



**CITY COUNCIL AGENDA
REGULAR MEETING
CITY OF HALF MOON BAY**

TUESDAY, OCTOBER 4, 2022

REMOTE PARTICIPATION (SEE NEXT PAGE)

**Debbie Ruddock, Mayor
Deborah Penrose, Vice Mayor
Robert Brownstone, Councilmember
Joaquin Jimenez, 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. If joining by phone, use *9 to raise your hand, *6 to mute and unmute.*

CALL TO ORDER / ROLL CALL

PUBLIC FORUM

PROCLAMATIONS AND PRESENTATIONS

LGBTQ HISTORY MONTH PROCLAMATION

PROPOSED CLOVERDALE UPLANDS PURCHASE INFORMATIONAL PRESENTATION (MIDPEN)

MAYOR'S ANNOUNCEMENTS OF COMMUNITY ACTIVITIES AND COMMUNITY SERVICE

REPORT OUT FROM RECENT CLOSED SESSION MEETINGS

CITY MANAGER UPDATES TO COUNCIL

ELECTION INFORMATION

1. CONSENT CALENDAR

1.A WAIVE READING OF RESOLUTIONS AND ORDINANCES

1.B AGREEMENT WITH MUNISERVICES FOR SALES & USE TAX COLLECTION AND AUDIT SERVICES

Staff Recommendation: Adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with MuniServices (Also known as Avenu Insights and Analytics) for the term of three years ending December 31, 2025, with a not-to-exceed annual amount of \$40,000.

[STAFF REPORT](#)

[RESOLUTION](#)

[ATTACHMENT 2](#)

1.C AGREEMENT WITH HDL COMPANIES FOR BUSINESS LICENSE AND TRANSIENT OCCUPANCY TAX ADMINISTRATION AND COLLECTION

Staff Recommendation: Adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with Hinderliter De Llamas & Associates (HdL Companies) for the term of three years ending December 31, 2025, with a not-to-exceed annual amount of \$70,000.

[STAFF REPORT](#)

[RESOLUTION](#)

[ATTACHMENT 2](#)

1.D ACCEPTANCE OF FUNDING FROM THE CHAN ZUCKERBERG INITIATIVE DONOR ADVISED FUND, AN ADVISED FUND OF SILICON VALLEY COMMUNITY FOUNDATION, FOR PROGRAM EVALUATION OF ECONOMIC ADVANCEMENT CENTERS IN THREE SAN MATEO COUNTY COMMUNITIES INCLUDING THE COASTSIDE

Staff Recommendation: Adopt a resolution authorizing the City Manager to 1) accept grant funds by signing a grant agreement with Silicon Valley Community Foundation for program evaluation activities for three stakeholder groups currently engaged in the operation and implementation of economic advancement centers within San Mateo County in the amount of \$100,000; 2) negotiate and execute a sub-grantee agreement with an evaluation firm in an amount not to exceed \$100,000 and 3) make matching revenue and expenditure budget amendments in the amount of \$100,000.

[STAFF REPORT](#)

[RESOLUTION](#)

2. ORDINANCES AND PUBLIC HEARINGS

3. RESOLUTIONS AND STAFF REPORTS

3.A 555 KELLY AVENUE AFFORDABLE HOUSING DEVELOPMENT - DECLARE CITY OWNED PROPERTY AS EXEMPT SURPLUS LAND PURSUANT TO GOVERNMENT CODE SECTION 54221(F)(1)(A) AND AUTHORIZE THE CITY MANAGER TO EXECUTE AN EXCLUSIVE NEGOTIATIONS AGREEMENT BETWEEN THE CITY AND MERCY HOUSING CALIFORNIA TO ENABLE PREDEVELOPMENT ACTIVITIES

Staff Recommendation: Adopt two resolutions to:

1. Declare property owned by the City as "exempt surplus" land, pursuant to Government Code 54221(f)(1)(A), 54221(b), and 37364 located at 555 Kelly Avenue (APN 056-150-200) and a portion of the property located at 535 Kelly Avenue (APN 056-150-220) (the "Site") and depicted in Exhibit A of the resolution, as the City

intends to lease the property for the development of affordable housing (Attachment 1), and;

2. Authorize the City Manager to execute an Exclusive Negotiations Agreement (ENA) between the City and Mercy Housing California (Mercy Housing) to enable predevelopment activities to be undertaken for an affordable housing development project on the Site and provide for a period of time in which to negotiate a development agreement between the parties (Attachment 2).

[STAFF REPORT](#)

[RESOLUTION 1](#)

[RESOLUTION 2](#)

3.B STUDY SESSION - FEEDING OF WILDLIFE

Staff Recommendation: Conduct a study session and consider whether to direct staff to begin preparation of an ordinance limiting the feeding of wildlife including possibly carnivorous birds and feral cats.

[STAFF REPORT](#)

[ATTACHMENT 1](#)

COMMISSION / COMMITTEE UPDATES

CITY COUNCIL REPORTS

FUTURE ITEMS

ADJOURNMENT

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 4, 2022**

TO: Honorable Mayor and City Council

VIA: Matthew Chidester, City Manager

FROM: Lisa Lopez Rossi, Administrative Services Director
Bryan Lopez, Senior Management Analyst

TITLE: **RECOMMENDATION TO AUTHORIZE THE AGREEMENT WITH
MUNISERVICES FOR SALES & USE TAX COLLECTION AND AUDIT SERVICES**

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with MuniServices (Also known as Avenu Insights and Analytics) for the term of three years ending December 31, 2025, with a not-to-exceed annual amount of \$40,000.

FISCAL IMPACT:

If approved, there is sufficient funding in the Administrative Services department FY 2022-23 Budget to cover any charges through June 30, 2023.

STRATEGIC ELEMENT:

This recommendation supports the Infrastructure and Environment, Healthy Communities and Public Safety, Fiscal Sustainability, and Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:

MuniServices/Avenu Insights has provided services to the City since February 1992 when the City made the decision to move Sales & Use Tax Collection and Audit services to a new third-party administrator.

Founded in California in 1978, MuniServices is a privately-owned consulting services company that specializes in helping public agencies across the nation to preserve, enhance, and manage their tax revenue base. In 2017, MuniServices joined forces with Avenu Insights & Analytics, LLC, and as one team, supports clients across the nation with revenue enhancement and consulting services, just like the City of Half Moon Bay.

In their 40-year history, they have grown to a national footprint of over 800 employees supporting clients in all 50 states. They have a dedicated team of revenue consulting and tax audit experts which provide concierge- level services to over 350 public agencies in California and over 900 jurisdictions throughout the nation. MuniServices generates over \$1.8 billion in new general fund revenue for clients each year. As a reflection of their dedication to state and local governments, MuniServices is listed on the GovTech100 for the last three (3) years in a row.

DISCUSSION:

In January 2022, the decision was made to do a Request for Proposal to provide Business License, Transient Occupancy Tax, and Sales Tax Services to combine services and find one vendor to handle all three areas. Currently the City enlists two companies, which includes MuniServices to handle these areas. Unfortunately, only two vendors replied, both currently serving the city. After in-depth interviews, and much consideration and discussion, we have decided to not move forward with awarding a contract to just one vendor for all three areas and keep our services with their current vendors. Muni Services has demonstrated that they are the highest quality candidate to continue providing Sales & Use Tax Collection and Audit Services. Under this contract, Muni Services will continue to provide Sales & Use Tax Collection and Audit Services.

Staff is recommending a three-year contract, beginning January 1, 2023. The three-year term will provide stability and consistency in services, while also leveraging predictability in budgeting and future planning.

ATTACHMENTS:

1. Resolution
2. MuniServices Scope of Work – Sales Tax

RESOLUTION NO. C-2022-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MUNISERVICES

WHEREAS, in 1992, the City of Half Moon Bay entered into an agreement with MuniServices Companies to provide Sales & Use Tax Collection and Audit services for the City; and

WHEREAS, the city put out a Request for Proposal to provide Business License, Transient Occupancy Tax, and Sales Tax Services to combine services and find one vendor to handle all three areas; and

WHEREAS, the City decided to not move forward with awarding a contract to just one vendor for all three areas and keep our services with their current vendors; and

WHEREAS, MuniServices has demonstrated that they are the highest quality candidate to continue providing Sales & Use Tax Collection and Audit Services; and

WHEREAS, the scope of work will continue to include providing Sales & Use Tax Collection and Audit Services.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the City Manager to execute a Professional Services Agreement for an annual amount of \$40,000 through December 31, 2025, between MuniServices and the City of Half Moon Bay.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 4th day of October, 2022 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

Debbie Ruddock, Mayor

3.3 SALES AND USE TAX SERVICES

MuniServices' approach is a result of over four decades of refined processes. Our personnel are experts in detecting and correcting Sales, Use and Transaction Tax misallocations. We capture the obvious sales tax errors, as well as the more complicated ones that involve different interpretations of tax liability.

MuniServices understands the Sales Tax is the City's General Fund's second largest revenue source. The objective of MuniServices' Sales, Use and Transaction and Use Tax Audit (SUTA) and Recovery service is to maximize the City's of Santa Clara's income – and minimize the cost of lost revenue.

MuniServices submits over 5,000 corrections to the CDTFA per year and we are successful at this through the timely detection and correction of sales, use and transaction taxes misallocated to 1) another jurisdiction, 2) another city-wide pool or the statewide pool, and 3) misreported sales taxes that should be allocated to the City. We fully pursue correction of all misallocations allowable within the statute of limitations on recoverability.

“ The objective of MuniServices' Sales, Use and Transaction Tax Audit (SUTA) and Recovery service is to maximize the City's income and minimize the cost of lost revenue”

MuniServices provides our Sales, Use and Transaction Tax Audit and Advisory services to nearly 200 clients in California. Over half of MuniServices' overall revenue recoveries are from more complicated use tax errors that other firms rarely detect. MuniServices offers a more comprehensive and nuanced audit approach than our competition – we not only capture the 'quick fix' sales tax errors that our competitors find, but we go beyond to identify and correct more complicated errors involving the misinterpretation of or confusion of sales tax versus use tax reporting procedures. *The secondary effort makes the difference.*

As an example of our performance, the City of San Diego found that MuniServices generated three times as much in sales tax recoveries annually than the next closest competitor. What makes San Diego significant is its size – the results from a large jurisdiction such as San Diego are much more representative of a firm's true audit results. Comparing results for such a large economy over multiple years overcomes bias from one-time anomalies.

MuniServices prides itself in forming long term trust based relationships, and therefore delivers its solutions in the context of concierge-level service. During every stage of the process we realize we are working with people as well as data and processes, so we take great care in our communication. As representatives of the City, our staff emphasizes cooperation when contacting taxpayers and provides an educational approach as well as guidance related to California Department of Tax and Fee Administration (formerly State Board of Equalization) (CDTFA) rules that pertain to proper sales tax allocation. We treat taxpayers with respect. MuniServices regularly engages City staff, and we hold quarterly in-person meetings with City staff, during which we provide a comprehensive update on revenues and budget forecasts. The meetings also are an opportunity for City staff to ask questions about specific businesses, economic trends, or legislative and regulatory activities. We also hold periodic training activities and collaborate closely with your staff.

3.3.1 Objectives and Methodology

Detecting and correcting Sales & Use Tax misallocations is a foundational part of MuniServices' value. We capture the obvious sales tax errors and the more complicated ones that involve different interpretations of tax liability.

- ▶ **Taxable Nexus Field Audit.** We target City-based businesses that do not pay sales and use tax. We do this via physical canvassing of the City's borders in addition to the commercial and industrial areas. We evaluate taxes paid by businesses for their products, will-call operations and other references to sales-related activities. Without this labor-intensive undertaking, misallocations may remain undetected even when electronic data mining is applied.
- ▶ **Tax Area Code (TAC)/Permit Audits.** We identify and correct improperly registered permits of companies with point-of-sale or use operations. We also look for businesses with an incorrect tax area code due to jurisdictional/boundary confusion. Wholesalers, contractors, manufacturers and other non-retail businesses frequently do not hold a permit registered to the City because their operations do not include a point-of-sale qualifying activity. However, these companies often generate tax from the CDTFA audit deficiency assessments, new or changed operations, or the self-accrual of use tax on purchases through direct payment permits.
- ▶ **Deficiency Assessment Audit.** With a CDTFA audit, taxpayers often receive a substantial deficiency assessment due to underpayments and/or under collections. Our proprietary criteria and techniques detect and correct what are often misallocations to the state or City pool. Accordingly, we have developed proprietary criteria and techniques to detect and correct CDTFA deficiency assessment misallocations and thus expand the benefits produced by our allocation audit service.
- ▶ **Quarterly Distribution Report (QDR) Audit.** We conduct QDR audits when we see a substantial change in historical allocation because of declining or missing payments, negative fund transfers, and audit adjustments in the sales and use tax allocation. QDR audits have the same objective as the other audits: to detect, document and assist in correcting errors and thereby generate new, previously unrealized sales, use and transaction tax revenue for the City. To make sure the City gets the highest possible amount of misallocated revenue, we include the current economic period based on the calendar quarter and the three prior tax return periods. MuniServices reviews 100% of taxpayers reporting local tax to the City each quarter in addition to a comprehensive review of the Citywide pool to ensure all possible allocation errors and aberrations are identified and submitted for correction.

- ▶ **Accounts Payable Audit Reviews.** In order to identify opportunities for the City to recover the local allocation on purchase transactions subject to tax, and facilitate the recovery of such funds, MuniServices performs an accounts payable audit that enables us to prepare the documentation to facilitate the issuance of a direct payment permit (use tax) to the City. We also provide technical assistance in preparing and filing the required tax returns. Our accounts payable audits review purchases to identify opportunities for the City to capture the 1% local use tax. They also provide the foundation necessary for cities to get a direct payment permit (use tax) and recover funds. Cities also receive our technical assistance in preparing and filing the required tax returns, which is essential because the CDTFA has specific procedures and timing for filing claims. It is important to prioritize and develop a relationship with the vendor involved as they will be instrumental throughout the process.

3.3.2 Sales and Use Tax Audit Process

MuniServices Sales and Use Tax follows the following process:

1. **Data Acquisition** – Data from Multiple sources is acquired and loaded into MuniServices' data warehouse for analysis and mining.
2. **Data Review and Analysis** – MuniServices thoroughly reviews payment and registration data for possible registration and/or local tax reporting errors.
3. **Taxpayer Investigation** – MuniServices verifies taxpayer information including address verification and business activity. If a misallocation is confirmed, MuniServices will gather application documentation which includes and any E-Mail Communication with taxpayer and copies of amended returns, questionnaires, contracts, and invoices
4. **Petition Preparation and Submission** – MuniServices carefully documents verified misallocation errors into petitions and prepares for submission to CDTFA.
5. **Correction Case Review and Follow-Up** – Taxpayer confirmation and Thank You letters are delivered to facilitate corrective action. New incoming board responses are reviewed. Additionally, case backlog is reviewed to determine those requiring follow-ups with taxpayers and/or CDTFA.
6. **Client Audit Reports** – MuniServices provides a Quarterly Audit Update Report, a report containing details on all now petitions filled with the CDTFA on their behalf. Large correction Letter is utilized to notify client of a case correction. Additionally, MuniServices provides an Open Account Status Report, which is a report containing all cases that remain uncorrected which reflect status and estimated revenue.

3.3.3 Use Tax Audit & Recovery Opportunities

Our Use Tax Audit Services are designed to not only capture use tax revenue through the review of past purchase activity by the businesses in the City, but also to assist in establishing new processes and procedures designed to prevent the pooling of these revenues and increase the direct allocation to the City. The use tax audits identify taxpayers purchasing tangible personal property directly from out-of-state retailers where the transactions are subject to use tax (rather than sales tax). The use tax is often collected by the vendor who in turn remits it to the CDTFA, with the local allocation typically distributed statewide or Citywide through the pools. These audits include proprietary techniques used to identify purchases made by businesses located in the City from out-of-state vendors that are in excess of \$500,000. Additional use tax audits can focus on the practice of "Use Tax Accrual" in certain conditions where the purchaser may elect to self-accrue the use tax and remit it directly to the CDTFA, in which case the local portion will come back to the City in the same manner as sales tax. This can involve both purchases made by the City itself or working directly with businesses and construction contractors to establish the practice of self-accrual and direct remittance of the use tax to the CDTFA.

3.3.4 Business Cooperation Program (BCP)

MuniServices pioneered the BCP program, which can generate significant revenues. Our BCP consulting services encourage construction contractors and major vendors to obtain a direct pay permit or job site registration to encourage them to report the applicable local use tax so that the local use payments can be directly allocated to the City instead of the Citywide pool. There are many complexities associated with determining which contractors are eligible to register a job site, in addition to reviewing purchasing contracts for major fixtures, machinery and equipment from overseas manufacturers in order to provide proper instructions to the purchasers. We are actively working with multiple clients on major construction projects to maximize the use tax revenue associated with their purchases of materials, fixtures and

machinery and equipment involving sports arenas to include the Sacramento Golden One Arena, hotels, airport expansions (Sacramento International Airport), energy/solar projects in addition to other major commercial and industrial projects (major online distribution warehouses). We are the only firm with experience and verifiable results working with local jurisdictions to maximize use tax revenues on major construction projects such as large commercial and industrial projects, sports arenas, airports, ports, solar arrays –tracking and managing these use tax issues from pre-construction through project completion.

3.3.5 Sales and Use Tax Corrections

- ▶ **Correct Reporting Errors.** MuniServices' Sales/Use and Transaction Tax Audit team includes a correction/case manager responsible for correcting misallocation errors. The team gets involved after a petition has been filed with the CDTFA. The team informs the taxpayer and then performs a comprehensive review of all CDTFA responses to petitions. This ensures that all applicable tax reallocations get processed. We respond immediately to negative findings by the CDTFA to preserve the City's Date of Knowledge (DOK). MuniServices will keep the City informed quarterly through an Open Account Status Report that will provide an updated overview of inventory/status of petitions as we work with the CDTFA and the taxpayers to ensure that corrections are processed quickly and the new revenue flows to the City.
- ▶ **Documentation.** Efficient corrections require a thorough investigation of the business activity, and our process meets this threshold as evidenced by documentation such as completed questionnaires, fact timelines, website information, and email communications. We file comprehensive information petitions to the CDTFA following the guidelines set forth in Regulation 1807. As needed, we review taxpayer tax returns and obtain amended returns or any other applicable documentation.
- ▶ **Corrections through the Appeals Process.** MuniServices' extensive investigation prior to submitting the petition means most problems get resolved at the first level of review thereby mitigating any need to elevate cases for appeal as described in Regulation 1807. Over 98% of all cases submitted to the CDTFA by MuniServices are resolved at the initial submission level with the remaining 2% resolved with additional follow-up to the Local Allocation Group without the need for an appeal.
- ▶ **Documentation.** Each quarter the City will receive an Open Account Status Report providing a comprehensive report for all petitions/inquiries filed by MuniServices on their current status and an estimate of the revenue estimated that the City will receive once the correction has been processed by the CDTFA.
- ▶ **Quality Control.** We carefully review all accounts for accuracy that we identify to submit to the CDTFA to ensure the required information and applicable documentation is obtained prior to forwarding to the CDTFA. MuniServices strives to accurately represent the facts involved with the suspected misallocation and/or deficiency as verified through our audit process to facilitate the correction and funding of the revenue to the City. This includes an estimate of the amount of revenue at issue which is then reviewed against the fund transfers processed by the CDTFA for accuracy. Our quality submissions help ensure faster results with the CDTFA.

3.3.6 Sales and Use Tax Reporting Services

3.3.6.1 Sales and Use Tax Quarterly Reporting

MuniServices provides a comprehensive set of reporting and analytics services to help you better understand all aspects of your sales tax base. Our services include sales tax revenue forecasts, local business performance, online reporting, specialized data analytics, and quarterly in-person consulting. Unlike our competitors, our reporting services include specialized consulting to meet the specific needs of each client.

At the heart of our reporting services are our quarterly sales tax meetings. At the quarterly review meeting we cover your sales tax performance results on both a cash and economic basis. We provide sales tax reports such as cash receipts analysis, regional comparisons, Top 25 quarterly gains and declines report, historical trend analysis, top 100 businesses, and other topics pertinent to the City. Additionally, we provide reports that demonstrate sales tax performance for specific

geo-coded areas in the City, with a detailed listing of the businesses and amount of sales tax generated by each in these areas. Included with our reporting are comprehensive five-year sales and TUT tax forecasts with multiple scenarios. Our forecasts combine city-specific business level activity with regional economic indicators and national economic trends. Our proprietary forecasting model provides a customized highly accurate revenue forecast which typically provides a forecast within a 1% to 2% variance of actual revenues received.

