LIVERMORE
CALIFORNIA

CITY COUNCIL

AGENDA
MONDAY, APRIL 11, 2022

REGULAR HYBRID MEETING – 7:00 PM

RECEPTION - 6:30 PM

MEETING PARTICIPATION INFORMATION CAN BE FOUND AT THE END OF THE AGENDA

IN PERSON INFORMATION:
CIVIC CENTER MEETING HALL
CITY COUNCIL CHAMBERS
1016 S. LIVERMORE AVENUE

TELECONFERENCE INFORMATION:
CITY OF LIVERMORE YOUTUBE CHANNEL:
https://www.youtube.com/c/CityofLivermoreCalifornia

ZOOM WEBINAR:
https://us02web.zoom.us/j/84997441715

Zoom dial in phone number:
1 669 900 6833
Meeting ID: 849 9744 1715

Bob Woerner, Mayor
Regina Bonanno, Vice Mayor
Robert W Carling, Council Member
Brittni Kiick, Council Member
Trish Munro, Council Member

CIVIC CENTER MEETING HALL GRAND OPENING RECEPTION - 6:30 pm

1. CALL TO ORDER

ROLL CALL

Council Member Robert W. Carling
Council Member Brittni Kiick
Council Member Trish Munro
Vice Mayor Regina Bonanno
Mayor Bob Woerner

PLEDGE OF ALLEGIANCE

2. PROCLAMATIONS AND PRESENTATIONS

2.1 Proclamation declaring April 24-30, 2022 as National Crime Victims' Rights Week presented to Jenifer Mello, South County Victim Advocate Supervisor from the Alameda County Victim/Witness Division.

Recommendation:
Staff recommends City Council proclaim April 24-30, 2022 as National Crime Victims' Rights Week.

Staff Report
Attachments:
1. Proclamation

2.2 Proclamation declaring April 29, 2022 as Arbor Day in the City of Livermore presented to Jeff Shafer, Assistant Public Works Director

Recommendation:
Staff recommends City Council proclaim April 29, 2022 as Arbor Day in the City of Livermore.

Staff Report
Attachments:
1. Proclamation

2.3 Poet Laureate annual update and poem presented by Cynthia Patton, City of Livermore Poet Laureate

Recommendation:
Staff recommends City Council accept the update.

Staff Report

3. CITIZENS FORUM

- In conformance with the Brown Act, no City Council action can occur on items presented during Citizens Forum.

- To provide public comment in person, please submit a speaker card. When your name is called, walk to the lectern to address City Council.
- To provide public comment virtually, please log into Zoom and use the 'raise hand' feature.
- Comments are limited to a maximum of 3 minutes per person, per item. The Mayor may reduce the amount of time based on the number of persons wishing to speak.
- Citizens Forum will conclude after 30 minutes; however, if there are additional speakers, Citizens Forum will reconvene before the meeting adjourns.

3.1 Public Comment Received

Attachments:

1. Public Comment Received

4. CONSENT CALENDAR

Consent Calendar items are considered routine and are acted upon by the City Council with a single action. Members of the audience wishing to provide public input must submit a speaker card if in person or use the 'raise hand' feature if participating using Zoom.

4.1 Approval of draft minutes - March 21, 2022 Special Meeting, March 26, 2022 Special Meeting, and March 28, 2022 Regular Meeting.

Recommendation:

Staff recommends the City Council approve the draft minutes.

Staff Report

Attachments:

1. 2022-03-22 Draft Meeting Minutes
2. 2022-03-26 Draft Meeting Minutes
3. 2022-03-28 Draft Meeting Minutes

4.2 **Adopt an Ordinance** amending Title 2, Chapter 2.14, *Elections*, of the Livermore Municipal Code regarding City Council Districts and amending the boundaries and descriptions of the districts as indicated in Exhibit A

Recommendation:

Staff recommends City Council adopt an Ordinance amending Title 2, Chapter 2.14, *Elections*, of the Livermore Municipal Code updating the City Council District Map and amending the boundaries and descriptions of each District.

Staff Report

Attachments:

1. Ordinance
2. Exhibit A - Amended and Restated Chapter 2.14, Election
3. Exhibit B - District Map

4.3 Resolutions authorizing the acceptance of grant funds from Alameda County Transportation Commission for the Robertson Park/Concannon and Epson/Concannon Crossing Improvements and approving an appropriation of $217,000 for the Concannon Blvd. at Robertson Park Rd. Crossing Enhancements Active Transportation Plan (ATP), Project

Number 2021-35.

Recommendation:
Staff recommends the City Council adopt resolutions:

1. Authorizing the City Manager or designee to sign all grant documents and accept funds from Alameda County Transportation Commission for the Robertson Park/Concannon and Epson/Concannon Crossing Improvements; and
2. Approving an appropriation of $217,000 for the Concannon Blvd. at Robertson Park Rd. Crossing Enhancements ATP, Project Number 2021-35, in FY 2022-23.

Staff Report
Attachments:
1. Location Map
2. Resolution - Accepting Grant
3. Exhibit A - Alameda CTC Agreement No. A22-0031
4. Resolution - Appropriating Funds

4.4 Resolutions authorizing acceptance of grant funds from Alameda County Transportation Commission for the Lawrence Elementary School Safe Routes to School Improvements at Portola Avenue and Enos Way and approving a supplemental appropriation of $123,000 in grant funds for the Crosswalk Safety Improvements 2022, Project Number 2022-06.

Recommendation:
Staff recommends the City Council adopt resolutions:
1. Authorizing the City Manager or designee to sign all grant documents and accept funds from Alameda County Transportation Commission for the Lawrence Elementary School Safe Routes to School Improvements at Portola Avenue and Enos Way; and
2. Approving a supplemental appropriation of funds in FY 2022-23 for the Crosswalk Safety Improvements 2022, Project Number 2022-06.

Staff Report
Attachments:
1. Resolution - Accepting Grant
2. Exhibit A - Alameda CTC Agreement No. A22-0013
3. Resolution - Supplemental Appropriation

4.5 Resolution ratifying an agreement with the California State Library to accept a $27,274 grant to be used to support the Livermore Public Library's English as a Second Language (ESL) programs and services, and approving appropriation of these funds during FY 2021-22

Recommendation:
Staff recommends the City Council adopt a resolution:
1. Ratifying the City's acceptance of $27,274 in grant funds from the California State Library to be used by the Livermore Public Library for English as a Second Language (ESL) services, supplies, supports, and programs.
2. Approving the appropriation authorizing the expenditure of the accepted funds in FY 2021-22.

Staff Report

Attachments:

1. Resolution
2. Exhibit A - California State Library State Funded Grants Award Agreement and Certificate of Compliance

4.6 Resolution authorizing the execution of an agreement with artist Cecilia Lueza, for the acquisition and oversight of the installation of the outdoor art sculpture entitled "Influx" at the entry point to Livermore's Springtown District, in an amount not-to-exceed $40,000.

Recommendation:

Staff recommends the City Council adopt a resolution authorizing the City Manager or his designee to execute the Artwork Acquisition Agreement with the artist Cecilia Lueza in the not-to-exceed amount of $40,000, which is budgeted as part of the Citywide Sculptures Project #202122 of FY 2021-23 Capital Improvement Plan, and covered by City Public Art Funds.

Staff Report

Attachments:

1. Livermore Sculptures RFP
2. Resolution
3. Exhibit A - Cecilia Lueza Artwork Acquisition Final Agreement

4.7 Resolution authorizing execution of an agreement with Mydatt Services, Inc d/b/a Block By Block to provide Community Ambassador and Bio-Hazard Clean-Up services in an amount not-to-exceed $272,400

Recommendation:

Staff recommends the City Council adopt a resolution authorizing the City Manager, or his designee, to approve and enter into an agreement with Mydatt Services, Inc. d/b/a Block by Block to provide the Community Ambassador Program and Bio-Hazard Clean-Up services in the amount not-to-exceed $272,400.

Staff Report

Attachments:

1. Resolution
2. Exhibit A - Grant Agreement

4.8 Resolution authorizing the execution of a subordination agreement with Fremont Bank for the City's Deeds of Trust recorded on the properties located at 1031 and 1045 Bluebell Drive, and authorizing the City Manager to negotiate with the Livermore Housing Authority for new and restated loan and Regulatory Agreements on the properties

Recommendation:

Staff recommends the City Council adopt a resolution authorizing:

1. The City Manager to execute a Subordination Agreement with Fremont Bank, in substantially the form attached as Exhibit A to the Resolution, and subject to final form approval by the City Attorney for the City's Deeds of Trust on 1031 and 1045 Bluebell

Drive.

2. The City Manager or his designee to negotiate new and/or restated loan and Regulatory Agreements with the Livermore Housing Authority (LHA) for the properties located at 1031 and 1045 Bluebell Drive using the terms described in the letter agreement between the City and LHA, attached as Exhibit B to the Resolution.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Form of Subordination Agreement
3. Exhibit B - Letter Agreement

4.9 Resolution authorizing a lease agreement with CityServe of the Tri-Valley for office space at the Multi-Service Center, 3311 Pacific Avenue

Recommendation:
Staff recommends the City Council adopt a resolution authorizing execution of a lease agreement with CityServe of the Tri-Valley for office space at the Multi-Service Center, 3311 Pacific Avenue.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Multi-Service Center Lease with CityServe of the Tri-Valley

4.10 Resolution authorizing the acceptance for permanent maintenance and release of the security bonds for the Miscellaneous Corrective and Incomplete Work at the Civic Center Meeting Hall, Project 2004-3901.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the acceptance for permanent maintenance and release of the security bonds for the Miscellaneous Corrective and Incomplete Work at the Livermore Civic Center Meeting Hall, Project 2004-3901.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Notice of Completion

4.11 Resolution directing the City Engineer to file the Annual Engineer's Report for the City's Landscape Maintenance Districts

Recommendation:
Staff recommends the City Council adopt a resolution directing the City Engineer to file the Annual Engineer's Report for the City's Landscape Maintenance Districts.

Staff Report
Attachments:

1. Resolution

4.12 Resolution approving the City of Livermore Cybersecurity Policy

Recommendation:
Staff recommends City Council approve the City of Livermore Cybersecurity Policy.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - City of Livermore Cybersecurity Policy

4.13 Resolution approving the City of Livermore Salary Plan as of May 2022 in accordance with California Code of Regulations, Title 2, Section 570.5.

Recommendation:

Staff recommends the City Council adopt a resolution approving the City of Livermore Salary Plan as of May 2022, in accordance with California Code of Regulations, Title 2, Section 570.5.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Salary Plan effective May 2022

4.14 Resolution terminating the proclamation of local emergency (COVID-19) and the temporary suspension and revision of the City Council Meeting Rules of Procedure in Response to the COVID-19 pandemic

Recommendation:
Staff recommends City Council adopt a resolution terminating the proclamation of local emergency, the temporary suspension and revision of the City Council Meeting Rules of Procedure, and all unexpired emergency orders, declared in response to the spread of COVID-19.

Staff Report
Attachments:
1. Resolution

5. PUBLIC HEARINGS

5.1 Hearing to consider proposed Livermore Municipal Water rates and charges for calendar years 2023 through 2027

Recommendation:
Staff recommends that the City Council:
1. Conduct a public hearing for proposed water rates;

2. Determine if a majority protest exists; and
3. If a majority protest does not exist, adopt a resolution amending water rates and charges for calendar years 2023 through 2027.

Staff Report
Attachments:
1. Protest Letters Received
2. Resolution
3. Exhibit A - Water Rate Study

5.2 Hearing to **introduce an ordinance** adding section 2.36.200 to the Livermore Municipal Code in compliance with the requirements of Assembly Bill 481 (an act to add sections 7070 through 7075 to the Government Code, relating to military equipment).

Recommendation:
Staff recommends City Council:
1. Conduct a Public Hearing to receive input and comments on the proposed equipment policy.
2. Introduce an Ordinance adding Section 2.36.200 entitled, “Military Equipment Policy” to the Livermore Municipal Code in compliance with Assembly Bill 481.

Staff Report
Attachments:
1. Livermore Police Department Policy 709 -Military Equipment
2. LPD Military Equipment Inventory- 2022
3. Equipment Inventory Summary
4. Ordinance

5.3 Hearing to consider a proposal to amend the Downtown Specific Plan regarding outdoor dining, outdoor dining guidelines, and amend the Livermore Municipal Code, adding Chapter 5.6, *Outdoor Dining Permit*, to establish an Outdoor Dining Ordinance, including a permitting process.

Recommendation:
The Planning Commission and staff recommend the City Council:
1. Adopt resolutions finding that the project is exempt under the California Environmental Quality Act and that the project is consistent with the 2009 Subsequent Environmental Impact Report for the Downtown;
2. Adopt a resolution approving Specific Plan Amendment (SPPA) 22-002 for changes to outdoor dining standards in the Downtown Specific Plan; and
3. **Introduce an Ordinance** amending Title 5, adding Chapter 5.60 Outdoor Dining Permit, of the Livermore Municipal Code

Staff Report
Attachments:
1. Resolution - CEQA Exemption
2. Exhibit A - Planning Commission Resolution No. 06-22
3. Resolution - CEQA - Prior EIR

4. Exhibit A - Planning Commission Resolution No. 05-22
5. Resolution - Project Approval - SPPA22-002
6. Exhibit A - Planning Commission Resolution No. 07-22
7. Exhibit B - Chapter 5 Development Standards Downtown Core
8. Exhibit C - Chapter 6 Design Standards and Guidelines - Outdoor Dining and Seating
9. Exhibit D - Chapter 10 Implementation
10. Ordinance
11. Exhibit A - Planning Commission Resolution No. 08-22
12. Exhibit B - Outdoor Dining Ordinance

6. MATTERS FOR CONSIDERATION

6.1 Resolution approving the 2022 revised Meeting Rules of Procedure for the City of Livermore Advisory Bodies

Recommendation:
Staff recommends the City Council adopt a resolution approving the revised Meeting Rules of Procedure for eleven of the City's advisory bodies to conform them to the City Council Meeting Rules of Procedure, add clarification, streamline administrative processes, extend the term for the Community Asset Management Program Outreach Committee and Climate Action Plan Advisory Committee, and confirm prior direction related to advisory body meetings.

Staff Report
Attachments:
1. Airport Commission - Redline Rules of Procedure
2. Beautification Committee - Redline Rules of Procedure
3. Climate Action Plan - Redline Rules of Procedure
4. Community Asset Management Program - Redline Rules of Procedure
5. Commission for the Arts - Redline Rules of Procedure
6. General Plan Advisory Committee - Redline Rules of Procedure
7. Historic Preservation Commission - Redline Rules of Procedure
8. Human Services Commission - Redline Rules of Procedure
9. Library Board of Trustees - Redline Rules of Procedure
10. Livermore Housing Authority - Redline Rules of Procedure
11. Planning Commission - Redline Rules of Procedure
12. Resolution - 2022 Revised Meeting Rules of Procedures

7. COUNCIL COMMITTEE REPORTS AND MATTERS INITIATED BY CITY MANAGER, CITY ATTORNEY, STAFF, AND COUNCIL MEMBERS

8. ADJOURN TO CLOSED SESSION

9. CLOSED SESSION

- Roll Call
- Opportunity for the the Public to Address City Council Regarding Closed Session Items
- Adjourn to Closed Session

Note: This Closed Session my be continued to the end of the Regular Meeting.

