Board report, illustrates the collection, submission, and analysis process:



RIPA Board Best Practices and Learning from Peer LEAs

The RIPA Board offers "policy recommendations for eliminating racial/identity profiling" via an annually published RIPA Board Best Practices Report. An outline of the 2020 and 2021 Best Practices Report is available in Appendix C.

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[43] Grand Jury Interviews.

The RIPA Board Best Practices Report includes recommendations for policies, training, and interactions with the community to eliminate "racial and identity profiling and improving diversity and racial and identity sensitivity in law enforcement."[44]

Many peer LEAs have begun implementing community advisory boards for community-based accountability and trust building, unrelated to RIPA. These include, but are not limited to, the University of California, Berkeley[45], Chula Vista[46], Davis[47], Walnut Creek[48], Fremont[49], Hayward[50], Salinas[51], and others. The RIPA Board notes: "For law enforcement agencies to fully practice accountability, the community must be included in those efforts to keep individual officers and the agency as a whole accountable. The Board will review avenues for community involvement, including community participation in oversight, advisory, or disciplinary boards."[52]

The RIPA best practices and Statewide LEA actions intended to promote transparency and trust building that are most relevant to the scope of this report include:

- **Accountability practices** to improve police and community relations composed of a comprehensive system which includes: data tracking and transparency, early intervention systems, supervisory oversight, clear policies, and community-based accountability.[53]

- Peer-LEA examples of community engagement and transparency, including use of **community advisory boards** as a mechanism to build community trust and provide bias-

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[44] Penal Code §13519.4 (j)(1)

[45] "Recommendation 15 states each campus would create independent advisory boards with representatives from the campus who can facilitate and enhance communication between the police department and the greater campus community as well as work collaboratively with the departments on issues involving campus safety and security" University of California, UC Berkeley, "Update On Campus Safety Task Force" March, 2021. https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/campus-safety/updates-on-campus-safety-task-forces.pdf

[46] Chula Vista Police Department. "Community Advisor Committee" Accessed May 2021. https://www.chulavistaca.gov/departments/police-department/programs/chief-s-advisory-committee

[47] Davis Police Department, "Community Advisory Board", (board formed in 2005), Accessed May 2021. https://www.cityofdavis.org/city-hall/police-department/administration/community-advisory-board

[48] Walnut Creek, City of. "Chief's Community Advisory Board." Undated. Accessed May 2021. https://www.walnut-creek.org/government/commissions-committees/chief-s-community-advisory-board

[49] Fremont Police Department. "Community Advisory Group (CAG)." Undated. https://www.fremontpolice.gov/about-us/office-of-the-chief-of-police/community-advisory-group

[50] https://www.hayward-ca.gov/your-government/boards-commissions/hpd-community-advisory-panel

[51] https://www.cityofsalinas.org/our-government/boards-commissions/police-community-advisory-committee

[52] 52 Racial & Identity Profiling Advisory Board, *2021 Annual Report*, p. 91,

[53] Racial & Identity Profiling Advisory Board, *2021 Best Practices*, p. 2, https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf?

free policing, sought by all stakeholders[54]. The 2021 RIPA Board notes: "13 of the 25 agencies surveyed indicated that they have a civilian review board. Of those agencies, five reported discussing the RIPA Board's findings with their civilian review boards."[55]

- **A Stand-alone Bias-free Policing Policy** which should: use clear language, including definitions of relevant terms; express the agency's responsibility to identify and eliminate racial and identity profiling; include references to relevant training that agency personnel receive on racial and identity profiling and bias; include components on encounters with the community, data analysis, accountability, and supervisory review; be easily accessible to both agency personnel and the public; and include cross references to other relevant agency policies on subjects such as civilian complaints, stops, use of force, training, and accountability.[56]

- **Processes to Address Bias by Proxy** which occurs "when an individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against."[57] The RIPA Board recommends that all LEAs adopt a policy to prevent bias by proxy or bias-based call by filtering out the biased information.

- **Civilian Complaints practices** - The RIPA Board has in- depth recommendations on how a LEA should handle complaints from members of the public so that they are not all dismissed as unfounded.[58]

- **Training on Bias** - The RIPA Board also makes recommendations related to Racial and Identity Profiling training. In California, the Commission on Peace Officers Standards and Training (POST) creates training programs and materials for use by LEAs Statewide. The RIPA Board specifically recommends that POST training: uses stop data findings from RIPA reports to examine the disparities between racial and identity groups to identify topic areas of concern for future course development; provides courses with deeper discussions on possible officer bias that leads to a stop, how the situation evolves during the stop, and communication skills to prevent stops from escalating; provides guidance and discussion about the legal implications and consequences of bias; connects recruitment academy training to field officer training and determines how implicit bias

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[54] Stakeholders include local governance leaders (city/town councils, Boards of Supervisors), residents, local community leaders and organizers, to name a few.

[55] RIPA Board 2021 Annual Report, p. 85

[56] RIPA Board 2021 Best Practices, *supra*, at p. 2

[57] RIPA Board 2021 Best Practices, *supra*, at p. 3

[58] RIPA Board 2021 Best Practices, *supra*, at p. 5

and racial and identity profiling and cultural awareness training are being applied; and, ensures that field training officers have up-to-date racial and identity profiling training.[59]

RIPA Stop Data Impact on New Legislation

RIPA data has triggered the creation of new legislation. For example, early in 2021, a California assemblyman proposed a change in the State's laws regarding jaywalking (AB-1238, 2021, Ting and Friedman).[60] The bill was prompted, in part, by RIPA data showing that African Americans were four and one-half times more likely to be ticketed for jaywalking than whites. A ticket for jaywalking can escalate into a violent confrontation with law enforcement.[61] On June 2, 2021, AB-1238, passed in the Assembly, it has moved to the State Senate.

DISCUSSION

Do SMC LEAs Have a Bias Problem?

It is easy to believe that biased policing is only a problem of big cities in other counties. Los Angeles, Oakland, Sacramento, San Francisco, and San Jose have all had publicized problems with documented episodes of their respective peace officers exhibiting biases in their interactions with civilians.[62]

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[59] RIPA Board 2021 Best Practices, *supra*, at pp. 4-5

[60] Bill Text - AB-1238 Pedestrian access. (ca.gov) https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1238

[61] Ting Proposes to Eliminate Jaywalking Tickets In California | Official Website - Assemblymember Phil Ting Representing the 19th California Assembly District (asmdc.org) https://a19.asmdc.org/press-releases/20210325-ting-proposes-eliminate-jaywalking-tickets-california

[62] Edwards, Ezekiel, "San Francisco Is a Hotbed of Illegal Race-Based Policing" San Francisco Is a Hotbed of Illegal Race-Based Policing | American Civil Liberties Union (aclu.org) 2018, https://www.aclu.org/blog/criminal-law-reform/reforming-police/san-francisco-hotbed-illegal-race-based-policing ; Louie, David, (April 10, 2015) "Report: SJPD has a big problem being racially biased," ABC, KGO-TV, https://abc7news.com/san-jose-police-department-sjpd-report-racial-bias/649558/; Eberhardt, Jennifer, "To end racial disparities in policing, we must look beyond the data" The Guardian, April 18, 2019, https://www.theguardian.com/commentisfree/2019/apr/17/race-policing-oakland-biased-jennifer-eberhardt; Bretón, Marcos, "'Implicit bias' replaces the 'R' word. This is how we explain cops killing black men." Sacramento Bee, April 8, 2018, https://www.sacbee.com/news/local/news-columns-blogs/marcos-breton/article208230624.html; Times Editorial Board, "Editorial: The more LAPD changes...", Los Angeles Times, May 28, 2021, https://www.latimes.com/opinion/story/2021-05-28/lapd-changes-reform-needed ; see also FiveThirtyEight, February 4, 2021, https://fivethirtyeight.com/features/the-biden-administration-wants-to-address-racial-bias-in-policing-what-cities-should-it-investigate/

When asked, SMC LEAs generally do not think they have a problem with biased policing, based in part, on how few public bias-complaints they get.[63] Few departments have more than a small handful of complaints annually alleging any type of bias. All have both policies and training designed to eliminate biased policing.

Analysis of data shows that speaking up or complaining to authorities such as the local police are not reliable indicators of bias-free policing. For example, in Los Angeles, from 2012 to 2014, there were 1,356 allegations of biased policing. None of the complaints were upheld.[64]

"AB 953 expanded the type of complaints that agencies are required to report to the Department of Justice, as well as the specific data to be reported for complaints."[65] Complaint data for the County's LEAs shows that while there were a total of 43 racial or identity profiling complaints reported during 2016 to 2019, none were sustained. The complaints were examined and resolved by the LEAs. (See Appendix H).

Are the County's LEAs prepared for RIPA?

As previously mentioned, the RIPA timeline for County LEAs requires official data collection to begin on January 1, 2022, and submission to the CA DOJ by April 1, 2023. In order to comply, each individual LEA must have processes, technology, training, and system debugging completed before the end of 2021.

Are County LEAs prepared for RIPA data collection and submission? Do they have qualified personnel to analyze and use the data? How will they use the data for greater local transparency, training, and trust building? These are the questions this investigation set out to answer. The data for all local LEAs is based on the Grand Jury's survey[66] and subsequent interviews with the leadership of all seventeen LEAs that took place in January and February 2021. The LEAs will have moved ahead with specific RIPA-related plans since the interviews.

The survey and interview results indicate levels of preparedness across LEAs that fall along a classic bell curve.[67] Some LEAs began collecting RIPA stop data in early 2021. The majority

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[63] Grand Jury Interviews.

[64] Mather, Kate. "LAPD found no bias in all 1,356 complaints filed against officers." Los Angeles Times, Dec. 15, 2015.

[65] AB 953: The Racial and Identity Profiling Act of 2015 | State of California - Department of Justice - Office of the Attorney General https://oag.ca.gov/ab953#complaints

[66] See Appendix D for the survey form.