3.3.6.2 Online Reporting – Clearview Analytics

MuniServices has developed state of the art technology products for our clients. Our new online Sales Tax Reporting software titled 'Clearview' is a powerful data analytics platform that allows City staff to research local business activity and export data for further analysis. Our Clearview software includes the following key features:

Consolidated Economic Reports

- ▶ See key trends at the category, segment, and retailer levels.
- ▶ Access a quick view of how your key retailers are performing.
- ▶ View customized cash forecast by fiscal year.
- ▶ Search for any retailer in your jurisdiction and view their recent payment history.
- ▶ Review and Export the rankings of the sales tax producers in your jurisdiction for recent periods.
- ▶ Locate potential one-time payments.
- ▶ Export the Excel data behind the reports for further analysis or export the visualization to pdf for inclusion in your internal reports.
- ▶ Access to our analysts to support your use of our tools.

Geo Area Reports (Cash and Economic)

- ▶ Review trends and where the growth or declines within the geo-area are concentrated and uncover the key drivers of those changes.
- ▶ Export a 10-year history of each geo-area directly to excel for use in your internal reports.

Cash Trends and Distribution Summaries

- ▶ Review the fiscal year-to-date totals for your cash.
- ▶ See which parts of your economy changed and the key retailers driving those cash changes.
- ▶ Compare your cash performance to other jurisdictions as a quick way of benchmarking performance.

GIS Maps

- ▶ Visualize your geo-areas and summarize by category and segment.
- ▶ Dynamically view the revenue changes in your geo-areas over time.
- ▶ Compare the performance of one geo-area to another.

3.3.7 Ongoing Consultation

During the term of the contract, MuniServices will serve as the City's resource staff on questions relating to sales tax and assist in estimating future sales tax revenues. MuniServices has expansive and proven expertise across numerous tax types and situations and would readily answer any questions the City may have.

3.3.8 Government Relations

MuniServices provides a seasoned government relations team as a complimentary service. Our government relations team provides notice of potential legislative or regulatory impacts to revenue. In many cases we can influence legislation and regulation and resolve key issues so that your tax base is protected and/or expanded. We maintain strong relationships with essential organizations such as the League of California Cities, the US Conference of Mayors, and ad-hoc coalitions. MuniServices publishes comprehensive legislative and regulatory policy updates throughout the year which provide clients with details on potential state and federal legislation that might affect local government revenues. Key legislative and regulatory issues and recommended actions are reviewed during our quarterly meetings with clients.

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 4, 2022**

TO: Honorable Mayor and City Council

VIA: Matthew Chidester, City Manager

FROM: Lisa Lopez Rossi, Administrative Services Director

TITLE: RECOMMENDATION TO AUTHORIZE THE AGREEMENT WITH HDL COMPANIES FOR BUSINESS LICENSE AND TRANSIENT OCCUPANCY TAX ADMINISTRATION AND COLLECTION

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with Hinderliter De Llamas & Associates (HdL Companies) for the term of three years ending December 31, 2025, with a not-to-exceed annual amount of \$70,000.

FISCAL IMPACT:

If approved, there is sufficient funding in the Administrative Services department FY 2022-23 Budget to cover any charges through June 30, 2023.

STRATEGIC ELEMENT:

This recommendation supports the Infrastructure and Environment, Healthy Communities and Public Safety, Fiscal Sustainability, and Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:

Hinderliter De Llamas & Associates (HdL) has provided services to the City since September 2015 when the City made the decision to move business licenses to a third-party administrator. Initially hired to maintain and process business licenses, HdL was then tapped to assist with the management of Transient Occupancy Tax and was key when the city implemented collection of TOT from short term rentals.

HdL maintains the largest privately held sales, property, and business tax databases in California. This proprietary database serves as the base for identifying emerging economic trends and developing budget projections that take those trends into account. HdL's systematic and coordinated approach to revenue management, tax administration and economic data analysis is currently being utilized by over 500 agencies nationwide.

The company is trusted by over 220 cities and counties in California for tax and fee administration services including business license tax/registration and ordinance review, transient occupancy tax, cannabis tax, short-term rentals and utility users' tax. HdL processes hundreds of millions in revenue annually on behalf of their clients. In addition, HdL is a Corporate Partner of the League of California Cities and California State Association of Counties and works extensively with the State Association of County Auditors, California Society of Municipal Finance Officers (CSMFO) and California Municipal Revenue and Tax Association (CMRTA) on anticipation and planning of programs to strengthen local government revenues and monitoring of legislative actions which impact local governments.

DISCUSSION:

In January 2022, the decision was made to do a Request for Proposal to provide Business License, Transient Occupancy Tax, and Sales Tax Services to combine services and find one vendor to handle all three areas. Currently the City enlists two companies, which includes HdL to handle these areas. Unfortunately, only two vendors replied, both currently serving the city. After in-depth interviews, and much consideration and discussion, we have decided to not move forward with awarding a contract to just one vendor for all three areas and keep our services with their current vendors. HdL has demonstrated that they are the highest quality candidate to continue providing Business License and Transient Occupancy Tax Services. Under this contract, HdL will continue to provide Business License and Transient Occupancy Tax Services

Staff is recommending a three-year contract, beginning January 1, 2023. The three-year term will provide stability and consistency in services, while also leveraging predictability in budgeting and future planning.

ATTACHMENTS:

1. Resolution
2. HdL Scope of Work – Business License and Transient Occupancy Tax Services

RESOLUTION NO. C-2022-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH HDL COMPANIES

WHEREAS, in 2015, the City of Half Moon Bay entered into an agreement with HDL Companies to provide business license and transient occupancy tax administration and collection for the City; and

WHEREAS, the city put out a Request for Proposal to provide Business License, Transient Occupancy Tax, and Sales Tax Services to combine services and find one vendor to handle all three areas; and

WHEREAS, the City decided to not move forward with awarding a contract to just one vendor for all three areas and keep our services with their current vendors; and

WHEREAS, HdL Companies has demonstrated that they are the highest quality candidate to continue providing business license and transient occupancy tax administration and collection; and

WHEREAS, the scope of work will continue to include providing business license and transient occupancy tax administration and collection.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the City Manager to execute a Professional Services Agreement for an annual amount of \$70,000 through January 1, 2025 between HDL Companies and the City of Half Moon Bay.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 4th day of October 2022 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

Debbie Ruddock, Mayor

Business License Tax Administration

The Business License Tax Administration Service provides a turnkey approach for local governments that need assistance with administering business license taxes. Our team of experts can manage all or parts of the business tax operations conducted by the City. When combined with the Compliance Management services, the City receives the benefit of increased revenues and superior customer service, while reducing internal costs and gaining efficiencies.

As an existing Business License client, HdL will continue to transfer the City's existing databases as they relate to business license tax into HdL's internal administration tools. HdL will maintain the data and provide access to or copies of data or reports at the City's request. While access to online systems will be available for the City to use at their discretion, the City will not be required to use or maintain any software in-house for managing the business license registry. HdL's Business License Tax Administration Services include the following:

Renewal Processing: Send active business license accounts a renewal notice within 45 days of the renewal period ending. Accounts will receive all applicable forms necessary to complete the renewal process.

New Account Processing: HdL will process any new business license applications and complete the new account registration process in a timely fashion. HdL will also facilitate intra-city departmental approvals such as zoning, code compliance, fire inspection, and other regulatory related functions.

Delinquent Account Processing: HdL will endeavor to collect delinquent accounts through a series of City approved processing methods. This will include at minimum two follow up delinquent notice and up to two telephone calls. Delinquent accounts will be collected with full penalties as allowed by the Municipal code or through current City practices. Accounts that remain delinquent will be processed through the City approved processes established in HdL's collections component of the Compliance Management Program.

On-Line Filing Payment Processing: HdL registers a City approved domain name which will serve as the starting point for all web-based activities. This City specific site is designed to look and feel like the City's own web pages and ensures a level of continuity between the business community, the City, and HdL. With HdL Flex File, businesses can choose to file their new business registration as well as renew their license and make payments via our on-line filing portal. In addition to filing and paying for taxes, businesses can obtain copies of applications, general support and FAQs, schedule appointments and request copies of their tax registration all with the click of a button. Our on-line services underscore HdL's commitment to excellence in customer service and education by continually improving the registration and payment experience for the business community.

Payment Posting/Processing: HdL will process all payments received in an expedited manner. License accounts will be updated daily with payment information and revenues to be disbursed to the City net applicable fees at an interval to be agreed to during the project planning phase. Disbursements typically occur monthly but can be remitted as often as weekly depending on volumes and City needs. HdL's payment acceptance process accepts the following payment types:

- Check / Money Order /Cashier's Check
- E-Check
- Debit Cards
- Credit Cards (Visa, Mastercard, Discover, & American Express)
- Check by Phone

HdL currently utilizes multiple payment gateway providers for on-line payment acceptance. HdL will work with the City to determine which provider, rate structures, and card types meet the City's needs. HdL can also utilize the same provider and process used by the City's current on-line functionality.

Business Support Center: HdL will provide businesses with multiple support options for registering, renewing, making payments and for general inquiries. A toll-free number will be provided to businesses to access one of our license specialists Monday-Friday 8:00am to 5:00pm Pacific. Businesses will also have access to support via, e-mail, fax, and via the Business Support Center On-Line. HdL constantly monitors quality control points to ensure courteous customer service, minimal hold times under 2 minutes, and the return of voice messages the same business day.

2. Transient Occupancy Tax Services

Hotel/Lodging Tax Administration Services (Including Audits)

HdL's transient occupancy tax administration service goes beyond scheduled cyclical audits, providing compliance monitoring of each return as it is filed while unburdening the City from the day-to-day administration of the TOT revenue program. Continual monitoring of returns is the optimal way to increase compliance while maintaining positive relations with the City's lodging providers. The program is education focused, ensuring that lodging providers are clear on reporting requirements and methodology. HdL's tax administration professionals are available as needed to support both the City's team and the City's lodging providers. The City is kept up to date, with 24x7 online access to HdL's client portal containing real time access to registration and filing data, and management reporting. HdL's TOT administration service incorporates all of the following:

Tax Registration Database Management: HdL will transfer the City's existing databases as they relate to TOT into HdL's internal administration tools. HdL will maintain the data and provide reports to the City.

Return Processing: HdL will process TOT filings within 5 days of submission. Accounts will receive all applicable forms necessary to complete the filing process.

New Account Processing: HdL will process any new registrations for lodging establishments which are new or have changed ownership.

Payment Posting/Processing: HdL will process all payments made for new and existing lodging providers. Accounts will be updated with payment information and revenues will be remitted to the City net HdL's fees on no less than a monthly basis.

Customer Support Center: HdL will provide lodging providers with multiple support options for registering, filing returns, making payments and for general inquiries. A toll-free number will be provided to businesses in order to access one of our tax specialists Monday-Friday 8:00am to 5:00pm Pacific. Providers will also have access to support via, e-mail, fax, and via the Support Center On-Line.

On-Line Filing and Payment Processing: With input from the City, HdL creates a custom web site and domain for taxpayers to submit online forms, returns, and payments along with other customer support related items.

Annual Reporting: In addition to standard monthly reports, HdL will continue to provide the City with annual analysis reports designed to provide key insights on the lodging provider community and the reporting details of each provider.

Reporting: HdL Offers a variety of hardcopy, electronic, and online reports designed to facilitate the City's administration of TOT as well as provide valuable information for budget forecasting. HdL's reporting contains a wealth of knowledge compiled from interactions with taxpayers, City information, HdL proprietary databases, as well as industry leading providers such of travel related data such as Smith Travel and PKF-HR. HdL will work with the City during implementation to identify the standard and custom reports required by the City as well as establish the frequency of the delivery.

Compliance Monitoring and Lodging Provider Audits: HdL will ensure accurate filings of TOT returns by consistently monitoring returns and comparing with data obtained from the identification phase. This can include listing calendar data, average occupancy, and average room rates. HdL will also provide compliance audits as mutually agreed to by the City and HdL, ensuring all providers are audited at least once every three years.

- **Ordinance and Filing Procedure Review:** Analysis of Transient Occupancy tax ordinances and City procedures are conducted to identify possible deficiencies or other administration related issues. Recommendations are made by the audit team for items such as to best practices, form design, and potential ordinance modifications to insure the most effective policies and controls. Specifically, HdL will:
 - Review City's ordinance to identify possible deficiencies, areas subject to legal challenge, or missing provisions such as successor liability;
 - Review City's procedures in applying the ordinance to identify potential challenges based on administration of the ordinance;
 - Compare City's key ordinance provisions to ordinances of cities of comparable size and demographics;
 - Provide a written report to the City identifying provisions of the City ordinance that may warrant review;

- Meet with the City to discuss the findings and report, as well as select provisions or administrative recommendations for further review; and
 - Recommend changes to the City's ordinance or administrative procedures, including additional language to cover identified issues, potential loopholes, and improper procedures that could result in an Equal Protection or Due Process claim.
- **Analysis Report and Compliance Review:** HdL's audit team will obtain and conduct a review of the most recent 48 months of transient occupancy tax filings. To verify and augment the data, the audit team will compile a variety of supplemental information on each property, including number of rooms, occupancy rate, physical condition, and business dynamics. Data is then further scrutinized to identify unusual or suspicious reporting and/or other variables that indicate cause for further review. Information and findings are documented in the analysis report for review with the City. Key components of this process include:
 - Obtain and analyze lodging provider return information in the possession of the City initially for the prior four (4) year period (most recent 48 months);
 - Conduct unobtrusive collection of a variety of information on each property, including number of rooms, occupancy rate, physical condition, and business dynamics;
 - Provide a report to the City on trend analysis to include projections for gross rent revenue and occupancy rates, and other information conducive to assessment of visitation;
 - Perform discovery services designed to identify and locate lodging providers not properly registered with the City and not appearing on the City rolls as Tax remitters;
 - Analyze lodging provider return information from the past four (4) year period (most recent 48 months) in order to identify unusual or suspicious reporting and/or activities that warrant further review; and
 - Provide a detailed report to the City identifying and recommending lodging providers who require additional investigation or examination to determine their compliance with the City's ordinance.
 - **Analysis Review:** Upon completion of the analysis report, meetings are scheduled with the City to review the results as well as identify lodging providers who require additional investigation.
 - **Audit Notification and Scheduling:** Lodging providers selected by HdL and approved by the City are sent a letter and scheduled for a Compliance Analysis Audit. Every effort is made to promote a positive taxpayer experience. Businesses will be reminded of the documents required for the audit that were discussed in webinars and previous communications. Lodging providers are afforded the opportunity to schedule flexible appointment times by contacting the Business Support Center or visiting our online support center.
 - **Compliance Analysis and Audit:** The HdL audit team reviews the books and records of the lodging provider to determine compliance with transient occupancy tax regulations. HdL validates taxable gross rents, exemptions, bank statements, daily/monthly summaries, and other relevant information for determining compliance. Supporting documentation for relevant items such as exemptions will also be documented for accuracy.
 - **Audit and Compliance Report:** Upon completion of the audit and analysis, and prior to additional actions, a compliance report is generated and reviewed with the City. The report indicates specific results of the reviews and recommended actions. Documentation will be included with the report to assist the City and HdL in determining next steps.
 - **Deficiency and Commendation Notification:** Upon final review with the City, businesses that are found to have deficiencies are notified of the findings as well as payment and appeal processes. Appointments are also scheduled to review the findings and educate taxpayers on proper filing procedures designed to prevent future errors and deficiencies. Lodging Providers found to be in compliant, are sent a commendation letter thanking them for their cooperation and compliance.
 - **Invoicing and Collections:** Lodging providers found to be underreporting are invoiced through the standard City approved collections process. Taxpayers will have access to all of the services provided including the Business Support Center and online support systems. Balances are collected and remitted along with supporting documentation to the City through approved remittance processes.

Short Term Rental Services

The Short-Term Rental (STR) Program provided by HdL takes a unique approach in ensuring compliance and educating lodging providers, including short term rental hosts (STR Hosts), in transient occupancy tax regulations and filing procedures, regulatory permits and licensing, and other City specific goals and objectives. HdL's program involves a modular, customer service centric approach, that reduces City administrative costs and provides the City with assurances of future compliance and reporting practices from the City's short-term rental lodging industry.

HdL's modular approach starts with a detailed analysis of STR listing on a variety of published methods, including Airbnb, Home Away, VRBO, etc. This process creates a full inventory of short-term rentals within the City's proscribed geographic boundary, including the full name of the owner and the physical address of the unit. Each STR is tracked and updated nightly with valuable data that can include items such as number of nights rented, average occupancy rates, room rates, as well as trend and usage reporting.

Following identification, HdL conducts a targeted education and compliance campaign designed to inform STR Hosts of their obligations to file and remit taxes and other requisite licenses and permits as may be needed. Each lodging provider is provided a full overview of the requirements and how to best comply both in the present and the future. During the registration process, HdL offers a variety of support options to the community including online filing, file-by-phone, email, and registration via standard mail. HdL tax and license specialists are available throughout the process to provide support to the STR community and to assist in the registration process.

Once registered, accounts move into a standard administration process. HdL manages the filing of tax returns and other prerequisites on a quarterly or monthly basis, depending on City requirements. This includes mailing of tax returns, processing of payments, customer support, delinquency follow up, and the development and management of an online portal for registration, filing, payments, and other support related needs.

STR Identification and Monitoring

HdL compiles a list of all actively posted short term rentals available from a wide array of sources. Lists are compiled and aggregated to accommodate duplicate listings from various sites. During the identification and monitoring process, HdL will:

- Scan over 20 different rental sites, including global aggregators like HomeAway/VRBO, Airbnb, Turnkey.com, and Booking.com, national aggregators like Vacasa and Turnkey and small, local property management firms.;
- Match Listings to specific parcels using GIS and property tax assessor data;
- Create comparison reports to determine which properties may already be compliant or registered and paying taxes
- Provide visual map of all listings within the City;
- Record listing details such as start date, various sites linked to, other information necessary for documenting evidence of STR activity; and
- Continually monitor activity to identify and record new listings and closures to ensure accurate real-time identification and monitoring.

Education, Registration, and Compliance

Using the list of active STR listings, HdL conducts a series of City approved education-based programs ranging from mailers to direct phone contacts. Each packet contains all the information necessary to obtain registration and comply with local requirements. HdL assists STR hosts throughout the program with information and support with all aspects of becoming compliant. During this program, HdL will:

- Validate listing to ensure proper identification and filter out records that may lead to erroneous contacts.
- Notify non-compliant entities with a series of education-based packets designed to garner compliance;
- Provide a support center for assistance with general questions, support, and assistance with filing and paying returns.
- Provide online portal with links to FAQs, education packets, and support for registering, filing returns, and making payments online.

- Follow up with non-compliant accounts to obtain registration
- Work with City to identify additional requirements and ensure collection of data necessary to enforcement procedures.
- Establish optional implementation items such as amnesty programs, back tax and penalty provisions, and other pre-registration programs.

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 4, 2022**

TO: Honorable Mayor and City Council

VIA: Matthew Chidester, City Manager

FROM: Karen Decker, Economic and Community Vitality Manager

TITLE: **ACCEPTANCE OF FUNDING FROM THE CHAN ZUCKERBERG INITIATIVE DONOR ADVISED FUND, AN ADVISED FUND OF SILICON VALLEY COMMUNITY FOUNDATION, FOR PROGRAM EVALUATION OF ECONOMIC ADVANCEMENT CENTERS IN THREE SAN MATEO COUNTY COMMUNITIES INCLUDING THE COASTSIDE**

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to 1) accept grant funds by signing a grant agreement with Silicon Valley Community Foundation for program evaluation activities for three stakeholder groups currently engaged in the operation and implementation of economic advancement centers within San Mateo County in the amount of \$100,000; 2) negotiate and execute a sub-grantee agreement with an evaluation firm in an amount not to exceed \$100,000 and 3) make matching revenue and expenditure budget amendments in the amount of \$100,000.

FISCAL IMPACT:

The total grant amount is \$100,000 and covers a grant term ending on March 31, 2024. There is no net fiscal impact to the City. City is lead agency and is determining appropriate amount of overhead and administrative fees.