9.1 Conference with Legal Counsel - Existing Litigation. To meet with legal counsel pursuant to Government Code section 54956.9(d)(1) to discuss litigation that has been formally initiated. (Two cases)

1. Tolbert v. Livermore, et al., United States District Court for the Northern District of California, Case No. 4:21-cv-05174-YGR

2. Save the Hill Group v. Livermore, et al, California Court of Appeal, First Appellate District, Division Five, Case No. A161573; Alameda County Superior Court Case No. RG19020186

Attachments:

1. Public Comment Received

REPORT OF ACTION TAKEN IN CLOSED SESSION

10. ADJOURNMENT

To a Regular City Council meeting on Monday, April 25, 2022 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue and virtually using Zoom.

11. SUPPLEMENTAL MATERIALS

11.1 Supplemental materials received prior to the meeting.

Staff Report

Attachments:

1. Supplemental Materials

11.2 Supplemental materials received at the meeting.

Staff Report

Attachments:

1. Items Received at the Meeting

12. HOW TO PARTICIPATE IN OUR CITY COUNCIL MEETING

You can participate in the meeting in a number of ways:

Citizens Forum is an opportunity for the public to speak regarding items not listed on the agenda. Speakers are limited to a maximum of 3 minutes per person. To address the City Council in person, you must submit a speaker card to the City Clerk prior to the start of that item. To submit a comment using Zoom, you may use the 'raise hand' feature when the item begins. Please note that the City Council is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the City Council may place it on a future agenda or direct staff to work with you and/or report to the City Council on the issue.

Public Hearings - The topic of the hearing is typically summarized by staff, followed by a presentation by the applicant, and questions from the City Council. The Mayor will then open the hearing to the public and offer an opportunity for public comments. Speakers are limited to a maximum of 3 minutes per person. To address the City Council in person, you must submit a speaker card to the City Clerk prior to the start of the presentation of the item. To submit a comment using Zoom, you may use the 'raise hand' feature as soon as the item begins.

Other Agenda Items are also open for public input including Consent Calendar or Matters for Consideration items. These comments are also subject to the 3-minute limit.

Special Meetings, Workshops - The public will have the opportunity to address the City Council regarding the item that is the subject of the special meeting or workshop. Public comments are limited to a maximum of 3 minutes per person.

Platforms to Participate in Meetings:

Submission of Comments Prior to the Meeting:

Email Comments may be submitted by the public to the City Clerk's Office (cityclerk@LivermoreCA.gov). Items received no later than 12:00 pm on the day of the meeting will be provided to the City Council and available on the City website prior to the meeting. These items will NOT be read into the record.

eComments may be submitted by the public using the eComment link here. Comments may be up to 1000 characters in length and will be accepted up until 4:00 pm the day of the meeting. These items will NOT be read into the record and are viewable by the City Council and the public upon submittal.

Submission of Comments During the Meeting:

Speakers are limited to a maximum of 3 minutes per person. To submit a comment in person, you must complete a speaker card for each item. Speaker cards are available in the Civic Center Meeting Hall lobby. Indicate on the card the item number you wish to comment on and submit the card directly to the City Clerk prior to the start of the item. To submit a comment using Zoom, you may use the 'raise hand' feature. Please note that the City Council is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the City Council may place it on a future agenda or direct staff to work with you and/or report to the City Council on the issue.

The City will be using YouTube and TV29 as two tools to provide the public access to view City Council meetings. No public comment will be accepted via YouTube.

TV29: tv29live.org

YouTube: http://youtube.com/c/CityofLivermoreCalifornia

Zoom Webinar: https://us02web.zoom.us/j/84997441715
Zoom dial in phone number: 1 669 900 6833
Meeting ID: 849 9744 1715

If you would like to deliver written materials to the City Council as part of your public comments, and are commenting in person, please provide 10 copies to the City Clerk with your speaker card. If you are commenting using Zoom, the speaker must identify that intent in his or her comment and immediately email the materials to the City Clerk at

cityclerk@LivermoreCA.gov.

The **City Council Agenda and Agenda Reports** are prepared by City staff and are available for public review on Tuesday evening, six days prior to the City Council meeting in the Civic Center Library, 1188 South Livermore Avenue, Livermore, and at the City Clerk's Office, 1052 South Livermore Avenue, Livermore. The Agenda is also available on the City's website, http://cityoflivermore.net/agenda.

Under Government Code §54957.5, any **supplemental material** distributed to the members of the City Council after the posting of this agenda will be available for public review in the City Clerk's Office, 1052 South Livermore Avenue, Livermore, and included in the agenda packet available on the City's web site at http://cityoflivermore.net/agenda.

PURSUANT TO TITLE II OF THE AMERICANS WITH DISABILITIES ACT (CODIFIED AT 42 UNITED STATES CODE SECTION 12101 AND 28 CODE OF FEDERAL REGULATIONS PART 35), AND SECTION 504 OF THE REHABILITATION ACT OF 1973, THE CITY OF LIVERMORE DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, ANCESTRY, SEX, DISABILITY, AGE OR SEXUAL ORIENTATION IN THE PROVISION OF ANY SERVICES, PROGRAMS, OR ACTIVITIES. TO ARRANGE AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PUBLIC MEETING, PLEASE CONTACT THE ADA COORDINATOR AT ADACOORDINATOR@LIVERMORECA.GOV OR CALL (925) 960-4170 (VOICE) OR (925) 960- 4104 (TDD) AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE MEETING.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 2.1**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Marc Roberts, City Manager

SUBJECT: Proclamation declaring April 24-30, 2022 as National Crime Victims' Rights Week presented to Jenifer Mello, South County Victim Advocate Supervisor from the Alameda County Victim/Witness Division.

RECOMMENDED ACTION

Staff recommends City Council proclaim April 24-30, 2022 as National Crime Victims' Rights Week.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Stephanie Egidio
Management Analyst

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the

City of Livermore

Declaring

NATIONAL CRIME VICTIMS' RIGHTS WEEK

April 24 – 30, 2022

***WHEREAS**, in 1974, the Alameda County District Attorney's Office Victim-Witness Assistance Program was established, the first such program in the nation. The program provides services to aid crime victims' recovery from the emotional, psychological, social and economic impact of crime as they regain their sense of safety, well-being and dignity; and*

***WHEREAS**, in partnership with survivors, community service providers, criminal justice professionals and victim advocates, the Alameda County District Attorney's Office works to ensure a criminal justice system response that is accessible, culturally competent and appropriate for all victims of crime; and*

***WHEREAS,** dedicated to ensuring the rights of crime victims and their families, the Victim-Witness staff assists victims of crime without regard to a person's race, gender, religion, nationality, sexual orientation, gender identity or immigration status; and*

***WHEREAS,** in 2021, the Alameda County District Attorney's Office Victim-Witness Assistance Division provided over 3,315 services to more than 515 crime victims in Livermore including children, elders and dependent adults. For victims of crime without independent financial means, the District Attorney's Office facilitated financial support through the Victim Compensation Program; and*

***WHEREAS**, in 1981, Congress established National Crime Victims' Rights Week as part of an expanding initiative to promote victims' rights and services and to raise awareness of victims' rights, advance the cause of justice for crime victims and celebrate the energy, creativity, and commitment that launched the victims' rights movement;*

***NOW, THEREFORE,** the City Council of the City of Livermore, proclaims April 24-30, 2022 to be National Crime Victims' Rights Week in Alameda County and thanks the staff at the Alameda County District Attorney's Office for their service and commitment in advancing the cause of justice for crime victims and for building a more just community.*

Mayor Bob Woerner

Vice Mayor Gina Bonanno

Council Member Robert W. Carling

Council Member Brittni Kiick

Council Member Patricia K. Munro

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 2.2**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Scott Lanphier, Public Works Director

SUBJECT: Proclamation declaring April 29, 2022 as Arbor Day in the City of Livermore presented to Jeff Shafer, Assistant Public Works Director

RECOMMENDED ACTION

Staff recommends City Council proclaim April 29, 2022 as Arbor Day in the City of Livermore.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Kathy Hughes
Administrative Assistant

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the

City of Livermore

Declaring

ARBOR DAY

April 29, 2022

WHEREAS, *in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and*

WHEREAS, *this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and is now observed throughout the nation and the world; and*

WHEREAS, *the purpose of the designation is to encourage the planting of trees in appropriate areas of the urban forest and wildland to encourage appreciation, protection, renewal, and sound management of our forests; and*

WHEREAS, *trees improve the quality of urban environments by preventing erosion, controlling the wind, reducing noise and air pollution, mitigating the impacts of heat islands, and by enhancing the aesthetic quality of life; and*

WHEREAS, *in observance of Arbor Day, members of the Livermore Beautification Committee and City staff will visit Second Grade classes throughout the City April 25, 2022 through April 29, 2022 to inspire children to plant, nurture, and celebrate trees, and distribute informational materials; and*

WHEREAS, *in dedication to all 2022 Second Grade classes within the City, a tree will be planted on April 26, 2022 in Springtown Open Space;*

NOW, THEREFORE, *the City Council of the City of Livermore hereby proclaims April 29, 2022 as Arbor Day in Livermore and urges all residents to observe this day by planting trees where appropriate and/or participating in programs in support of Arbor Day.*

Bob Woerner

Mayor Bob Woerner

CORPORATE SEAL OF THE CITY OF LIVERMORE, CA.

Gina Bonanno

Vice Mayor Gina Bonanno

Robert W. Carling

Council Member Robert W. Carling

Brittni Kiick

Council Member Brittni Kiick

Council Member Patricia K. Munro

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 2.3**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Brandon Cardwell, Innovation and Economic Development Director

SUBJECT: Poet Laureate annual update and poem presented by Cynthia Patton, City of Livermore Poet Laureate

RECOMMENDED ACTION

Staff recommends City Council accept the update.

SUMMARY

DISCUSSION

ATTACHMENTS

Prepared by: Xochitl Ballesteros
Senior Clerk

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

From: Kimberly Jackson
To: Cityclerk - Livermore
Subject: Safe storage
Date: Monday, April 4, 2022 10:06:11 PM

This to me is a no brainer. It's sad that gun owners need told to do this. People lock up jewelry and alcohol, but not the firearms.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.1**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Approval of draft minutes - March 21, 2022 Special Meeting, March 26, 2022 Special Meeting, and March 28, 2022 Regular Meeting.

RECOMMENDED ACTION

Staff recommends the City Council approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 2022-03-22 Draft Meeting Minutes
2. 2022-03-26 Draft Meeting Minutes
3. 2022-03-28 Draft Meeting Minutes

Prepared by: Marie Weber
City Clerk

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

DRAFT MINUTES

LIVERMORE
CALIFORNIA

CITY COUNCIL
MARCH 22, 2022

CLOSED SESSION

1. CALL TO ORDER – The Closed Session of the City Council was called to order by Mayor Bob Woerner at 1:00 pm, held via teleconference using Zoom and YouTube.

2. ROLL CALL – Present: Mayor Bob Woerner, Vice Mayor Regina Bonanno, and Council Members, Robert W. Carling, Brittni Kiick and Trish Munro.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL REGARDING CLOSED SESSION ITEMS.

Mayor Woerner opened the public comment period.

There were no speakers and the hearing was closed.

1. ADJOURN TO CLOSED SESSION

3.1 PUBLIC EMPLOYEE EMPLOYMENT: Public employee recruitment pursuant to Government Code section 54957(b).

Title of position to be filled: City Manager.

3.2 CONFERENCE WITH LABOR NEGOTIATORS: To meet with Gary Phillips, the City's negotiator, pursuant to Government Code section 94957.6 regarding negotiations for salary, compensation, and other terms and conditions of employment.

Unrepresented employee title: City Manager

REPORT OF ACTION TAKEN IN CLOSED SESSION

Mayor Woerner said there was no reportable action.

8. ADJOURNMENT – at 8:59 pm to a regular City Council meeting on March 28, 2022 at 7:00 p.m., held virtually using Zoom.

APPROVED: _____
BOB WOERNER, MAYOR

ATTEST: _____
MARIE WEBER, CITY CLERK

DRAFT MINUTES

LIVERMORE
CALIFORNIA

CITY COUNCIL
MARCH 26, 2022

CLOSED SESSION

1. CALL TO ORDER – The Closed Session of the City Council was called to order by Mayor Bob Woerner at 1:01 pm, held via teleconference using Zoom and YouTube.

2. ROLL CALL – Present: Mayor Bob Woerner, Vice Mayor Regina Bonanno, and Council Members, Robert W. Carling, Brittni Kiick and Trish Munro.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL REGARDING CLOSED SESSION ITEMS.

Mayor Woerner opened the public comment period.

There were no speakers and the hearing was closed.

1. ADJOURN TO CLOSED SESSION

3.1 PUBLIC EMPLOYEE EMPLOYMENT: Public employee recruitment pursuant to Government Code section 54957(b).

Title of position to be filled: City Manager.

3.2 CONFERENCE WITH LABOR NEGOTIATORS: To meet with Gary Phillips and Nancy Dias, the City's negotiator, pursuant to Government Code section 94957.6 regarding negotiations for salary, compensation, and other terms and conditions of employment.

Unrepresented employee title: City Manager

REPORT OF ACTION TAKEN IN CLOSED SESSION

City Attorney Jason Alcala said there was no reportable action.

8. ADJOURNMENT – at 1:42 pm to a regular City Council meeting on March 28, 2022 at 7:00 p.m., held virtually using Zoom.

APPROVED: _____
BOB WOERNER, MAYOR

ATTEST: _____
MARIE WEBER, CITY CLERK

DRAFT MINUTES

LIVERMORE
CALIFORNIA

CITY COUNCIL
MARCH 28, 2022

CLOSED SESSION

CALL TO ORDER – The Closed Session of the City Council was cancelled.

REGULAR MEETING

2. CALL TO ORDER – The meeting of the City Council was called to order by Mayor Bob Woerner at 7:00 pm, held via teleconference using Zoom and YouTube.

ROLL CALL – Present: Mayor Bob Woerner, Vice Mayor Regina Bonanno and Council Members Robert W. Carling, Brittni Kiick and Trish Munro

PLEDGE OF ALLEGIANCE

Mayor Woerner reordered the agenda to hear item 6.1 first.

6.1 7:05 P.M. - Introduction of an Ordinance amending Title 2, Chapter 2.14, Elections, of the Livermore Municipal Code regarding City Council Districts and amending the boundaries and descriptions of the districts as indicated in Exhibit A.

Recommendation: Staff recommended City Council introduce an Ordinance amending Title 2, Chapter 2.14, Elections, of the Livermore Municipal Code updating the City Council District Map and amending the boundaries and descriptions of each District.