[67] Grand Jury Confidentiality rules dictate that the identity of individuals interviewed is kept confidential.

have begun looking at solutions to comply, and a few are lagging and relying on other LEAs to lead the way. As of the first quarter of 2021:

- Burlingame announced it would begin collecting RIPA data early.[68]
- Menlo Park indicated it purchased the necessary software.[69]
- Most LEAs had either decided on their technology platform for RIPA data collection or had narrowed their approach to two or three alternatives.
- A few of the LEAs had barely begun their RIPA preparations.
- At least one of the contracted entities did not know about RIPA nor that it will be able to request RIPA data from the Sheriff.[70]
- Some LEAs were confused and believed the County Dispatch System would collect the RIPA data. The dispatch system is part of the existing traffic citation writing procedure. The Grand Jury did not find any technology platforms that rely on County-level dispatch systems for RIPA data collection and question the efficacy of such a system.
- None of the LEAs had a firm plan for what personnel will be needed to ensure accurate data collection and analysis. Some thought they might add the task to the existing command group while others indicated a possible need for a data analyst. For the smaller departments, sharing one data analyst may make sense.

While each LEA is responsible for its own RIPA compliance, the LEAs in SMC can consult each other through the San Mateo Police Chiefs & Sheriff Association. The group meets monthly and has a RIPA Subcommittee.[71]

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[68] Walsh, Austin. "Police address policy reforms in Burlingame - Chief details variety of efforts department has adopted in the wake of George Floyd's killing." The Daily Journal. December 28, 2020. https://www.smdailyjournal.com/news/local/police-address-policy-reforms-in-burlingame/article_4ff4a732-48ca-11eb-9dcf-f3b429ebbeb7.htm

[69] Menlo Park City Manager's Office. "Staff Report 20-150-CC: Add institutionalized bias reform as a top priority for City staff in 2020-21 and provide input to staff on how to address police" for July 16, 2020 meeting. https://menlopark.org/DocumentCenter/View/25679/F2-20200714-CC-Institutionalized-bias-reform

[70] Grand Jury interviews.

[71] Grand Jury interviews.

Costs

The range of technology solutions for RIPA compliance include using existing systems without the purchase of new software or hardware, using the CA DOJ option which requires human labor, or acquiring technology for budget and time-friendly solutions.

City and town LEAs anticipated initial *direct* costs to range from $0 - $30,000. Some had existing systems which offer RIPA add-ons as part of the annual software fee, others expected to purchase either an add-on or standalone solution. None expressed budgetary concerns.[72]

The County's largest LEA, the Sheriff's Office, has designated patrol services for the unincorporated parts of the county. The Sheriff's Office also provides contracted law enforcement services for the cities of Half Moon Bay, Millbrae, San Carlos, for the towns of Portola Valley and Woodside, as well as for the Peninsula Corridor Joint Powers Board and the San Mateo County Transit District.[73] Its preliminary estimate of RIPA costs range from $15,000 to $250,000, depending on the technology platform.

There are also *indirect* costs involved in complying with RIPA. They include:

- basic startup costs of any new program: installation of software and debugging, which may, or may not, be included in the direct costs mentioned above;
- training of officers on the use of the software, the purposes of RIPA, RIPA compliant data collection, etc.;
- personnel costs to audit the data collection to ensure, at a minimum, accurate data collection and reporting; and
- resources required to regularly analyze and use the data for improving bias-free policing.

Technology cost miscalculations can occur as evidenced by the experience of larger agencies. For example, a 2018 San Diego Police Department news report shared that the Peace Officers Research Association of California and the California State Sheriffs' Association had raised concerns that the RIPA requirements, which began in July 2018 for the State's largest agencies, would be expensive. In February 2017, then-Police Chief Shelley Zimmerman mentioned potential RIPA-related expenses to the city council. Later in May, council members budgeted an additional $200,000 to cover the cost of implementation. SDPD Lieutenant Jeff Jordon said the money was intended to pay for the development of new tools to meet the mandate, but the agency instead received a free mobile application and program from the San Diego County Sheriff's Department. Ultimately, the department spent $6,228, Jordon said, and the remaining

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[72] Grand Jury interviews.

[73] https://www.smcsheriff.com/index.php/patrol-services

$193,772 went back to the city's general fund at the end of the fiscal year in June, a mayor's office spokesman confirmed.[74]

To prevent such miscalculations and deliver on community and local-governance expectations, SMC LEAs would benefit from early planning and consultation with peer-LEAs that are leading in this effort.

RIPA's Bias Free Policing Opportunity

The RIPA Board recommendations map out a path for local LEAs to deliver on the aspirations of bias-free -policing. The 2020-Summer-of-Race-Reckoning and ongoing national coverage of the subject[75] reinforces the need for racial equity in policing everywhere, including San Mateo County.

The Annual RIPA Report summarizes and publishes stop data findings along with recommendations to improve bias-free-policing. Local LEAs, in collaboration with their city/town councils and residents, can review their local RIPA data. A quarterly review, engaging internal and external stakeholders, can identify opportunities for addressing potential biases and course-correcting before the Annual RIPA Report is published. The appended table below summarizes: 1) legislated requirement **(bold),** and 2) RIPA Board intent and recommendations (italics).

RIPA Components	Understanding the RIPA Opportunity for Moving Toward Bias-Free Policing	Suggestions for Implementing RIPA[76]	Delivering on RIPA goal of Bias-Free-Policing
Stop Data	**Collection & Reporting to CA DOJ (legislated)**	*Regularly analyzing RIPA data at the LEA level*	*Training and mentoring officers and dispatch teams; evolving policies, etc.*

[74] Mento, Tarryn. "SDPD Didn't Need Additional $200K To Implement New Anti-Racial Profiling Law." KPBS. December 20, 2018. https://www.kpbs.org/news/2018/dec/20/sdpd-didnt-need-additional-200k-implement-new-anti/
[75] Chang, Ailsa, Rachel Martin, Eric Marrapodi. "Summer of Racial Reckoning." KQED. August 16, 2020. https://www.npr.org/2020/08/16/902179773/summer-of-racial-reckoning-the-match-lit
[76] Grand Jury Interviews

RIPA Components	Understanding the RIPA Opportunity for Moving Toward Bias-Free Policing	Suggestions for Implementing RIPA[76]	Delivering on RIPA goal of Bias-Free-Policing
Technology Platform	*Easy plug-in for quick data collection*	*Ongoing and auto-auditing*	*Sophisticated, regular reporting at LEA level for local management via neighborhoods, etc.*
Training front line officers for data collection; Training Supervisors for data collection & auditing	*A mindset shift whereby all LEA teams understand the need to address implicit bias aka perceptions. Noting: we're all human*	*Awareness via ongoing Implicit bias training and discussions. Creating safe and brave spaces for learning from human frailty of implicit bias.*	*Transparency with external stakeholders on the need for the journey to learn and grow in order to deliver bias-free-policing*
Community Engagement	*Community is aware of stop data reports via annual RIPA Reports and easily accessible online data*	*LEAs engage City or Town Councils and the public on local RIPA data on a regular basis. Data should be easily accessible*	*Engage diverse stakeholders to advise, inform, guide collaborative bias-free-public safety*

Analysis of Stop Data

The RIPA stop data will require analysis using statistical or analytical tools. The RIPA Board's annual analysis compares the stop data-breakdown by race and identity against that of the community. But that comparison can be misleading when the diversity of day visitors doesn't match that of the residents. For example, populations vary in Half Moon Bay with a high beach-day-use or seasonal-agricultural workers; and Colma has day-work, transient populations. When the day-population diversity is different from the fulltime resident population, RIPA data could either suggest or hide biases.

The mandated data collection creates an opportunity for local LEAs to use their data on a regular basis as an early alert of possible individual or unit bias. Collection and analysis could promote early addressing of potential issues via training or mentorship. Sharing the data with the local

community on a regular basis, and engaging them in ascertaining possible solutions, is a RIPA Advisory Board recommendation implemented by many California LEAs.

Using RIPA to Improve Law Enforcement

A few SMC LEAs have plans to review the data monthly or quarterly, to identify patterns of bias; but a majority don't. Pryor, et al. *Guidebook for LEAs*, *supra*, recommends:[77]

- Data analysis is crucial; thus LEAs should either allocate resources to hire experts or look to partner with universities or researchers;
- Analysis can be used to assess both the effectiveness of specific tactics and any disparities in how those tactics are applied in the community; and
- Three levels of explanation for police-data analysis, namely: *community*, *department,* and *relationship* between community and department.

What Could Governing Bodies Expect of Their LEAs Regarding RIPA?

Municipal governing bodies (city or town councils) should already be aware of RIPA, *and* of the plans of their respective LEAs to implement it. This is important because the LEA interviews raised the following concerns:[78]

- LEA may request additional funding to implement RIPA data collection;
- LEA may need to reassign personnel to enable it to make use of RIPA data to improve its operation;
- LEA may show an initial drop in traffic citations and other interactions with the public when it starts collecting RIPA data;
- RIPA data will be analyzed by CA DOJ and department deficiencies will become public for citizens, advocacy groups, and academic researchers to view and further analyze and question; and

[77] Pryor, Marie, Phillip Atiba Goff, Farhang Heydari, and Barry Friedman. 2020. "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities." New York. https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

[78] Grand Jury Interviews

- RIPA data may bring to light a policing problem that is not otherwise apparent to the council.

IN SUMMARY

RIPA provides LEAs with an opportunity to improve operations. Explicit bias is readily identified in the words and actions of individuals, as well as in organizations. Implicit bias, in contrast, operates subtly, often without awareness by the person whose behavior the bias affects. Collecting and analyzing stop data can shed light on ways in which implicit biases are leading to uneven and unfair law enforcement. Once the problem is known, steps can be taken to minimize the bias and reduce its impact. It is crucial for the community to trust law enforcement.

FINDINGS

All seventeen LEAs responded to the Grand Jury survey on RIPA-readiness and participated in one or more interviews. Grand Jury confidentiality rules prevent specific identification of the responses of each LEA. The Grand Jury's aggregate relevant findings are:

RIPA Data Collection and Reporting

F1. LEAs in SMC are aware of RIPA data requirements, including the requirement that data collection starts on January 1, 2022.

F2. County LEAs vary in their degree of understanding of: RIPA data collection requirements, technological options for collecting the data, and the need for procedures and training to collect and report the data. The LEA's RIPA-preparedness correlates to their understanding of RIPA requirements.

F3. Burlingame and Menlo Park are to be commended for publicly announcing their plans for early implementation of RIPA data collection and reporting to the CA DOJ. The other fifteen LEAs were in various stages of planning and acquiring their RIPA data collection system.

F4. The San Mateo County Police Chiefs & Sheriff Association RIPA Subcommittee provides a convenient forum for LEAs to benefit from peer learning and collaboration for RIPA planning, testing, deployment and best practices.