STRATEGIC ELEMENT:

This recommendation supports the Fiscal Sustainability, Healthy Communities, and Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:

The Coastside Recovery Initiative (CRI) is a comprehensive economic recovery effort sponsored by the City of Half Moon Bay in partnership and collaboration with the Half Moon Bay Coastside Chamber of Commerce and San Mateo County. It launched in 2021 with the purpose of providing immediate relief to individuals and businesses impacted by COVID and positioning the coastside economy for long-term resiliency.

Led by a diverse, multi-sector Recovery Task Force, CRI produced a set of strategic recommendations detailed in a public report, *Building a More Equitable, Vibrant and Resilient Coastside Economy*. Since the release of the report in March, the San Mateo County Board of Supervisors has approved, in concept, a \$5 million funding allocation to support the development of economic advancement centers on the Coastside and the unincorporated area of North Fair Oaks. The centers would provide supportive services for job seekers, small businesses, and entrepreneurs.

Funding the centers on the Coastside and North Fair Oaks was partly informed by recent success at a neighboring economic advancement center in South San Francisco (EAC-SSF). EAC-SSF first opened its doors virtually in July 2021, and then officially in February 2022 in response to high unemployment rates at the peak of COVID and the growing divide between the city's booming biotech sector and small family, immigrant-owned businesses. Strategically located in one of the city's lowest income census tracts, the EAC-SSF addresses these issues by offering rapid job placement services and career pathway programs along with the city's workforce development program as well as small business and entrepreneurship support services to residents and existing small business owners of South San Francisco and throughout North San Mateo County. Early results have exceeded initial goals in terms of clients served and there is high demand for services. Historically, South San Francisco and North San Mateo County have been described as resource deserts where people had to travel outside of the area for needed services and support. Most services provided by the EAC-SSF are offered in Spanish and some newer services in Cantonese.

Like South San Francisco, the City of Half Moon Bay is poised to create a similar center that will serve the Coastside region. Even before the pandemic, the Coastside region was uniquely vulnerable due its geographic isolation, lack of economic diversity and job growth, income inequality, high cost of housing and lack of services and infrastructure. The City and its partners including the Half Moon Bay Coastside Chamber of Commerce which recently launched a business development center, are currently evaluating potential commercial sites for a center and have agreed that workforce development and small business support will be essential. In addition, a business incubator, another recommendation from the Coastside Recovery Initiative, will be housed at the center. The incubator will harness the Coastside's unique industries and assets, build entrepreneurship capacity and support business and job growth. Planning is also underway for a North Fair Oaks center.

In August, the County of San Mateo, City of South San Francisco, and City of Half Moon Bay presented the Economic Advancement Center concept to staff from the Chan Zuckerberg Initiative (CZI) and emphasized the benefit of forming a cohort for peer reflection and joint learning. On August 31, the City of Half Moon Bay submitted a proposal to CZI seeking funds to support an 18-month process evaluation of the creation and early implementation of these centers in three distinct communities.

DISCUSSION:

A funding agreement between the City and Chan Zuckerberg Initiative (through Silicon Valley Community Foundation) would allow the City to receive and administer funds from a significant philanthropic partner. This funding will build learning and evaluation capacity among the partners and stakeholders with a focus on developing knowledge, skills, and tools to enhance the EAC model, setting strategic priorities, improving decision-making, measuring performance and impact, and using evidence to advance strategic priorities while also increasing public and private support for this work.

If approved, staff will finalize the agreement with Silicon Valley Community Foundation to receive the grant and negotiate and execute a sub-grantee agreement with an evaluation firm with expertise in economic and community development, participatory approaches, and qualitative methods. The ideal firm would also have a commitment to values of diversity, equity and inclusion and a successful track record of projects focused on underserved communities.

ATTACHMENT:

Resolution

RESOLUTION NO. C-2022-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY
AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS BY SIGNING A GRANT
AGREEMENT WITH SILICON VALLEY COMMUNITY FOUNDATION FOR PROGRAM EVALUATION
OF ECONOMIC ADVANCEMENT CENTERS IN THREE SAN MATEO COUNTY COMMUNITIES
INCLUDING THE COASTSIDE**

WHEREAS, the Coastside Recovery Initiative has gained momentum following the release of its public report in March 2022; and

WHEREAS, the report identified fifteen recommendations across four critical areas of need and opportunity with respect to COVID recovery and long-term economic resiliency; and

WHEREAS, the San Mateo County Board of Supervisors has approved, in concept, a \$5 million funding allocation to support the development of economic advancement centers (EACs) on the Coastside and the unincorporated area of North Fair Oaks in unincorporated San Mateo County modeled after an EAC in South San Francisco; and

WHEREAS, San Mateo County, City of South San Francisco and City of Half Moon Bay met with staff from Chan Zuckerberg Initiative to present the concept of the EACs and City of Half Moon Bay submitted a proposal on August 31, 2022, requesting funds for program evaluation for the creation and early implementation of these EACs in three distinct communities; and

WHEREAS, on September 28, 2022, Silicon Valley Community Foundation notified the City of a grant award through the CZI Donor Advised Fund in the amount of \$100,000 over an 18-month period ending on March 31, 2024, to support evaluation of the EACs in South San Francisco, Half Moon Bay, and North Fair Oaks; and

WHEREAS, Silicon Valley Community Foundation and the City desire to enter into an agreement to establish the process, terms and conditions governing the allocation and expenditure of CZI Donor Advised funds for program evaluation of the EACs; and

WHEREAS, the City desires to enter into a sub-grantee agreement with an evaluation firm with expertise in economic and community development, approaches and qualitative measures relative to the creation of the three EACs, in an amount not to exceed a total of \$100,000.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the City Manager to:

1. Accept grant funds by signing a grant agreement with Silicon Valley Community Foundation for program evaluation activities for three stakeholder groups currently

engaged in the operation and implementation of economic advancement centers within San Mateo County in the amount of \$100,000; and

2. Negotiate and execute a sub-grantee agreement with an evaluation firm in an amount not to exceed \$100,000; and

3. Make matching revenue and expenditure budget amendments in the amount of \$100,000.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 4th day of October 2022 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

Debbie Ruddock, Mayor

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 4, 2022**

TO: Honorable Mayor and City Council

VIA: Matthew Chidester, City Manager

FROM: Jill Ekas, Community Development Director
Mike Noce, Housing Coordinator

TITLE: 555 KELLY AVENUE AFFORDABLE HOUSING DEVELOPMENT – DECLARE CITY OWNED PROPERTY AS EXEMPT SURPLUS LAND PURSUANT TO GOVERNMENT CODE SECTION 54221(f)(1)(A) AND AUTHORIZE THE CITY MANAGER TO EXECUTE AN EXCLUSIVE NEGOTIATIONS AGREEMENT BETWEEN THE CITY AND MERCY HOUSING CALIFORNIA TO ENABLE PREDEVELOPMENT ACTIVITIES

RECOMMENDATION:

Adopt two resolutions to:

1. Declare property owned by the City as "exempt surplus" land, pursuant to Government Code § 54221(f)(1)(A), 54221(b), and 37364 located at 555 Kelly Avenue (APN 056-150-200) and a portion of the property located at 535 Kelly Avenue (APN 056-150-220) (the "Site") and depicted in Exhibit A of the resolution, as the City intends to lease the property for the development of affordable housing (Attachment 1), and;
2. Authorize the City Manager to execute an Exclusive Negotiations Agreement (ENA) between the City and Mercy Housing California (Mercy Housing) to enable predevelopment activities to be undertaken for an affordable housing development project on the Site and provide for a period of time in which to negotiate a development agreement between the parties (Attachment 2).

FISCAL IMPACT:

The fiscal impact of this action is limited to staff and consultant time to prepare necessary agreements, loan documents, and related materials. This action may lead to City Council authorization to provide funding to Mercy Housing from the City's Affordable Housing Fund (AHF), not to exceed one million dollars (\$1,000,000) for predevelopment activities, to support development of an affordable housing project on the Site, and to convey the City-owned site to Mercy Housing, or an affiliate of Mercy Housing, through a long-term ground lease. The Mercy Housing financing proforma requests a funding commitment total of \$2 million from Half Moon Bay – in addition to donation of the land – and outlines their intent to seek funding from multiple sources, including a request of up to \$3.32 million from San Mateo County. This

combination of funding sources is required to reach feasibility for the project. Currently, the City's Affordable Housing Fund has a balance of \$2.16 million. Any funding issued for predevelopment activities will be considered part of the City's overall \$2 million contribution to the project, which is subject to City Council approval.

STRATEGIC ELEMENT:

This action supports the Healthy Communities and Public Safety, and Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:

555 Kelly Avenue was purchased by the City in 2017. It is a rectangular parcel located south of the City's Ted Adcock Community Center adjacent to Shoreline Station. The property's lot area is approximately 6,200 square feet and abuts the City's parking lot located on the south side of the Ted Adcock Community Center at 535 Kelly Avenue. In preparing to move this effort forward, staff determined that the Community Center parking lot area would likely need to be incorporated to make a larger site of approximately 17,000 square feet to facilitate the economic feasibility of an affordable housing development. At a housing work session on November 9, 2021, City Council directed staff to initiate a process seeking development proposals for the 555 Kelly Avenue Site.

Staff worked with the City's housing consultant to prepare a Request for Qualifications (RFQ) to solicit development interest for developing 555 Kelly Avenue, and/or the expanded site including the parking lot area, with affordable housing. The RFQ was released on February 15, 2022, and closed on May 23, 2022. The RFQ was originally scheduled to close on May 9; however, a prospective applicant team requested a two-week extension and staff adjusted the schedule and provided notice of the extended deadline. The RFQ was posted on the City website at this [link](#).¹

The site is relatively small for multi-family housing development. Thus, despite extensive outreach to publicize the RFQ to local affordable housing developers, the City received only one submittal from a two-agency team comprised of Mercy Housing and Ayudando Latinos A Soñar (ALAS). As proposed, the development includes 40 units of affordable farmworker housing as well as 2,050 square feet of space for a resource center, which would be staffed and managed by ALAS. The proposed building would be four stories in height, with parking and the Farmworker Resource Center on the ground floor. Community space, open space, and management offices would be provided on the second floor. Mercy Housing proposes to develop the property and provide ongoing property management and resident services. ALAS will be a vital partner throughout the development process, including community outreach and marketing in addition to operating the Farmworker Resource Center.

On July 19, 2022, City Council approved a resolution directing staff to prepare an ENA between the City and Mercy Housing that outlines predevelopment activities and a period to negotiate

¹ [555 Kelly Avenue - Affordable Housing RFQ | Half Moon Bay, CA \(half-moon-bay.ca.us\)](#)

related development agreement(s) between the parties. The action also allowed staff to begin preparing a predevelopment loan agreement to provide potential funding support to Mercy Housing for predevelopment activities. A hyperlink to the July 19, 2022 staff report is provided in Attachment 3, which includes a copy of the Mercy Housing and ALAS development proposal.

DISCUSSION:

Surplus Land Act (SLA)

As required by Government Code § 54220, the California Surplus Land Act (SLA) requires local agencies to make publicly owned land available for affordable housing before selling or leasing the property for other purposes. All jurisdictions are mandated to prioritize affordable housing development, follow all noticing obligations of SLA, and adhere to compliance review standards set by the California Department of Housing and Community Development (HCD) on land that is no longer necessary for an agency's primary use. The first step SLA requires is that the agency make a finding that the land is either "surplus" or "exempt surplus."

Local agencies, such as Half Moon Bay, who plan to streamline the process and produce affordable housing may declare property as "exempt surplus." To be eligible for exemption, a jurisdiction must provide a competitive bidding process that invites housing developers to participate. As mentioned previously, the Site is intended for affordable housing and Half Moon Bay issued an RFQ in February 2022, which meets this provision for exemption. A local agency is permitted to declare multiple parcels surplus or exempt surplus in a single action once per calendar year. This means that similar declarations made in relation to affordable housing on other City-owned land could come before City Council as soon as January 2023.

In addition to providing a competitive bidding process, for property to be declared "exempt surplus", a proposed project must fall into one of four categories: grandfathering; land for affordable housing; land dedicated to other public uses; or land not suitable for housing. The category, land for affordable housing, outlines several specific standards for projects to qualify as exempt from SLA. For this Project, staff finds that § 54221(f)(1)(A) best fits the development characteristics and size presented by Mercy Housing and ALAS. Section 54221(f)(1)(A) includes the following project requirements:

- 1) at least 80% of the property's area will be used for housing, and;
- 2) at least 40% of the units are to be affordable to households at or below 60% of area median income (AMI), and;
- 3) at least half of the affordable units are affordable to very low income households, and;
- 4) affordable units are subject to at least a 30-year affordability covenant.

The Mercy Housing and ALAS proposal will meet and/or exceed the provisions of § 54221(f)(1)(A). Additionally, all of the proposed 40 units will be affordable and are expected to be reserved for households far below 60% of AMI. Most households will fall into the acutely low, extremely low, and/or very low income categories, which will also exceed SLA requirements by assisting households at the lowest incomes. The proposal includes a mix of

studio and one-bedroom units serving households with 1-3 persons, depending on unit size. The below table illustrates the maximum income, depending on household size, for each category according to income limits released annually by HCD for San Mateo County, see Table 1. As in most affordable housing developments, households generally pay 30% or less of their annual income toward housing costs, including rent and utilities. Farmworkers are considered a special housing needs group due to their limited income and vulnerability to market rate housing costs. HCD defines special housing needs groups as people who are elderly or disabled (including developmental disabilities), female-headed households, large families, farmworkers, and people experiencing homelessness. Furthermore, HCD finds these special-needs groups often spend a disproportionate amount of their income to secure safe and decent housing and are sometimes subject to discrimination based on their specific needs or circumstances. Mercy Housing and ALAS intend to seek additional rental subsidies to assist tenants and provide additional stability, therefore preventing potential homelessness and overcrowded living conditions for this population.

Table 1: San Mateo County 2022 Income Limits (1 to 3 Person Households)

Income Category Limits	Household Size and Income Limits		
	1	2	3
Acutely Low Income (15% AMI)	17,450	19,900	22,400
Extremely Low Income (30% AMI)	39,150	44,750	50,350
Very Low Income (50% AMI)	65,250	74,600	83,900
Median Income	116,200	132,800	149,400

Source: <https://www.hcd.ca.gov/docs/grants-and-funding/inc2k22.pdf>

Following City Council declaring the Site as exempt surplus land, a copy of the resolution must be sent to HCD 30 days prior to any land disposition. The term disposition refers to the conveyance of land owned by a local agency through sale or lease. Staff expects to have HCD certify the City's declaration long before the City Council's consideration of a ground lease agreement with Mercy Housing is required to move forward. Such actions and details will be included in a Disposition and Development Lease Agreement (DDLA) to be negotiated between Mercy Housing and the City, which will return for City Council consideration.

Exclusive Negotiations Agreement (ENA)

A copy of the proposed ENA between the City and Mercy Housing is included as Exhibit B in the Resolution provided in Attachment 2. Given the ongoing negotiations between the City and Mercy Housing regarding the ENA, it is anticipated that the final ENA executed by the City Manager will be substantially similar to the attached draft ENA. The purpose of the ENA is to establish terms including predevelopment milestones and a timeline for the execution of the DDLA, with terms to be negotiated during the ENA period. Predevelopment activities include tasks such as preparing a detailed predevelopment budget and preliminary financial analysis for the construction of the development; developing site and conceptual plans; preparing soils and environmental reports; developing plans for the programming, unit mix, occupancy and

affordability restrictions; and developing and implementing community outreach and engagement plans.

In support of the financial costs of the aforementioned predevelopment activities, including the coastal development permit entitlement process, City Council may authorize a predevelopment loan to Mercy Housing as a portion of the City's full contribution to the project. As mentioned in the Fiscal Impact section, the Mercy Housing financing proforma, included in the project proposal (see Attachment 3), outlines a funding commitment of \$2 million from the City of Half Moon Bay. The ENA states that after a predevelopment budget has been established, satisfactory to the City, a predevelopment loan agreement in an amount not to exceed one million dollars (\$1,000,000) can support those necessary activities. The predevelopment loan amount would be included as part of the total funding contribution of up to \$2 million, all subject to additional City Council approval.

In addition to the City and County, Mercy Housing will seek additional funding sources such as 9% tax credits and HCD's Joe Serna Farmworker Housing Grant [program](#). Staff wishes to highlight that funding from the County's Affordable Housing Fund is extremely competitive, and the County will expect to see a significant commitment of resources from the City of Half Moon Bay in order to commit County funds to the project. Currently, the City's Affordable Housing Fund has a balance of \$2.16 million. The ability to utilize City-owned land and multiple funding sources greatly contributes to the potential success of developing affordable housing in a region with high land and construction cost, in addition to limited available sites.

Following the execution of the ENA (as shown in the Developer's Schedule of Performance on the last page of Attachment 2), key milestones include:

- Submission of a proposed Operating Plan and Budget
- Execution of a City Predevelopment Loan
- Preliminary plan for Community Outreach and Engagement
- Conceptual Design Plans
- Community Resources Center features and programming
- Completion of development studies
- Execution of the DDLA

SUMMARY:

Throughout the Bay Area, it is common for affordable housing developers to seek a variety of avenues for funding in order to increase financial feasibility. Securing sufficient financing for an affordable housing development as proposed at 555 Kelly Avenue that serves acutely low and extremely low income farmworkers is particularly challenging due to the low rental income expected to be generated by the property. Specific funding amounts related to predevelopment activities will be discussed during the ENA period and included in a predevelopment loan agreement that will return to the City Council for approval. Execution of the ENA is a significant

milestone that will allow Mercy Housing and staff to engage in specific predevelopment activities to advance the Project toward successful completion, as outlined in the ENA.

The project will also require the City to amend aspects of current zoning on the site to be consistent with the new Workforce Housing Overlay land use designation and its associated build out allowances prior to development permit approvals being issued. Staff will continue to evaluate the project in relation to zoning provisions outlined in the Local Coastal Land Use Plan, including the Workforce Housing Overlay that supports farmworker housing as a Coastal Act priority use. Declaring the Site as exempt surplus in accordance with SLA and § 54221(f)(1)(A) is an initial, procedural step the City is required to take in the pursuit of developing affordable housing on the Site.

Staff recommends Council's approval of the resolutions in support of moving the overall concept of affordable farmworker housing development of this Site forward, with the acknowledgement that staff will continue to return to City Council with project updates and to seek further approvals.