City Clerk Marie Weber presented the staff report.

Mayor Woerner opened the public hearing.

Kyoko Takayama provided comment.

There were no more speakers and the hearing was closed.

ON THE MOTION OF CM MUNRO, SECONDED BY CM KIICK, AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL INTRODUCED THE FOLLOWING ORDINANCE:

Ordinance introduced amending Title 2, Chapter , *Elections,* of the Livermore Municipal Code regarding City Council Districts and amending the boundaries and descriptions of the districts.

3. PROCLAMATIONS AND PRESENTATIONS

3.1 2021 Livermore Phishing Award presented by Cybersecurity Manager Donald Hester to Public Works Management Analyst Anthony Smith

Cybersecurity Manager Don Hester presented an award to Anthony Smith.

4. CITIZENS FORUM

Mayor Woerner opened the public comment period.

Craig Freeman, Local 1974, provided a comment.

Dave McGuigan provided a comment.

Alan Marling provided a comment.

Kyoko Takayama provided a comment.

There were no more more speakers and the public comment period was closed.

5. CONSENT CALENDAR

Mayor Woerner opened the public comment period.

There were no speakers and the public comment period was closed.

ON THE MOTION OF CM KIICK, SECONDED BY CM CARLING AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL APPROVED THE CONSENT CALENDAR.

5.1 Approval of draft minutes - March 9, 2022 Special Meeting, March 11, 2022 Special Meeting, March 14, 2022 Regular Meeting, and March 21, 2022 Special Meeting.

Recommendation: Staff recommended the City Council approve the draft minutes.

5.2 Resolution 2022-030 authorizing the City Manager to execute the first amendment to the agreement with Barry & Wynn Architects Inc. increasing the not-to-exceed contract amount from $313,040 to $462,540 and extending the term of the agreement for the City Hall HVAC and Central Plant Chiller Replacement, Project No. 2018-30 to December 31, 2023.

Recommendation: Staff recommended City Council adopt a resolution authorizing the City Manager to execute the First Amendment to the agreement with Barry & Wynn Architects Inc. increasing the not-to- exceed contract amount from $313,040 to $462,540 and extending the term of the agreement for the City Hall HVAC and Central Plant Chiller Replacement, Project No. 2018-30.

5.3 Resolution 2022-031 authorizing execution of an agreement with EOA, Inc. for stormwater regulatory compliance assistance in an amount not-to-exceed $120,000.

Recommendation: Staff recommended that the City Council adopt a resolution authorizing the execution of an agreement with EOA, Inc. for stormwater regulatory compliance assistance in an amount not- to-exceed $120,000.

5.4 Resolution 2022-032 authorizing an agreement with Rincon Consultants, Inc., to provide on-call professional planning services in an amount not-to-exceed $316,797 and a supplemental appropriation of $86,160 for the cost of the agreement in Fiscal Year 2021-22.

Recommendation: Staff recommended the City Council adopt a resolution authorizing the execution of an agreement with Rincon Consultants, Inc., in an amount not to exceed $316,797 to provide professional planning services, and a supplemental appropriation of $86,160 from the General Fund to cover the cost of the agreement for Fiscal Year 2021-22.

5.5 Resolution 2022-033 authorizing a lease agreement with Axis Community Health for medical clinic and office space at the Multi-Service Center, 3311 Pacific Avenue.

Recommendation: Staff recommended the City Council adopt a resolution authorizing execution of a lease agreement with Axis Community Health for medical clinic and office space at the Multi-Service Center, 3311 Pacific Avenue.

5.6 Resolution 2022-034 authorizing the City Manager to sign the Memorandum of Understanding with the Alameda County Department of Environmental Health for SB 1383 edible food recovery inspection services

Recommendation: Staff recommended the City Council adopt a resolution authorizing the City Manager to sign the Memorandum of Understanding with the Alameda County Department of Environmental Health for SB 1383 edible food recovery inspection services.

5.7 Resolution 2022-035 approving the Altamont Settlement Agreement Education Advisory Board's Expenditure Plan for FY 2022-23.

Recommendation: Staff recommended the City Council adopt a resolution approving the Altamont Settlement Agreement Education Advisory Board's $600,000 Expenditure Plan for FY 2022-23.

5.8 Resolution 2022-036 rescinding the previous Recycled Procurement Policy and replacing with an Environmentally Preferable Purchasing and Practices policy

Recommendation: Staff recommended the City Council adopt a resolution rescinding the previous Recycled Procurement Policy and replace it by approving an Environmentally Preferable Purchasing and Practices policy.

6. PUBLIC HEARINGS

ITEM 6.1 – Mayor Woerner reordered the agenda to hear Item 6.1 at the beginning of the meeting.

6.2 Hearing to consider the Housing Element Annual Progress Report, which tracks the City's progress towards implementing the Housing Element of the General Plan and meeting its Regional Housing Need Allocation (RHNA), pursuant to Government Code Section 65400

Recommendation: Staff recommended the City Council adopt a resolution accepting the 2021 Housing Element Annual Progress Report.

Associate Planner Tricia Pontau presented the staff report.

Mayor Woerner opened the public hearing.

There were no speakers and the hearing was closed.

CM Munro requested that city staff explore options for how this information could be shared with the public in a meaningful way.

ON THE MOTION OF CM MUNRO, SECONDED BY VM BONANNO AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION:

Resolution 2022-037 accepting the 2021 Housing Element Annual Progress Report.

7. MATTERS FOR CONSIDERATION – NONE

8. COUNCIL COMMITTEE REPORTS AND MATTERS INITIATED BY CITY MANAGER, CITY ATTORNEY, STAFF AND COUNCIL MEMBERS

AJ's Bike Ribbon Cutting Grand Opening CM Kiick, CM Carling, CM Munro, VM Bonanno, and the Mayor noted their attendance at the ribbon cutting on March 18, 2022.

Police Department Continuing Education CM Kiick and the Mayor noted their

participation in the training.

Tri-Valley Transportation Commission CM Kiick noted her attendance at the Strategic Expenditure Plan subcommittee meeting.

Tri-Valley Haven Food Pantry CM Carling, CM Munro, and VM Bonanno noted their attendance at the grand opening

Khivi Care CM Carling noted his attendance at the ribbon cutting on March 17, 2022.

Kumon Math and Reading Center of Livermore-Springtown CM Carling noted his attendance at the ribbon cutting on March 21, 2022.

Cub Scout Meeting CM Carling noted his meeting with a local cub scout on March 21, 2022

Eagle Scout Ceremony CM Carling and VM Bonanno noted their attendance at the ceremony on March 26, 2022.

Climate Action Plan Subcommittee CM Carling and VM Bonanno noted they met with city staff on March 15, 2022 and March 24, 2022 to work on the climate action plan.

Meals on Wheels CM Munro and VM Bonanno noted their participation in meal drop off on March 25, 2022.

City Council Norms and Values CM Munro asked that an item be added to the discussion related to when it is appropriate for the City Council to take symbolic action in response to national and international events.

8. ADJOURNMENT – at 8:17 pm to a Regular City Council meeting on April 11, 2022 at 7:00 p.m., Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue, and held virtually using Zoom.

APPROVED: _____
BOB WOERNER, MAYOR

ATTEST: _____
MARIE WEBER, CITY CLERK

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.2**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: **Adopt an Ordinance** amending Title 2, Chapter 2.14, *Elections*, of the Livermore Municipal Code regarding City Council Districts and amending the boundaries and descriptions of the districts as indicated in Exhibit A

RECOMMENDED ACTION

Staff recommends City Council adopt an Ordinance amending Title 2, Chapter 2.14, *Elections*, of the Livermore Municipal Code updating the City Council District Map and amending the boundaries and descriptions of each District.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Ordinance
2. Exhibit A - Amended and Restated Chapter 2.14, Election
3. Exhibit B - District Map

Prepared by: Marie Weber
City Clerk

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING TITLE 2, CHAPTER 2.14, *ELECTIONS,* OF THE LIVERMORE MUNICIPAL CODE REGARDING CITY COUNCIL DISTRICTS AND AMENDING THE BOUNDARIES AND DESCRIPTIONS OF THE DISTRICTS

Every ten years, cities with by-district elections are required to use new census data to review and redraw district lines to reflect population changes.

This redistricting process ensures that all districts within a city have nearly an equal number of people residing within each district.

The City of Livermore transitioned to a district-based election system on November 26, 2018. As a result of the 2020 federal decennial census, the City Council is required to update the district boundaries prior to the November 8, 2022, General Municipal Election.

Although the City recently went through the districting process in 2018, the Council districts that were created reflected the population totals from the 2010 census.

Under the requirements of California Elections Code section 21608, the City created a redistricting website that included agendas, notices, draft maps, a hearing calendar, the procedure for submitting testimony, a recording of each hearing, meeting minutes, and public participation tools.

The City took specific steps to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting process.

Pursuant to state law, the City held a total of five public hearings at the fixed time of 7:05 p.m., which included two public hearings regarding the potential voting district boundaries prior to the release and consideration of any draft voting district maps and two public hearings following the release of draft voting district maps. Spanish translation services were provided at all public hearings.

On October 11, 2021 and January 24, 2022, the City Council held public hearings to consider input from the public on the composition of the Council districts. The City Council considered all oral and written information, testimony, and comments received during the public review process.

On February 4, 2022, the City published and made available for release, all of the draft maps under consideration. The draft maps were made available on the City's website and the public was invited to provide comments. On February 14, 2022, the City Council considered the draft maps and comments received by the public and provided direction to the demographer to revise such maps.

On February 18, 2022, the City published four additional focus maps on the website and invited the public to provide comments.

At a public hearing on March 14, 2022, the City Council voted to proceed with a revised map.

On March 16, 2022, consistent with the provisions of California Elections Code section 21608(d)(1), the City published on the website the final map selected by the City Council. The final map was made available on the City's website and the public was invited to provide comments seven days prior to the first reading of the ordinance.

Under the provisions of California Elections Code section 21607.1, a recording of each public hearing was made available immediately following each meeting and meeting minutes were posted immediately following City Council approval.

The City desires to amend Title 2, Chapter 2.14, *Elections*, of the Municipal Code to include revisions to district boundaries.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES ORDAIN AS FOLLOWS:

Section 1. *Findings and Declarations.* The City Council finds and declares that the final map attached as Exhibit B to this resolution meets all of the requirements of state law including, but limited to, that the modified Council Districts:

A, Are substantially equal in population;

B. Comply with the U.S. Constitution, the California Constitution, and the federal Voting Rights Act;

C. Are geographically contiguous;

D. Minimize the division of local neighborhoods and local communities of interest;

E. Create district boundaries that residents can easily identify and understand;

F. Are compact in size; and

G. Are not adopted to favor or discriminate against a political party.

Section 2. *Environmental.* The City Council finds that the proposed amendments to the *Livermore Municipal Code* are exempt from the requirements of the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Section 3. *Amendment.* Title 2, Chapter 2.14, *Elections,* of the Livermore Municipal Code is amended as set forth in Exhibit A attached hereto. The deletions are shown using a strikethrough and the added language is shown with an underline, but the stricken language and underlines themselves shall not be codified in the Municipal Code, which publication shall only reflect the final language.

Section 4. *Minor Adjustments*. If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make minor adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

Section 5. *Severability*. If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.

Section 6. *Publication.* This ordinance shall be published once in a newspaper of general circulation of the City of Livermore within fifteen days after its adoption.

Section 7. *Effective date.* This Ordinance shall take effect 30 days after its adoption.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on March 28, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

Exhibit A – Amended and Restated *C*hapter 2.14, *Election*
Exhibit B – District Map

Article III. District Elections

2.14.080 District-Based Elections System.

A. Pursuant to California Government Code Section 34886 and 34871(c), Council members shall be elected on a district-based elections system in four single-member districts. For purposes of this article, the term "district-based elections system" shall mean the election of members of the City Council by the voters of the district alone.

B. Except as provided in subsection C of this section, the Council member elected to represent a district must live in that district and be a registered voter in that district, and any candidate for City Council must live in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code Section 34882 and Elections Code Section 10227.

C. A Council member in office at the time this article takes effect shall continue in office until the expiration of the full term to which he or she was elected or appointed and until his or her successor is qualified. If vacancies in Council member offices elected at-large occur before expiration of the full term thereof, such vacancies shall be filled according to law from the City at-large.

D. Upon expiration of the full term of each Council member elected at-large, that Council member's successor shall be elected on a by-district basis in the districts established in LMC 2.14.090 (A) and (B) and as provided in LMC 2.14.100.

2.14.090. Districts.

A Subject to LMC 2.14.100, City Council members shall be elected on a by-district basis from the Council districts depicted on the map attached to the ordinance codified in this article, which is ~~as~~ Exhibit ~~A~~B to that ordinance and incorporated by this reference. To the extent there is a conflict between the map incorporated herein and the descriptions contained in subsection B of this section, the map shall prevail.

B. The Districts are as follows:

1. District 1: ~~All that portion of the city of Livermore lying westerly of the following described line: Beginning at the intersection of E Stanley Boulevard and the westerly boundary of the city of Livermore, and proceeding easterly along E Stanley Boulevard to the Arroyo Macho, and proceeding southeasterly along the Arroyo Macho to Arroyo Road, and proceeding southerly along Arroyo Road to Robertson Park Road, and proceeding easterly along Robertson Park Road to the easterly boundary of the city of Livermore, and proceeding northerly along the boundary of the city of Livermore to S Livermore Avenue, and proceeding northwesterly along S Livermore Avenue to N Livermore Avenue, and proceeding northerly along N Livermore Avenue to Portola Avenue, and proceeding westerly along Portola Avenue to the northern boundary of the city of Livermore.~~ All the portion of the City of Livermore contained within this boundary: Beginning at the intersection of the westerly boundary of the City of Livermore and East Stanley Boulevard; thence proceeding easterly along East Stanley Boulevard to Arroyo Mocho;~~:~~ thence proceeding southeasterly along Arroyo Mocho to Holmes Street; thence proceeding northerly along Holmes Street to 4th Street; thence proceeding northeasterly along 4th Street to South Livermore Avenue; thence proceeding southeasterly along South Livermore Avenue to East Avenue; thence proceeding easterly along East Avenue to Maple Street; thence proceeding northwesterly along Maple Street to 5th Street; thence proceeding northeasterly along 5th Street to Church Street; thence proceeding northwesterly along Church Street to 1st Street; thence proceeding southwesterly along 1st Street to Old 1st Street; thence proceeding northerly along Old 1st Street to Junction Avenue; thence proceeding northwesterly along Junction Avenue to Ladd Avenue; thence proceeding northeasterly along Ladd Avenue to Lee Avenue; thence proceeding northerly along Lee Avenue to Portola Avenue; thence proceeding westerly along Portola Avenue to the northerly boundary of the City of Livermore; thence proceeding westerly along the City of Livermore City Limits boundary line courses in a counterclockwise direction to East Stanley Boulevard and the point of beginning of this description.