F5. Some LEAs mistakenly believe the County Dispatch System will handle their RIPA data collection.

Using RIPA Data for Transparent Community Trust Building

F6. LEAs vary in their understanding that implementing RIPA Board recommendations would build greater trust with their communities.

F7. Some contracting entities were unaware of the RIPA requirements, and that RIPA data breakdown for their respective cities could be requested from the Sheriff's Office beginning in the spring of 2022.

F8. Between now and 2022, sixteen county LEAs have plans for "regularly analyzing data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population."

RECOMMENDATIONS

RIPA Data Collection and Reporting – Milestones for January 1, 2022 compliance

R1. Each LEA must have a fully developed implementation plan for complying with RIPA. The plan should include data collection and reporting, training methods, policies and procedures, roll-out plans, personnel allocation, systems testing and data auditing. The plan should be reviewed and approved by October 30, 2021.

R2. Each LEA needs to acquire the necessary software and hardware required to comply with RIPA by October 30, 2021, in order to complete testing within 30 days and to go live by January 1, 2022.

R3. Each LEA must test and confirm their readiness for RIPA data collection by November 30, 2021.

R4. Each LEA should provide regular updates to their governing entities, on their progress *toward preparing* for the required RIPA data collection starting on October 15, 2021.

Using RIPA Data for Transparent Community Trust Building – don't wait for the annual report

R5. Each LEA should, on a quarterly basis, starting in the second quarter of 2022, provide reports on RIPA data and how it is being used to address potential identity biases, including supervisory oversight (as defined by the RIPA Board). The report should be posted and easily viewable on the entity's website.

R6. By February 1, 2022, each LEA should begin considering how to obtain and use insights gained from the RIPA data to improve the operation of its department by combating implicit bias in policing and pursuing greater community trust by implementing the RIPA Board's growing list of policing best practices.

R7. By February 1, 2022, each LEA should consider community engagement and transparency, including the possible use of "academics, police commissions, civilian

review bodies, or advisory boards" as a mechanism to build community trust and provide bias-free policing.

R8. In the second quarter of 2022, each of the contracting entities should begin requesting RIPA stop data for its jurisdiction, separate from the rest of the Sheriff's stop data.

REQUEST FOR RESPONSES

Penal Code Section 933.05 (emphasis added)

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

(1) The respondent **agrees** with the finding.

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

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

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

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

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

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

Pursuant to Gov. Code § 933.05, the Grand Jury requests responses from the following entities, for the listed **Findings:**

Responses to FINDINGS from City/Town Councils and the Sheriff									
FINDINGS	**F1**	**F2**	**F3**	**F4**	**F5**	**F6**	**F7**	**F8**	
Atherton	X	X	X	X	X	X		X	
Belmont	X	X	X	X	X	X		X	

Responses to FINDINGS from City/Town Councils and the Sheriff									
FINDINGS	**F1**	**F2**	**F3**	**F4**	**F5**	**F6**	**F7**	**F8**	
Brisbane	X	X	X	X	X	X		X	
Burlingame	X	X	X	X	X	X		X	
Colma	X	X	X	X	X	X		X	
Daly City	X	X	X	X	X	X		X	
East Palo Alto	X	X	X	X	X	X		X	
Foster City	X	X	X	X	X	X		X	
Hillsborough	X	X	X	X	X	X		X	
Menlo Park	X	X	X	X	X	X		X	
Pacifica	X	X	X	X	X	X		X	
Redwood City	X	X	X	X	X	X		X	
San Bruno	X	X	X	X	X	X		X	
San Mateo	X	X	X	X	X	X		X	
South San Francisco	X	X	X	X	X	X		X	
Broadmoor Police District Board	X	X	X	X	X	X		X	
Millbrae	X	X	X	X	X	X	X	X	
San Carlos	X	X	X	X	X	X	X	X	
Portola Valley	X	X	X	X	X	X	X	X	
Woodside	X	X	X	X	X	X	X	X	
Half Moon Bay	X	X	X	X	X	X	X	X	
Sheriff	X	X	X	X	X	X	X	X	

Pursuant to Gov. Code § 933.05, the Grand Jury requests responses **from the following entities for the listed Recommendations:**

Responses to RECOMMENDATIONS from City/Town Councils and the Sheriff								
RECOMMENDATIONS	**R1**	**R2**	**R3**	**R4**	**R5**	**R6**	**R7**	**R8**
Atherton	X	X	X	X	X	X	X	
Belmont	X	X	X	X	X	X	X	
Brisbane	X	X	X	X	X	X	X	
Burlingame	X	X	X	X	X	X	X	
Colma	X	X	X	X	X	X	X	
Daly City	X	X	X	X	X	X	X	

Responses to RECOMMENDATIONS from City/Town Councils and the Sheriff								
RECOMMENDATIONS	**R1**	**R2**	**R3**	**R4**	**R5**	**R6**	**R7**	**R8**
East Palo Alto	X	X	X	X	X	X	X	
Foster City	X	X	X	X	X	X	X	
Hillsborough	X	X	X	X	X	X	X	
Menlo Park	X	X	X	X	X	X	X	
Pacifica	X	X	X	X	X	X	X	
Redwood City	X	X	X	X	X	X	X	
San Bruno	X	X	X	X	X	X	X	
San Mateo	X	X	X	X	X	X	X	
South San Francisco	X	X	X	X	X	X	X	
Board of the Broadmoor Police Protection District	X	X	X	X	X	X	X	
Millbrae	X	X	X	X	X	X	X	X
San Carlos	X	X	X	X	X	X	X	X
Portola Valley	X	X	X	X	X	X	X	X
Woodside	X	X	X	X	X	X	X	X
Half Moon Bay	X	X	X	X	X	X	X	X
Sheriff	X	X	X	X	X	X	X	X

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

METHODOLOGY

Documents

Reports, presentations, and other documents from the California RIPA Board were reviewed, along with websites for the Sheriff's Office, police departments, and city and town councils. In response to the survey (below) certain LEAs provided additional documents. The California Department of Justice also provided materials to inform the investigation. For a comprehensive list of the documents reviewed and consulted, see the Bibliography below.

Site Tour(s)

Due to the Covid-19 pandemic, no physical site tours were scheduled for this report.

Interviews & Surveys

> Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

All interviews were conducted by videoconference using Zoom or Google Meets. For this report the Grand Jury interviewed:

- Law enforcement personnel at the commander, captain, or chief level, or equivalent from each LEA in the County
- Current and past members of the RIPA advisory boards
- Members of law enforcement with experience outside of the County
- At least one city manager

A comprehensive survey on RIPA preparedness and bias-free policing was sent to all 17 active LEAs in the County. All 17 responded. Appendix D shows the form used in the survey. Some of the answers from that survey, anonymized, are shown in Appendix E.

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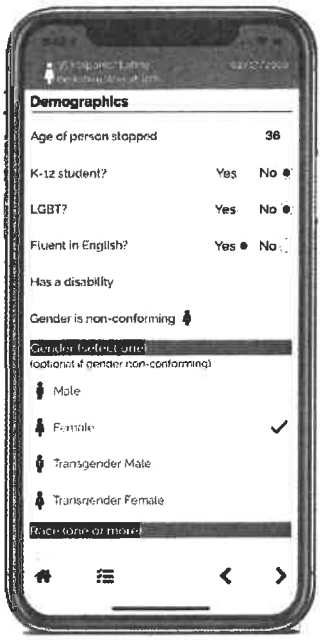
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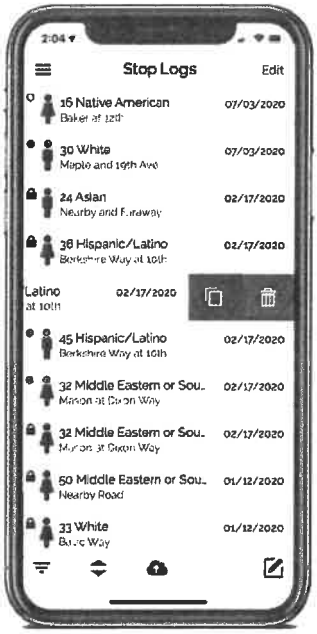
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APPENDIX A: List of RIPA Data Fields and Variables

https://www.sanmateocourt.org/documents/grand_jury/2020/ripa_appendix_a.pdf

APPENDIX B: Screenshots of RIPALog Software







APPENDIX C: Outline of RIPA Board Best Practices Documents for 2020 and 2021

2020 Best Practices Document (21 pgs.) - Best Practices - 2020 RIPA Board Report - Racial and Identity Profiling Advisory (RIPA) Board (ca.gov)

https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2020.pdf

1) Model Bias-Free Policing Polices
    a) Policy Language
    b) Definitions
    c) Exception language - when characteristics may be considered
    d) Encounters with Community
    e) Training
    f) Data Collection & Analysis
    g) Accountability & Adherence to the Policy
    h) Supervisory Review
2) Bias by Proxy Recommendations
    a) [multiple subparts]
3) Civilian Complaint Forms best practices
    a) Background
    b) General Complaint Information
    c) Complaint Information
    d) Incident Information
    e) Processing of Complaints
4) Lack of Uniformity in what is a complaint and how to quantify
5) Accessibility & Knowledge of LEA's Complaint Process
6) Barriers to Reporting Civilian Complaints
7) Complaint Access for the Disabled

2021 Best Practices Document (6 pgs.) 2021 RIPA Report Best Practices (ca.gov)
https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf

1) Explicit Bias, Implicit Bias, and Other Driving Forces for Stop Data Disparities
2) Racial and Identity Profiling Policies and Accountability
3) Calls for Service and Bias by Proxy
4) Civilian Complaints: Policies and Data Analysis
5) California Commission on Peace Officer Standards and Training (Post) Training Related to Racial and Identity Profiling

APPENDIX D: Grand Jury Survey – Delivering on DEI & Ready for RIPA

https://www.sanmateocourt.org/documents/grand_jury/2020/RIPA_appendix_d.pdf

APPENDIX E – Selected LEA Responses to GJ RIPA Survey

When did you begin collecting stop data with race and identity, as defined by RIPA demographics?
17 responses