ATTACHMENTS:

1. Resolution – Declaration of Exempt Surplus per the Surplus Lands Act
2. Resolution – ENA City of Half Moon Bay and Mercy Housing
3. Hyperlink – July 19, 2022, City Council staff report, item 3.A:
https://granicus_production_attachments.s3.amazonaws.com/halfmoonbay/159ce6d41cbe55f4625b8f18a0ce16a40.pdf

Resolution No. C-2022-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY
DECLARING PROPERTY OWNED BY THE CITY OF HALF MOON BAY AT 555 KELLY AVENUE AND
A PORTION OF PROPERTY AT 535 KELLY AVENUE (APN 056-150-200 AND 056-150-220) AS
EXEMPT SURPLUS LAND PURSUANT TO GOVERNMENT CODE SECTION 54221(f)(1)(A)**

WHEREAS, the City of Half Moon Bay (“City”) owns two parcels located at 555 Kelly Avenue and 535 Kelly Avenue. (Assessor Parcel Numbers 056-150-200 and 056-150-220); and

WHEREAS, the City wishes to create an affordable housing site of approximately 17,000 square feet, using the entire property located at 555 Kelly Avenue and a portion of the property located at 535 Kelly Avenue, as depicted on Exhibit A attached hereto and incorporated herein by reference (the “Site”); and

WHEREAS, on February 15, 2022 the City issued a Request for Qualifications (“RFQ”) for the development of affordable housing on the Site that may target a range of affordable housing types and underserved populations; and

WHEREAS, the City of Half Moon Bay Local Coastal Land Use Plan identifies this property as appropriate for application of the Workforce Housing Overlay land use designation to provide sites suitable for affordable housing; and

WHEREAS, Mercy Housing California (“Developer”) submitted a response to the RFQ prior to the May 23, 2022 deadline and proposed the construction of a 40-unit affordable farmworker housing development project (the “Project”); and

WHEREAS, pursuant to Government Code Section 54220 et seq. (the “Surplus Land Act”), the City Council must declare the Site to be “Surplus Land” or “Exempt Surplus Land” before the City Council may take action to dispose of the Site; and

WHEREAS, Government Code Section 54221(f)(1)(A) defines “Exempt Surplus Land” to include surplus land that is transferred pursuant to Government Code Section 37364; and

WHEREAS, Government Code Section 37364 authorizes a City to sell, lease, exchange, quitclaim, convey, or otherwise dispose of real property to provide affordable housing to persons and families of low or moderate income provided the following conditions are met:

- a) Not less than 80 percent of the area of the parcel will be used for the development of housing; and

b) Not less than 40 percent of the total number of those housing units developed on the parcel shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low income households; and

c) Dwelling units produced for persons or families of low and moderate income under Government Code Section 37364 shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, with such regulatory agreement recorded in the office of the county recorder in which the housing development is located; and

WHEREAS, the Developer's Project is expected to meet and exceed the requirements of Government Code Section 37364; including but not limited to:

a) all housing units (100 percent) developed on the Site be restricted to households at the lowest affordable income categories, including acutely low, extremely low, and/or very low income households as established and defined by the California Department of Housing and Community Development ("HCD") for San Mateo County; and

WHEREAS, pursuant to the Surplus Land Act, the City Council must take formal action in a regular public meeting to declare that the Site is exempt surplus land, as supported by written findings; and

WHEREAS, pursuant to the Surplus Land Act Guidelines issued by HCD, any determination by a local agency that its surplus lands are exempt from the Surplus Land Act must be provided to HCD for its review at least 30 days prior to Site disposition; and

WHEREAS, following the declaration that the Site is exempt surplus land, the City intends to execute an Exclusive Negotiation Agreement ("ENA") with the Developer for the Project that allows City staff to coordinate necessary development milestones and documents with the Developer; and

WHEREAS, during the term of the ENA, the City and Developer will negotiate the terms of a Disposition and Development Lease Agreement and long-term ground lease ("DDLA") for the development and operation of 40 units of affordable farmworker housing; and

WHEREAS, the Site will not be transferred to Developer until a DDLA and long-term ground lease is executed between City and Developer and the City has confirmed approval from HCD's review of the declaration of the Site as except surplus land; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay find the above recitals to be true and correct and are a substantive part of this Resolution; and be it further

RESOLVED, that the City Council of the City of Half Moon Bay hereby declares that the Site is exempt surplus land, pursuant to Government Code Sections 54221(b) and 54221(f)(1)(A), because the City intends to lease the Site pursuant to a DDLA for development of an affordable housing project pursuant to Government Code Section 37364; all housing units at the Site be reserved for acutely low, extremely low and/or very low income households, which will be subject to a regulatory agreement with a term of at least 55 years and recorded in the official records of San Mateo County; and be it further

RESOLVED, that the City Council of the City of Half Moon Bay hereby authorizes the City Manager to submit a copy of this Resolution to HCD in accordance with the Surplus Land Act Guidelines; and be it further

RESOLVED, that the City Council of the City of Half Moon Bay hereby finds that these actions are not subject to the California Environmental Quality Act ("CEQA") because they are activities that are excluded from the definition of a Project by Section 21065 of the Public Resources Code and section 15378(b) of the State CEQA Guidelines. This action only declares the Site as exempt surplus land and directs staff to effectuate the purpose of this Resolution. This is administrative activity of government which will not result in direct or indirect physical changes to the environment. No commitment to any project is being made at this time. CEQA review requirements must be completed before any commitment to a project occurs, and appropriate environmental review pursuant to CEQA will be completed at that time.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 4th day of October, 2022 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

Debbie Ruddock, Mayor

EXHIBIT A

PROPERTY DESCRIPTION



Resolution No. C-2022-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY
TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN EXCLUSIVE NEGOTIATIONS AGREEMENT
(ENA) BETWEEN THE CITY AND MERCY HOUSING CALIFORNIA TO ENABLE PRE-DEVELOPMENT
ACTIVITIES TO BE UNDERTAKEN FOR AN AFFORDABLE HOUSING DEVELOPMENT PROJECT ON
CITY-OWNED PROPERTY LOCATED AT 555 KELLY AVENUE AND 535 KELLY AVENUE**

WHEREAS, the City of Half Moon Bay (“City”) owns two parcels located at 555 Kelly Avenue and 535 Kelly Avenue. (Assessor Parcel Numbers 056-150-200 and 056-150-220); and

WHEREAS, the City wishes to create an affordable housing site of approximately 17,000 square feet, using the entire property located at 555 Kelly Avenue and a portion of the property located at 535 Kelly Avenue, incorporated herein by reference (the “Site”); and

WHEREAS, on February 15, 2022 the City issued a Request for Qualifications (“RFQ”) for the development of affordable housing on the Site that may target a range of affordable housing types and underserved populations; and

WHEREAS, the City of Half Moon Bay Local Coastal Land Use Plan identifies this property as appropriate for application of the Workforce Housing Overlay land use designation to provide sites suitable for affordable housing; and

WHEREAS, Mercy Housing California (“Developer”) submitted a response to the RFQ prior to the May 23, 2022 deadline and proposed the construction of a 40-unit affordable farmworker housing development project (the “Project”); and

WHEREAS, despite extensive outreach to publicize the RFQ to local affordable housing developers, the Developer’s proposal was the only one submitted in response to the RFQ; and

WHEREAS, the Project submitted by the Developer proposes a partnership with Ayudando Latinos A Soñar (ALAS), a nonprofit organization with deep ties to the farmworker community and experience in serving the social, educational, and cultural needs of Latino communities in coastal areas of Northern California, to include a Farmworker Resource Center on the ground floor that ALAS will operate; and

WHEREAS, the Developer is an experienced local nonprofit affordable housing developer with prior experience developing affordable housing in the City; and

WHEREAS, the Developer’s proposal addresses the critical need for housing for local farmworkers and also meets the City’s priorities for housing that is affordable to Acutely Low-, Very Low- and Extremely-Low Income households; and

WEREAS, the City wishes to execute an Exclusive Negotiation Agreement (“ENA”) with the Developer (see Exhibit “A”, attached), for the Project that allows City staff to coordinate necessary development milestones and documents with the Developer; and

WHEREAS, during the term of the ENA, the City and Developer will negotiate the terms of a Disposition and Development Lease Agreement and long-term ground lease (“DDLA”) for the development and operation of 40 units of affordable farmworker housing; and

WHEREAS, the City contemplates executing an agreement with Developer for a predevelopment loan (“Predevelopment Loan”), in an amount not to exceed One Million Dollars (\$1,000,000), to assist Developer with predevelopment costs incurred prior to the start of construction; and

WHEREAS, the Site will not be transferred to Developer (the “Site Disposition”) until a DDLA and long-term ground lease is executed between City and Developer, which Site Disposition is expected to occur shortly before the start of construction of the Project; and

WHEREAS, pursuant to Government Code Sections 54220, 54221(f)(1)(A) and 37364 the City Council has taken all necessary action to ensure compliance with the Surplus Land Act and the approved the required declaration of Exempt Surplus Land for the Site; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay finds the above recitals to be true and correct and are a substantive part of this Resolution; and be it further

RESOLVED, that the City Council of the City of Half Moon Bay hereby authorizes the City Manager to execute the ENA, in substantially similar form to Exhibit B, with the Developer.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 4th day of October, 2022 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

Debbie Ruddock, Mayor

EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT (555 KELLY AVENUE PROJECT)

This Exclusive Negotiating Rights Agreement (this "Agreement") is entered into as of this _____ (the "Effective Date"), by and between the City of Half Moon Bay, a public body, corporate and politic, organized and existing under the laws of the State of California (the "City"), and Mercy Housing California, a nonprofit public benefit corporation (the "Developer"). The City and the Developer are collectively referred to herein as the "Parties" and sometimes individually as a "Party".

RECITALS

A. The City owns or controls certain real property located in the City of Half Moon Bay at 535 Kelly Avenue and 555 Kelly Avenue and depicted in Exhibit A attached hereto (the "Site" or, the "Property"), and consisting of APNs 05610200 and 056150220 (partial), covering an area of approximately 17,000 sf.

B. On February 15, 2022, the City issued a Request for Qualifications ("RFQ") to select a developer to develop on the Site an affordable housing development consistent with the general goals and requirements contained in the RFQ (the "Development").

C. Through the RFQ process, the Developer was selected as the developer of the Site.

D. The purpose of this Agreement is to establish: (1) the general tasks to be undertaken by the Developer and the City during the term of this Agreement as more particularly described in Article 2 of this Agreement and the Schedule of Performance ("Schedule of Performance") attached hereto as Exhibit B; (2) the procedures and standards for the negotiation by the Parties of a Disposition and Development Lease Agreement (the "DDLA"); (3) the terms, if any, under which the City may provide financial assistance to the Developer for predevelopment expenses to be incurred in connection with the Development (the "City Assistance"); and (4) the relationship between the Developer and the City, including whether the Parties should serve as co-developers of the Development. As more fully set forth in Section 3.1, the Parties acknowledge and agree that this Agreement in and of itself does not obligate either Party to acquire or convey any property, does not grant the Developer the right to develop the Development, and does not obligate either Party to engage in any activities or incur any costs to develop the Development other than those activities set forth in Article 2 of this Agreement and the Schedule of Performance.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

ARTICLE 1.
EXCLUSIVE NEGOTIATIONS

Section 1.1 Good Faith Negotiations. During the Negotiating Period as defined in Section 1.2 below, and subject to the terms and conditions of this Agreement, both the City and the Developer shall proceed diligently and in good faith regarding negotiation and documentation of the potential terms, conditions, covenants, restrictions and agreements of a DDLA between them and the terms of any City Assistance pursuant to such a DDLA. The issues to be addressed in the negotiations include at a minimum: (i) the terms of a ground lease of the Site to the Developer; (ii) the physical and land title conditions of the Site and remediation of any adverse conditions on the Site; (iii) the type of entitlements necessary for the Development; (iv) the design, density, programming, unit mix and phasing of the Development; (v) the general scope of community and resident outreach and engagement; (vi) the specific roles, rights and responsibilities of each Party (vii) the development schedule for the Development; and (viii) financing of the Development (including, without limitation, the terms of the City Assistance). The Parties may include additional issues in the negotiations at their mutual agreement.

The Parties shall generally cooperate with each other and supply such documents and information as may be reasonably requested by the other to facilitate the conduct of the negotiations. During the Negotiating Period, the Parties shall use good faith efforts to accomplish the respective tasks outlined in Article 2 of this Agreement to facilitate the negotiation of a mutually satisfactory DDLA and the terms of any City Assistance and shall exercise reasonable efforts to complete discussions relating to the terms, conditions, covenants or restrictions of a DDLA and any City Assistance, all as may be mutually acceptable to both the City and the Developer. The exact terms and conditions of a DDLA and the City Assistance, if any, shall be determined during the course of these negotiations. During the Negotiating Period, the Developer shall also undertake and use all commercially reasonable efforts to complete the actions described in the Schedule of Performance within the time period specified for each such action in the Schedule of Performance. During the Negotiating Period, the Schedule of Performance may be amended with the mutual consent of the Parties.

Section 1.2 Negotiating Period. The negotiating period under this Agreement is a period of 365 days, commencing on the Effective Date (the "Negotiating Period"). The Negotiating Period may be extended twice, each time for an additional 90-day period by the written agreement by the Parties, as provided below. The City Manager of the City, or his or her designee, has the authority to agree to such an extension on behalf of the City if, in the City Manager's or designee's judgment, sufficient progress has been made toward the execution of a mutually acceptable DDLA and the terms of the City Assistance, if any, during the Negotiating Period to merit such an extension. The City Manager or his or her designee also has the authority to agree to such an extension if additional tasks triggered by the environmental review process and required to be completed prior to approval of the DDLA necessitate such an extension.

If a DDLA has not been executed by the Parties prior to the expiration of the Negotiating Period or mutually agreed upon extension of the Negotiating Period, then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement. If a DDLA is executed by the Parties prior to the expiration of the Negotiating Period or mutually agreed upon extension of the Negotiating Period, upon the execution of the DDLA, this Agreement shall

terminate, and all rights and obligations of Parties shall be as set forth in the executed DDLA and any documentation evidencing the City Assistance, if applicable.

The Negotiating Period may also be extended for the period of time that Developer's compliance is delayed, through no action or omission of Developer, by a Force Majeure Event. For purposes hereof, "Force Majeure Event" means (i) acts, failures to act and/or delays of the City in accordance with the Schedule of Performance; (ii) acts of God; (iii) flood, fire, earthquake, explosion, pandemic; (iv) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (iv) national or regional emergency, or other event out of Developer's reasonable control that impacts the ability of Developer or City to meet milestone deadlines as set forth in this Agreement. The foregoing notwithstanding, any extension due to a Force Majeure Event shall run from the time of commencement of the Force Majeure Event, but only if written notice is delivered by Developer to City within thirty (30) days following such commencement of the cause of such Force Majeure Event, and shall continue for the period of time that such Force Majeure Event materially impacts Developer's or City's ability to comply with the Schedule of Performance and for a period no longer than 240 days.

Section 1.3 Exclusive Negotiations. During the Negotiating Period, the City shall not negotiate with any entity, other than the Developer, regarding development of the Site, or solicit or entertain bids or proposals to do so.

ARTICLE 2. NEGOTIATION TASKS

Section 2.1 Overview. To facilitate negotiation of the DDLA, the Parties shall use reasonable good faith efforts to accomplish the tasks set forth in this Article 2 of this Agreement in a timeframe that will support negotiation and execution of a mutually acceptable DDLA prior to the expiration of the Negotiating Period.

Section 2.2 Financing and Costs of Development. Within forty-five (45) days of the execution of this Agreement and as set forth in the Schedule of Performance, the Developer will provide the City with a preliminary financial analysis for the construction of the Development. The financial analysis submitted by the Developer shall be refined by the Parties during the Negotiating Period and as otherwise provided in the DDLA.

Section 2.3 Predevelopment City Assistance. As soon as reasonably possible, the Developer will provide the City with a predevelopment budget, to include sources by uses for all predevelopment costs, for work to be undertaken beginning at the execution of this Agreement and ending at the commencement of construction of the Development (the "Predevelopment Budget"). The City shall then work diligently with the Developer to make any mutually acceptable changes or adjustments to the Predevelopment Budget. Within forty-five (45) days of the Developer's provision of a Predevelopment Budget that is satisfactory to the City and subject to City Council approval, the City shall provide to the Developer a predevelopment loan agreement in an amount not to exceed One Million Dollars (\$1,000,000.00) (the "City Predevelopment Loan"). It is understood that the City's predevelopment loan may or may not cover all of the costs enumerated in the Predevelopment Budget, and that the Developer may need to secure additional predevelopment sources from the County of San Mateo, the City, and/or other sources. The City Predevelopment

Loan will be used by Developer to conduct certain predevelopment activities related to the Development as detailed in the Predevelopment Budget. The City Predevelopment Loan will be unsecured and will be evidenced by a promissory note, a loan agreement, and an assignment of work product. The City Predevelopment Loan will bear no interest and will be due at the earlier of construction closing for the Development or 36 months following execution of the construction phase loan documents; provided however that the City shall forgive the disbursed portion of the City Predevelopment Loan if: (i) this Agreement is terminated pursuant to its terms; (ii) the Parties fail to enter into a DDLA despite the Parties' good faith efforts; and (iii) the Developer is not in default under the Agreement. Should the City forgive the disbursed portion of the City Predevelopment Loan under the conditions stated above, all finished or unfinished work products assigned under the City Predevelopment Loan shall become property of the City and shall be promptly delivered to the City. The City shall have no obligation to disburse any City Predevelopment Loan funds upon expiration, cancellation or termination of this Agreement, unless the Agreement is superseded by a duly executed DDLA.

Section 2.4 Site and Conceptual Plans. Within the timeline set forth in the Schedule of Performance, the Developer shall submit to the City conceptual plans for the development of the Site, including any plans for commercial or other non-residential space ("Conceptual Plans"). The City shall review and comment on the Conceptual Plans in a timely manner.

Section 2.5 Programming, Unit Mix and Occupancy of the Development. Within the time set forth in the Schedule of Performance, the Developer shall submit to City preliminary plans for the programming, unit mix, occupancy, and affordability restrictions for the Development ("Preliminary Programming Plans"). The City shall review and comment on the Preliminary Programming Plans in a timely manner.

Section 2.6 Plans for Community Engagement. Within the time set forth in the Schedule of Performance, the Developer shall submit to the City preliminary plans for community outreach and engagement ("Preliminary Outreach and Engagement Plans"). The City shall review and comment on the Preliminary Outreach and Engagement Plans in a timely manner. The Parties agree that Preliminary Outreach and Engagement Plans may be modified during the Negotiating Period in response to reasonable requests of community members or because of other new information that comes to light.

Section 2.7 Schedule of Performance. The Developer and the City agree to negotiate an amended Schedule of Performance to be incorporated into the DDLA, which shall include but not be limited to: the dates for obtaining Planning Approvals and financing commitments for the Development, and the dates for the commencement and completion of construction of the Development.

Section 2.8 Due Diligence. During the Negotiating Period the Developer shall conduct due diligence activities, including but not limited to planning, soils report, hazardous materials report, financial feasibility and title adequacy.

(a) Physical Adequacy Determination. The Developer shall conduct physical due diligence activities to determine whether the Site is suitable for the Development, taking into account the geotechnical and soils conditions, the presence or absence of toxic or other

hazardous materials, the massing of the proposed Development improvements and the parking requirements imposed on developments of this type and the other environmental and regulatory factors that the Developer deems relevant. Developer and City shall cooperate to timely secure any permission and noticing agreements needed for the Developer to conduct such physical due diligence activities at the Site. If, in the Developer's judgment based on such investigations and analyses, the Site is not suitable for development, the Developer may notify the City in writing prior to the expiration of the Negotiating Period of its determination (an "Unsuitability Notice"). Upon delivery by any of the methods described in Section 3.3 of an Unsuitability Notice by the Developer to the City, this Agreement shall be terminated without further action of any party, and thereafter no party shall have any further duties, obligations, rights, or liabilities under this Agreement. The Parties acknowledge that any executed DDLA shall provide a similar opportunity for the Developer to determine the physical suitability of the Site.

(b) Title Adequacy Determination. Within thirty (30) days following the Effective Date, the Developer shall cause a reputable title company to issue a Preliminary Title Report (the "Report") on the Site, and the Developer shall make a copy of the Report available to the City. If the Developer objects to any exception appearing on the Report or should any title exception arise after the date of the Report, the Developer may object to such exception, provided such objection is made to City in writing within forty-five (45) days of receiving the Report. If the Developer objects to any exception to title, the City, within thirty (30) days of receipt of the Developer's objection shall notify the Developer in writing whether the City elects to (1) cause the exception to be removed of record, (2) obtain a commitment from the title company for an appropriate endorsement to the policy of title insurance to be issued to the Developer, insuring against the objectionable exception, or (3) terminate this Agreement unless the Developer elects to take title subject to such exception. If any Party elects to terminate this Agreement pursuant to this Section 2.8(b), no Party shall thereafter have any obligations to or rights against the others hereunder. The Parties acknowledge that any executed DDLA shall provide a similar opportunity for the Developer to determine the title adequacy of the Site.

Section 2.9 Reports.

(a) The Developer, within ten (10) days of receipt of any of the following documents, shall provide the City with copies of all reports, studies, analyses, correspondence and similar documents, but excluding confidential or proprietary information, prepared or commissioned by the Developer with respect to this Agreement and the Development.

(b) The City shall provide the Developer with copies of all reports, studies, analyses, correspondence and similar documents prepared or commissioned by the City with respect to this Agreement and the Development, promptly following execution of this Agreement with respect to documents then in its possession or under its reasonable control, and promptly upon their completion with respect to any subsequently prepared documents.

Section 2.10 Environmental Review. During the Negotiating Period the City and the Developer shall review existing environmental documentation to ascertain whether it adequately addresses the Development. Based on that analysis the Developer shall prepare or cause to be prepared the appropriate environmental documentation required by the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"), if applicable, for

consideration of approval of the DDLA and any City planning approvals; provided, that nothing in this Agreement shall be construed to compel the City to approve or make any particular findings with respect to such CEQA and/or NEPA documentation. The City shall provide such information about the Development as may be required to enable the Developer to prepare or cause preparation and consideration of any CEQA- and/or NEPA-required document, and shall otherwise generally cooperate with the Developer to complete this task.

Section 2.11 Progress Reports. From time to time as reasonably agreed upon by the Parties, each Party shall make oral or written progress reports advising the other Party on studies being made and matters being evaluated by the reporting Party with respect to this Agreement and the Development within ten (10) days of a request from the other Party.