2. District 2: ~~All the portion of the city of Livermore lying northerly of the following described line: Beginning at the intersection of Portola Avenue and the northerly boundary of the city of Livermore, and proceeding southerly along Portola Avenue to N Livermore Avenue, and proceeding southerly along N Livermore Avenue to Junction Avenue, and proceeding southeasterly along Junction Avenue to rail line, and proceeding easterly along rail line to First Street, and proceeding northeasterly along First Street to Interstate 580, and proceeding easterly along Interstate 580 to the point directly south of the intersection of Altamont Pass Road and the boundary of the city of Livermore, and proceeding north to the easterly boundary of the city of Livermore.~~ All the portion of the City of Livermore contained within this boundary: Beginning at the intersection of the northerly boundary of the City of Livermore and Portola Avenue; thence proceeding southerly along Portola Avenue to Lee Avenue; thence proceeding southerly along Lee Avenue

to Ladd Avenue; thence proceeding southwesterly along Ladd Avenue to Junction Avenue; thence proceeding southeasterly along Junction Avenue to Old 1st Street; thence proceeding southwesterly along Old First Street to 1st Street; thence proceeding northeasterly along 1st Street to railroad, and proceeding easterly along railroad to fork of railroad nearest Arroyo Las Positas; thence proceeding easterly along southernmost fork of railroad to the easterly boundary of the City of Livermore; thence proceeding along the City of Livermore City Limits boundary line courses in a counterclockwise direction to Portola Avenue and the point of beginning of this description.

District 3: ~~All the portion of the city of Livermore lying easterly of the following described line: Beginning at the intersection of S Livermore Avenue and the easterly boundary of the city of Livermore, and proceeding northwesterly along S Livermore Avenue to **N** Livermore Avenue, and proceeding northerly along N Livermore Avenue to Junction Avenue, and proceeding southeasterly along Junction Avenue to rail line, and proceeding easterly along rail line to First Street, and proceeding northeasterly along First Street to Interstate 580, and proceeding easterly along Interstate 580 to the point directly south of the intersection of Altamont Pass Road and the boundary of the city of Livermore, and proceeding north to the easterly boundary of the city of Livermore.~~ All the portion of the City of Livermore contained within this boundary: Beginning at the intersection of the southerly boundary of the City of Livermore and Robertson Park Road; thence proceeding westerly along Robertson Park Road to Arroyo Road; thence proceeding northerly along Arroyo Road to Arroyo Mocho; thence proceeding westerly along Arroyo Mocho to Holmes Street; thence proceeding northerly along Holmes Street to 4th Street; thence proceeding northeasterly along 4th Street to South Livermore Avenue; thence proceeding southeasterly along South Livermore Avenue to East Avenue; thence proceeding easterly along East Avenue to Maple Street; thence proceeding northwesterly along Maple Street to 5th Street; thence proceeding northeasterly along 5th Street to Church Street; thence proceeding northwesterly along Church Street to 1st Street; thence proceeding northeasterly along 1st Street to railroad; thence proceeding easterly along railroad to fork of railroad nearest Arroyo Las Positas; thence proceeding easterly along southernmost fork of railroad to the easterly boundary of the City of Livermore; thence proceeding along the City of Livermore City Limits boundary line courses in a clockwise direction to Robertson Park Road and the point of beginning of this description.

4. District 4: ~~All the portion of the city of Livermore lying southerly of the following described line: Beginning at the intersection of E Stanley Boulevard and the westerly boundary of the city of Livermore, and proceeding easterly along E Stanley Boulevard to the Arroyo Mocha, and proceeding southeasterly along the Arroyo Macho to Arroyo Road, and proceeding southerly along Arroyo Road to Robertson Park Road, and proceeding easterly along Robertson Park Road to the easterly boundary~~

~~of the city of Livermore.~~ All the portion of the City of Livermore contained within this boundary: Beginning at the intersection of the southerly boundary of the City of Livermore and Robertson Park Road; thence proceeding westerly along Robertson Park Road to Arroyo Road; thence proceeding northerly along Arroyo Road to Arroyo Mocho; thence proceeding westerly along Arroyo Mocho to East Stanley Boulevard; thence proceeding westerly along East Stanley Boulevard to the westerly boundary of the City of Livermore; thence proceeding along the City of Livermore City Limits boundary line courses in a clockwise direction to Robertson Park Road and the point of beginning of this description.

C. The Council districts specified in subsections A and B of this section shall continue in effect until they are amended or repealed in accordance with law.

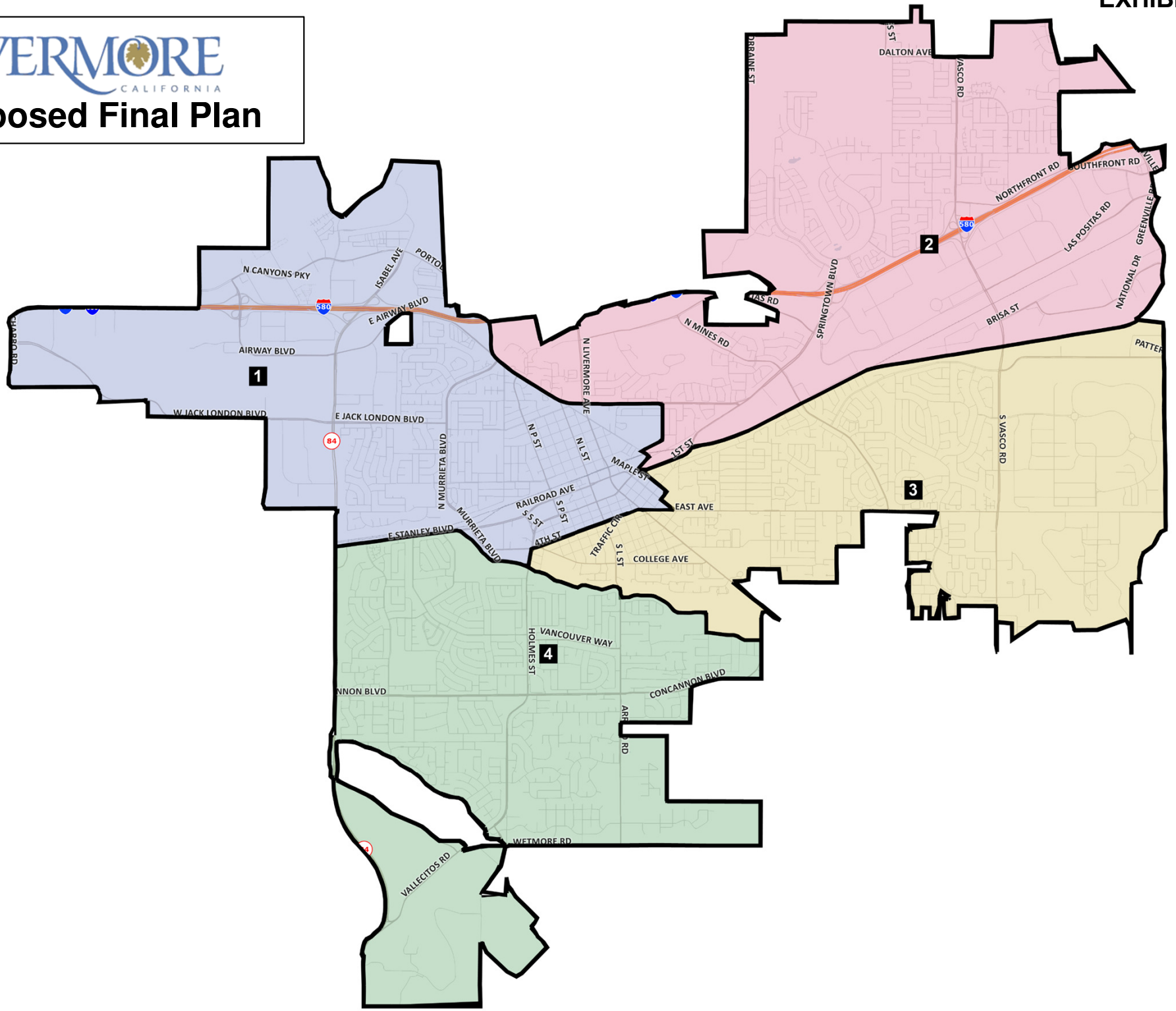
2.14.100. Election Schedule.

Except as otherwise required by California Government Code Section 36512, Council members shall be elected in Council ~~d~~Districts 3 and 4 beginning at the general municipal election in November 2020, and continue every four years thereafter. Council members shall be elected in Council ~~d~~Districts 1 and 2 beginning at the general municipal election in November 2022, and continue every four years thereafter. The election schedule for the mayor is not affected by this section.

EXHIBIT B

LIVERMORE
CALIFORNIA

Proposed Final Plan



LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.3**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolutions authorizing the acceptance of grant funds from Alameda County Transportation Commission for the Robertson Park/Concannon and Epson/Concannon Crossing Improvements and approving an appropriation of $217,000 for the Concannon Blvd. at Robertson Park Rd. Crossing Enhancements Active Transportation Plan (ATP), Project Number 2021-35.

RECOMMENDED ACTION

Staff recommends the City Council adopt resolutions:

1. Authorizing the City Manager or designee to sign all grant documents and accept funds from Alameda County Transportation Commission for the Robertson Park/Concannon and Epson/Concannon Crossing Improvements; and
2. Approving an appropriation of $217,000 for the Concannon Blvd. at Robertson Park Rd. Crossing Enhancements ATP, Project Number 2021-35, in FY 2022-23.

SUMMARY

The City applied for and was awarded $323,000 in the Alameda County Transportation Commission's (Alameda CTC) 2022 Comprehensive Investment Plan Grant (Grant) for the Robertson Park/Concannon and Epson/Concannon Crossing Improvements. These improvements are identified as high priorities in the City's 2018 Bicycle, Pedestrian, & Trails Active Transportation Plan.

Alameda CTC's Grant Program requires the grantee to authorize, by resolution, the acceptance of the grant. The Grant requires a 25% local match. The crossing improvements will be completed under Concannon Blvd. at Robertson Park Rd. Crossing Enhancements ATP, Project Number 2021-35, and an appropriation in the amount of $217,000 in FY 2022-23 is required to begin implementation of the crossing improvements.

DISCUSSION

Concannon Boulevard is a major east-west arterial roadway which serves the southern portion of the

city. The pedestrian crossings on Concannon Boulevard at Robertson Park Road and at Epson Street are identified in the City's 2018 Bicycle, Pedestrian, & Trails Active Transportation Plan (ATP) as high priority intersections for crossing improvements. The ATP proposes curb bulb-outs, signing and striping improvements at both intersections with a new rectangular rapid flashing beacon system with pedestrian/bicycle actuation buttons at Concannon Boulevard and Robertson Park Road. Improvements to both intersections will provide better connectivity from the trail on the east side of Concannon Boulevard to Robertson Park Road and will provide pedestrians a safer route from the residential neighborhood on the south side of Concannon Boulevard to Karl Wente Park and Sunset Elementary School on the north.

The Alameda CTC is responsible for the planning, programming and allocation of federal, state, regional, and transportation sales tax funding for transportation improvements throughout Alameda County. The city applied for and was awarded $323,000 in Alameda CTC's 2022 Comprehensive Investment Plan Grant (Grant) for these proposed crosswalk improvements. If approved by the City Council, the project design and environmental assessment will be completed in FY 2022-23 and construction will start in FY 2022-23 and be completed by the grant expenditure deadline of December 2023.

ENVIRONMENTAL DETERMINATION

The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State California Environmental Quality Act (CEQA) Guidelines) and therefore CEQA is not applicable. CEQA review and determination will be completed for the project in the design phase.

FISCAL AND ADMINISTRATIVE IMPACTS

The Alameda CTC's Grant requires a 25% local match. This project was considered in the preparation of the FY 2021-23 Capital Improvement Plan, but no funding was recommended at the time of adoption. The estimated total project cost is $435,000 and staff is requesting a budget appropriation of $162,000, a portion of the awarded grant from Local & Other Grants (F624), and $55,000 in Gas Tax-SB1 (F651), for a total appropriation of $217,000 in FY 2022-23. The proposed Gas Tax-SB1 funding would satisfy the 25% local match requirement. An appropriation of $218,000 to complete the project will be requested with the adoption of FY 2023-25 Capital Improvement Plan.

Fund	Fund Name	Proposed Appropriation FY 2022 - 2023
624	Local & Other Grant	$162,000
651	Gas Tax-SB1	$ 55,000
	Total	$217,000

ATTACHMENTS

1. Location Map
2. Resolution - Accepting Grant
3. Exhibit A - Alameda CTC Agreement No. A22-0031
4. Resolution - Appropriating Funds

Prepared by: Julie Chiu
Associate Civil Engineer

Approved by:



Marc Roberts
City Manager

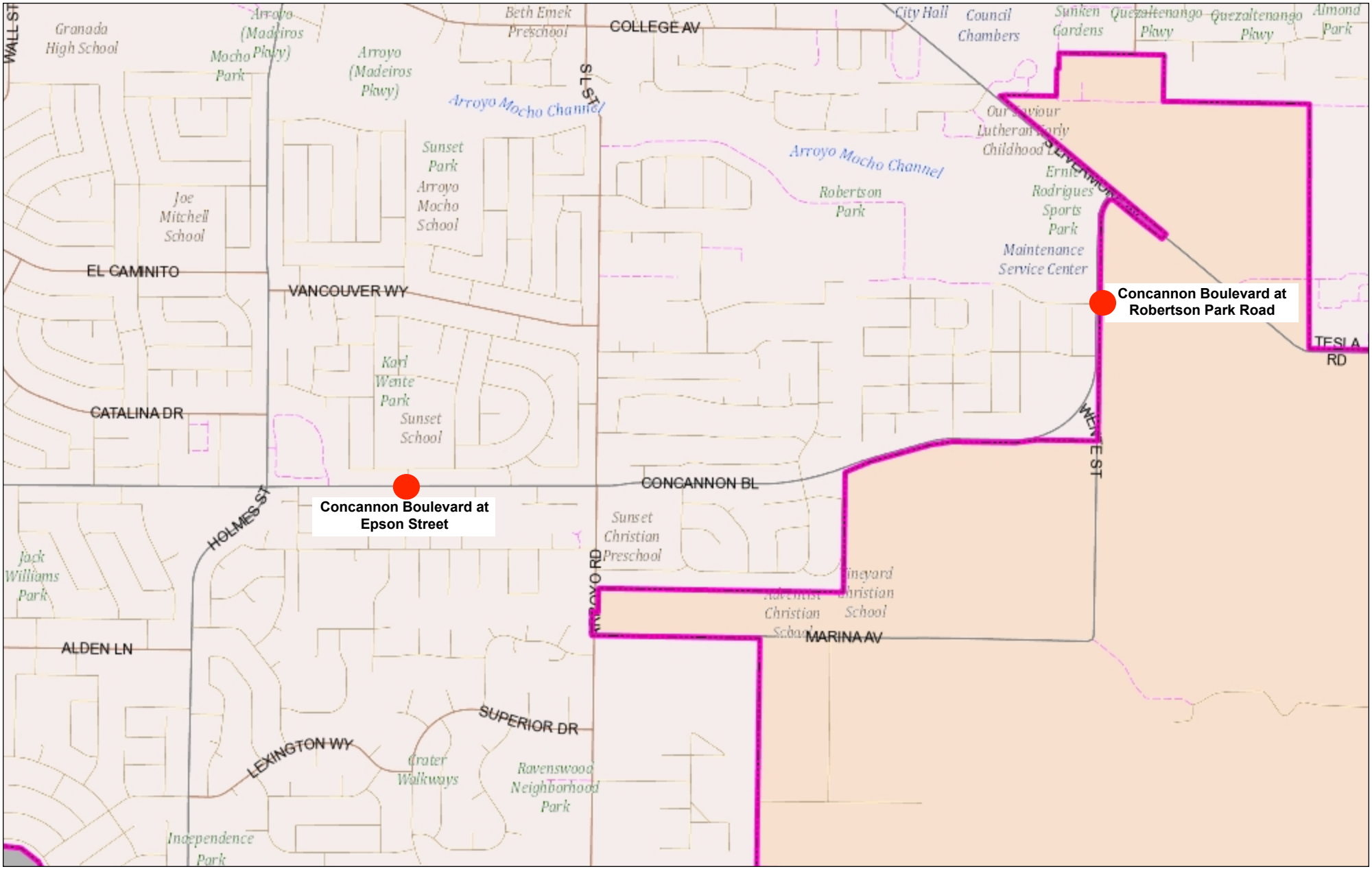
Fiscal Review by:



Tina Olson
Administrative Services Director

LIVERMORE CALIFORNIA

ATTACHMENT 1
Concannon Boulevard/Robertson Park Road and Concannon Boulevard/Epson Street Crossings



2,810.6 0 1,405.29 2,810.6 Feet

NAD_1983_2011_StatePlane_California_III_FIPS_0403_Ft_US
Livermore IT, GIS Services

Scale:
1: 16,863

This map is based on the City of Livermore GIS Information and reflects the most current information at the time of this printing. The map is intended for reference purposes only and the City and its staff is not responsible for the contents hereon.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LIVERMORE ACCEPTING FUNDS FROM THE ALAMEDA COUNTY TRANSPORTATION COMISSION FOR THE ROBERTSON PARK/CONCANNON AND EPSON/CONCANNON CROSSING IMPROVEMENTS

(Concannon Blvd. at Robertson Park Road Crossing Enhancements ATP, Project Number 2021-35, **Alameda CTC Agreement No. A22-0031/Project No. 1575000)**

The City of Livermore is a general law city of the State of California.

Alameda County Transportation Commission ("ALAMEDA CTC") administers funding programs consisting of 2000 Measure B, 2010 Vehicle Registration Fee, 2014 Measure BB, CMA-TIP, and Transportation Fund for Clean Air Programs for projects and programs that benefit the Alameda County transportation system, and such funding is collectively defined as and shall be referenced herein as the "ALAMEDA CTC ADMINISTERED FUNDS"; and

City of Livermore ("FUND RECIPIENT") submitted a funding application to the ALAMEDA COUNTY TRANSPORTATION COMMISSION ("ALAMEDA CTC") requesting $323,000 funding for the Robertson Park/Concannon and Epson/Concannon Crossing Improvements ("PROJECT") from the ALAMEDA CTC's programming and allocation process of ALAMEDA CTC's administered fund sources; and

The PROJECT will implement safety improvements identified for the Robertson Park/ Concannon and Epson/Concannon Crossing Improvements identified in the City's 2018 Bicycle, Pedestrian, & Trails Active Transportation Plan.

ALAMEDA CTC awarded $323,000 in ALAMEDA CTC ADMINISTERED FUNDS for the implementation and delivery of the PROJECT to the FUND RECIPIENT; and

As part of the requirements to receive ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT, ALAMEDA CTC requires a resolution adopted by the responsible funding recipient stating the following:

1. Commitment of FUND RECIPIENT's matching funds against the awarded ALAMEDA CTC ADMINISTERED FUNDS; and
2. Confirmation of FUND RECIPIENT understanding that the amount of ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT is capped at the amount awarded by ALAMEDA CTC, and therefore any cost increase cannot be expected to be funded with additional ALAMEDA CTC ADMINISTERED FUNDS; and
3. Confirmation FUND RECIPIENT shall complete the project as described in the funding application and the subsequent funding agreement between ALAMEDA CTC and the FUND RECIPIENT; and

4. Confirmation PROJECT will comply with all the project-specific requirements set forth in the ALAMEDA CTC Project Funding Agreement "AGREEMENT".

NOW, THEREFORE, BE IT RESOLVED that FUND RECIPIENT agrees to accept award of $323,000 in ALAMEDA CTC ADMINISTERED FUNDS; and

BE IT FURTHER RESOLVED that FUND RECIPIENT, by adopting this resolution, does hereby state that:

1. FUND RECIPIENT will provide $108,000 in matching funds, and $4,000 in other non-match funds, consisting of Gas Tax-SB1; and
2. FUND RECIPIENT understands that the amount of ALAMEDA CTC ADMINISTERED FUNDS funding for the project is capped at the amount awarded by ALAMEDA CTC, and that any cost increases will be funded through other means by the FUND RECIPIENT, and will not to be funded with additional ALAMEDA CTC ADMINISTERED FUNDS; and
3. PROJECT will be implemented as described in the APPLICATION, AGREEMENT, and in this resolution; and
4. FUND RECIPIENT and the PROJECT will comply with the requirements as set forth in the AGREEMENT; and therefore

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the APPLICANT ability to implement and deliver the proposed PROJECT; and

BE IT FURTHER RESOLVED that FUND RECIPIENT authorizes its City Manager, or designee to execute a funding AGREEMENT with ALAMEDA CTC for ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT as referenced in this resolution; and

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to ALAMEDA CTC.

On motion of Councilmember _____, seconded by Councilmember _____, the City Council passed the foregoing resolution on April 11, 2022, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

Exhibit A- ALAMEDA CTC AGREEMENT NO. A22-0031

PROJECT FUNDING AGREEMENT
between
ALAMEDA COUNTY TRANSPORTATION COMMISSION
and the
CITY OF LIVERMORE
for the
ROBERTSON PARK/CONCANNON AND EPSON/CONCANNON CROSSING IMPROVEMENTS

This Project Funding Agreement ("AGREEMENT"), dated for reference purposes only as of July 22, 2021, is by and between ALAMEDA COUNTY TRANSPORTATION COMMISSION, a joint powers agency ("ALAMEDA CTC"), and the CITY OF LIVERMORE, a public agency ("PROJECT SPONSOR").

This AGREEMENT obligates funds from one or more ALAMEDA CTC administered funding programs as indicated below, and as further specified in Appendix A: Project Control Information and Appendix B: Alameda CTC Administered Funds Obligated by this AGREEMENT, for the PROJECT, as such term is defined in Recital K below.

☒ 2000 Measure B
☐ 2014 Measure BB
☐ Vehicle Registration Fee
☐ Transportation Fund for Clean Air
☐ CMA TIP

RECITALS

A. The voters of Alameda County, pursuant to the provisions of the Bay Area County Traffic and Transportation Funding Act, Public Utilities Code Section 131000, et seq., approved Measure B at the General Election held in November 1986, authorizing the collection of a one-half cent transaction and use tax over a fifteen (15)-year period to address major transportation needs and congestion in Alameda County and giving Alameda County Transportation Authority ("ACTA") the responsibility for the administration of the proceeds of the tax. The proceeds from the 1986 Measure B tax have been and continue to be used to pay for investments as outlined in the 1986 Alameda County Transportation Expenditure Plan ("1986 TEP"), as it may be amended. Although collection of the 1986 Measure B tax ceased in 2002, capital projects funded wholly or in part by 1986 Measure B funds are still being delivered using these funds.

B. The voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, Public Utilities Code Section 180000, et seq., approved the reauthorization of Measure B at the General Election held on November 7, 2000, authorizing the collection of a one-half cent transaction and use tax to be collected for twenty (20) years beginning April 1, 2002 and giving Alameda County Transportation Improvement Authority ("ACTIA") responsibility for the administration of the proceeds of the tax.. The proceeds from the 2000 Measure B tax have been and continue to be used to pay for investments as outlined in the 2000 Alameda County Transportation Expenditure Plan ("2000 TEP"), as it may be amended.

C. The voters of Alameda County, pursuant to Section 65089.20 of the Government Code, approved Measure F, the Vehicle Registration Fee ("VRF"), authorizing Alameda County Congestion Management Agency ("ACCMA") to administer the proceeds from a $10 per year vehicle registration fee on

each annual motor-vehicle registration in Alameda County, starting with registrations effective July 2011 with collection beginning in May 2011, six months following approval of Measure F. Vehicles subject to the VRF include all motorized vehicles, including passenger cars, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses of all sizes, motorcycles, and motorized camper homes, unless vehicles are expressly exempted from the payment of the VRF.

D. By resolutions adopted by the ACTA and ACTIA Boards on June 24, 2010, all of ACTA's functions and responsibilities were assigned to, and accepted by, ACTIA. On that same date, the ACTIA and ACCMA Boards took the final actions to create ALAMEDA CTC, a joint powers authority with all responsibilities of ACTIA and ACCMA. Pursuant to resolutions adopted by the ACTIA and ACCMA Boards and the Commission of ALAMEDA CTC, ACCMA and ACTIA were terminated as of the close of business on February 29, 2012, with ALAMEDA CTC designated as the successor entity. All of its predecessors' functions and responsibilities have been assigned to, and accepted by, ALAMEDA CTC.

E. The voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, California Public Utilities Code Section 180000 et seq., approved Measure BB at the General Election held on November 4, 2014, authorizing the extension of an existing one-half of one percent transaction and use tax scheduled to terminate on March 31, 2022, and the augmentation of the tax by one-half of one percent, and giving ALAMEDA CTC responsibility for the administration of the proceeds of the 2014 Measure BB tax. The duration of the 2014 Measure BB tax will be 30 years from the initial year of collection, which began April 1, 2015, with said tax to terminate/expire on March 31, 2045. The proceeds from the 2014 Measure BB will be used to pay for investments as outlined in the 2014 Alameda County Transportation Expenditure Plan ("2014 TEP"), as it may be amended.

F. As the Transportation Fund for Clean Air ("TFCA") Program Manager in Alameda County, ALAMEDA CTC annually programs 40 percent of the TFCA funds collected in Alameda County. ALAMEDA CTC receives these funds from the Bay Area Air Quality Management District ("BAAQMD"), and then distributes these funds on a reimbursement basis to eligible project sponsors.

G. ALAMEDA CTC is continuing the implementation of the CMA Exchange Program, originally established by the ACCMA, for the purpose of providing local or otherwise unrestricted funds to ALAMEDA CTC for use in projects and programs adopted into the CMA Transportation Improvement Program ("CMA TIP") by ALAMEDA CTC.

H. The funding programs administered by ALAMEDA CTC and available for projects and programs that benefit the Alameda County transportation system, consisting of 1986 Measure B, 2000 Measure B, 2014 Measure BB, VRF, TFCA, and CMA TIP, are collectively defined as and shall be referenced herein as the "ALAMEDA CTC ADMINISTERED FUNDS". Requirements related to 2000 Measure B, VRF and 2014 Measure BB Direct Local Distribution ("DLD") funding distributed pursuant to 2000 Measure B, VRF and 2014 Measure BB Transportation Expenditure Plans are covered by separate agreements between ALAMEDA CTC and DLD recipients.

I. Measure B, Measure BB, VRF, and TFCA funds obligated by this AGREEMENT shall be programmed, allocated, and expended for the purpose defined and in accordance with the provisions set

forth in the applicable transportation expenditure plans, or the BAAQMD-approved TFCA County Program Manager Policies.

J. ALAMEDA CTC programs and allocates ALAMEDA CTC ADMINISTERED FUNDS through the ALAMEDA CTC Comprehensive Investment Plan ("CIP") that is updated periodically to summarize the programming and allocations of ALAMEDA CTC ADMINISTERED FUNDS, and the policies, procedures and requirements related to the expenditure of ALAMEDA CTC ADMINISTERED FUNDS.

K. The PROJECT SPONSOR is implementing a project or program ("PROJECT") that is eligible for ALAMEDA CTC ADMINISTERED FUNDS. The PROJECT and the strategy to implement the PROJECT are described in greater detail in Appendix A: Project Control Information.

L. This AGREEMENT obligates funds from one or more of ALAMEDA CTC administered funding programs as specified in Appendix B: Alameda CTC Administered Funds Obligated by this Agreement, for the PROJECT and the phase(s) described in Appendix A: Project Control Information. ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are available to reimburse eligible costs incurred by PROJECT SPONSOR for the PROJECT and the phase(s) described in Appendix A: Project Control Information.

M. The issuance of bonds or another financing mechanism are possible funding options as part of ALAMEDA CTC administered funding programs to meet cash flow requirements of each individual program based on current schedule and project delivery information.

NOW, THEREFORE, it is agreed by and between the parties as follows:

SECTION I

PROJECT SPONSOR AGREES:

1. PROJECT SPONSOR shall implement the PROJECT in accordance with all requirements in this AGREEMENT and the following appendices attached hereto and incorporated herein by reference.

   a. Appendix A: Project Control Information
   b. Appendix B: Alameda CTC Administered Funds Obligated by this Agreement
   c. Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements
   d. Appendix D: Local Business Contract Equity Program
   e. Appendix E: Deliverables and Due Dates
   f. Appendix F: Project Performance Measures
   g. Appendix G: Transportation Fund for Clean Air Policies and Requirements

2. PROJECT SPONSOR shall perform the necessary work associated with the PROJECT required to implement PROJECT as described in Appendix A: Project Control Information.

3. PROJECT SPONSOR shall inform ALAMEDA CTC in writing of any changes to the information contained in Appendix A: Project Control Information as soon as PROJECT SPONSOR becomes aware of such changes. Per Section III.2, any change that requires an amendment to this AGREEMENT must be approved by ALAMEDA CTC prior to PROJECT SPONSOR implementing the change.

4. PROJECT SPONSOR shall commit to the timing of ALAMEDA CTC ADMINISTERED FUNDS as described in Appendix B: Alameda CTC Administered Funds Obligated by this Agreement.

5. PROJECT SPONSOR shall expend ALAMEDA CTC ADMINISTERED FUNDS received under this AGREEMENT in accordance with all applicable provisions of law and shall return to ALAMEDA CTC all funds that are not expended in accordance with all applicable provisions of law.

6. PROJECT SPONSOR shall be responsible for costs in excess of the total funding obligations shown in Appendix A: Project Control Information. Costs in excess of the total funding obligations will not be reimbursed with ALAMEDA CTC ADMINISTERED FUNDS unless this AGREEMENT is amended in writing or the parties execute a separate agreement for a subsequent phase of the PROJECT.