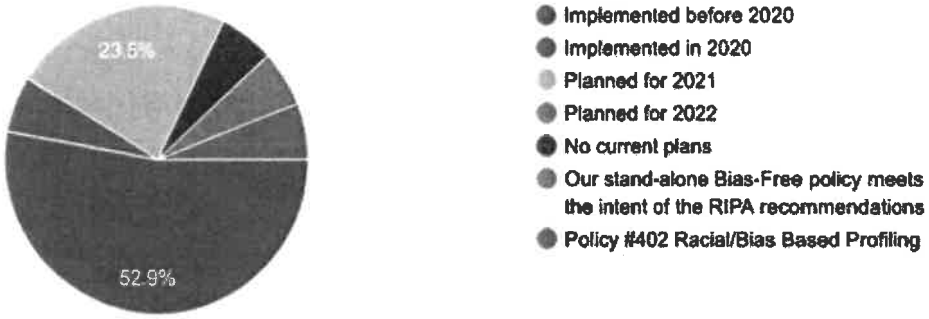


Has your LEA started preparing for compliance with Racial and Identity Profiling Act of 2015 (AB 953)? *
17 responses



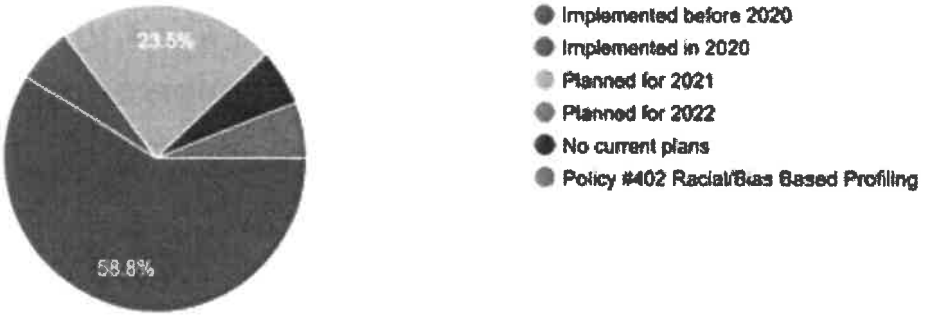
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which is clearly written and easily accessible by all employees?

17 responses

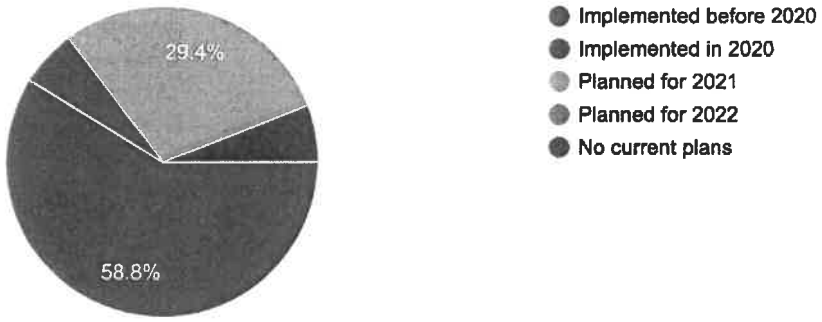


Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which uses concrete definitions of Bias-Free Policing and/or Racial & Identity Profiling?

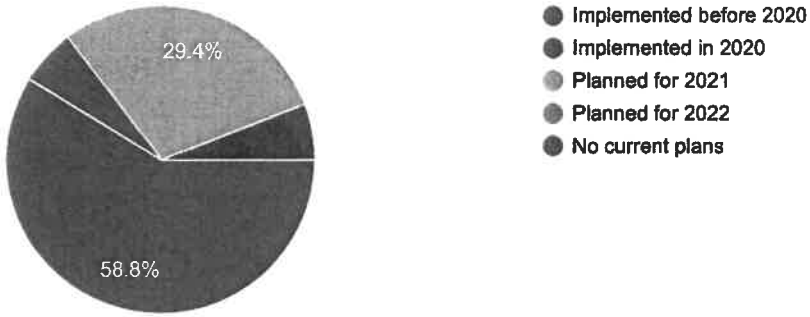
17 responses



Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on limited circumstances in which characteristics of individual may be considered?
17 responses

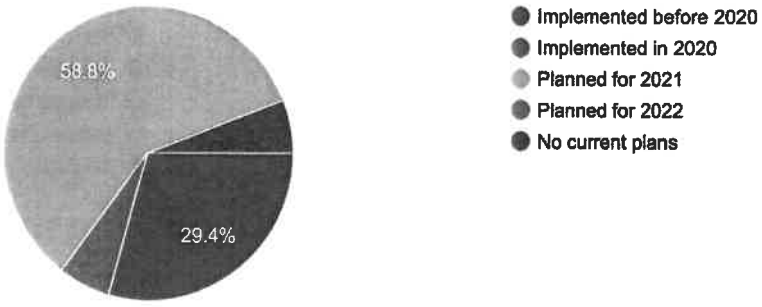


Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on encounters with community?
17 responses



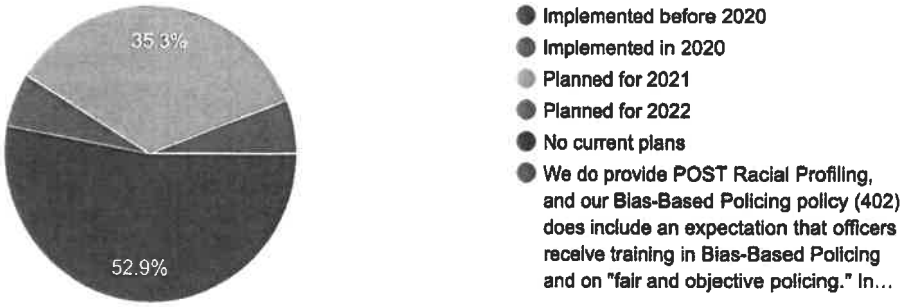
What is the status of your LEA's RIPA recommended: "Agencies should have a policy detailing how sworn personnel and dispatchers should respond to ...or integrated into the bias-free policing policy."

17 responses



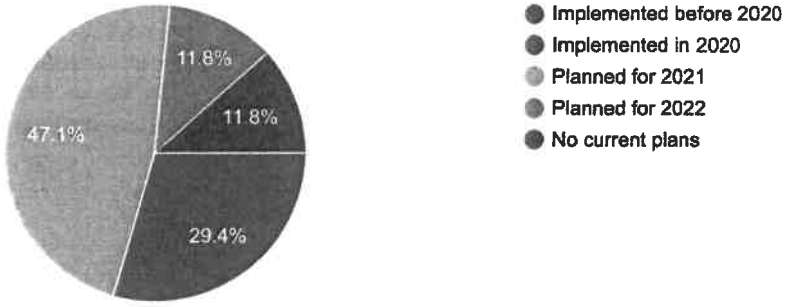
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on Racial and Identity Profiling Training?

17 responses



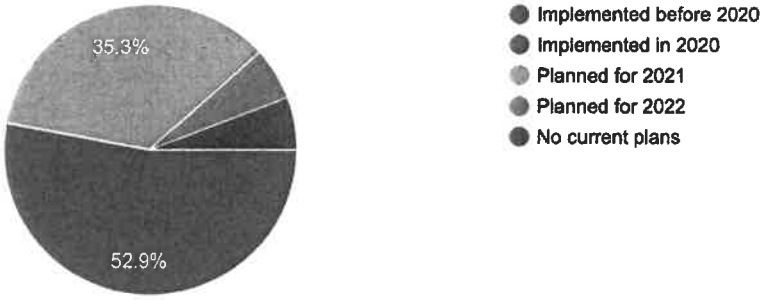
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on Data Analysis?

17 responses



Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on requiring accountability?

17 responses



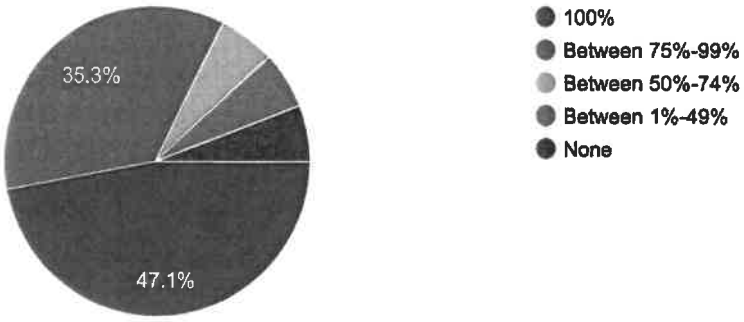
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on required Supervisory Review?

17 responses



What percent of your officers have completed comprehensive training on bias free policing in the last 2 years?

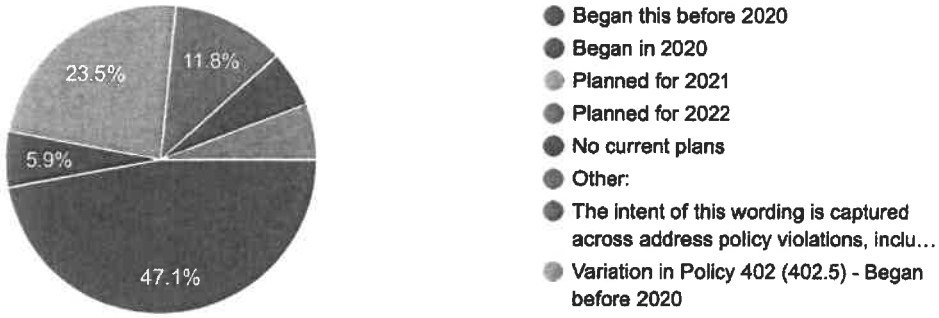
17 responses



What are your plans for RIPA recommendation: "regularly analyze data, in consultation with [academics, police commissions, civilian review bod... on any group relative to the general population."
17 responses

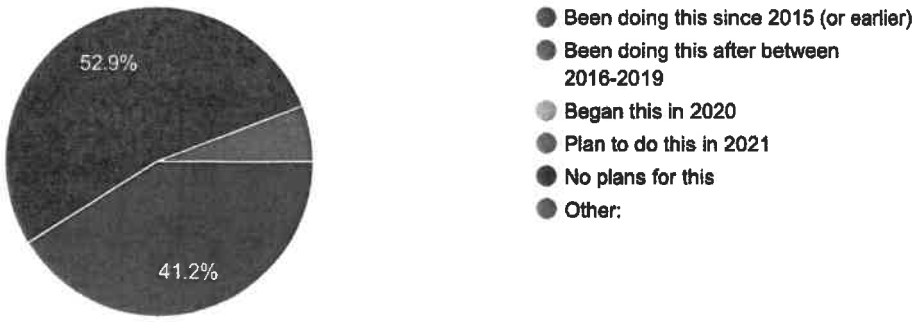


RIPA Model Policy Language for Supervisory Review: " Supervisors shall ensure that all personnel under their command, including dispatchers and no...s and procedures for review should be included."
17 responses



Do you currently proactively and formally seek community input when making decisions about hiring and resource allocation?