Section 2.12 Relocation. City acknowledges there are no existing tenants residing on the Property as of the date of this Agreement. However, the City currently is using the Site for storage of some public works supplies and is accessing these materials on a regular basis. During the Negotiating Period, City and Developer will negotiate a mutually agreeable plan to relocate the City's supplies as needed and to provide the Developer with all necessary access to the Site, in order to accommodate the Developer's predevelopment activities and schedule.

Section 2.13 Property Management and Supportive Services. During the Negotiating Period, the Parties will negotiate the terms of property management and any supportive service provision, if any, which may be provided separately from the general resident services provided on site.

Section 2.14 Sub-Lease of Space to Ayudando Latinos a Sonar ("ALAS"). During the Negotiating Period, the Parties will negotiate the terms of any sub-lease of space within the Development to ALAS for the purpose of providing specific resident and community services and activities.

Section 2.15 Parties' Relationship. During the Negotiating Period, the Parties will define the relationship between each other regarding the rights, responsibilities and roles of each Party

ARTICLE 3. GENERAL PROVISIONS

Section 3.1 Limitation on Effect of Agreement. This Agreement shall not obligate either the City or the Developer to enter into a DDLA. By executing this Agreement, the City is not committing itself to or agreeing to undertake conveyance, acquisition, or disposition of any parcels in the Site. By executing this Agreement, the City is merely agreeing to negotiate exclusively with the Developer for a particular period of time in accordance with the terms hereof, reserving for the City's subsequent action the final discretion and approval regarding the execution of a DDLA and all proceedings and decisions in connection therewith. Any DDLA resulting from negotiations pursuant to this Agreement shall become effective if and only if and after such DDLA has been considered and approved by City and executed by duly authorized representatives of City and Developer. Unless and until a DDLA is signed by the Developer, approved by the City and executed by the City, no agreement drafts, actions, deliverables or communications arising from

the performance of this Agreement shall impose any legally binding obligation on either Party to enter into or support entering into a DDLA or be used as evidence of any oral or implied agreement by either Party to enter into any other legally binding document.

Section 3.2 City Approvals. Developer shall be responsible for obtaining all approvals required by City for the Project in accordance with City's standard application process for discretionary land use entitlements, including payment for all of City's costs of processing such approvals. Nothing set forth herein shall be construed as a grant of any such approvals, nor as an obligation on the part of City to grant such approvals.

Section 3.3 Notices. Formal notices, demands and communications (other than day to day routine communications) between the City and the Developer shall be sufficiently given if, and shall not be deemed given unless: (i) dispatched by certified mail, postage prepaid, return receipt requested, (ii) sent by express delivery or overnight courier service with a delivery receipt, (iii) personally delivered with a delivery receipt, or (iv) sent by facsimile with a copy delivered by one of the previous three methods, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

City: City of Half Moon Bay
Community Development Department
501 Main Street
Half Moon Bay, CA 94109
Attn: Director
Reference: 555 Kelly Avenue Project

With a copy to:
Catherine Engberg
City Attorney
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

Developer: Mercy Housing California
1256 Market Street
San Francisco, CA 94102
Attn: Ramie Dare

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 3.4 Right of Entry.

The Developer and its consultants shall have the right to enter upon the Site during normal business hours to carry out normal business activities such as carrying out visual observations, meeting with City staff regarding the Development, etc. No formal notice is required for such activities on the Site. The Developer and its consultants will work with the City staff to give reasonable advance notice for any such planned activities on the Site.

The Developer and its consultants shall obtain the City's written approval, which may be requested and provided via email, prior to entering upon the Site to conduct physical investigations in accordance with this Agreement. Any such requests shall include, at a minimum, a description of the work to be performed and any expected disruption to the physical state of the Site or the normal activity of City staff on the Site, the names and company affiliations of any personnel that will perform such work, a projected schedule for the work, and a copy of liability insurance certificates covering the right of entry and naming the City, its employees and affiliates as an additional insured. Such work, once approved, shall be conducted during normal business hours, unless otherwise approved by the City. In connection with such entry and investigation, the Developer shall: (i) give the City or its designee reasonable advance notice; (ii) repair and restore any damage it may cause; (iii) carry liability insurance covering the right of entry naming the City as an additional insured; and (iv) deliver to the City, within ten (10) days of receipt thereof, a complete copy of any investigation, test, report or study which the Developer conducts, or causes to be conducted, with respect to the Site.

Section 3.5 Costs and Expenses. Except as explicitly set forth in this Agreement, each Party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each Party's obligations under this Agreement.

Section 3.6 No Commissions. Each Party represents to the other that it has not retained the services of any broker, agent or finder with respect to the Site or in connection with any matters relating to this transaction of the subject discussions, and agrees to hold the other Party harmless from and against any claim for commission, fee, or other remuneration by any broker, agent, or finder under any claimed retainer for services with respect thereto. The City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any DDLA that may result from this Agreement, unless the City retains a broker, agent or finder.

Section 3.7 Defaults and Remedies.

(a) Default. Failure by either Party to negotiate in good faith as provided in this Agreement shall constitute an event of default under this Agreement. The non-defaulting Party shall give written notice of a default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If a default remains uncured fifteen (15) days after receipt by the defaulting Party of such notice, or, if the default cannot be cured within 15 days, if the defaulting party fails to commence to cure within 15 days and thereafter diligently pursue such cure and complete such cure within a reasonable period thereafter, the non-defaulting Party may exercise the remedies set forth in subsection (b).

(b) Remedies.

(1) In the event of an uncured default by the City, the Developer may either: (a) seek specific performance; or (b) terminate this Agreement, in which case following such termination, neither Party shall have any further right, remedy or obligation under this Agreement.

(2) In the event of an uncured default by the Developer, the City's sole

remedy shall be to terminate this Agreement. Following such termination, neither Party shall have any right, remedy or obligation under this Agreement.

Except as expressly provided above, neither Party shall have any liability to the other Party for damages or otherwise for any default, nor shall any Party have any other claims with respect to performance under this Agreement. Each Party specifically waives and releases any such rights or claims it may otherwise have at law or in equity.

Section 3.8 Termination.

(a) This Agreement may be terminated at any time by mutual consent of the Parties.

(b) Developer shall have the right to terminate this Agreement, effective upon 30 days' written notice to the City that Developer has determined the Project to be financially or physically infeasible, provided that the City has reviewed and agreed with Developer's determination. Notwithstanding the foregoing, if the City approves revisions to the proposed Development to address Developer's determination of infeasibility during the 30-day period following Developer's notice, this Agreement shall remain in effect.

Section 3.9 Effect of Termination. If the Parties have not entered into a DDLA prior to the termination of this Agreement as provided herein, or prior to the expiration of the Negotiating Period (as it may be modified by the Parties pursuant to Section 1.2 of this Agreement), this Agreement shall terminate, and there shall be no further liability or obligation on the part of any of the Parties or their respective officers, employees, agents or other representatives; provided however, the provisions of Section 3.4 (Right of Entry) to the extent necessary to repair or restore any damage caused by Developer, Section 3.19 (Confidentiality), and Section 3.20 (Indemnification) shall survive such termination.

Section 3.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 3.11 Entire Agreement. This Agreement constitutes the entire agreement of the Parties regarding the subject matters of this Agreement.

Section 3.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

Section 3.13 Assignment. The Developer may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the City, which consent shall be granted or withheld in the City's reasonable discretion, and any such attempted transfer or assignment without the prior written consent of City shall be void. Notwithstanding the foregoing and subject to the City's consent, which consent shall not be unreasonably withheld, Developer may assign its rights and obligations hereunder to a limited partnership in which Developer or its wholly owned affiliate is the managing member of the general partner.

Section 3.14 Non-Recourse to Agents. No member, official, employee, agent, or consultant of any Party to this Agreement shall be personally liable to any other Party, or any successor in interest or person claiming by, through or under any Party, in the event of any default or

breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

Section 3.15 No Third Party Beneficiaries. This Agreement is made and entered into solely for the benefit of the City and the Developer and no other person shall have any right of action under or by reason of this Agreement.

Section 3.16 Actions by the City. Whenever this Agreement calls for or permits the approval, consent, authorization or waiver of the City, the approval, consent, authorization, or waiver of the City Manager of the City or his or her designee shall constitute the approval, consent, authorization or waiver of the City without further action of the City.

Section 3.17 Relationship of the Parties. The subject of this Agreement is a co-development undertaking between the Parties for coordinated development of the Site. Aside from the relationship between the Parties described herein and to be further negotiated under this Agreement for inclusion in the executed DDLA, neither Party is acting as the agent of the other Party in any respect, and none of the provisions in this Agreement shall be deemed to render the City a partner in any additional business, venture, or enterprise of Developer.

Section 3.18 Cooperation. In connection with this Agreement, the Developer and the City shall reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, the Parties shall each refrain from doing anything that would render its performance under this Agreement impossible, and each shall do everything that this Agreement contemplates that the Party shall do to accomplish the purchase of this Agreement.

Section 3.19 Confidentiality. The Parties enter into this Agreement with the understanding that during the negotiations, the City may request that Developer provide certain information that is proprietary in order for the City to verify financial, operational or trade secret information that is relevant to the negotiations of the DDLA and that will serve the public interest in assisting the City to negotiate effectively. Any such information requested by the City, and if Developer reasonably designates and clearly marks any such information as confidential or proprietary, then the City shall not disclose such information publicly without Developer's consent, except to the extent that the City is compelled to make such a disclosure under applicable law. The City agrees to notify Developer of any public records request that involves information that Developer has designated as confidential or proprietary under this Agreement. Developer agrees to bear all the costs of any litigation that is filed to determine the applicability of the public records law to documents submitted by Developer and designated as confidential or proprietary under this Section. Developer acknowledges that the final draft of the DDLA proposed for endorsement and/or approval by the City Council will be made available to the public.

Section 3.20 Indemnification. Developer hereby covenants to indemnify, hold harmless and defend the City and its respective elected and appointed officials, officers, agents, representatives and employees (all of the foregoing, collectively the "Indemnitees") from and against all liability, loss, cost, claim, demand, action, suit, legal or administrative proceeding, penalty, deficiency, fine, damage and expense (including, without limitation, reasonable attorney's fees and costs of litigation) (all of the foregoing, collectively the "Claims") arising out of any act of negligence, misfeasance or willful misconduct of Developer in connection with this Agreement or the activities contemplated hereby. Developer shall have no indemnification obligation with respect to claims arising solely out of the

negligence, misfeasance or willful misconduct of the City. Developer's indemnification obligations set forth in this Section 3.22 shall survive the expiration or earlier termination of this Agreement.

Section 3.21 Waiver of Claims. Developer expressly and absolutely waives any and all claims against the City or the City property, directly or indirectly, arising out of, or in any way connected with, any or all of the following matters:

- (a) Any aspect of the Request for Qualifications for 555 Kelly Avenue (the "RFQ"), including any information or material set forth therein or referred to therein;
- (b) Any modification, or suspension of the RFQ, or informalities or defects therein; and
- (c) Any defects in the selection procedure identifying Developer as the preferred developer conducted by the City or any act or omission of the City with respect thereto, or any release or dissemination of any information submitted by Developer to the City prior to the Effective Date of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the date first above written.

THE DEVELOPER:

MERCY HOUSING CALIFORNIA

By: _____
[NAME, TITLE]

CITY:

CITY OF HALF MOON BAY

By: _____
Matthew Chidester, City Manager

EXHIBIT A

PROPERTY DESCRIPTION



EXHIBIT B

DEVELOPER’S SCHEDULE OF PERFORMANCE

No.	Task	No. of Days After Effective Date
1	Submit Predevelopment Budget (including Sources by Uses).	Within 10 days
2	Submit timeline for predevelopment activities.	Within 15 days
3	Submit proposed City and Developer roles & responsibilities.	Within 30 days
4	Submit proposed Operating Plan and Budget (15- and 30-year).	Within 45days
5	Submit preliminary Financing Plan for Predevelopment, Construction and Permanent Phases of the Development.	Within 45 days
6	Execute City Predevelopment loan agreement. [both Parties]	Within 60 days
7	Submit preliminary Community Outreach and Engagement Approach.	Within 60 days
8	Submit Conceptual Design Plans and Programming for tenant and unit mix.	Within 120 days
9	Submit preliminary Services Plan and budget.	Within 120 days
10	Submit preliminary plans for the use of Community Resources Center by ALAS and include an outline of details such as size, features, and programming.	Within 200 days
11	Completion of Due Diligence, Physical Adequacy and Title Adequacy studies.	Within 210 days
12	Execute a Disposition and Development Agreement. [both Parties]	Within 365 days

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **October 4, 2022**

TO: Honorable City Council

VIA: Matthew Chidester, City Manager

FROM: John Doughty, Interim Assistant City Manager

TITLE: **STUDY SESSION--FEEDING OF WILDLIFE**

RECOMMENDATION:

Conduct a study session and consider whether to direct staff to begin preparation of a City Ordinance limiting the feeding of wildlife including possibly carnivorous birds and feral cats.

FISCAL IMPACT:

The operating budget of the City Manager's Office and City Attorney's Office is sufficient to cover the cost of research and ordinance preparation in Fiscal Year 2022-23.

STRATEGIC ELEMENT:

This recommendation supports the Healthy Communities and Public Safety Element of the Strategic Plan.

BACKGROUND/DISCUSSION:

On August 16, 2022, the City Council agreed to the placement of an item on a future agenda regarding the feeding of wildlife by visitors and community members, notably carnivorous birds such as ravens and crows. The request was at the behest of a group of residents that believe the practice is deleterious to the local environment. They have advocated for a local ordinance to restrict the feeding of such birds in Half Moon Bay.

On September 21, 2022, the City Manager and Interim Assistant City Manager met with a group of residents to discuss their concerns and to receive an update on their research regarding protection of wildlife. Attachment 1 includes research material submitted by the group. During the visit, staff was witness to the feeding of ravens from a deck adjacent to the former railroad right-of-way.

Research confirms that raven and crows are members of the Corvidae family and more specifically the Corvus genus. These birds are indigenous to California and most of the United

States. These birds are carnivorous and often compete with raptors and other birds of prey for food wherever they coexist.

City staff has communicated with two local bird experts. These experts indicate that feeding of Corvus is problematic for the following reasons:

- 1) Regular feeding can and often leads to concentration of Corvus where naturally they would not concentrate;
- 2) Concentration of Corvus leads to unnatural increases in population;
- 3) Increased population means greater competition for food and habitat with raptors and other birds of prey;
- 4) Ultimately, this could result in loss of raptors and birds of prey in the coastal bluff area which could be detrimental to the health of the habitat of this and other areas on the coastside.

Note 1: The experts also indicate that feral cats represent a threat to many local and migratory birds in Half Moon Bay and on the coastside.

Note 2: The experts indicated that small backyard bird feeders are important and that any proposed regulations should not preclude them.

Conclusion

California Department of Fish and Wildlife (CDFW) have regulations in place that prohibit the feeding of wildlife in the State. CDFW has limited resources and capacity to respond to and engage in enforcement in the City. The City of Half Moon Bay has the authority to regulate the feeding of wildlife by local ordinance and there are examples from other California communities to base such regulations upon. The primary issue for the City relates to logistics and successful enforcement of a local ordinance.

ATTACHMENT:

- 1) Community generated materials

Common Ravens

Luke W. Peebles
Wildlife Specialist
USDA-APHIS-Wildlife Services
Crawford, Nebraska

Jack O. Spencer, Jr.
Supervisory Wildlife Biologist
USDA-APHIS-Wildlife Services
Reno, Nevada



Figure 1. Common raven (*Corvus corax*).

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Human-Wildlife Conflicts

Common ravens (*Corvus corax*; hereafter ravens; Figure 1) are native to the United States. They belong to the Family Corvidae which also includes crows, jays, and magpies. Ravens are very similar in appearance to the more widespread American crow, but can be distinguished by their slightly larger size, wedge-shaped tail, and hoarser call.

Highly intelligent birds, ravens cause a variety of conflicts with people and often

become habituated to management tools and techniques used to prevent damage. Raven damage to agriculture includes feeding on corn and other grains, damage to fruit such as cherries, apples or melons, and preying on newborn livestock. They also prey upon endangered, threatened, and sensitive species, impacting the conservation and recovery of some populations. Their large roosts can be a nuisance in urban and suburban areas.

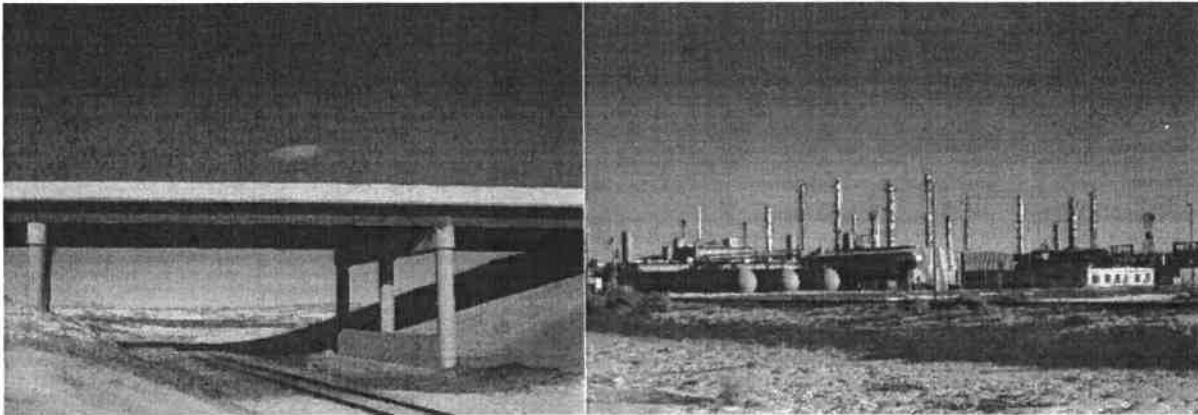


Figure 2. Ravens have been documented roosting on artificial structures, such as overpasses and heated industrial plants.

Livestock and Agriculture

Ravens prey on newborn livestock, especially newborn lambs, calves, and goats, by mobbing and attacking an individual. Ravens also eat fowl and their eggs, including chickens, ducks, guineas, and geese. The amount of depredation varies from ranch to ranch, and multiple ravens are usually responsible. Losses are incurred from death and veterinary services to injured livestock.

Ravens also impact farming practices. Ravens pick out seeds in ground crops, such as alfalfa and wheat. Nut and fruit crops are also susceptible to raven damage. Ravens also have been known to peck and destroy irrigation piping and drip lines resulting in irrigation damage and preventing the flow of water to crops.

Sensitive, Threatened and Endangered Species

Ravens impact the recovery of sensitive, threatened, and endangered species, including desert tortoises (*Gopherus agassizii*), California least terns (*Sterna antillarum browni*), snowy plovers (*Charadrius nivosus*), piping plovers (*Charadrius melodus*), California condors (*Gymnogyps californianus*), marbled murrelets (*Brachyramphus marmoratus*), San Clemente loggerhead shrikes (*Lanius ludovicianus mearnsi*), sandhill cranes (*Grus canadensis*) and greater sage-grouse (*Centrocercus urophasianus*; hereafter sage-grouse), through their depredation on these species' eggs and young. In all cases, the combination of

fragmented habitats, limited endangered species populations, and large numbers of ravens creates situations whereby even a few raven depredations significantly impact recovery efforts. The northern spotted owl (*Strix occidentalis caurina*) is possibly another species affected by raven egg depredation; ravens have been observed harassing active nest sites.

Methods of raven depredation vary by prey species. Ravens kill juvenile desert tortoises by breaking the carapace and exposing the soft tissues underneath. Ravens depredate bird nests by eating nestlings and eggs. Ravens are highly successful at distracting the nesting females in order to steal eggs. Videography in Nevada has shown ravens working together to steal sage-grouse eggs; one raven causes the female sage-grouse to lunge at it as the other raven takes eggs from the nest.

Human Health and Safety

Ravens, especially in the winter months, tend to roost in large numbers (hundreds of birds) on and near heated industrial plants and other artificial structures (i.e., overpasses, railroad trestles, powerlines; Figure 2). During the nesting season, ravens can be aggressive towards people that approach their nests. Ravens deposit fecal matter in high quantities (sometimes up to several inches deep) in areas where they roost and nest, as well as on or in machinery, creating a health hazard. Ravens, their nests, and feces can cause power outages on transmission

lines. In some instances, ravens have caused power outages that result in rangeland fires and/or loss of power to residents.