7. PROJECT SPONSOR shall return to ALAMEDA CTC, on a pro-rated basis, funds realized from the sale of any vehicle(s) purchased with ALAMEDA CTC ADMINISTERED FUNDS, if the sale of the vehicle(s) is completed prior to the last day of the last year listed as the PROJECT'S "Years of Effectiveness" as identified in either Appendix A: Project Control Information or Appendix G: Transportation Fund for Clean Air Policies and Requirements, as applicable. The amount of sale proceeds required to be returned to ALAMEDA CTC shall be proportional to the percentage of ALAMEDA CTC ADMINISTERED FUNDS originally used to purchase the vehicle(s).

8. PROJECT SPONSOR staff costs for any local agency which receives DLD funding shall not be eligible for reimbursement from ALAMEDA CTC ADMINISTERED FUNDS allocated to the PROJECT unless staff costs are specifically identified as eligible in Appendix A: Project Control Information. Staff costs included in Appendix A are limited to project implementation costs. Staff costs related to the administration of this AGREEMENT including preparation of requests for reimbursement or progress reports are ineligible for reimbursement. PROJECT SPONSOR staff costs funded by other sources can be included in the total cost for the purpose of meeting the cost and risk sharing provisions of this AGREEMENT.

9. PROJECT SPONSOR staff costs eligible for reimbursement may include the individual's actual hourly wage plus a fringe benefit rate, as approved by a cognizant agency or an independent auditor, of up to a maximum of 70% of the hourly wage. Staff costs also may include direct costs including contracted services, such as legal counsel, that are considered an extension of the PROJECT SPONSOR'S staff.

10. PROJECT SPONSOR overhead, or "indirect," costs are not eligible for reimbursement from ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT, and shall not be included in the total eligible PROJECT cost calculations used to determine the ALAMEDA CTC ADMINISTERED FUNDS share of such total eligible PROJECT costs.

11. The cost of maintenance, security, or protection performed by PROJECT SPONSOR or third-party contractors during any temporary suspension of activities associated with the PROJECT will not be considered an eligible cost for reimbursement by ALAMEDA CTC.

12. PROJECT SPONSOR shall advertise, award and administer all professional services contracts for PROJECT work not performed by PROJECT SPONSOR.

13. PROJECT SPONSOR shall invite ALAMEDA CTC staff to participate as a voting member of PROJECT SPONSOR's selection panel for the selection of all professional consultants, and furnish drafts of all professional services contracts, upon ALAMEDA CTC's request.

14. All locally funded contracts approved by PROJECT SPONSOR, funded wholly or in part with Measure B, Measure BB, and/or Vehicle Registration Fee funds administered by ALAMEDA CTC, except for contracts that also include state and/or federal funds or contracts funding non-capital projects (e.g., transit operations), are required to comply with ALAMEDA CTC's Local Business Contract Equity (LBCE) Program as listed and described in Appendix D: Local Business Contract Equity Program Requirements. PROJECT SPONSOR shall comply with the reporting requirements set forth in the LBCE Program and provide the required information to ALAMEDA CTC in accordance with Appendix D for all contracts partially or wholly funded by ALAMEDA CTC, whether or not the specific contract is subject to the LBCE Program.

15. PROJECT SPONSOR shall require insurance coverage that names ALAMEDA CTC, its governing body, officers, employees and consultants as additional insureds of the PROJECT SPONSOR, professional services consultants and subconsultants, construction services contractors and subcontractors, volunteer service individuals, and any other contractors or subcontractors involved with the PROJECT on all insurance required by PROJECT SPONSOR for PROJECT. PROJECT SPONSOR shall keep and maintain insurance certificates and policy endorsements evidencing the policies on file, and furnish the same to ALAMEDA CTC upon request. ALAMEDA CTC will not be responsible for any premiums or assessments on any policy. If this AGREEMENT includes any TFCA funds, PROJECT SPONSOR shall also comply with the insurance requirements specified in Appendix G: Transportation Fund for Clean Air Policies and Requirements.

16. PROJECT SPONSOR shall provide ALAMEDA CTC with periodic (i.e., monthly, quarterly or semi-annually) progress reports describing the current status of the PROJECT. The required progress reporting frequency schedule and forms are provided in Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements. Progress reports are due by the last day of each calendar month following the established reporting period in which the work was performed. These reports shall include PROJECT status information such as the scope of work completed to date, total costs incurred, future actions, project performance, issues identification, changes to scope or schedule, and any additional relevant information requested by ALAMEDA CTC.

17. PROJECT SPONSOR shall submit to ALAMEDA CTC a Request for Reimbursement in accordance with the minimum required invoicing frequency established for the PROJECT, but not more than one such request per month, for reimbursement of eligible PROJECT costs and expenses incurred by PROJECT SPONSOR. The required minimum invoicing frequency and invoice forms are provided in Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements. If PROJECT SPONSOR does not

incur any reimbursable expenses during the minimum invoicing period, in lieu of submitting an invoice, PROJECT SPONSOR shall submit a letter or a statement as part of the required progress report for the same period confirming that no reimbursable costs were incurred during the given period. If PROJECT SPONSOR requests reimbursement for costs incurred as a result of a contract or agreement with a third party that contains a contract value of $50,000 or greater, e.g. a consultant, contractor or other entity, PROJECT SPONSOR shall submit an electronic copy of the fully executed contract or agreement to ALAMEDA CTC prior to ALAMEDA CTC authorizing reimbursement of such costs. Supporting documentation for the Request for Reimbursement packages includes copies of invoices from vendors, consultants, or contractors and summaries of eligible PROJECT SPONSOR staff time charges. PROJECT SPONSOR may suggest an alternative method, subject to approval in advance by ALAMEDA CTC, to document staff costs charged to the PROJECT.

18. PROJECT SPONSOR shall provide a Parcel and Utility Agreement Tracking Log upon ALAMEDA CTC's request, if the PROJECT includes the acquisition of right-of-way and/or the relocation or protection of utility facilities.

19. PROJECT SPONSOR shall keep all necessary PROJECT records to demonstrate compliance with this AGREEMENT, including documentation of activities, performance, progress reports, final report, expenses and charges to support invoices submitted to ALAMEDA CTC and other PROJECT reporting requirements as described in Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements in one central location for a period of not less than five (5) years after the later of (i) ALAMEDA CTC's payment of the final invoice, (ii) the PROJECT SPONSOR'S submittal of the Final Report for ALAMEDA CTC ADMINISTERED FUNDS under this AGREEMENT, and (iii) the end of the PROJECT'S established "Years of Effectiveness" period (as identified in Appendix G: Transportation Fund for Clean Air Policies and Requirements) if any TFCA funds are provided under this AGREEMENT.

a. PROJECT SPONSOR and PROJECT SPONSOR's contractors and subcontractors shall each maintain and make available for inspection and audit all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts.

b. PROJECT SPONSOR shall allow ALAMEDA CTC or its authorized representatives to inspect, audit, or make copies of any PROJECT records for a period of five (5) years after ALAMEDA CTC's payment of the final invoice and the PROJECT SPONSOR'S submittal of the Final Report. The same access also shall be granted to BAAQMD or its authorized representatives for TFCA funds obligated by this AGREEMENT.

20. PROJECT SPONSOR shall comply with all of the following publicity requirements to inform the public on the use of ALAMEDA CTC ADMINISTERED FUNDS on the PROJECT.

a. PROJECT SPONSOR shall credit ALAMEDA CTC as a funding source and display the approved ALAMEDA CTC logo, where practical, on construction informational signs, vehicles or equipment operated or obtained as part of the PROJECT, and on any publicly distributed information (e.g., fact sheets, flyers, brochures, maps, schedules, websites, press releases), created for or associated with the PROJECT. For TFCA funding obligated through

this AGREEMENT, SPONSOR shall also credit the BAAQMD as a funding source and display the BAAQMD-approved TFCA logo.

b. PROJECT SPONSOR shall provide updated and accurate PROJECT information on the PROJECT SPONSOR's website, or create such a website if none exists, and provide a link to ALAMEDA CTC website.

c. PROJECT SPONSOR shall publish an article in a printed or electronically distributed publication such as a newsletter, local newspaper, e-publications, or website highlighting the PROJECT and the use of ALAMEDA CTC ADMINISTERED FUNDS at least once per fiscal year. For TFCA funding obligated through this AGREEMENT, SPONSOR shall also credit the BAAQMD as a funding source.

d. PROJECT SPONSOR shall document compliance with the publicity requirements and furnish such documentation upon request, and regularly through the progress and final reporting required by this AGREEMENT, through evidence such as photos of construction and vehicle signage, copies of print, electronic and other media published to satisfy this requirement. For TFCA funding obligated through this AGREEMENT, SPONSOR shall also document that the BAAQMD was credited as a funding source and the BAAQMD-approved TFCA logos were displayed.

e. PROJECT SPONSOR shall notify ALAMEDA CTC and request an exemption as soon as it is reasonably known that the PROJECT SPONSOR is unable to fulfill the requirements under this Section I.20 due to extraordinary circumstances.

21. PROJECT SPONSOR shall, to the extent not otherwise prohibited by law, and to the extent required by the California Public Records Act (California Government Code section 6250 et seq.), place in the public domain any software, written document, or other product developed with ALAMEDA CTC ADMINISTERED FUNDS received through this AGREEMENT.

22. PROJECT SPONSOR shall participate, upon the request of ALAMEDA CTC, in a Public Awareness Program in partnership with ALAMEDA CTC and/or its community advisory committees as a means of informing the public of the benefits derived from the use of ALAMEDA CTC ADMINISTERED FUNDS.

23. PROJECT SPONSOR shall obtain all state, local and federal permits and approvals for work, including environmental approvals in accordance with the National Environment Policy Act (NEPA) and the California Environmental Quality Act (CEQA), as applicable. PROJECT SPONSOR will comply with all applicable state and federal laws and regulations.

24. PROJECT SPONSOR shall render a report or answer any and all inquiries, upon ALAMEDA CTC's request, in regards to its receipt of ALAMEDA CTC ADMINISTERED FUNDS, compliance audit findings, and usage of ALAMEDA CTC ADMINISTERED FUNDS before the ALAMEDA CTC Commission, Independent Watchdog Committee, and/or community advisory committees, as applicable.

25. For TFCA funds obligated by this AGREEMENT, a PROJECT SPONSOR who has failed a BAAQMD financial or performance audit for the PROJECT will be excluded from receiving an award of any TFCA funds for five (5) years from the date of BAAQMD's final audit determination. Existing TFCA funds already awarded to the SPONSOR will not be released until all audit recommendations and remedies have been satisfactorily implemented. A failed BAAQMD financial audit means a final audit report that includes an uncorrected audit finding that confirms an ineligible expenditure of TFCA funds. A failed BAAQMD performance audit means that the PROJECT was not implemented in accordance with the AGREEMENT. SPONSOR shall be afforded a reasonable amount of time to address/cure adverse audit findings.

26. For TFCA funds obligated by this AGREEMENT, PROJECT SPONSOR shall return to ALAMEDA CTC, on a pro-rated basis, TFCA funds received under this Agreement if PROJECT is not maintained and/or operated throughout, and at least until the conclusion of, its "Years of Effectiveness" as identified in Appendix G: Transportation Fund for Clean Air Policies and Requirements.

27. For TFCA funds obligated by this AGREEMENT, PROJECT SPONSOR shall submit a TFCA Final Report to the ALAMEDA CTC. The required content for the TFCA Final Report is identified in the TFCA Final Report Form referenced in Appendix G.

SECTION II

ALAMEDA CTC AGREES:

1. ALAMEDA CTC shall make a good faith effort to provide all ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT.

2. ALAMEDA CTC shall assist PROJECT SPONSOR when able, upon request and as necessary, in resolving issues related to the PROJECT.

3. ALAMEDA CTC shall provide a copy of its approved logo for PROJECT SPONSOR to use as required by this AGREEMENT.

4. ALAMEDA CTC shall provide notice to the PROJECT SPONSOR of any and all expenditures made by PROJECT SPONSOR, which are not in compliance with the AGREEMENT or the applicable ALAMEDA CTC ADMINISTERED FUNDS promptly after ALAMEDA CTC becomes aware of any such expenditures.

5. ALAMEDA CTC shall provide timely notice to PROJECT SPONSOR prior to conducting an audit of expenditures made by PROJECT SPONSOR to determine whether such expenditures are compliant with this AGREEMENT or the applicable ALAMEDA CTC ADMINISTERED FUNDS.

SECTION III

IT IS MUTUALLY AGREED AS FOLLOWS:

1. That ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT may be shifted between the phases of the PROJECT or between activities in the same phase of the PROJECT, so long as each of the following occurs: 1) PROJECT SPONSOR submits a written amendment request that provides revised and updated Appendix A: Project Control Information forms documenting the requested funding obligation shift and demonstrating to ALAMEDA CTC's satisfaction that the phase or activity from which the funds were shifted remains fully funded, and 2) the parties execute an amendment to this AGREEMENT incorporating the revised and updated Appendix A forms as described above, which amendment shall be approved by ALAMEDA CTC pursuant to applicable ALAMEDA CTC policies.

2. ALAMEDA CTC and the PROJECT SPONSOR may jointly authorize an "Administrative Amendment" for any minor schedule revisions, deliverables, or budget revisions that do not increase the total ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT. Any change in the PROJECT scope of work must be approved by ALAMEDA CTC prior to implementation of the change by the PROJECT SPONSOR. Administrative amendment requests sent to ALAMEDA CTC must include a revised Appendix A: Project Control Information which reflects the requested changes by the PROJECT SPONSOR.

3. For the purposes of this AGREEMENT, (i) a "Contract" shall mean and refer to a third party agreement with the PROJECT SPONSOR for services related to PROJECT, including agreements with another public agency, consultant firm, contractor or entity; (ii) "PROJECT SPONSOR Staff" costs include costs for staff dedicated directly to project implementation, management, oversight, and/or project development and may include direct costs including contracted services, such as legal counsel, that are considered an extension of PROJECT SPONSOR Staff; (iii) "Capital" with respect to any Right-of-Way Capital phase shall mean and refer to the cost to acquire real property, access rights and other property interests; and (iv) "Agreement Expiration Date" shall mean and refer to the expiration date of this AGREEMENT.

4. Reimbursable costs will be limited to the costs shown in Appendix A: Project Control Information. Funds expended for work directly related to the phases of the PROJECT covered by this AGREEMENT prior to the applicable allowable start date identified in Appendix B: ALAMEDA CTC ADMINISTERED FUNDS Obligated by this AGREEMENT are ineligible for reimbursement pursuant to this AGREEMENT. ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are subject to fund availability and any new requirements and policies imposed by ALAMEDA CTC. The AGREEMENT shall be amended, as necessary, to reflect the applicable requirements.

5. If additional local, state or federal funding is obtained to partially offset ALAMEDA CTC ADMINISTERED FUNDS planned for the PROJECT, ALAMEDA CTC ADMINISTERED FUNDS will not be transferred from the PROJECT until after it is ensured that all phases of the PROJECT can be fully delivered. ALAMEDA CTC ADMINISTERED FUNDS offset by additional local, state or federal funding shall be available for PROJECT only after all other funding planned for PROJECT, as described in Appendix A: Project Control Information, has been committed and/or encumbered to the PROJECT.