17 responses



Do you currently have a formal community advisory board for your LEA?

17 responses



APPENDIX F: RIPA Quick Facts 2020

https://www.sanmateocourt.org/documents/grand_jury/2020/RIPA_appendix_f.pdf

APPENDIX G: RIPA Quick Facts 2021

https://www.sanmateocourt.org/documents/grand_jury/2020/RIPA_appendix_g.pdf

APPENDIX H: Summary of Profiling Complaints for San Mateo County Law Enforcement Agencies 2016-2019

AB 953 amended "Penal Code section 13012 pertaining to the collection and reporting of Citizens' Complaints Against Peace Officers (CCAPO)." To add as a separate category "complaints involving racial or identity profiling." This took effect January 1, 2016. For more information see Information Bulletin: Citizens' Complaints Against Peace Officers (ca.gov)[79]

Total Racial or Identity Profiling Complaints SMC LEAs 2016-2019						
Reported	Exonerated	Not Sustained	Unfounded	Pending	Sustained	(missing)
43	9	9	19	4	0	2

Source: CA DOJ, OpenJustice Data, Citizens Complaints Against Peace Officers, file: CCAPO_2016-2019_Agency_0.xlsx
from https://openjustice.doj.ca.gov/data

File was sorted by agency name, the SMC LEAs Identified and separately totaled, for the Racial Profiling Complaints category, which was defined in the Readme file as "The total number of complaints reported with a racial or identity profiling component." The number of complaints for any particular agency ranged from 0 to 5 per year. Some agencies had none for the four years of available data.

[79] https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-2015-06.pdf?

CITY OF HALF MOON BAY

501 Main Street
Half Moon Bay, CA 94019

October 5, 2021

Honorable Amarra A. Lee
Judge of the Superior Court
C/O Jenarda Dubois
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655

Subject: July 27, 2021 Grand Jury Report: "Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act"

Dear Honorable Judge Lee:

The City Council of the City of Half Moon Bay, at its October 5, 2021 meeting, reviewed and approved the following responses to the San Mateo County Civil Grand Jury 2020-2021 Report entitled "Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act"

Findings

The report includes eight (8) findings with the City's response to each summarized below.

F1: Agree (although there is no way for us to actually know this with 100% certainty)
F2: Agree
F3: Partially Disagree. We do not believe it is the City's place to commend another agency for early implementation of RIPA.
F4: Agree
F5: Partially Disagree. We do not know if this is true.
F6: Agree (we assume this to be true)
F7: Partially Disagree. We do not know if this is true.
F8: Agree

CITY OF HALF MOON BAY

501 Main Street
Half Moon Bay, CA 94019

Recommendations

The report includes eight (8) Recommendations with the City's response to each summarized below.

R1 through R7: The City of Half Moon Bay does not operate a Law Enforcement Agency, so these recommendations do not apply to the City. The City contracts with the County sheriff for law enforcement services. We assume the Sheriff will be responding that they will implement each recommendation in the future, that the recommendation requires further analysis, or that the recommendation is not warranted or reasonable.

R8: In the second quarter of 2022, each of the contracting entities should begin requesting RIPA stop data for its jurisdiction, separate from the rest of Sheriff's stop data.
Response: The recommendation has not yet been implemented. The City will implement this recommendation by July 1, 2022.

Thank you for your consideration of the foregoing.

Sincerely,

Robert Brownstone
Mayor

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: Matthew Chidester, Deputy City Manager

TITLE: **MEMORANDUM OF UNDERSTANDING WITH THE NATIONAL SKI PATROL FOR VOLUNTEER BIKE PATROL SERVICES**

RECOMMENDATION:
Adopt a resolution authorizing the City Manager to execute a Memorandum of Understanding with National Ski Patrol, Inc. for Volunteer Bike Patrol Services on the California Coastal Trail.

FISCAL IMPACT:
There is no fiscal impact associated with this amendment.

STRATEGIC ELEMENT:
This recommendation supports the *Healthy Communities and Public Safety* and *Inclusive Governance* elements of the Strategic Plan.

BACKGROUND:
The California Coastal Trail – stretching from Mexico to Oregon – was mandated by Proposition 20 in 1972 to provide a hiking, bicycle, and equestrian trails system along or near the California coast. Much of the San Mateo County mid-coast includes improved portions of the trail, and the City owns and operates a stretch along the bluffs between Kelly Avenue and Seymour Street. Thousands of residents and visitors enjoy the trail each year, including pedestrians, cyclists and equestrians.

National Ski Patrol, Inc. (NSP) is a non-profit organization with the mission, "to help keep people safe on the mountain and during other outdoor activities", by providing education and accreditation to emergency care and safety service providers and volunteers, including through bike patrollers, bike hosts, alumni, associates, and physician partners. A local resident that is a member of the Ski Patrol contacted the City about establishing a volunteer bike patrol on the Coast that could assist in patrolling the Coastal Trail. Given the increasing number of users of the Coastal Trail, the City became interested in a volunteer patrol to assist with education and outreach, provide basic first aid, and collaborate with law enforcement and first responders for larger issues.

DISCUSSION:
Staff has collaborated with the local representative and the Far West Division of the Ski Patrol to negotiate an MOU for volunteer bike patrol services. The MOU, which is attached, applies only to the sections of the Coastal Trail owned by the City, is effective through June 30, 2022, with four options to extend for an additional year each, addresses liability, insurance, and NSP's role as a volunteer partner only, requirements for background checks of volunteers, and a scope of services for the NSP patrol and the City.

Under the terms of the MOU, the NSP will, among other things: Raise public awareness of safety issues on the Coastal Trail; act as "eyes and ears" in reporting incidents, potential criminal activities, and other abuses of Coastal Trail regulations; train and maintain as appropriate, certifications for first aid, CPR and bicycle ethics for bike patrol members and provide first-aid when needed; offer basic bicycle mechanical assistance and flat tire aid as needed to fellow bicyclists; serve as ambassadors for the support of bicycling; and coordinate with the City on any informational or educational materials shared with trail users.

The City will, among other things: Communicate to the public how this partnership contributes to the mutually shared goals of promoting public safety in the enjoyment of the Coastal Trail; collaborate with NSP to raise public awareness of safety issues on the Coastal Trail; and work with other agencies, local governments, and community leaders or organizations to improve communication, understanding and support of NSP's partnership.

The City and NSP will meet regularly to ensure the success of the Volunteer Bicycle patrol Program, resolve any concerns, and identify ways to improve upon the collaboration between the agencies. The NSP provides their services at no cost to the City or community, although the City may assist in funding certain programs, promotions or supplies as needed.

City staff and NSP representatives presented information on the proposed partnership and patrol services at a joint session of the Parks and Recreation Commission and Bicycle/Pedestrian Advisory Committee on September 29, 2021. Both groups provided feedback and expressed support of the MOU.

ATTACHMENTS:
1. Resolution authorizing the City Manager to execute a Memorandum of Understanding with National Ski Patrol, Inc. for Volunteer Bike Patrol Services on the California Coastal Trail
2. Memorandum of Understanding between the City of Half Moon Bay and the National Ski Patrol

Resolution No. C-2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH NATIONAL SKI PATROL, INC. FOR VOLUNTEER BIKE PATROL SERVICES ON THE CALIFORNIA COASTAL TRAIL.

WHEREAS, the California Coastal Trail – stretching from Mexico to Oregon – was mandated by Proposition 20 in 1972 to provide a hiking, bicycle, and equestrian trails system along or near the California coast; and

WHEREAS, the City of Half Moon Bay owns and operates portions of the California Coastal Trail within the City limits for the enjoyment of residents and visitors; and

WHEREAS, National Ski Patrol's mission is, "to help keep people safe on the mountain and during other outdoor activities", by providing education and accreditation to emergency care and safety service providers and volunteers, including through bike patrollers, bike hosts, alumni, associates, and physician partners; and

WHEREAS, the City and Patrol share mutual interest in safety, education, public awareness, capable emergency response and appreciation of nature and the environment, including the Coastal Trail; and

WHEREAS, the City and Patrol desire to collaborate to help keep people safe on the Half Moon Bay Coastal Trail; and

WHEREAS, the City and Patrol have negotiated a Memorandum of Understanding, whereby the Patrol will coordinate volunteer bicycle patrol services to assist with public safety, education and awareness on the Half Moon Bay Coastal trail and the City will provide support and collaboration to help make the patrol services successful; and

WHEREAS, the City and Patrol desire to enter into the MOU on the terms and conditions set forth therein.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the City Manager to execute a Memorandum of Understanding with National Ski Patrol, Inc. for Volunteer Bike Patrol Services on the California Coastal Trail.

****

I, the undersigned, hereby certify that the foregoing resolution was duly passed and adopted on the 5th day of October, 2021 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

_____

Jessica Blair, City Clerk

APPROVED:

_____

Robert Brownstone, Mayor

MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF HALF MOON BAY AND
THE NATIONAL SKI PATROL

THIS MEMORANDUM OF UNDERSTANDING (THE "MOU") is made as of this ___day of _____ 2021 (the "Execution Date"), by and between the City of Half Moon Bay, a California Municipal Corporation (the "CITY") and National Ski Patrol, Inc, a Nonprofit Organization (the "PATROL").

RECITALS

WHEREAS, the California Coastal Trail – stretching from Mexico to Oregon – was mandated by Proposition 20 in 1972 to provide a hiking, bicycle, and equestrian trails system along or near the California coast; and

WHEREAS, CITY owns and operates portions of the California Coastal Trail within the City limits of Half Moon Bay for the enjoyment of residents and visitors; and

WHEREAS, PATROL's mission is, "to help keep people safe on the mountain and during other outdoor activities", by providing education and accreditation to emergency care and safety service providers and volunteers, including through bike patrollers, bike hosts, alumni, associates, and physician partners; and

WHEREAS, CITY and PATROL share mutual interest in safety, education, public awareness, capable emergency response and appreciation of nature and the environment, including the Coastal Trail; and

WHEREAS, CITY desires to collaborate with PATROL to help keep people safe on the Half Moon Bay Coastal Trail; and

WHEREAS, CITY and PATROL desire to enter into this MOU on the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises hereinafter set forth, CITY and PATROL agree as follows:

1. LOCATION OF SERVICES

   The terms and conditions of this MOU shall apply only to the portion of the California Coastal Trail owned and operated by CITY, running between Kelly Avenue and Poplar Avenue, and shown on Exhibit A (City Trail Section), which is attached hereto and incorporated herein.