Ravens, like other corvids, are carriers of West Nile virus (WNV), a potentially fatal disease to humans. Mosquitoes spread WNV from infected birds to people. Ravens themselves are susceptible to WNV, and human outbreaks have been attributed to corvid outbreaks in the same location. The discovery of numerous dead ravens with no apparent alternative cause of death (e.g. damage management activities, predation, and electrocution) can signal a potential WNV outbreak in the local human population.

Damage Identification

Livestock

When attacking young livestock, ravens typically peck softer tissues and openings, including the eyes, tongues, anal and urogenital openings, and the umbilical cord (Figure 3). Raven predation can be distinguished from raven scavenging by looking for signs of hemorrhaging and blood loss on the carcass. Whitewash on the carcass and raven tracks may provide additional evidence of raven depredation.

Sensitive, Threatened, and Endangered Species

A sign of raven depredation on desert tortoises include carapaces with holes pecked out of them; these are often found below raven nests. Signs of raven depredation on least tern and other colonial nesting seabird eggs can be observed fairly easily due to the dense spacing and high visibility of seabird nests. Sage-grouse nest depredation is more difficult to identify due to the concealed and isolated nesting locations of sage-grouse, and raven depredation signs (eggshells) are similar to those left by mammalian predators.

Human Health and Safety

Identifying raven roosting and nesting sites for damage management purposes may help reduce potential disease spread and other human health and safety concerns. The best way to discover raven roosting locations is to identify flight patterns and follow ravens to the roosts during the last few hours of daylight. Night surveying with lights is also an effective method for locating raven roosts.

Finding raven nests can be challenging, but the presence of the raven pair usually gives away the nest's location; once disturbed, nesting ravens will cackle, circle, and dive at intruders. Copious amounts of excrement/whitewash accumulate on roosting and nesting structures, further identifying these sites. In some instances, raven nests are located near or within roosting structures.

Management Methods

Habitat Modification

Raven populations are positively influenced by human development and resources; therefore, habitat



Figure 3. Lambs killed by ravens.

modification is often proposed to deter raven use and minimize conflict. Baling up and burying garbage, installing dumpsters with secure lids, and removing or burying dead livestock reduces the availability of human-related food sources for ravens. Removing abandoned and defunct houses, sheds, and barns eliminates potential nesting structures, and may be especially effective in areas devoid of alternative nesting substrate (e.g., contiguous sagebrush valleys).

Effigies

An effigy is a full or partial representation or likeness of an object. Effigies are effective raven deterrents if used properly. The best effigy for dispersing ravens is a fresh raven carcass. Ravens are curious birds, and artificial effigies are eventually pecked at and rendered useless. Effigies should be hung upside down with wings outstretched from boundary fences, latticework, or other high, visible locations in the area needing protection. If possible, place the effigy in a discrete location to avoid observation and possible tampering by the public.

Exclusion

Exclusionary devices, such as spikes and wires, on power poles are not effective at preventing raven use; ravens actually use these devices as nest substrate. It is also

impractical to place exclusionary devices or netting on structures to prevent roosting due to the large surface area (I-beams, lattices, framework, etc.) that must be covered.

Frightening Devices

Frightening devices modify bird behavior and discourage birds from feeding, roosting, or gathering. Novel sounds and visual stimuli may cause avoidance responses in birds and offer temporary protection from damage for a few days or weeks. Frightening devices used to disperse ravens include propane cannons, lasers, scarecrows, and flashing lights (Figure 4). Constant harassment of ravens may encourage them to disperse from a small area. However, constant use of frightening devices at industrial plants, landfills, and other areas will likely result in habituation, if the location, timing, and sounds for these devices are not changed frequently. Combining frightening devices with lethal means (shooting, etc.) may improve their effectiveness.

Fertility Control

There are no registered fertility control products for use with ravens.



Figure 4. Frightening devices used to disperse ravens include lasers (*left*) and propane cannons. Modified soft-catch traps are also used to live trap the birds (*far right*).

**State of California
The Resources Agency
Department of Fish and Game
Habitat Conservation Planning Branch**

A Summary of Predation by Corvids on Threatened and Endangered Species in California and Management Recommendations to Reduce Corvid Predation



by

**Joseph R. Liebezeit
and
Dr. T. Luke George
Humboldt State University
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Species Conservation and Recovery Program Report, 2002-02

FINAL REPORT TO

California Department of Fish and Game
Species Conservation and Recovery Program
1416 Ninth Street
Sacramento, California 95814

Contracts S0085015, S0085017, and S0085024
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A Summary of Predation by Corvids on Threatened and Endangered Species in California and Management Recommendations to Reduce Corvid Predation

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2002

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*Front cover photographs by: Bob Burkett
Common Raven and Steller's Jay at Lake Tahoe, California*

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SUMMARY

We document the impact of corvids on threatened and endangered species in California and make recommendations for protecting listed species from corvid predation. Breeding Bird Survey (BBS) and Christmas Bird Count data have documented substantial increases in the populations of Common Ravens (*Corvus corax*), American Crows (*Corvus brachyrhynchos*) in California over the last 30 years. While populations of Steller's Jays have generally remained stable over this period, BBS data indicates they have increased significantly in the Southern Pacific Rainforest region of northwestern California.

Corvids have been documented preying on the nests or young of the following threatened or endangered species in California: California Condors (*Gymnogyps californianus*), Greater Sandhill Cranes (*Grus canadensis tabida*), Western Snowy Plovers (*Charadris alexandrinus nivosus*), California Least Terns (*Sterna antillarum browni*), Marbled Murrelets (*Brachyramphus marmoratus*), San Clemente Island Loggerhead Shrikes (*Lanus ludovicianus mearnsi*), Least Bell's Vireo (*Vireo bellii pusillus*), and desert tortoises (*Gopherus agassizii*). American Crows and Common Ravens have been documented as the most important nest predators on Western Snowy Plovers and California Least Terns in several locations in California. In some cases, predation by crows and ravens has caused California Least Terns to abandon their nesting colonies for a season. In addition, predation by crows and ravens is the principal cause of nest failure for Western Snowy Plovers in many locations.

Techniques that have been employed to protect threatened and endangered species from corvid predation can be lumped into three general categories: lethal removal, behavioral modification, and habitat modification. Lethal removal is often used when immediate reduction in the corvid population is necessary and has been found to be very effective in reducing nest predation by corvids on colonies of California Least Terns. However, reductions are, at best, temporary with no carryover benefits one year after removal.

Behavioral modification involves changing the behavior of a species for a specific purpose and includes: Conditioned Taste Aversion (CTA), repellants, sterilants and effigies. CTA has shown some potential for reducing corvid predation on threatened and endangered species but more research is needed. Repellants and effigies generally have only very short-term effects and do not appear to be an effective means of deterring corvid predation. The use of sterilants remains largely untested with corvids.

Habitat modification includes: erecting nest exclosures, removing nesting and perch sites, restoring degraded habitat, reducing availability of anthropogenic sources of food and water, and providing subsidized food. While exclosures have been effective at reducing corvid predation on Western Snowy Plovers, it requires a large investment of time and only provides a short-term solution. Habitat restoration and reduction of anthropogenic food and water sources are attractive approaches because they have the potential for providing a long-term solution to the problem. Landfills are one of the primary sources of anthropogenic food for crows and ravens and have been implicated as a cause of their rapid increase in some locations. Research on approaches to reducing corvid access to food in landfills is currently underway.

Reducing the impacts of corvids on threatened and endangered species is a complex issue with no simple solution. Management strategies to protect particular

species must be approached on a case-by-case basis. Nevertheless, some management recommendations such as limiting availability of anthropogenic food sources in locations where corvids co-occur with threatened and endangered species can, in some cases, be implemented quickly and with relatively little cost. More drastic measures, such as lethal removal, should be considered in extreme cases where an immediate decrease in corvids is necessary to save a population of threatened or endangered species.

CORVID LIFE HISTORIES

Members of the family Corvidae are in the order Passeriformes (“perching birds”), which includes the majority of all bird species and represents the most recently evolved avian lineage. Corvids are medium to large-sized birds and are characterized by an all purpose chisel-like bill and large, strong legs. Their nostrils are usually covered with nasal bristles or plumes. Plumage coloration and pattern ranges from simple (e.g. American Crow) to highly ornate, such as the Magpie Jay (*Calocitta formosa*).

Corvids are known for their bold, aggressive demeanor and their scolding vocalizations. Despite their abrasive calls they actually have a substantial vocal repertoire and are excellent mimics of other birdcalls. They typically build a bulky nest and raise only one brood per year. Corvids are well known for storing food in “hiding places” (caches) for future consumption. Highly developed spatial memory allows them to recover caches with high accuracy (Bednekoff et al. 1997).

Many corvids possess behaviors and preferences that allow them to thrive in human dominated landscapes. Most importantly, they are omnivorous, consuming a wide variety of foods including human-produced waste. In addition, many corvids prefer fragmented habitats with a mixture of open areas and trees (Andr  n 1992, Masselink 1999), thus residential areas are prime nesting habitat. Finally, corvids are highly intelligent and can quickly adapt to human disturbances.

In this section we summarize life history information on the three most important corvid predators affecting threatened and endangered species in California: Common Ravens, American Crows, and Steller’s Jays. Other species that occur in California are known or suspected to be important nest predators, including the Western Scrub Jay (*Aphelocoma californica*) (Root 1969, Purcell and Verner 1999, Peterson 2001), Black-billed Magpie (*Pica pica*) (Littlefield and Thompson 1985), and the Gray Jay (*Perisoreus Canadensis*) (Darveau et al. 1997, Sieving and Willson 1998). However, the importance of these species in affecting threatened and endangered species in California is not well documented.

The following summaries are brief life history accounts. Emphasis is placed on information pertinent to managing these species and reducing their impact on threatened and endangered species. We emphasized all known life-history information specific to California (Appendix A). Information included in these accounts was obtained from many sources, although the *Birds of North America* species accounts were particularly helpful. For more thorough life history information on these species we recommend the *Birds of North America* species accounts (at this time only available for Common Raven and Steller’s Jay).

AMERICAN CROW

Species description and overview

The American Crow is the most widespread corvid in North America. In appearance, it resembles the Common Raven but is distinguished by smaller size, sleeker bill, and a squared tail. The western subspecies, (*C. b. hesperis*) is smaller and more slender-billed

territories (Stouffer and Caccamise 1991) and include “vagrant” birds as well as members of family groups (Stouffer and Caccamise 1991). However, the tight cohesion of family groups seen on territories is not exhibited at the roost (Caccamise et al. 1997).

Many tree species are used for roosting, including red maples (*Acer rubrum*), white spruce (*Picea glauca*) (Stouffer and Caccamise 1991), and cottonwoods (*Populus* sp.) (Knopf and Knopf 1983). Gorenzel and Salmon (1995) reported over 17 tree species used as roost sites in California. The principal deciduous tree species used for roosting included: ash, mulberry (*Morus* sp.), elm, alder (*Alnus* sp.), sycamore, and oaks. The principal conifers included: pines (*Pinus* sp.), deodar cedars (*Cedrus deodara*), and coast redwoods (*Sequoia sempervirens*). Gorenzel and Salmon (1995) found that deciduous trees were typically used as roost sites in the summer while conifers were used during winter. Roost trees were typically closer to roads and had greater height, crown volume, crown diameter, and diameter at breast height than non-roost trees (Gorenzel and Salmon 1995). There is some evidence that large roosts form in response to superabundant food supplies, namely, landfills (Stouffer and Caccamise 1991).

COMMON RAVEN

Species description and overview

Common Ravens are the largest of all passerines. They resemble the American Crow in appearance but are easily differentiated by larger body size, more massive bill, and a wedge-shaped tail. Although both raven and crow ranges overlap, ravens appear to be invading agricultural habitats to a greater extent than urban areas, whereas crow expansion appears to have the opposite trend (Marzluff et al. 1994).

Recent genetic studies suggest that Common Ravens in California and parts of Washington and Idaho (“California clade”) are genetically distinct from all other Common Ravens worldwide (“Holarctic clade”) (Omland et al. 2000). The California clade appears to be more closely related to the desert-adapted Chihuahuan Raven (*Corvus cryptoleucus*). However, morphological differences between the 2 clades are minimal. More research needs to be done to determine if classification into separate species is warranted (Omland et al. 2000).

Adult ravens form long-term pair bonds and typically defend non-overlapping nesting territories. Non-resident juvenile ravens often wander greater distances than territorial birds, and both resident and non-resident birds gather at sites with abundant food (e.g., carcasses and dumps) (Heinrich et al. 1994). However, groups of ravens typically lack the tight cohesion seen in other social birds (Heinrich et al. 1994).

Ravens are highly adaptable to a wide range of habitats and foods. Because of this, they often respond positively to human-altered habitats. In some areas, ravens have been termed a “pest” and are causing economic damage as well as harming other native wildlife.

Distribution and seasonal movement

Common Ravens are widespread throughout large regions of the Northern Hemisphere. In North America, they are found in most of Canada and Alaska, the United

States west of the continental divide, and throughout the Appalachian Mountains of the eastern United States. They occur throughout California, except for areas of the Central Valley, parts of the central coast, and cultivated valleys of the southeast (Small 1994). Ravens have recently expanded their range along the coast into San Mateo and northern Santa Cruz counties (G. Page, pers. comm.). Raven migration in California is not known. However, they are often seen at the highest elevations in the late summer (Small 1994).

Habitat Use

Ravens are found in a wide range of natural habitat types, including arctic tundra, coniferous and deciduous forests, prairies, grasslands, and deserts. They prefer areas with some vertical relief (e.g., cliffs, trees, human-made structures) to provide nesting and foraging sites (Boarman and Heinrich 1999). They thrive in many human-altered habitats, including agricultural areas (Engel and Young 1989a), roadsides and linear right-of ways, (Knight and Kawashima 1993, Sherman 1993), ranches (Roth et al. 1999), rangelands (Knight 1984), and near campgrounds and picnic areas (Wallen et al. 1998, 1999).

Diet

Like crows, ravens are generalist omnivores. The variety of food types in their diet often reflects differences within and among individuals as well as the distribution of food in a given area (Engel and Young 1989a, Stiehl and Trautwein 1991). Ravens commonly scavenge on “human-produced” foods, such as road kills (Boarman 1993), slaughterhouse wastes (U.S. BLM 1990), calf after-births (Roth et al. 1999), organic matter at landfills (Boarman 1993), grains, and fruits (Engel and Young 1989b). However, ravens are also accomplished hunters, taking a variety of small mammals, amphibians, reptiles, birds, and insects (Sherman 1993, Boarman and Heinrich 1999). Unlike other corvids, Common Ravens sometimes specialize on carrion (Heinrich 1988). Ravens are documented predators of both eggs and nestlings and may even become specialized nest robbers (Stiehl 1978, Gaston et al. 1985, Andr  n 1992).

In California, ravens are known or thought to be important predators on the eggs and young of several threatened and endangered species, including the Western Snowy Plover, California Least Tern, California Condor, San Clemente Island Loggerhead Shrike, Greater Sandhill Crane, Marbled Murrelet and desert tortoise (See Table 5 for citations).

Territoriality

Raven pairs often occupy a “home range” in which they forage and nest. Breeding pairs establish year-round “territories” *within* the home range. Typically, territories are non-overlapping and defended year-round (most vigorously when nesting) (Boarman and Heinrich 1999). Unlike territories, home ranges may overlap with that of neighboring raven pairs, especially when near a concentrated food source (J. Roth, pers. comm.). In addition, the entire home range is *not* defended from conspecifics. In the following description of raven territoriality, most of the papers do not distinguish between home range and territory.

Territory size varies considerably depending on availability of nest sites and food. Territories range from 1.2 km² at Camp Pendleton, California (Linz et al. 1992) to 40.5 km² in Minnesota (Bruggers 1988). The smaller territory size at Camp Pendleton may be due to the higher nesting density at this site (Linz et al. 1992).

In Utah, Smith and Murphy (1973) reported an average home range size of 6.6 km² (n=4) during the breeding season. Craighead and Craighead (1956) reported an average home range size of 9.4 km² for three raven pairs in Wyoming. At the Point Reyes peninsula, California, preliminary results suggest that non-breeding ravens have larger ranges than breeding birds (Roth et al. 1999).

Breeding

Little is known about pair formation and nest-site selection in the Common Raven. Pairs are thought to be monogamous throughout the year, although extra-pair copulations have been observed (Boarman and Heinrich 1999). Typically, ravens do not breed until 2-4 years of age (Jollie 1976).

Nesting substrates are highly variable, ranging from cliffs and trees to human-made structures, including power-line towers, telephone poles, abandoned buildings, railroad trestles, billboards, oil derricks, and highway overpasses (Boarman and Heinrich 1999). In the California Desert Conservation Area, ravens have been observed nesting in tamarisk trees (*Tamarix ramosissima*), Joshua trees (*Yucca brevifolia*), transmission towers, and rock outcrops (U.S. BLM 1990). In west Marin County, California, ravens often nest in patches of introduced trees, including Monterey cypress (*Cupressus macrocarpa*), Monterey pine (*Pinus radiata*), and eucalyptus (J. Roth, pers. comm.). Many ravens are thought to return to the same nest year to year.

Nest construction begins in early to late winter. Sticks are the main building material used (Dorn 1972, Stiehl 1978). Nest construction takes from 1-4 weeks (Goodwin 1976). Egg-laying typically begins early March to mid-April. In North America, clutch sizes range from 3-7 ($\bar{X} = 5.4$, $SD = 0.42$, $n = 7$ study areas) (Boarman and Heinrich 1999). Incubation lasts 20-25 days (Harlow 1922, Dorn 1972, Stiehl 1978). Linz et al. (1992) reported an average of 2.9 ($SD = 1.0$, $n = 9$) nestlings per nest at Camp Pendleton, California. The nestling stage lasts 5-7 weeks, but juvenile birds will stay near the nest for up to 4 weeks following fledging (Knight and Call 1980). Most young fledge by mid-June. The female performs most of nest construction and incubating, however, both parents feed the young.

If clutches are lost early in the season, they are usually replaced within 2-3 weeks (Harlow 1922, Stiehl 1978). Large raptors, other ravens, and martens (*Martes americana*) are thought to be responsible for depredating raven nestlings (Dorn 1972). Predation on Common Raven eggs is unrecorded.

Feeding behavior

Breeding ravens have been reported to forage within a defended area during the nesting season (Sherman 1993), although this may vary with region, landscape, and food supply. Sherman (1993) found that ravens in the Mojave Desert spend an equal amount

of time scavenging and live hunting and that 75% of feeding activity takes place within 400m of the nest during the breeding season. Furthermore, ravens foraged within 1.7 km of linear-right-of-ways (roads, railways, transmission power lines, telephone lines), and spent 49% of the time foraging directly on the linear-right-of-ways (Sherman 1993). However, at Malheur National Wildlife Refuge in Oregon, ravens usually do not prey on Sandhill Crane nests close (< 0.4 km) to their nest (C. Littlefield, pers. comm.). When human-subsidized food is present, ravens often concentrate their feeding on these food sources and travel distances may be significantly shorter (Engel and Young 1992b).

Ravens typically concentrate their feeding activity in the morning and late afternoon (Engel and Young 1992a, Sherman 1993), although this varies with location and time of year. On Digges Island, Canada, ravens typically depredated eggs and young of Thick-billed Murres (*Uria lomvia*) before midday (Gaston et al. 1985).

Non-breeders, usually juvenile vagrants, often form "crowds" when feeding at concentrated food sources (Heinrich 1988). Crowds lack the cohesiveness in membership that most "flocking" birds exhibit (Heinrich et al. 1994). In addition, most members in a crowd are not closely related (Parker et al. 1994). However, non-resident birds rely on crowd formation to gain access to concentrated food sources within the territories of adult birds (Heinrich 1999). Ravens often cache food for later use (Heinrich 1988) and are thought to rely mostly on visual cues to detect prey (Littlefield 1995a).

Roosting behavior

Non-breeder ravens typically roost together at night when a concentrated food source is nearby. Ravens generally roost in trees, telephone poles, or power lines. Roost size varies with the size of the food source. A single deer carcass can support a roost of 50-100 individuals for up to one week (Heinrich 1988). A large supply of grain can support a roost of >2000 birds several months or longer (Engel and Young 1989b, Littlefield and Ivey 1994). In southwestern Idaho, the average distance travelled by ravens from roosts to feeding areas was 6.9 km, although one bird was observed 62.5 km from its roost (Engel and Young 1992a). Roosts may serve as information centers for food by enabling new birds in a roost to quickly find a previously located food source (Heinrich 1988). Adults usually do not join communal roosts and often roost at the nest site, even when not breeding (Engel et al. 1992).