6. Should any portion of PROJECT be financed with federal or state funds, all applicable laws, rules and policies relating to the use of such funds shall apply, notwithstanding other provisions of this AGREEMENT.

7. For TFCA funds obligated by this AGREEMENT, this AGREEMENT is subject to the current BAAQMD-approved TFCA County Program Manager Fund Policies included in Appendix G: Transportation Fund for Clean Air Policies and Requirements and any new requirements imposed by the BAAQMD upon ALAMEDA CTC with respect to the TFCA funds distributed hereunder. ALAMEDA CTC will only distribute TFCA funds under this AGREEMENT to the extent the documented project costs are eligible under the applicable BAAQMD TFCA Policies.

8. The laws of the State of California shall govern this AGREEMENT.

9. All correspondence and communications will contain ALAMEDA CTC project number and name for PROJECT in a clearly identifiable location. For projects with TFCA funds obligated by this AGREEMENT, all correspondence and communications will also contain the TFCA project number as identified in Appendix G: Transportation Fund for Clean Air Policies and Requirements.

10. ALAMEDA CTC reserves the right to conduct technical and financial audits of PROJECT work and records when determined to be necessary or appropriate and PROJECT SPONSOR agrees, and shall require its contractors and subcontractors to agree, to cooperate with ALAMEDA CTC by making all appropriate and relevant PROJECT records promptly available for audit and copying.

11. PROJECT costs incurred by PROJECT SPONSOR are only eligible for reimbursement on a pro-rated basis unless specifically provided for in Appendix A: Project Control Information, and PROJECT SPONSOR is expected to concurrently seek reimbursement from the other sources shown in Project A: Project Control Information. Pro-rated basis, as used herein, equals the amount of ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT to a phase, divided by the total funding for the phase, as shown in Appendix A: Project Control Information. For any Request for Reimbursement which includes such expenditures, PROJECT SPONSOR shall (i) report the total expenditures during the reimbursement period, (ii) indicate the percentage of the total expenditures for the phase expected to be funded by ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT, and (iii) request reimbursement for the dollar amount which equals the product of such total expenditures and such percentage.

12. ALAMEDA CTC approval of PROJECT SPONSOR submitted Requests for Reimbursement will be contingent on the submittal of progress reports and deliverables by PROJECT SPONSOR as required by this AGREEMENT. In the event that progress reports and deliverables are not complete and current, approval of Requests for Reimbursement shall be withheld until an acceptable remedy has been implemented and approved by ALAMEDA CTC. If PROJECT SPONSOR fails to submit the required deliverables or otherwise fails to meet the reporting and invoicing requirements of this AGREEMENT, ALAMEDA CTC may deobligate funds from the PROJECT and this AGREEMENT. Not less than thirty (30) days prior to the effective date of any such action, ALAMEDA CTC will endeavor to notify PROJECT SPONSOR in writing that the required deliverables, invoicing and reporting is overdue.

13. Request for Reimbursements submitted after the Agreement Expiration Date identified in Appendix B: Alameda CTC Administered Funds Obligated by this AGREEMENT will be ineligible for reimbursement by ALAMEDA CTC unless an exception is requested by the PROJECT SPONSOR no less than sixty (60) days before the Agreement Expiration Date, and the exception is approved by ALAMEDA CTC.

ALAMEDA CTC will deobligate any remaining ALAMEDA CTC ADMINISTERED FUNDS from PROJECT and this AGREEMENT.

14. Each Right-of-Way transaction which is funded either wholly or in part with ALAMEDA CTC ADMINISTERED FUNDS shall be subject to repayment or reimbursement to ALAMEDA CTC under ALAMEDA CTC Policies in effect as of the effective date of this AGREEMENT, irrespective of the party holding title to the real estate which is the subject of the Right-of-Way transaction in question. The parties agree that Section III.15(a) through Section III.15(f), the provisions of which are intended to provide further detail regarding the application of such Policies, shall govern the extent to which such repayment is required and the conditions applicable to any such repayment. If such Policies are amended after the effective date of this AGREEMENT by ALAMEDA CTC, the PROJECT SPONSOR and ALAMEDA CTC shall execute an amendment to this AGREEMENT which references the revised Policies.

15. For the purposes of the following provisions, "ALAMEDA CTC Share" shall mean the percentage share of the original property purchase price funded by ALAMEDA CTC ADMINISTERED FUNDS (i.e., if the purchase was fully funded by ALAMEDA CTC ADMINISTERED FUNDS, ALAMEDA CTC Share shall equal 100%); any appraisal required under Section III.15(a) and Section III.15(f) only, shall be conducted at no cost to ALAMEDA CTC; "Fair Market Value" of a given property shall mean the net proceeds from the sale of such property if such sale occurs in an open market transaction or by auction, or the value of the property determined by an independent third-party appraisal of the property if some or all of the property is retained by PROJECT SPONSOR or otherwise transferred to any other party without an auction or open market transaction; and "CPI" means the Consumer Price Index, All Items for All Urban Consumers, San Francisco-Oakland, San Jose, CA.

a. If any property is acquired for the PROJECT using ALAMEDA CTC ADMINISTERED FUNDS to finance some or all of the acquisition, and the PROJECT is cancelled or otherwise does not begin construction within five (5) years after the effective date of AGREEMENT (as such deadline may be extended by agreement between the parties hereto), then PROJECT SPONSOR shall, within one (1) year after such cancellation decision or the expiration of such five (5) year period, reimburse ALAMEDA CTC for the greater of the following: ALAMEDA CTC Share of the property's Fair Market Value or the full amount of ALAMEDA CTC ADMINISTERED FUNDS used to acquire the property, as escalated by the increase in the CPI during the most recent period for which CPI data is available which is equal in length to the period between the date ALAMEDA CTC ADMINISTERED FUNDS were paid to PROJECT SPONSOR and the date reimbursement is made to ALAMEDA CTC.

b. If any property is acquired for the PROJECT using ALAMEDA CTC ADMINISTERED FUNDS to finance some or all of the acquisition and only a portion of the acquired property is required for the PROJECT, and if the PROJECT begins construction within five (5) years after the effective date of this AGREEMENT (as such deadline may be extended by agreement between the parties hereto), then PROJECT SPONSOR shall, within one (1) year after PROJECT completion, reimburse ALAMEDA CTC for ALAMEDA CTC Share of the Fair Market Value of any property determined to be "excess property".

c. If the PROJECT begins construction within five (5) years after the effective date of this AGREEMENT (as such deadline may be extended by agreement between the parties hereto), then except as provided in subparagraph (d) below, no reimbursement is due with respect to any property interest acquired for the project using ALAMEDA CTC ADMINISTERED FUNDS if the entirety of the acquired property is required for the PROJECT.

d. If PROJECT SPONSOR anticipates receiving net revenues (i.e., rental or other income generated by the property, less reasonable costs for insurance, maintenance and related items) from any property acquired using ALAMEDA CTC ADMINISTERED FUNDS, PROJECT SPONSOR shall notify ALAMEDA CTC on how PROJECT SPONSOR will use such revenue to offset other project costs, and document such revenue separately in project reimbursement requests.

e. If PROJECT is suspended, PROJECT SPONSOR shall pay all property management costs.

f. Property that is required for the PROJECT and acquired wholly or in part with ALAMEDA CTC ADMINISTERED FUNDS shall be available for PROJECT construction within ten (10) years of ALAMEDA CTC reimbursement to the PROJECT SPONSOR. If, after ten (10) years, PROJECT has not been completed, PROJECT SPONSOR shall reimburse ALAMEDA CTC Share of the fair market value of the property, based on the net proceeds from the sale of the property or an appraisal of the property conducted at no cost to ALAMEDA CTC, within one (1) year after the expiration of this ten (10) year period.

16. If condemnation procedures are required to obtain possession to Right-of-Way, ALAMEDA CTC will consider the required deposit as an eligible cost and reimburse the PROJECT SPONSOR upon request. PROJECT SPONSOR shall submit documentation of the final order of condemnation settlement within ninety (90) days after the date of the court recording of the final order of condemnation. If the amount of ALAMEDA CTC reimbursement to the PROJECT SPONSOR is higher than ALAMEDA CTC Share of the amount of settlement in the final order of condemnation, the PROJECT SPONSOR shall pay ALAMEDA CTC the difference between the amount reimbursed and ALAMEDA CTC Share of the amount settled plus ALAMEDA CTC Share of the interest accrued to the deposit account within one (1) year of the final order of condemnation.

17. PROJECT SPONSOR shall not initiate condemnation of any property until full funding for the construction of the PROJECT has been secured.

18. Reimbursement to PROJECT SPONSOR by ALAMEDA CTC for PROJECT Right-of-Way is limited to the following (and net of any relocation payments provided by other sources):

a. The cost to purchase all real property required for the PROJECT free and clear of liens and/or conflicting easements, including the costs for preparation of documents, negotiations and legal services.

b. The cost of damages to owners of the remainder of real property not actually taken but injuriously affected by PROJECT.

c. The cost of relocation payments and services provided to owners and occupants pursuant to the appropriate State laws and regulations when the PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

d. The cost of demolition and/or the sale of all improvements on the right-of-way. Proceeds from the sale of any such improvements shall be credited to the PROJECT and used to offset PROJECT costs.

e. The cost of all unavoidable utility relocation, protection or removal necessary for the completion of the PROJECT.

f. The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which PROJECT SPONSOR accepts responsibility and where the actual generator cannot be identified and recovery made.

19. If PROJECT SPONSOR materially breaches this AGREEMENT, including but not limited to failing to deliver the PROJECT within the schedule defined by this AGREEMENT without compelling reason, failing to file required progress reports in the time specified by this AGREEMENT, or failing to comply with applicable regulations, ALAMEDA CTC may either terminate this AGREEMENT or suspend payments to PROJECT SPONSOR until such time as PROJECT SPONSOR makes reasonable efforts to comply with this AGREEMENT.

20. Neither ALAMEDA CTC, nor its governing body or any officer, consultant, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by PROJECT SPONSOR in connection with the PROJECT. It is also understood and agreed, pursuant to Government Code Section 895.4, PROJECT SPONSOR shall fully defend, protect, indemnify and hold harmless ALAMEDA CTC, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury (as defined in Government Code Section 810.8) or damages occurring by reason of anything done or omitted to be done by PROJECT SPONSOR in connection with PROJECT, including the performance of the PROJECT or operation or use of the equipment that is subject to this AGREEMENT. If TFCA funds are obligated by this AGREEMENT, PROJECT SPONSOR shall also fully defend, protect, indemnify and hold harmless BAAQMD, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, from any liability imposed on BAAQMD for injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by PROJECT SPONSOR in connection with PROJECT.

21. Neither PROJECT SPONSOR, nor its governing body or any officer, consultant, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ALAMEDA CTC under or in connection with any work, authority or jurisdiction delegated to ALAMEDA CTC under this AGREEMENT. It is also understood and agreed, pursuant to Government Code Section 895.4, ALAMEDA CTC shall fully defend, protect, indemnify and hold harmless PROJECT SPONSOR, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury (as defined in Government Code Section 810.8) or damages occurring by reason of anything done or omitted to be done by

ALAMEDA CTC in connection with PROJECT, including the performance of the PROJECT or operation or use of the equipment that is subject to this AGREEMENT.

22. Nothing in the provisions of this AGREEMENT is intended to create duties or obligations to or rights in third parties not party to this AGREEMENT. This AGREEMENT gives no rights or benefits to anyone other than ALAMEDA CTC and PROJECT SPONSOR and has no third-party beneficiaries.

23. All legal actions by either party against the other arising from this AGREEMENT, or for the failure to perform in accordance with the applicable standard of care, or for any other cause of action, will be subject to the statutes of limitations of the State of California.

24. Should it become necessary to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to recover reasonable expenses and attorney's fees from the other party.

25. This AGREEMENT shall terminate upon the Agreement Expiration Date identified in Appendix B: Funds Obligated by this AGREEMENT unless this AGREEMENT is extended by mutual agreement of the parties. Notwithstanding the foregoing, Sections I.7, I.19, III.21 and III.22 shall survive the termination or expiration of this AGREEMENT.

26. This AGREEMENT, including its Recitals and Appendices, constitutes the entire AGREEMENT. This AGREEMENT may be changed only as allowed in Sections III.1 and Section III.2 of this AGREEMENT or by a written amendment executed by both parties.

[Signatures on the next page]

CITY OF LIVERMOVE
(PROJECT SPONSOR)

By: _____

Marc Roberts Date
City Manager

Approved as to Legal form:

By: _____

Tara Mazzanti
Assistant City Attorney Date
Legal Counsel to the CITY OF LIVERMORE

ALAMEDA COUNTY
TRANSPORTATION COMMISSION
(ALAMEDA CTC)

By: _____

Tess Lengyel Date
Executive Director

Recommended

By: _____

Gary Huisingh Date
Deputy Executive Director of
Capital Projects

Reviewed as to Budget/Financial Controls:

By: _____

Patricia Reavey Date
Deputy Executive Director of
Finance and Administration

Approved as to Legal Form:

By: _____

Wendel Rosen LLP Date
Legal Counsel to ALAMEDA CTC

LIST OF APPENDICES

APPENDIX A: PROJECT CONTROL INFORMATION

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Note: Appendix G is only included and attached to this AGREEMENT if TFCA funds are obligated and applicable to AGREEMENT.

APPENDIX A

PROJECT CONTROL INFORMATION

Appendix Index

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APPENDIX A-1

PROJECT DESCRIPTION

Project Description

The project will include the design and construction of bicycle/pedestrian improvements at the intersection of Robertson Park Rd/Concannon Blvd and Epson St/Concannon Blvd.

Improvements will include relocating curbs, adding pedestrian/bicycle actuation buttons, and/or improving intersection marking and signage.

Project Limits

- Robertson Park Rd/Concannon Blvd
- Epson St/Concannon Blvd

APPENDIX A-2

PROJECT SCOPE DETAIL BY PHASE

The ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are to support the project phase(s) identified and described below:

FINAL DESIGN (PS&E)

- Development of final plans and specifications related to the PROJECT

CONSTRUCTION

Construction includes the following:

- relocating curbs
- adding pedestrian/bicycle actuation buttons
- improving intersection marking and signage

APPENDIX A-3

PROJECT MILESTONE SCHEDULE

Phase/Milestone	Begin	End
Final Design (PS&E)	07/2022	12/2022
Construction		
Release Advertisement	01/2023	03/2023
Contract Award	03/2023	04/2023
Construction Activities	04/2023	10/2023
Project Closeout	10/2023	12/2023

APPENDIX A-4

PROJECT COST SUMMARY BY PHASE AND FUND SOURCE

This Project Cost Summary provides a project funding plan for all Project phases, regardless if funded through ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT.