2. SCOPE OF SERVICES

CITY and PATROL shall provide special services in the amount, type and manner described in Exhibit B (Scope of Services), which is attached hereto and incorporated herein. PATROL shall undertake the work items specified in Section I, and CITY shall undertake the work items specified in Section ll. All work shall comply with the Half Moon Bay Bicycle Pedestrian Master Plan, as well as all other applicable federal, state, and local laws and regulations.

3. TERM

This MOU shall be effective and commence as of the date first written above and shall end on June 30, 2022, with the option for CITY and PATROL to mutually agree to extend the MOU for four additional one-year terms, as set forth below.

4. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this MOU shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO CITY	TO PATROL
Bob Nisbet, City Manager City of Half Moon Bay 501 Main Street Half Moon Bay, 94019 (650) 726-8200 bnisbet@hmbcity.com	Lance Vaughan, Far West Division Director National Ski Patrol 119 Groveland St Portola Valley, CA 94028 (650) 851-9015 or (415) 377-0057 lancevskiing@gmail.com

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

5. COMPLIANCE WITH LAWS

PATROL shall observe and comply with all applicable Federal, State, and local laws, regulations, and ordinances.

6. GOVERNING LAWS AND JURISDICTION

This MOU shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this MOU shall be brought in San Mateo County, California.

7. LICENSES, PERMITS AND CONTRACTUAL GOOD STANDING

A. PATROL shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of San Mateo, City of Half Moon Bay and all other appropriate governmental agencies, including any certification and credentials required by CITY. Failure to maintain necessary licenses, permits, certificates, and credentials shall be deemed a breach of this MOU and constitutes grounds for the termination of this MOU by CITY. The parties each represent that neither is currently aware of any such necessary licenses, permits, certificates, and credentials. The parties each agree that, should either learn in the future of such necessary licenses, permits, certificates, and credentials, they will timely inform the other accordingly, with adequate time to permit PATROL to obtain such licenses, permits, certificates, and credentials.

B. PATROL further certifies to CITY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state or county government contracts.

8. STATUS OF PATROL

A. It is understood and agreed that PATROL (including PATROL's employees and/or members) is a volunteer partner, and that no relationship of employer-employee exists between the parties hereto. PATROL's assigned personnel shall not be entitled to any benefits payable to employees of CITY. PATROL hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this MOU.

B. If, in the performance of this agreement, any third parties are employed by PATROL, such party shall be entirely and exclusively under the direction, supervision, and control of PATROL. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by PATROL, and the CITY shall have no right or authority over such parties or the terms of such employment.

C. It is further understood and agreed that as a volunteer partner and not an employee of CITY, neither the PATROL nor PATROL's assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of CITY in any capacity whatsoever as agent, nor to bind CITY to any obligation whatsoever. PATROL shall not be covered by worker's compensation; nor shall PATROL be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the CITY to employees of the CITY.

D. It is further understood and agreed that PATROL must issue W-2 and 941 Forms for income and employment tax purposes, for all of contractors assigned personnel under the terms and conditions of this agreement.

9. BENEFITS WAIVER

If PATROL is unincorporated, PATROL acknowledges and agrees that PATROL is not entitled to receive the following benefits and/or compensation from CITY: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the CITY Charter, the CITY Code, the Civil Service Rule, the CITY Employees' Retirement System and/or any and all memoranda of understanding between CITY and its employee organizations. Should PATROL or any employee or agent of PATROL seek to obtain such benefits from CITY, PATROL agrees to indemnify and hold harmless CITY from any and all claims that may be made against CITY for such benefits.

10. RETIREMENT BENEFITS/STATUS

PATROL acknowledges and agrees that CITY has not made any representations regarding entitlement, eligibility for and/or right to receive ongoing California Public Employees' Retirement System (CALPERS) retirement benefits during the term of this Agreement. By entering into this Agreement, PATROL assumes sole and exclusive responsibility for any consequences, impacts or action relating to such retirement benefits that is or will be occasioned as a result of the services provided by PATROL under this Agreement. PATROL waives any rights to proceed against CITY should CALPERS modify or terminate retirement benefits based on PATROL's provision of services under this Agreement.

11. CONFLICT OF INTEREST

PATROL and PATROL's officers, employees and/or members shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this MOU.

12. LOBBYING AND UNION ORGANIZATION ACTIVITIES

A. PATROL shall comply with all relevant certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations.

B. If services under this Agreement are funded with state funds granted to CITY, PATROL shall not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and shall comply with the provisions of Government Code Sections 16645 through 16649.

13. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

A. PATROL agrees and assures CITY that PATROL and any subcontractors shall comply with all applicable federal, state, and local Anti- discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, or agent of CITY, or recipient of services contemplated to be provided or provided under this MOU, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. PATROL shall ensure that the evaluation and treatment of its employees and/or members and applicants for employment, the treatment of CITY employees and agents, and recipients of services are free from such discrimination and harassment.

B. PATROL represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.

C. To the extent that PATROL compiles relevant data, maintains relevant records, and submits relevant reports, PATROL agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

D. PATROL shall include this nondiscrimination provision in all subcontracts related to this MOU.

14. BACKGROUND CHECK REQUIREMENT

PATROL shall:

A. Perform background checks on all bike patrol members, including a criminal background check with Live Scan finger printing.

B. Disqualify anyone that must register pursuant to Penal Code Section 290.

C. Examine the arrest and conviction records of all current and prospective bike patrollers, and disqualify any person convicted of any crime involving harm to any person.

D. Develop policies for disqualifying bike patrol member who do not pass a background check.

15. INDEMNIFICATION

To the fullest extent permitted by law, each of the Parties shall indemnify, defend and hold harmless each of the other Parties, their respective governing boards, officers, directors, officials, employees, and authorized volunteers and agents from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of their respective governing boards, officers, directors, officials, employees, volunteers, agents, or contractors.

It is the intention of the Parties that the provisions of this indemnity be interpreted to impose on each Party responsibility for the acts and omissions of their respective governing boards, officers, directors, officials, employees, volunteers, agents or contractors. It is also the intention of the Parties that, where comparative fault is determined to have been contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any Claims attributable to the fault of that Party, its governing board, officers, directors, officials, employees, volunteers, agents, or contractors.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Parties.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

16. PAYMENT

There shall be no compensation by or to either party in association with this MOU.

17. SUBCONTRACTS, ASSIGNMENT

A. PATROL shall obtain prior written approval from CITY before subcontracting any of the services delivered under this MOU. PATROL remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this

MOU. PATROL shall be held responsible by CITY for the performance of any subcontractor whether approved by CITY or not.

B. This MOU is not assignable by PATROL in whole or in part, without the prior written consent of CITY.

18. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this MOU shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this MOU shall be binding upon CITY unless agreed in writing by CITY MANAGER and counsel for CITY.

19. SUCCESSORS

This MOU shall bind the successors of CITY and PATROL in the same manner as if they were expressly named.

20. TIME

Time is of the essence of this MOU.

21. INTERPRETATION

This MOU shall be deemed to have been prepared equally by both of the parties, and the MOU and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

22. CITY MANAGER

As used in this MOU, "CITY MANAGER" shall mean the City Manager of the City of Half Moon Bay, or his/her designee.

23. DISPUTES

In the event of any dispute arising out of or relating to this MOU, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved within 15 calendar days of initiating such negotiations or such other time period as may be mutually agreed to by the parties in writing, either party may pursue its available legal and equitable remedies, pursuant to the laws of the State of California. Nothing in this MOU or provision shall constitute a waiver of any of the government claim filing

requirements set forth in Title 1, Division 3.6, of the California Government Code or as otherwise set forth in local, state and federal law.

24. TERMINATION

CITY or PATROL may terminate this MOU with or without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing.

25. PRIOR MOUS

This MOU constitutes the entire contract between CITY and PATROL regarding the subject matter of this MOU. Any prior MOUs whether oral or written, between CITY and PATROL regarding the subject matter of this MOU are hereby terminated effective immediately upon full execution of this MOU.

26. SEVERABILITY

If any term or condition of this MOU or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this MOU are declared severable.

27. FORCE MAJEURE

Neither PATROL nor CITY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

28. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this MOU are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this MOU or any extension thereof. Further, the terms, conditions and warranties contained in this MOU that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this MOU shall so survive.

29. DUPLICATE COUNTERPARTS

This MOU may be executed in duplicate counterparts. The MOU shall be deemed executed when it has been signed by both parties.

Signatures scanned and transmitted electronically shall be deemed original signatures for purposes of this MOU, with such scanned signatures having the same legal effect as original signatures. This MOU may be executed through the use of an electronic signature and will be binding on each party as if it were physically executed.

30. AUTHORITY TO EXECUTE

Each person executing this MOU represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this MOU for or on behalf of the parties to this MOU. Each party represents and warrants to the other that the execution and delivery of the MOU and the performance of such party's obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be duly executed as of the day and year first written above.

CITY **City of Half Moon Bay,** **a California Municipal Corporation**	**PATROL** **National Ski Patrol,** **a Nonprofit Organization**
By _____ Bob Nisbet, City Manager	By _____ Lance Vaughan, Far West Division Director

EXHIBIT A

CITY TRAIL SECTION



EXHIBIT B

SCOPE OF SERVICES

I. PATROL shall establish a volunteer Bike Patrol to perform the following services on the California Coastal Trail:

A. Communicate to the public and its membership how this partnership contributes to the mutually shared goals of promoting public safety in the enjoyment of the Coastal Trail.

B. Collaborate with the CITY to raise public awareness of safety issues on the Coastal Trail by incorporating educational information generated by the CITY, when possible, into existing educational programs and to look for opportunities to inform, educate and encourage safety in Coastal Trail recreation.