STELLER'S JAY

Species Description and Overview

The Steller's Jay is common in coniferous forests of western North America. The erectile crest, black wing and tail bars distinguish this jay from all others. The Steller's Jay exhibits considerable variation in plumage throughout its range, and sixteen races are currently recognized (Browning 1993). The Blue Jay is considered a rare visitor to California and is easily distinguished from the Steller's Jays by its blue crest, contrasting black "necklace", and white wing and tail spots (Goodwin 1976, Small 1994). Hybrids

CAUSES OF CORVID INCREASES

The underlying cause of corvid increases throughout California (and the world) is inextricably linked to the activities of humans. Most corvid species are “human commensals” and thrive in highly disturbed habitats including agricultural, suburban, and urban areas (Marzluff et al. 1994). A major reason why corvids are successful in these areas is because they are generalist foragers, readily eating human-produced wastes. Thus, a key factor in corvid population increases is thought to be the availability of anthropogenic food sources that “subsidize” corvid populations (Boarman 1993, Marzluff et al. 2001). Food subsidies of corvid species include garbage at landfills, dumpsters, and at the curbside (Boarman 2000), agricultural grains (Stiehl 1978, Engel and Young 1989b), fruits (Simpson 1972), cattle and sheep ranching by-products (Larsen and Dietrich 1970), feed at dairy farms (Roth et al. 1999), and road kills (Boarman and Heinrich 1999). In addition, water subsidies are thought to be a particularly important factor contributing to raven increases in desert areas of California and other arid regions (W. Boarman, pers. comm.). Sources of subsidized water for corvid species include cattle watering troughs, irrigation canals (and associated structures), reservoirs, sewage treatment areas, and irrigated agricultural areas (Boarman 1993).

Habitat fragmentation due to logging and urban/agricultural development has contributed to increases in “habitat generalist” predators, including some corvid species (Andrén 1992). Most corvid species, including the three focal species in this review, thrive in fragmented habitats. Suitable breeding habitat for corvids has also been expanded through availability of human-made nesting and perching sites including telephone poles, electrical towers, bridges, buildings and the creation of urban parks and golf courses (Marzluff et al. 1994). American Crows have responded particularly well to suburban sprawl. Suburban habitats provide the perfect combination of foraging areas (lawns, roads, and landfills) immediately adjacent to excellent breeding habitat (patches of trees) (Marzluff et al. 2001).

The social nature of corvids has probably enabled efficient exploitation of human food resources through flocking behavior (Marzluff et al. 1994) and use of communal roost sites (Stouffer and Caccamise 1991, Heinrich 1988). In addition, human persecution of corvids has been much reduced (particularly in urban areas) because of the implementation of the Migratory Bird Treaty Act in 1918, which prohibited indiscriminate killing of migratory birds (including corvids). However, farmers and ranchers are still able to obtain depredation permits to kill corvids that are feeding on crops or cattle feed. In rural areas, some corvids have altered their nesting behavior in response to human persecution (Knight 1984, Knight et al. 1987). The combined effect of these factors is believed to be responsible for the increase in the abundance and range expansion of many corvids well beyond their historic levels.

(American Crow, Common Raven, and Steller's Jay). First, we summarize the importance of corvids as nest predators of species that are not listed as threatened or endangered (Table 5). Next we focus on corvids as nest predators (and predators of juveniles in the case of the desert tortoise) for the five threatened and endangered species in California and neighboring areas that are most affected by corvid predation (Table 6).

DOCUMENTATION OF THE COMMON RAVEN, AMERICAN CROW, AND STELLER'S JAY AS NEST PREDATORS

We reviewed recent published literature (1980 to the present) that implicated corvids as nest predators. We also reviewed unpublished literature specific to California. We only included studies that implicated corvids as nest predators with substantial evidence (i.e. we did not include studies where corvids were listed as "potential predators") and that identified corvids to species. Our review included studies of both artificial and real nests.

We found 33 sources that implicate the Common Raven, American Crow, or Steller's Jay as nest predators. Most documentation exists for the Common Raven and American Crow. Nine studies provide direct evidence of corvid predation at real nests (including all 3 species) (Table 5). Eleven studies document direct evidence of corvid predation at artificial nests (including all 3 species) (Table 5). Less than half the reported studies (15 of 33) relied on circumstantial or conjectural evidence to document corvid nest predator identity. Fourteen of the 33 (42%) studies reported corvids as the most important nest predator at the site. Predator importance in the remaining sources was not reported or corvids were secondary or occasional predators.

This review clearly shows that crows, ravens, and jays have been conclusively identified as nest predators and that they are often the most important nest predators at specific sites

DOCUMENTATION OF CORVIDS AS PREDATORS OF THREATENED AND ENDANGERED SPECIES IN WESTERN NORTH AMERICA

We reviewed both the primary and the gray literature for studies that document corvids as predators of threatened and endangered species in California and neighboring states. As in the previous review, we only included studies that implicated corvids as nest predators with substantial proof (i.e. we did not include a study if corvids were listed as "potential predators") and that identified corvids to species.

We found 55 published and unpublished sources that provide evidence for corvids as predators of eight listed species in California or neighboring states. The bulk of the studies implicate the Common Raven and the American Crow; very few studies have identified the Steller's Jay as a predator on threatened and endangered species. All three species prey on both eggs and nestlings of the listed bird species. Common Ravens also prey on juvenile desert tortoise. Fourteen of 55 sources (25%) provide direct evidence of predation by corvids. Corvids were the most important predators (in at least one site) in 23 of the 55 (42%) studies (Table 6).

Although in this review we only focus on the 5 listed species with copious evidence of corvid impact, other listed species in California are negatively impacted by corvids.

Snyder and Snyder (2000) report that ravens were probably the most important threat to condor nesting success in the 1980's when they were still nesting in the wild in California. Ravens were involved in at least 5 cases of egg breakage to condor eggs (Snyder and Snyder 2000). Common Ravens have been observed preying on the eggs and nestlings of the San Clemente Loggerhead Shrike (Scott and Morrison 1990). In addition, Petersen (2001) provides direct evidence that Western Scrub Jays are the most important nest predator of the Least Bell's Vireo at a site in San Diego County. Western Scrub Jays have also been identified as important egg predators (12 of 39 events) at artificial nests at the San Joaquin Experimental Range, near Fresno, California (Purcell and Verner 1999). However, we found no other published studies that provide direct evidence of scrub jays as important nest predators.

Since then, no removal of ravens has occurred, and the focus of tortoise management has shifted from predator removal to other means of halting the tortoise decline. Some of the research is directly applicable to raven control. Boarman et al. (1995a) found tortoise mortality along a 24 km section of fenced highway to be considerably lower than along a 24 km section of unfenced highway (1 vs. 34 individuals). Tortoise fencing not only reduces direct mortality along highways but also may limit food availability (road kills) for ravens, thereby decreasing raven numbers. The impact of tortoise fencing on road kills and raven numbers, however, has not been assessed.

Research has been initiated to examine raven use of anthropogenic resources in the Mojave Desert. Boarman et al. (1995b) found significantly more ravens at landfills than at sewage ponds, golf courses, city streets, and a desert reference site in the Mojave, Boron, and Kern Counties, California. These results indicate that landfills may be the principal factor causing an increase in raven populations in the Mojave. In 1992, landfill operators were asked to cover solid waste with a minimum of 15 cm of soil every day. In addition, other measures were recommended to limit raven access to landfills. These measures included: erecting coyote-proof fencing around landfills, enclosing sorting areas, installing drains at truck washing facilities, and placing coverings over septage and leachate ponds. Compaction of garbage followed by cover with 15 cm of soil effectively reduced the number of ravens using the landfill (Boarman and Heinrich 1999). Temporarily covering garbage with large tarps may also be successful if used and maintained properly (W. Boarman, pers. comm.).

A raven management plan is currently being written to be included as part of a larger "Coordinated Regional Management Plan" (W. Boarman, pers. comm.). Actions called for in this plan include: lethally removing ravens from specific areas; studying the behavior and ecology of raven predation on desert tortoise; surveying raven nest and roost locations; examining the effectiveness of and need for raven removal; experimenting with chemical aversion agents to deter raven use of anthropogenic food and water sources; studying whether removal of raven perch and nest sites will limit tortoise predation; testing the effectiveness of relocating ravens; and developing a demographic model of raven populations (Boarman 2000).

Overall effectiveness

At this point, raven control has been short-term and sporadic. Although raven numbers declined temporarily in one case, nothing is known about the effects of these programs on the desert tortoise population. The key to effectively reducing raven numbers over the long-term is through limiting their access to anthropogenic food and water sources. However, the feasibility and effectiveness of implementing this on a large scale is still unknown.

SNOWY PLOVER

The Pacific Coast population of the Western Snowy Plover was listed by the Federal government as threatened in 1993. In the United States, this species breeds along the coast from southern Washington to the Mexican border. They also breed at inland sites in south central Oregon, eastern California, western and central Nevada, northwestern

Utah, and southern Arizona. The primary cause of decline is attributed to habitat degradation and expanding recreational beach use (Page et al. 1995). The use of beach grass (*Ammophila arenaria*) to stabilize dunes and beaches has also resulted in less available breeding habitat (Page et al. 1995). Most recently, increases in nest predators have been considered to be an important threat to plover nesting success.

Both Common Ravens and American Crows are known to prey on the eggs of Western Snowy Plovers (Table 6). In published studies, direct observations of corvid predation on plover eggs are not documented (Table 6), however, eyewitness accounts have been reported (G. Page, N. Read, pers. comm.). Most documentation of corvid predators at plover nests is based on strong circumstantial evidence (Table 6) that is hard to refute (e.g., tracks leading to a recently depredated nest, sometimes with egg remains left at the nest). In San Diego County, California, both Common Ravens and American Crows have been important nest predators of Snowy Plovers in multiple seasons accounting for over 70% of all predation events (Powell et al. 1996, 1997, Collier and Powell 2000) (Table 6). In situations where both plovers and Least Terns nested in the same area, corvid predation was higher on plover nests prior to the arrival of the terns (Powell et al. 1996, 1997). Once the terns arrive, the plover nests located within the tern colony are less likely to be detected by predators. Common ravens have consistently been the most important nest predator at the Point Reyes National Seashore, California, accounting for 69% (127 of 183) of all predation events in five seasons (Hickey et al. 1995). At Vandenberg Air Force Base, California, American Crows have consistently been the second-most important predator of plover nests (coyotes are the primary predator) since 1995 (Persons 1995a, 1995b, Persons and Applegate 1996, 1997, Applegate and Schultz 1999, 2000, 2001) (Table 6). There is also anecdotal evidence that American Crows may specialize on robbing plover nests at Vandenberg Air Force Base (Applegate and Schultz 1999). In Humboldt County, California, ravens were reported to be an important nest predator (n=2) (LeValley 1999), although currently little data are available to corroborate this. Ravens were considered to be the second-most important plover nest predator (gulls were most important) at Mono Lake, California (Page et al. 1985).

Corvids are also important nest predators at a number of Snowy Plover breeding areas in Oregon. At four study sites on the Oregon coast, nest loss was attributed to movement of sand (n = 11, 17%) and predation by crows and ravens (n = 19, 30%). Cause of failure for the remaining nests could not be reliably determined, but corvids were believed to be responsible (Table 6) (Wilson-Jacobs and Meslow 1984). From the start of plover monitoring on the southern Oregon coast in 1990, both American Crows and Common Ravens have consistently been the most important nest predators (Table 6) (Stern et al. 1990, 1991, Craig et al. 1992, Casler et al. 1993, Hallett et al. 1995, Estelle et al. 1997, Castelein et al. 1997, 1998, 2000a, 2000b).

Comparison of exclosed versus non-exclosed nests indicates that hatching rates are severely limited by egg predation (White and Hickey 1997, Transou and LeValley 2000, Stern et al. 1991, Craig et al. 1992, Casler et al. 1993, Hallett et al. 1994, 1995, Estelle et al. 1997, Castelein et al. 1997, 1998, 2000a, 2000b). However, the overall impact of corvids on the population size of plovers is not known. Corvid predation is an important contributor to nest loss, but other predators, habitat loss and human disturbance are also important factors affecting plover populations (Page et al. 1995).

Erecting predator exclosures around plover nests has been the most frequent approach for predator management. In 1996, the Point Reyes National Seashore (PRNS) initiated a Snowy Plover Recovery Project. One of the key components of this project was placing exclosures around Snowy Plover nests. After one year of exclosure use, White and Hickey (1997) documented a 2-fold increase in plover breeding pairs (although it is not known if exclosure use was the reason for the increase). Exclosures appeared to provide benefits for plovers at this site (White and Ruhlen 1998, Ruhlen and White 1999) until the 2001 breeding season. Exclosure use was limited in 2001 at PRNS because an unidentified raptor entered at least one exclosure and killed an adult (Abbott and Peterlein 2001). In addition, ravens at Scotts Creek learned to get into exclosures (G. Page, pers. comm.). Workers at Point Reyes Bird Observatory are presently experimenting with new exclosure tops to prevent ravens from entering exclosures (G. Page, pers. comm.).

In Humboldt County, Mad River Biologists, with support from the U. S. Fish and Wildlife Service, began using nest exclosures to protect plover nests from predators. Protected nests on beaches had a hatching success almost twice that of nests without exclosures in 1999-2000 (Transou and LeValley 2000). Nests on gravel bars were *not* exclosed, yet they had high hatching success (78%, $n=18$) in 2000 (Transou and LeValley 2000). Nests on gravel bars are believed to suffer lower predation because adult plovers do not leave tracks and eggs are difficult to detect on the cobble substrate (R. LeValley, pers. comm.).

In Oregon, a Snowy Plover monitoring program was initiated in 1990 that included exclosure use as part of the management strategy. Nests with exclosures have consistently had higher hatching rates than unexclosed nests (Stern et al. 1991, Craig et al. 1992, Casler et al. 1993, Hallett et al. 1994, 1995, Estelle et al. 1997, Castelein et al. 1997, 1998, 2000a, 2000b). Despite this success, American Crows have been depredating a greater number of exclosed nests in recent years. Alterations in exclosure design (see section on nest exclosures) have been largely successful in thwarting continued corvid intrusion into exclosed nests, although the effort in adapting these design changes has been substantial.

Creation of nesting habitat for California Least Terns using dredge spoils at Batiquitos Lagoon in San Diego, County, inadvertently provided Snowy Plovers with prime nesting sites (Powell and Collier 2000). The fledging rate in 1995 was higher (>1 fledglings/nest) at the newly created area than at the older-dredged material and natural beach areas (0.3-0.7 fledglings/nest). Nests on the newly created islands were surrounded by less vegetative cover, less debris, and shorter vegetation than nests at the other habitat types. Predation rates were probably low because of low nest density, good visibility for adult snowy plovers, and lag time in predator "discovery" of the new food source (Powell and Collier 2000). Habitat management approaches such as this may be an effective way to limit corvid predation of plover nests in some areas.

Overall effectiveness

The use of exclosures can be an effective method in limiting plover nest predation and is apparently helping to increase hatching rates in some areas. However, recent reports indicate that exclosures may attract vandals and, in some instances, may make the

presence of nests known to avian predators of adult plovers. In some areas, corvids are learning how to get into exclosures. In addition, the success of hatchling survival after leaving exclosures is not known, although this is currently under study in Humboldt County (M. Colwell, pers. comm.). Presently, exclosures are a useful management tool in emergency situations but are not a viable long-term strategy because of the expense of finding nests and erecting exclosures around them (G. Page, pers. comm.). In some areas, corvid numbers are heavily subsidized by food sources at nearby ranches and agricultural areas (Roth et al. 1999). In these areas, corvid management may be best accomplished by limiting access to these anthropogenic food sources (G. Page, pers. comm.).

RECOMMENDATIONS

It is clear that reducing the impacts of corvids on threatened and endangered species is a complex issue with no simple solution. As the history of corvid management indicates, management strategies to protect particular species must be approached on a case-by-case basis. Nevertheless, some management recommendations such as limiting availability of anthropogenic food sources in locations where corvids co-occur with threatened and endangered species can, in some cases, be implemented quickly and with relatively little cost. More drastic measures, such as lethal removal, should be considered in cases where an immediate decrease in corvids is necessary to save a population of threatened or endangered species.

Management approaches at the local level will depend on a number of factors including the behavior and ecology of the protected species of concern, the importance of corvids as predators (in relation to other predators at a site), and the foraging and nesting behavior of local corvid populations. Local management will, in many cases, be handled quickly and in the short-term. However, short-term management approaches often do not eliminate the ultimate sources of the problem.

For the long-term, broad scale management measures must be implemented that will address the *source* of the “corvid problem.” Implementing broad-scale measures will take considerable planning and cooperation between different agencies, and the benefits may not be realized for years. Broad-scale measures must focus on two main issues: educating the public and reducing sources of anthropogenic food and water.

In order to effectively carry out both local and broad-scale management actions to reduce corvid predation of threatened and endangered species, three main groups must be involved: the public, land managers, and the scientific (research) community. Increasing public awareness and participation in developing solutions to this problem will greatly enhance the success of management actions. It is also essential to include private landowners in the development of management actions and to provide incentives for landowners whose livelihood may be compromised by such actions. Research and monitoring conducted by land managers and the research community is vital to the development and implementation of specific management actions. Only continued monitoring and analysis will make management actions effective. It is important to stress that these actions are not mutually exclusive and that effective management will require close cooperation between all interested parties.

We recommend an approach to corvid management that addresses issues of scale (local/broad) and calls on land managers and the research community to develop an efficient, yet ethical, means of reducing corvid predation. At the same time, we stress public education and participation as an important component of reducing the impacts of corvids on listed species.

PUBLIC INVOLVEMENT

1. Educate the public about corvid impacts on wildlife through popular articles, pamphlets, and signs posted at public recreation areas. Literature should include:
 - The fact that many corvid populations are increasing

- The cause of this increase is due to human supply of food, water, and the creation of suitable nesting habitat.
- High corvid numbers can cause problems for their prey which may include threatened and endangered species.

Justification: Large sectors of the public are probably unaware of the negative affects of corvids on listed species. Public education should stress that the negative impact of corvids is due, in large part, to the activities of humans and that corvids are a natural part of the ecosystem.

Educating the public will potentially have an important impact on corvid management. This action should be implemented throughout the state at all public human-use areas, particularly ones that have listed species and corvids present.

2. Encourage public participation in programs to protect listed species from corvid predation. This may include volunteer fieldwork, educational programs, participation on planning teams, and reviewing project plans. Statewide monitoring programs (such as that for the California Least Tern) could be initiated to monitor corvid populations that are affecting listed species.

Justification: Direct participation of the public can greatly enhance the efforts of land managers as well as increase public awareness of this issue. Monitor programs have been successful in the past and have been a major contributor to the recovery of the California Least Tern (Caffrey 1995a). The development and implementation of a corvid monitoring program would, ideally, be statewide, but would rely on local level organization at each site.

MANAGEMENT RECOMMENDATIONS

Non-lethal management actions

1. Reduce the influence of corvids in areas where they are negatively affecting (or have the potential to affect) listed species by reducing availability of anthropogenic food and water sources. This may include the following actions:

- Limit corvid access to landfills, sewage treatment plants, dairy farms, ranches, and road kills
- Deploy self-closing garbage cans in public-use and residential areas

Justification: The principal reason for the increase in corvid populations over the last few decades is access to anthropogenic food and water sources. Therefore, reduction in the availability of this subsidy will help reduce corvid numbers. This management action should be performed at different spatial scales depending on the type of corvid species. For example, ravens, have been observed traveling 65.2 km to forage in Idaho (Engel and Young 1992), while Steller's Jays in Redwood National Park, California had maximum travel distances of roughly 1 km (based on 69 ha home range size, $n = 2$) (Wallen et al. 1999). In New Jersey, American Crows traveled up to 18 km daily to forage (Stouffer and Caccamise 1991).

Reduction of food sources adjacent to areas of listed species activity may be one of the most important and cost effective means of immediately curtailing corvid activity at specific sites (C. Caffrey, pers. comm.). Spillage from conventional garbage cans was often responsible for attracting gulls and corvids to areas near Least Tern colonies (C. Caffrey, pers. comm.). The installation of self-closing (corvid proof) garbage cans near listed species breeding areas cannot be overstressed.