C. Provide awareness and exposure of Coastal Trail benefits to people (including walkers, bicyclists, horse-back riders, fisher-people and other Coastal Trail users), communities and society, as appropriate.

D. Provide educational programs that are relevant to recreational safety and emergency services on the Coastal Trail.

E. Consider involvement with the Coastal Trail in cooperative service ventures that are of interest and benefit to both parties.

F. Act as “eyes and ears” for CITY, in reporting incidents, potential criminal activities, and other abuses of Coastal Trail regulations.

G. Provide technical assistance to the CITY and communities involved with educational activities, projects, biking activities and patrols.

H. Provide counseling, training and instruction to members of the public regarding “rules of the trail” and bicycling ethics programs.

I. Train and maintain as appropriate, certifications for first aid, CPR and bicycle ethics for bike patrol members. When bike patrollers encounter accidents and medical incidents, they will provide first-aid and interact with local EMS and law-enforcement services.

J. Offer basic bicycle mechanical assistance and flat tire aid as needed to fellow bicyclists.

K. Encourage safe and courteous trail use and responsible bicycling.

L. Serve as ambassadors for the support of bicycling and encourage cooperation with the CITY and trail users.

M. Bike patrol members will not attempt to enforce any local, state or federal laws while on Coastal Trail lands. Patrollers will patrol with cellular phones and be trained on San Mateo County Sheriff and 911 contacts for any accidents, incidents or unusual occurrences noted while on patrol. All enforcement and follow up action will be made by San Mateo County Sheriff, city staff, or state or federal law enforcement officials.

N. Bike patrol personnel will be readily identified as such with approved jersey, shirt or vest.

O. Members of the bike patrol will be identified to the San Mateo County Sheriff and be mutually agreed-upon to serve in such capacity, including background checks.

P. Bike patrol leadership will prepare an annual plan of operations and present it to the CITY for approval; this plan may be modified as necessary.

Q. Bike patrol leadership will provide the CITY with a monthly or quarterly patrol report, as the CITY shall request.

R. Bike patrol members will provide a regular and friendly presence on the trail and be equipped with brochures, maps and pamphlets advising on safe riding and the rules of the Coastal Trail.

S. Bike patrol members will attend monthly informational and education meetings, and will each year, attend first-aid, CPR and trail use refreshers to keep their first-aid training current and up-to-date.

T. The bike patrol will be a patrol of the National Ski Patrol. Members who are currently in NSP and maintain their Outdoor Emergency Care (OEC) certification will be designated as bike patrollers and will need to continue to pay dues and complete annual recertification in OEC. If not previously a ski patroller, new members may become a bike patroller by completing an OEC class, joining NSP and doing annual OEC training. Previous patrollers who are not current in OEC or not a patroller may take the Outdoor First Responder course and become a Bike Host. Duties will be similar except for the level and practice of first-aid given. Both categories of membership will pay annual dues and have access to all the training and other benefits of an NSP member. These NSP-affiliated bike and ski patrol units universally work as agents for the government agency overseeing the property.

U. Organization of the patrol will consist of a Patrol Representative (PR), Assistant Patrol Representative (APR), Training Director (TD) and bike patrollers and bike hosts. The PR will be responsible for leadership and interface with NSP and CITY. The APR will be

responsible for recruitment, scheduling and daily supervision. The TD will ensure that all patrollers are equipped to do basic first aid, simple bike maintenance and updating rules and regulations about the Coastal Trail. These duties may be done by one, two or three people. The PR will communicate with the NSP Regional Director(s).

V. The bike patrol shall request and receive written approval from the CITY prior to dissemination of written material, presentations or press releases that describe bike patrol involvement in any aspect of the parks department or this MOU. This requirement is waived for an article, column or letter to the editor that describes or mentions the CITY that may be published in National Ski Patrol publications.

II. The CITY shall:

A. Communicate to the public how this partnership contributes to the mutually shared goals of promoting public safety in the enjoyment of the Coastal Trail.

B. Collaborate with partners to raise public awareness of safety issues on the Coastal Trail. Look for opportunities to inform, educate and encourage the public to act and travel safely on the Coastal Trail.

C. Facilitate information sharing with the PATROL in its efforts to develop relevant safety and education programs.

D. Foster a partnership that will help provide programs accessible to people of all ages, abilities and cultures.

E. As appropriate, work with other agencies, local governments, community leaders or organizations to improve communication, understanding and support of the Coastal Trail safety education for the public.

F. Through the City Manager or their designee, review and approve any public information releases related to this agreement which referred to the City of Half Moon Bay, employees, by name or title, or this agreement. Specific text, layout, photographs etc. of the proposed release must be submitted to the City Manager or their designee with the request for approval.

G. Consider involvement with partners and cooperative service centers that are of interest and benefit to both parties.

H. Receive written approval from the partner prior to dissemination of written material or press releases that describe or involve any aspect of National Ski Patrol or this MOU.

III. Mutual Understanding and Agreement:

A. Meetings will be held generally monthly to discuss, identify and coordinate the proposed activities outlined in the MOU, or to discuss, identify and coordinate future opportunities that fall within the area of common benefits and interests. More frequent meetings may be held at the request of either party and the mutual consent of both.

B. In collaborative activities and programs, the partners will recognize cooperative efforts by displaying each other's logos in a manner that is approved by the principal contacts of each party.

C. Personal contacts: individuals listed below are authorized to act in their respective areas for matters related to this agreement.

National Ski Patrol partnership contact:
Lance Vaughan, Far West Division Director
Telephone: (650) 851-9015 or (415) 377-0057
Email: lancevskiing@gmail.com

National Ski Patrol administrative contact:
Rick Bulan, NSP Administrator
Telephone: (415) 661-6123
Email: im@richardbulan.com

City of Half Moon Bay contact:
Bob Nisbet, City Manager
Telephone: (650) 726-8918
Email: bnisbet@hmbcity.com

D. Participation in similar activities: This MOU in no way restricts the CITY or National Ski Patrol from participating in similar activities with other public or private agencies, organizations and individuals.

E. Endorsement: Any of National Ski Patrol's contributions made under this MOU do not by direct reference or implication convey the CITY's endorsement of National Ski Patrol's products or activities.

F. Specific, perspective projects or activities involve the transfer of funds, services, property and/or anything of value to a party requires execution of separate agreements are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriate funds and other resources; cooperative availability of funds and other resources; agency and cooperative administrative and legal requirements, including agency authorization by statute, etc.

Nothing in this MOU is intended to order, limit or expand the agencies' statutory and regulatory authority.

G. Use of the CITY's logos: In order for the National Ski Patrol to use the CITY's insignia or logo in any published media, such as webpage, print publication or audio-visual presentation, permission must be granted by the CITY representative. A written request must be submitted, and approval granted in writing by the CITY prior to use of the insignia.

H. Freedom of information act (FOIA). Public access to the MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to freedom of information regulations.

I. Public notices: The CITY and National Ski Patrol will make efforts to give public notice of the existence of this agreement and, from time to time, to announce progress and accomplishments related to the agreement and related efforts. National Ski Patrol may call on the CITY for advice regarding public notices. National Ski Patrol is requested to provide copies of notices or announcements to the CITY as far in advance of press release as possible.

J. National Ski Patrol shall acknowledge CITY support in any publications, audiovisuals and electronica media developed as a result of this MOU.

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BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: Jessica Blair, Communications Director / City Clerk
Jonathan Roisman, Deputy City Clerk

TITLE: **RESOLUTION TO CONTINUE HOLDING PUBLIC MEETINGS REMOTELY (AB 361)**

RECOMMENDATION:
In accordance with Assembly Bill 361, adopt a resolution to continue conducting the City's Council, Commission, and Committee meetings remotely due to health and safety concerns to the public due to COVID-19.

FISCAL IMPACT:
There is no fiscal impact associated with this item.

STRATEGIC ELEMENT:
This action supports the Inclusive Governance element of the Strategic Plan.

BACKGROUND:
On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19.

Thereafter, on March 17, 2020, the City Council adopted Resolution 2020-16 declaring a local emergency due to COVID-19. The same day, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act to allow local legislative bodies to conduct meetings telephonically or by other means. Additionally, the State implemented a shelter-in-place order, requiring all non-essential personnel to work from home.

Staff quickly worked to set up remote meetings via Zoom for all City Council and Planning Commission meetings. The Zoom meetings have allowed the Council, Commissions, and Committees to continue to conduct City business from the safety of members' homes. The City has been utilizing Zoom for the past 18 months to conduct nearly all public meetings. The usage of Zoom for public meetings has allowed the City to ensure the public's continued access to government meetings while also ensuring the public's safety.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which extended the ability of agencies to hold remote meetings through September 30, 2021, after which agencies anticipated transitioning back to public meetings held in full compliance with the Brown Act. In preparation for the return to in-person meetings, staff has been working on acquiring audio and visual upgrades for City facilities to conduct hybrid meetings. Although hybrid meetings would help to keep the public safe by allowing them to continue accessing the meetings from their own home, Councilmembers, Commissioners, Committee members, and staff would need to meet in person.

Since the Governor issued Executive Order N-08-21, the Delta variant has emerged, causing a spike in cases throughout the state. As a result, the San Mateo County Health Department issued a Health Order requiring masks indoors in public places, regardless of vaccination status, starting August 3, 2021.

On September 16, 2021, Governor Newson signed Assembly Bill 361 (AB 361), which allows cities to continue to meet remotely during proclaimed states of emergency under modified Brown Act requirements that are similar but not identical to the rules and procedures established by the previous Executive Orders.

AB 361 authorizes local agencies to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act during a declared state of emergency, when state or local health officials have imposed or recommended measures to promote social distancing during the proclaimed state of emergency, or when there is an imminent risk to the health or safety of attendees.

DISCUSSION:
AB 361 will allow local legislative bodies to continue to meet remotely after the September 30, 2021 expiration of the Governor's executive orders. A local agency will be allowed to continue to meet remotely when:

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

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

- The City is still under a local state of emergency
- County health orders require that all individuals in public spaces maintain social distancing and wear masks
- The City can't maintain social distancing requirements for the public, staff,

Councilmembers, Commissioners, and Committee Members in their meeting spaces

The City cannot ensure social distancing requirements are met inside City facilities where the City Council, Planning Commission, Parks and Recreation Commission, Redistricting Advisory Committee, Bicycle and Pedestrian Advisory Committee, and Main Street Bridge Advisory Committee meet.

Councilmembers, Commissioners, Committee Members, and staff sit well within six feet of each other. Moreover, the County's indoor mask order is still in effect, making it difficult to hear what Councilmembers, Commissioners, Committee Members, staff, and public speakers are saying. Furthermore, while speaking through masks may be understandable in person, picking up speech on microphones for those attending remotely and those watching any livestreams would be difficult.

Per AB 361, the City Council would need to declare every 30 days that the City's legislative bodies must continue to meet remotely to ensure the health and safety of the public. Staff recommends that the City Council declare these findings are true so these bodies can continue to meet remotely. Staff will return with this resolution for re-ratification at the Council's 1st Tuesday meeting each month, at which time the Council can reassess as various health orders and COVID-19 parameters change.

ATTACHMENTS:

1. Resolution
2. AB 361 Bill Text

Resolution No. C-2021-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY TO CONTINUE CONDUCTING THE CITY'S COUNCIL, COMMISSION, AND COMMITTEE MEETINGS REMOTELY DUE TO HEALTH AND SAFETY CONCERNS TO THE PUBLIC DUE TO COVID-19 IN ACCORDANCE WITH ASSEMBLY BILL 361

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; and

WHEREAS, on March 17, 2020, the City Council adopted Resolution Number 2020-16 declaring a local emergency due to COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which placed an end date of September 30, 2021, for agencies to meet remotely; and

WHEREAS, since issuing Executive Order N-08-21, the Delta variant has emerged, causing a spike in COVID-19 cases throughout the state; and

WHEREAS, on August 3, 2021, in response to the Delta variant, the San Mateo County Health Department ordered all individuals to wear masks when inside public spaces and maintain social distancing; and

WHEREAS, the City cannot maintain social distancing requirements for the public, staff, Councilmembers, and Commissioners in their respective meeting locations; and

WHEREAS, because of the rise in cases due to the Delta variant, the City is concerned about the health and safety of all individuals who intend to attend Council and Commission meetings.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby approves the continuation of conducting the City's Council, Commission, and Committee meetings remotely due to health and safety concerns to the public due to COVID-19 as follows:

1. In compliance with AB 361, and to continue to teleconference without the usual teleconference requirements of the Brown Act, the City Council makes the following findings:

a. The City Council has reconsidered the circumstances of the state of emergency; and
b. The state of local emergency continues to directly impact the ability of the City Council, Commissions, and Committees, as well as staff and members of the public, from meeting safely in person; and
c. San Mateo County Health orders require all individuals in public spaces to maintain social distancing and to wear masks when inside public spaces; however, the City cannot maintain social distancing requirements for the Councilmembers, Commissioners, Committee Members, staff and public in meeting spaces.

2. City Council and Commission meetings will continue to be conducted remotely for the next 30 days in compliance with AB 361, to better ensure the health and safety of the public.

3. The City Council will revisit the need to conduct meetings remotely within 30 days of the adoption of this resolution.

4. If the City Council determines the need still exists at each 30-day mark, this resolution will be re-ratified by minute order.

****

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of October, 2021 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:	APPROVED:
_____	_____
Jessica Blair, City Clerk	Robert Brownstone, Mayor

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Director of Public Works
Maziar Bozorginia, City Engineer

TITLE: **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR CONSTRUCTION MANAGEMENT OF THE JOHN L. CARTER PARK RENOVATION PROJECT (CIP NO. 611)**

RECOMMENDATION:
Adopt a resolution authorizing the Administrative Services Director to amend the FY 2021-22 Capital Budget by adding $245,000 from the unallocated capital budget to CIP Project No. 611 and authorizing the City Manager to award and execute a professional services agreement with Griffin Structures, Inc., in an amount not to exceed $245,000, for project and construction management services for the John L. Carter Park Project.

FISCAL IMPACT:
The FY2021-22 Capital Budget does not include the funds necessary for the award of this contract. After the adoption of the current budget, with the support of Assemblymember Berman and City Council, the California State Budget included $4.75 million in funding for the construction and other related expenses for the project. The City is working with the State to establish the timing and manner of transmittal of funds. It is estimated that an additional $1 million will be necessary to complete the project. City staff is working closely with Friends of the Half Moon Bay Parks & Recreation to fund raise. Prior to award of a construction contract, staff will return to City Council for budgetary updates and formal approval.

STRATEGIC ELEMENT:
This action supports the Infrastructure and Environment, and the Healthy Communities and Public Safety elements of the Strategic Plan.

BACKGROUND:
The Parks Master Plan adopted by the City Council on February 5, 2019, identified John L. Carter Memorial Park (Carter Park) as an opportunity to increase community recreation at an underutilized City park. The Park Master Plan specifically identified Carter Park's potential to become a "well utilized cultural events park with performances and summer day camps." While

preparing the City's FY 2018-19 budget, the Parks and Recreation Commission and residents expressed desire to consider Carter Park improvements as a priority. City Council accepted this recommendation and designated the Carter Park Capital Improvement Plan (CIP) project to be a priority.

On December 8, 2020, the Planning Commission approved the environmental review and adopted a mitigated negative declaration (MND) and approved PDP-19-059, and application for a Coastal Development Permit, Use Permit, Architectural Review and Parking Exception to allow the renovation of the John L. Carter Park Project. On March 9, 2021, the Planning Commission approved an addendum to the MND for the project to clarify some lighting and height discrepancies for the theatrical stage.

The City of Half Moon Bay, with support from Assemblymember Berman, was successful in obtaining funding through the California State Budget in the amount of $4.75 million to assist the City in constructing improvements at John L. Carter Park.

The City determined early on that the Carter Park project would require contract project management/construction management services (PM/CM). This determination was based upon current staffing levels, workload and the size/scope of the project itself. The cost of various consultant services is part of the preliminary construction budget. Staff will be returning to City Council to request approval of a contract with ELS for construction related architectural services. These are both standard for projects of this nature.

DISCUSSION:
On Wednesday, August 4, 2021, the City released a request for proposals (RFP) for Project/Construction Management Services for the Carter Park Renovation Project. The City received a total of four (4) proposals on Thursday, August 26, 2021. The qualified firms are listed below:

Cumming Management Group, Inc.	Griffin Structures, Inc.
Knight Construction Management Group	4Leaf, Inc.

A panel of City staff reviewed the submitted proposals based on qualifications, experience, demonstrated knowledge and capabilities, understanding of the scope of work and proposed approach. During the review of proposals, Knight CM Group withdrew their proposal due to the loss of key personnel.

Although all firms met the requirements of the request, the City panel determined that Griffin Structures, Inc. was the most qualified firm to propose on the project. The proposed cost of the agreement comes to a total not-to-exceed $245,000 and includes pre-bid constructability review and support through the project advertisement phase. Griffin Structures, Inc. also has past experience working in the City of Half Moon Bay, serving as the Construction Manager for the Half Moon Bay Library project. Staff recommends award a professional services agreement

to Griffin Structures, Inc. for project/construction management services for the John L. Carter Park Renovation Project (CIP No. 611).

Staff will be returning to City Council prior to or in conjunction with award of the construction contract to amend the Capital Improvement Program and Capital Budget to reflect revenues including State funding and any donations (to date) as well as anticipated expenditures.

ATTACHMENTS:
Resolution

Resolution No. C-2021-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE ADMINISTRATIVES SERVICES DIRECTOR TO AMEND THE FY 2021-22 CAPTIAL BUDGET BY ADDING $245,000 FROM UNALLOCATED CAPITAL BUDGET TO CIP PROJECT NO. 611 AND AUTHORZING THE CITY MANAGER TO AWARD AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GRIFFIN STRUCTURES, INC., IN AN AMOUNT NOT TO EXCEED $245,000 FOR PROJECT AND CONSTRUCTION MANAGEMENT SERVICES FOR THE JOHN L. CARTER PARK RENOVATION PROJECT

WHEREAS, the Parks Master Plan adopted by the City Council on February 5, 2019, identified John L. Carter Memorial Park (Carter Park) as an opportunity to increase community recreation at an underutilized City park; and

WHEREAS, on Wednesday, August 4, 2021, the City released a request for proposals (RFP) for Project/Construction Management Services for the Carter Park Renovation Project. The City received a total of four (4) proposals on Thursday, August 26, 2021; and

WHEREAS, after careful review and consideration of the proposals, it was determined that Griffin Structures, Inc. was the most qualified firm to propose on the project; and

WHEREAS, the proposed cost of the agreement comes to a total not-to-exceed amount of $245,000 and includes prebid constructability review, support through the project advertisement phase and construction management services during active construction.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the Administrative Services Director to amend the FY2021-22 Capital Budget by adding $245,000 from unallocated Capital Budget to CIP Project No. 611 and authorizes the City Manager to award an execute a professional services agreement with Griffin Structures, Inc., in an amount not-to-exceed $245,000 for project and construction management services for the John L. Carter Park Renovation Project.

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I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of October, 2021 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST: APPROVED:

_____ _____

Jessica Blair, City Clerk Robert Brownstone, Mayor

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 5, 2021**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Veronika Vostinak, Sustainability Analyst

TITLE: **BUILDING ELECTRIFICATION ORDINANCE STUDY SESSION (CONTINUED)**

RECOMMENDATION:
Conduct follow-up study session on the Draft Building Electrification Ordinance and provide policy direction to staff regarding potential revisions to the April Draft Building Electrification Ordinance.

FISCAL IMPACT:
There is no fiscal impact associated with this study session. Costs will vary depending upon the policy direction, availability of funding assistance, individual properties, and implementation timing.

STRATEGIC ELEMENT:
This action supports the Infrastructure and Environment and Healthy Communities and Public Safety Elements of the Strategic Plan.

BACKGROUND:
The City Council conducted a community study session on building electrification policy opportunities on February 2, 2021. A draft ordinance was prepared and released on April 22, 2021 followed by public outreach. On September 21, 2021, the City Council conducted a community study session to receive a report on community feedback on the draft ordinance. City Council directed staff to return on October 5, 2021 for continuation of the study session and policy discussion.

DISCUSSION:
The continued study session will be held starting at 5pm before City Council's regularly scheduled meeting. If more time is needed for Council deliberation and discussion beyond the allotted time, the discussion will continue under this agenda item. For more information, please see the staff report for the Study Session beginning at 5pm on October 5, 2021.

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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