2. Reduce the influence of corvids in areas where they are negatively affecting listed species by reducing availability of perch, roost, and nest sites. This includes removing perch and roost sites and destroying nests (during the incubation stage) or adding eggs.

Justification: Availability of suitable habitat features that enhance foraging and breeding may allow corvids to breed in otherwise unsuitable locations. Because corvids may do most of their foraging within a relatively limited area surrounding their nest (Sherman 1993), a reduction in the availability of these habitat features may prevent corvids from using an area.

3. Monitor local corvid populations that are known to be negatively impacting listed species at specific sites. Monitoring should be implemented to: provide reliable estimates of both local and regional population sizes, to track the response of corvid populations to management actions (monitoring should occur before *and* after management is implemented), and to bolster local life history information (specifically information relative to foraging behavior).

Justification: Ideally, a marked corvid population would provide the most reliable data and is necessary to obtain information for demographic models. We strongly encourage agencies to provide funding to study marked corvid populations. However, monitoring an unmarked corvid population can still provide meaningful information and may be the only option for land managers in many locations.

The specific corvid monitoring protocol will vary from site to site. However, we recommend constant-effort surveys (e.g. point counts) of corvids at sites used by the species of concern and at anthropogenic food sources. Over time, such monitoring would provide information on the effectiveness of management actions implemented to reduce corvid use of such sites. We also recommend locating and monitoring corvid nests within the vicinity of breeding listed species. Monitoring corvid nests will provide an estimate of their local productivity. In addition, identification of prey delivered to the nestlings may provide strong evidence (it must be confirmed that corvids are not obtaining prey by scavenging or kleptoparasitism) that corvids are preying on the listed species. Moreover, monitoring nests will enable identification of the specific corvids that are responsible for depredations on listed species. Refer to the life-history section of this paper for information on corvid nesting substrates.

4. Identify all nest predators preying on the species of concern.

Justification: The importance of corvids as nest predators varies from site-to-site; therefore management actions will be dependent on the predator assemblage at a given location. For example, the effectiveness of nest exclosures at Snowy Plover nests depends on the species that are preying on the nests (Mabee and Estelle 2000). The control of more than one predator population may be necessary to achieve the desired effect.

5. Develop recreational public-use areas that are designed to limit potential corvid impacts on species of concern.

Justification: Campgrounds, parks, and other outdoor public-use sites are often placed in remote areas or in the remnant fragments of pristine habitat (e.g. old-growth forest) that are often inhabited by threatened and endangered species. Because corvids are often attracted to areas of human use, maintaining campgrounds in these locations may increase the potential impacts of corvids on the species of concern. To limit the impact of corvids, campgrounds and other recreational sites should be placed in locations away from areas used by species of concern (see Raphael et al. in press). This management action will take cooperation between research biologists, land managers, and park planners. This action should be considered throughout the state at all public areas that have listed species and corvids present. In addition, seasonal closures of certain areas (e.g. beaches for plovers) may be necessary.

6. Implement non-lethal management methods including conditioned taste aversion (CTA), corvid hazing at colonies, effigies, trapping and relocation.

Justification: Aversive conditioning has reduced corvid predation at Sandhill Crane nesting areas in Malheur National Wildlife Refuge, Oregon (Nicolaus 1987) and at a Least Tern colony at Camp Pendleton (Avery et al. 1995). However, it has never been used consistently, or attempted at other sites to protect listed species. We encourage managers to use aversive conditioning techniques (particularly CTA) and work with scientists to further refine the application of these techniques in the field.

The use of crow carcasses (as effigies) worked well in reducing corvid presence at Least Tern colonies in southern California (C. Caffrey, pers. comm.). There is enough anecdotal evidence to warrant testing the use of such effigies on a larger scale and using strict experimental procedures to confirm or rule out their effectiveness and feasibility as a management tool. Initial testing should evaluate the use of stuffed corvid mounts (rather than carcasses). In addition, experiments testing the most ideal placement of effigies should be performed.

Lethal management actions

1. Use selective lethal removal in situations where the survivorship of an unacceptable number of listed animals is threatened. Ideally, this would be implemented in conjunction with other non-lethal actions. The effectiveness of such actions should be closely monitored.

Justification: In situations where corvids are threatening the persistence of listed species at a location, removal of the problem birds may be necessary.

RESEARCH RECOMMENDATIONS

1. Study life-histories of local corvid populations that are believed to be negatively impacting listed species at specific sites. Data collection should focus on behaviors and life-history characteristics of corvids that are directly influencing the predator/prey relationship, including:
 - Nesting ecology – nest locations, nest-site fidelity, and nesting density
 - Roosting and perching sites
 - Territoriality – Do breeders exclude other breeders and non-breeders?, Are vacant territories quickly filled?, Do birds use the same breeding territory year-after-year?
 - Foraging behavior – preferred food, foraging locations, use of anthropogenic food sources, methods corvids use to locate and kill the species of concern.
 - Habitat use – identify habitat used for nesting, foraging, and roosting.
 -

Justification: Local-scale knowledge of corvid life histories remains undocumented at many sites where corvids are negatively impacting listed species. A better knowledge of site-specific life histories is necessary to create effective management actions at a local level. The goal is to obtain detailed, site-specific behavioral and ecological information. However, important trends across a larger area may be necessary to understand population dynamics of corvids at the local level. Some of the goals of this research action can be incorporated into the corvid monitoring plan mentioned previously.

2. Develop new management techniques of controlling corvids and improve methods already in use employing valid experimental design and statistical analyses.

Justification: Refinement of existing corvid management techniques may improve their effectiveness. For example, the benefits of CTA may be greatly increased if CTA can be established for both eggs and nestlings. Further development of sterilants and repellents may also lead to better non-lethal corvid control methods.

3. Develop demographic models for corvid populations (in addition to the listed species).

Justification: Corvid demographic models would enable the development of more efficient management strategies by 1. Enabling simulated tests of proposed management options, 2. Identify which life stages have the greatest impact on corvid population growth. Depending on the data available, the models may be applicable to both local and regional corvid populations. Marked corvid populations are necessary for the development of demographic models. We strongly recommend that data be collected

from existing marked corvid populations to be used to establish demographic databases. We also recommend studying corvid populations that are known to affect listed species.

ADMINISTRATIVE RECOMMENDATIONS

1. Establish an interagency workgroup to oversee management direction

Justification: In order for effective corvid management at a state-wide level, the actions of all agencies involved must be efficiently orchestrated. Participating agencies (Appendix C) should establish a committee or workgroup that oversees the management initiatives. We recommend establishing a state-wide corvid management plan that would have *one* main delegating workgroup. Within this larger body, we recommend establishing two committees. One would act as an interagency task force coordinating the implementation of the program. The other would oversee the technical and political aspects of the plan. A Regional Raven Management Plan for the Common Raven has been proposed that would cover almost one-third of California (Boarman 2000). We recommend incorporating this plan into the recommended state-wide plan.

The main responsibilities of the workgroup and sub-committees would be to coordinate between agencies to procure funding for implementing specific management actions, coordinate project management by developing plans with appropriate experimental design, implementing, and monitoring actions. Finally, the workgroup would be responsible for preparing and publishing results.

Using data from cooperating agencies, we recommend the establishment of a GIS database that would contain information pertinent to the management of corvids. For example, the location of all major sources of anthropogenic food and water (landfills, sewage treatment plants, etc.) should be included. In addition, the breeding areas for all listed species that are known to be preyed on by corvids should be included in the database.

It is essential to involve state or national representatives of at least one animal welfare group (e.g. Defenders of Wildlife or the Humane Society) as well as representatives from at least one national conservation organization (e.g. Audubon or Natural Resources Defense Council). These groups should be included in all planning stages of management.

2. Develop an adaptive management approach

Justification: Successful corvid management will depend on continually improving existing methods based on monitoring projects and new information. This can only be accomplished if an adaptive management approach is adopted.

CONCLUSIONS

Effective corvid management will depend on the cooperation of many agencies, with in some cases, conflicting philosophies on how to approach the problem. It is important

that the decisions be based on sound science; however, scientists must understand the position of land managers (Boarman 1992). Some management decisions will have to be made quickly without all the information and may preclude the scientific rigor deemed necessary to develop the best management options. We urge more funding spent on preventative, non-lethal corvid control.

These management recommendations are nothing new. Similar actions have been proposed in other plans (U.S. BLM 1989, Boarman 2000). However, previous actions have not been implemented to their full potential, mostly because of a lack of funding or scientific justification (as in the case of raven impacts on desert tortoise). We hope that the information contained in this plan will stimulate agencies to start taking a proactive approach to corvid management. Based on the trends we have reported, corvid numbers will continue to rise, increasing their impact on listed species. Therefore, the time for concerted action is here.

Feeding of Birds- Laws or Ordinances in California Communities

STATE of CALIFORNIA

Under section 251.1. of the California Fish and Game Code, feeding a wild animal — even a squirrel — is considered animal harassment.

§251.1. Harassment of Animals. Except as otherwise authorized in these regulations or in the Fish and Game Code, **no person shall harass**, herd or drive **any game or nongame bird or mammal or furbearing mammal**. For the purposes of this section, **harass is defined as an intentional act which disrupts an animal's normal behavior patterns, which includes**, but is not limited to, breeding, **feeding** or sheltering. This section does not apply to a landowner or tenant who drives or herds birds or mammals for the purpose of preventing damage to private or public property, including aquaculture and agriculture crops.

Colma

From a brochure called “A Guide to Bird Feeding in the Town of Colma”

“In 2020 Town of Colma City Council adopted an ordinance regarding bird feeding.....amended Colma Municipal Code to prohibit the feeding of wild birds and animals on both public and private property.”

Chapter 8 of the Colma Municipal Code includes all of the Town ordinances regarding animals:

- The Town allows normal domestic pets such as dogs and cats.
- The Town prohibits the following:
 - Livestock
 - Feeding of birds in public places
 - Chickens – Unless at least 500 feet from the nearest residence.
 - Feeding of birds on private property except for residential bird feeders when suspended off the ground. See also the Town’s Bird Feeding brochure:
<https://www.colma.ca.gov/documents/bird-feeding-faq/>

What resources are available?

There are plenty of resources available online for backyard bird feeding. The following is a list of popular resources:

The National Audubon Society:

<https://www.audubon.org/news/11-tips-feeding-backyard-birds>

The Humane Society of The United States:

<https://www.humanesociety.org/resources/feeding-your-backyard-birds>



The National Wildlife Federation:

<https://blog.nwf.org/2011/05/a-beginner%E2%80%99s-guide-to-backyard-bird-feeding/>



The U.S. Fish and Wildlife Service:

<https://www.fws.gov/birds/bird-enthusiasts/backyard-bird-feeding.php>



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8:00am to 5:00pm

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A Guide to Bird Feeding in the Town of Colma

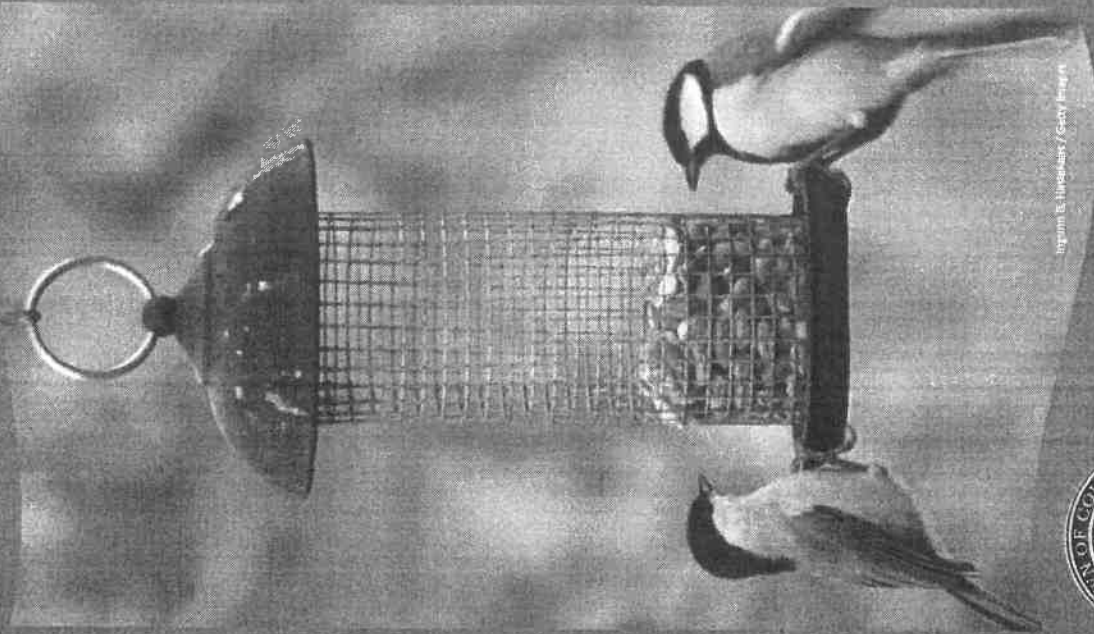


Image © iStockphoto / Getty Images



"It's Great to be Alive in Colma"

Is bird feeding allowed in Colma?



In 2020 The Town of Colma City Council adopted an ordinance regarding bird feeding. The Ordinance

amended the Colma Municipal Code to prohibit the feeding of wild birds and animals on both public and private property. This Ordinance provides the following two exceptions for bird feeding on private property:

- **Exception One:** The unintentional feeding of any wild bird or animal as a result of leaving food at a single gravesite within a cemetery.
- **Exception Two:** The Use of bird or hummingbird feeders on single-family developed properties. However, these feeders shall not create a nuisance. The feeders must be suspended off the ground to prevent the feeding of other wild animals or rodents.

The first violation of the ordinance the town will provide a warning. Repeated violations will result in a citation and fines.

What should I feed the birds ?

The use of bird and hummingbird feeders on single-family properties is allowed, however, the feeders can only be filled with bird seed or bird feed.

Some foods are toxic and other foodstuffs may harm birds. The Humane Society recommends that the following foods **not** be fed to birds:

Bread: provides no nutritional value for birds; moldy bread can harm birds

Chocolate: toxic to birds, just as it is to dogs or cats

Table scraps: some may be toxic or unhealthy to birds. Table scraps also attract mice and other rodents.

Instead of these foods you should offer a variety of seeds, nuts and fruits.

A more extensive list can be found at the link below:

<https://www.humaneociety.org/resources/feeding-your-backyard-birds>



Can bird feeding be a nuisance?

Bird feeding allowed under the ordinance can become a nuisance when:

- It creates an unreasonable disturbance on neighboring properties, or
- It creates an accumulation of droppings on the property or surrounding properties, or
- It attracts rodents and other wild animals or known nuisance birds.

There are three birds which are known to cause a nuisance in Colma:

1. **Pigeons:** tend to congregate together in large groups, leave droppings everywhere, and are known carriers of bacteria which are harmful to humans. They are also known to cause substantial property damage.
2. **Seagulls:** leave droppings everywhere, tear into trash strewn it everywhere, and are possessive and territorial and are known to attack humans.
3. **Crows:** are known to be destructive to gardens, and are known to attack humans coming near a nest.

Pismo Beach

12.20.195 - Feeding of Birds in Pier Zone

https://codelibrary.amlegal.com/codes/pismobeach/latest/pismo_ca/0-0-0-4232

6.20.120 - Feeding of Birds in Pismo Creek on Cypress Street Bridge Zone

https://codelibrary.amlegal.com/codes/pismobeach/latest/pismo_ca/0-0-0-2447

A. On the Cypress Street Bridge, or within 100 feet of the bank of Pismo Creek, it is unlawful to:
(or A. Within the pier zone, it is unlawful to:)

1. Feed any pigeon, seagull or any other bird;
2. Disperse any food material or other matter edible by pigeons, seagulls, or and other any bird so as to make such material or matter available to pigeons, seagulls or other birds for ingestion; or
3. Permit any food or other matter edible by pigeons, seagulls, or any other bird to remain on the ground after dispersing or dropping the same.

B. The provisions of this section shall not apply to any public officer or public employee in the performance of his or her duties.

C. A violation of this section shall constitute an infraction for the first offense. Any subsequent violation occurring within six months after the first violation shall constitute a misdemeanor. At the discretion of the city attorney, any such violation may be prosecuted as an infraction. (Ord. 07-07 § 2, 2007)

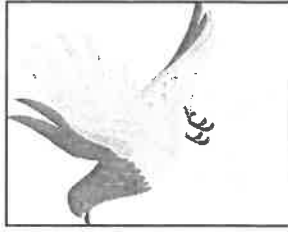


Suppression

Pigeon suppression is supplemental to sanitation and exclusion and only necessary when there is serious cause for concern of public health. Because of the health risk and expertise needed, pigeon suppression should be done by a pest control professional.

Pigeon suppression methods:

- Trapping
- Shooting
- Chemical control
- Hand capture



Combining methods is most effective. Because of their homing capability, pigeons will usually return if they are released elsewhere, therefore pigeons that are removed should be humanely killed for a practical result. Once pigeons are removed from a building, mites from the nests may start to bite human inhabitants. Nesting and roosting areas should be cleaned immediately, and can be sprayed or dusted with products that kill mites.

Discharging guns within cities is dangerous and illegal.

The District Program

San Mateo County Mosquito and Vector Control is an independent, special district funded by a property tax voted in by individual cities.

We provide the following services for district residents:

Mosquito Control
Yellowjacket Control
Rodent and Roach
Inspection
Insect and Tick
Identification

Vector-borne Disease
Surveillance
Community Education

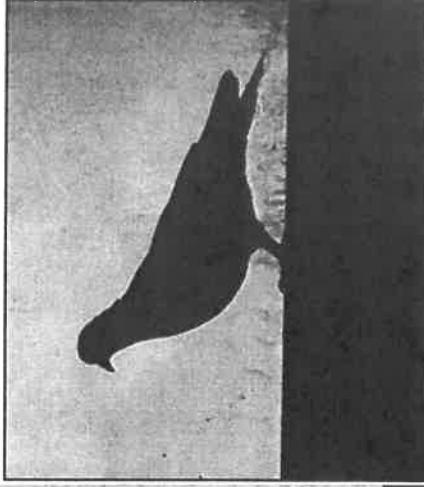
**IF YOU WOULD LIKE
 MORE INFORMATION
 ABOUT PIGEONS, CALL
 THE DISTRICT OFFICE**

(650) 344-8592

1351 Rollins Road
Burlingame, CA

www.smcmaad.org

Pigeons and Public Health



San Mateo County
Mosquito and Vector
Control District

***"An Independent
 Special District
 Working for You!"***

1351 Rollins Road
Burlingame, CA 94010
Tel: 650.344.8592
Fax: 650.344.3843

Common Pigeon (*Columba livia*)



Common pigeons, or rock doves, were introduced to North America by European settlers as a food source. They are ubiquitous in urban areas and easily recognized. Pigeon droppings can transmit diseases to people. In addition, bird ectoparasites (mites, ticks, lice, etc.) may bite people, usually after birds have roosted within a building.

Human diseases transmitted by pigeons include:

- Encephalitis
- Chlamydia-psittaci
- Aspergillosis
- Thrush
- Histoplasmosis
- Cryptococcosis

Sanitation

A pigeon infestation is a sign of poor sanitation. This includes accessible food, mainly grains and bread. Proper environmental management is the responsibility of the property owner or occupant.

Environmental sanitation includes proper storage and handling of food and waste, general cleanliness, and eliminating pigeon nesting areas. Measures to sanitize include:

- Disposing, transporting and storing garbage in containers with tight lids.



- Quickly clean up spills of food products.
- Discourage or prohibit pigeon feeding.
- Repair leaks, such as coolers on rooftops, which attract pigeons as a source of water.

People with good intentions sometimes feed pigeons, which can create or worsen a local problem. Pigeons do not need help finding food; their ability to locate food sources has led to large urban populations.

Exclusion

Exclusion prevents pigeons from finding nesting and roosting sites in or on a building.

Steps to exclude pigeons:

- Cover openings (doors, windows, vents etc.) with hardware cloth. Mesh with 1-1/2 inch openings will exclude pigeons, but 1/4 inch is recommended to also exclude mice and bats.



Hardware cloth prevents access to pigeons and other vectors.

- Ledges should have a slope greater than 45°, or covered with spikes, sticky repellents, air blasters, or other commercial products.



Spiking should cover the entire ledge to be effective.

- Prune dead palm fronds from trees.
- Maintain and repair exclusion modifications and equipment when necessary.