PHASE	Alameda CTC Administered Funds	Sponsor Funds	Other Non-Match Funds	Total Funding
	2000 Measure B Disc-BP	Local Funds		
Final Design (PS&E)	$81,000	$27,000	$-	**$108,000**
Construction	$242,000	$81,000	$4,000	**$327,000**
Total Project Cost	**$323,000**	**$108,000**	**$4,000**	**$435,000**

APPENDIX A-5

PROJECT FUNDING SUMMARY BY PHASE AND REIMBURSEMENT RATIO

(Only Phases Funded with Alameda CTC Administered Funds)

The ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are to support the project phase(s) identified and described below:

Project Funding Summary by Phase and Reimbursement Ratio					
PHASE	**Alameda CTC Administered Funds** **2000 Measure B Disc-BP**	**Matching Funds**	**Reimbursement Ratio Percentage**	**Other Non-Match Funds**	**Total Funding**
Final Design (PS&E)	$81,000	$27,000	75%	$-	**$108,000**
Construction	$242,000	$81,000	75%	$4,000	**$327,000**
Total Funding	**$323,000**	**$108,000**		**$4,000**	**$435,000**

Notes:

- PROJECT SPONSOR shall be reimbursed eligible costs in the percentage of Total ALAMEDA CTC ADMINISTERED FUNDS to Total Funding per the Reimbursement Ratio Percentage for each phase. Each Alameda CTC Administered Fund amount identified is a not-to-exceed amount. The Reimbursement Ratio is defined as ALAMEDA CTC ADMINISTERED FUNDS divided by the Total Funding.

APPENDIX A-6

PROJECT PHASE COST DETAIL

This Project Phase Cost Detail summarizes the total cost for each phase with ALAMEDA CTC ADMINISTERED FUNDS obligated in this AGREEMENT.

FINAL DESIGN (PS&E)	2000 Measure B Disc-BP	Matching Funds	Other Non-Match Funds	Total Cost
Staff/Labor Cost	$-	$-	$-	**$-**
Contract(s)/Other Direct Cost	$81,000	$27,000	$-	**$108,000**
Total Phase Cost *(Staff + Contract Costs)*	**$81,000**	**$27,000**	$-	**$108,000**

CONSTRUCTION	2000 Measure B Disc-BP	Matching Funds	Other Non-Match Funds	Total Cost
Staff/Labor Cost	$-	$16,000	$4,000	**$20,000**
Contract(s)/Other Direct Cost	$242,000	$66,000	$-	**$308,000**
Total Phase Cost *(Staff + Contract Costs)*	**$242,000**	**$81,000**	**$4,000**	**$327,000**

Notes:

- Contracts funded with any combination of Measure B, Measure BB, Vehicle Registration Fee and local funds that do not contain State or federal funds are subject to Alameda CTC's Local Business Contract Equity Program (refer to Appendix D).

APPENDIX B

ALAMEDA CTC ADMINISTERED FUNDS OBLIGATED BY THIS AGREEMENT

The following Table B-1 identifies the ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT and establishes a unique allowable start date for each obligated fund source.

TABLE B-1
FUNDS OBLIGATED BY THIS AGREEMENT
AND ALLOWABLE START AND EXPENDITURE DEADLINE DATES

Fund Source	Fund Subset	Phase	Commission Approval Date	Allowable Start Date	Expenditure Deadline Date	Obligated Amount
2000 MB	Disc-BP	Final Design	7/22/2021	7/1/2021	*The Agreement Expiration Date serves as the expenditure deadline date.*	$81,000
2000 MB	Disc-BP	Construction	7/22/2021	7/1/2022		$242,000
Total Alameda CTC Administered Funds Obligated by AGREEMENT:						**$323,000**

Agreement Expiration Date:	**12/31/2023**

Notes:

1. ALAMEDA CTC reimbursement amounts by fund source for PROJECT shall not exceed the total amount obligated by this AGREEMENT, by fund source.
2. The Commission Approval Date is the date of the meeting at which the Commission approved the allocation.
3. The Allowable Start Date identified for each fund source is the earliest date at which costs eligible for reimbursement by the fund source indicated may be incurred. Any costs incurred on the PROJECT before this date will not be eligible for reimbursement under this AGREEMENT.
4. The Expenditure Deadline Date is the last date by which eligible reimbursable costs may be incurred. Any costs incurred on the PROJECT after this date will not be eligible for reimbursement under this AGREEMENT.
5. The Agreement Expiration Date shall mean and refer to the expiration date of this AGREEMENT.
6. For TFCA funds obligated by this agreement, the Expenditure Deadline Date in the above table is two (2) years from the date when ALAMEDA CTC first received funds from BAAQMD, unless an extended deadline is approved at the time of programming or an extension has been approved by the ALAMEDA CTC. An estimated deadline date is noted in the above table if at the time of this agreement the Alameda CTC has yet to receive funds from BAAQMD. Extended deadlines will be reflected in an amended Table B-1, once approved.
7. For TFCA funds obligated by this agreement, the Commission may approve up to two one-year extensions to the Expenditure Deadline Date. Any additional extensions require approval from both ALAMEDA CTC and BAAQMD.

APPENDIX B (CONT.)

Reimbursement of ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT shall be in accordance with the Drawdown Limitation Schedule below.

TABLE B-2
ALAMEDA CTC ADMINISTERED FUNDS
REIMBURSEMENT - DRAWDOWN LIMITATION SCHEDULE

No.	Fiscal Year	Quarter	Fund Source	Drawdown Limitation Amount	Cumulative Drawdown Limitation Amount
1	FY 22/23	Q1/Q2	2000 MB	$81,000	$81,000
2	FY 22/23	Q2/Q3	2000 MB	$81,000	$162,000
3	FY 23/24	Q1/Q2	2000 MB	$161,000	$323,000

Notes:

1. Fiscal Year (FY) begins July 1 and ends June 30.
2. Quarter 1 begins July 1 and ends September 30; Quarter 2 begins October 1 and ends December 31; Quarter 3 begins January 1 and ends March 31; and Quarter 4 begins April 1 and ends June 30.
3. ALAMEDA CTC shall endeavor to transmit payments to PROJECT SPONSOR following the receipt and approval of a complete Request for Reimbursement(s) submitted by the PROJECT SPONSOR.
4. Actual reimbursements from ALAMEDA CTC to the PROJECT SPONSOR shall not exceed the Cumulative Drawdown Limitation Amount without Alameda CTC's written approval. Any portion of a reimbursement request, which exceeds the applicable Cumulative Drawdown Limitation without such prior approval by ALAMEDA CTC shall be deferred until the following quarter or until sufficient capacity in the cumulative drawdown limitation amount is achieved.

APPENDIX C

REQUEST FOR REIMBURSEMENT AND REPORTING REQUIREMENTS

The below table establishes the required minimum frequency for Requests for Reimbursement and Progress Reports. Requests for Reimbursements and Progress Reports are required either monthly, quarterly, or semi-annually, as indicated below with an "X".

REQUEST FOR REIMBURSEMENT AND PROGRESS REPORTING FREQUENCY AND DUE DATES			
Frequency Required *(as checked)*	**Minimum Frequency**	**Period Covered**	**Due Dates**
☐	Monthly *(once every month)*	One month	By 30 days following the end of billed activity
☐	Quarterly *(once every 3 months)*	Quarter 1: 7/1– 9/30 Quarter 2: 10/1 – 12/31 Quarter 3: 1/1– 3/31 Quarter 4: 4/1– 6/30	By October 31st By January 31st By April 30th By July 31st
☒	Semi-annually *(once every 6 months)*	Quarters 1 & 2: 7/1 – 12/31 Quarters 3 & 4: 1/1 – 6/30	By January 31st By July 31st
☐	Annually *(TFCA Annual Report)*	Fiscal Year: 7/1 – 6/30	By July 31st
☒	Final Request for Reimbursement	Any work period eligible under Appendix B.	Must be submitted prior to the Agreement Expiration Date

Notes:

1. For all projects, the maximum frequency for Requests for Reimbursement is one (1) per month.
2. If no costs were incurred during the reporting period, a progress report for the corresponding period is still required.
3. TFCA funding requires annual reporting to BAAQMD in addition to the minimum required frequency for Alameda CTC progress reports and invoices.
4. Requests for Reimbursement must be submitted prior to the Agreement Expiration Date in order to be eligible for reimbursement.

REQUEST FOR REIMBURSEMENT AND REPORTING FORMS

Any PROJECT SPONSOR awarded ALAMEDA CTC Administered Funds shall use the following forms included in the link below for progress reporting, final reporting, request for reimbursements, and requests for amendments to this funding agreement. Note that the format and required content of these forms is subject to change.

List of Downloadable Forms: https://www.alamedactc.org/funding/reporting-and-grant-forms/

1. Request for Reimbursement (RFR) Form
2. Alameda CTC Progress Report Form
3. Alameda CTC Final Report Form
4. Transportation Fund for Clean Air Program Reporting Forms (Interim and Final Report)
5. Amendment Request Form

APPENDIX D

LOCAL BUSINESS CONTRACT EQUITY PROGRAM REQUIREMENTS

As noted in Section I.14, PROJECT SPONSOR is obligated to comply with all applicable provisions of the Alameda CTC Local Business Contract Equity (LBCE) Program, incorporated herein by reference as if attached hereto.

LBCE Program Substitution: The LBCE Program allows substitution of Alameda CTC's program if a sponsor agency's local preference program has been approved in writing by the Alameda CTC's LBCE Liaison Officer. This approval letter from Alameda CTC shall be attached as part of Appendix D.

The following resources are available to guide Project Sponsors through the LBCE Program requirements for procurement and contracting processes:

- Sample template language for professional and construction services is available from ALAMEDA CTC's website: https://www.alamedactc.org/get-involved/contract-equity

- Prime and Subconsultant/Subcontractor Local Business Enterprise, Small Local Business Enterprise and Very Small Local Business Enterprise Utilization Form: https://www.alamedactc.org/get-involved/contracting-forms/

- The LBCE Program Guidelines, available at the above link, includes a Project Sponsor Responsibility Checklist. Appendix B of the LBCE Program Guidelines identifies the Responsibilities of Sponsor Agencies.

- Direct inquiries about the LBCE Program to ALAMEDA CTC's LBCE Liaison Officer:

  Seung Cho
  Director of Procurement and Information Technology
  Alameda County Transportation Commission
  Email: scho@alamedactc.org
  Phone: (510) 208-7472

APPENDIX E

DELIVERABLES AND DUE DATES

Project Deliverables and Due Dates: The Deliverables and Due Dates table below shows deliverables and due dates, if any, for the phases listed in Appendix A-2 Project Phase Descriptions that contain ALAMEDA CTC ADMINISTERED FUNDS.

Deliverables and Due Dates		
No.	**Description**	**Due Date to Alameda CTC**
1	Copy of Final Design Concepts and/or Specifications	December 31, 2022
2	Copy of Request for Proposal/Bid for Construction	February 28, 2023
3	Progress Report #1: July to December 2022	January 31, 2023
4	Progress Report #2: January to June, 2023	July 31, 2023
5	Progress Report #3: July to December 2023	January 31, 2024
6	Photos of Project Completion	By the Agreement Expiration Date
7	Final Invoice	By the Agreement Expiration Date
8	Final Report	By the Agreement Expiration Date

Note:

- Per Section III.19 of AGREEMENT, Alameda CTC may withhold payment of reimbursement requests until past due deliverables are received and approved.

APPENDIX F

PROJECT PERFORMANCE MEASURES

Project Performance Measures: The Project Performance Measures and Targets describes what outcome-based performance measure(s) the PROJECT SPONSOR plans to evaluate to ensure that the project/program is meeting its objectives.

Appendix F is Not Applicable.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING APPROPRIATION OF FUNDS FOR THE CONCANNON BLVD. AT ROBERTSON PARK ROAD CROSSING ENHANCEMENT ATP, PROJECT NUMBER 2021-35

Crosswalk improvements at Concannon Boulevard at Robertson Park Road, and Concannon Boulevard at Epson Street will improve safety and connectivity for pedestrians and bicyclist. The crossing improvements will be completed under the Concannon Blvd. at Robertson Park Rd. Crossing Enhancements ATP, Project Number 2021-35, and an appropriation in the amount of $217,000 in FY 2022-23 is required to complete the design and start construction of the improvements.

A future appropriation of approximately $218,000 will be needed to complete this project. This additional funding will be requested in the FY 2023-25 Capital Improvement Plan that the City Council will consider in spring 2023.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore, that the 2021-2023 Capital Improvement Plan is amended to include the Concannon Blvd. at Robertson Park Rd. Crossing Enhancements ATP, Project Number 2021-35 with an appropriation of $162,000 in Local & Other Grants (Fund 624), and $55,000 in Gas Tax-SB1 (Fund 651) for a total appropriation of $217,000 in fiscal year 2022-23.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED AS TO FORM:

_____ */s/ Tara M. Mazzanti*

Marie Weber
City Clerk

Tara M. Mazzanti
Assistant City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.4**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolutions authorizing acceptance of grant funds from Alameda County Transportation Commission for the Lawrence Elementary School Safe Routes to School Improvements at Portola Avenue and Enos Way and approving a supplemental appropriation of $123,000 in grant funds for the Crosswalk Safety Improvements 2022, Project Number 2022-06.

RECOMMENDED ACTION

Staff recommends the City Council adopt resolutions:

1. Authorizing the City Manager or designee to sign all grant documents and accept funds from Alameda County Transportation Commission for the Lawrence Elementary School Safe Routes to School Improvements at Portola Avenue and Enos Way; and
2. Approving a supplemental appropriation of funds in FY 2022-23 for the Crosswalk Safety Improvements 2022, Project Number 2022-06.

SUMMARY

The city applied for and was awarded a $101,000 Safe Routes to School Grant (Grant) from the Alameda County Transportation Commission (Alameda CTC) for the Lawrence Elementary School Safe Routes to School Improvements at Portola Avenue and Enos Way. These pedestrian crossing improvements are identified in the 2019 School Site Assessment performed by Alameda CTC for Lawrence Elementary School.

The Grant requires the grantee to authorize, by resolution, the acceptance of the grant. The Grant also requires a 1-1 local funding match. The crossing improvements will be completed under Crosswalk Safety Improvements 2022, Project Number 2022-06. A supplemental appropriation of $123,000 in FY 2022-23 is required to begin implementation of the crossing improvements.

DISCUSSION

Portola Avenue is a major east-west arterial roadway serving northern and central Livermore. The crosswalks at the Portola/Enos intersection provide access to Lawrence Elementary School, located at

2451 Portola Avenue. Parents with school children crossing at this intersection have voiced safety concerns given the speed of traffic and the width of Portola Avenue. The City funds an adult School Crossing Guard at this location.

The Alameda CTC is responsible for the Safe Routes to School Program in Alameda County. In 2019, Alameda CTC conducted a school site safety assessment around Lawrence Elementary School and identified a number of improvements, including Rectangular Rapid Flashing Beacons, yield markings, realignment of crosswalk, curb extensions, and median island to help increase driver awareness of pedestrians, increase compliance in yielding to pedestrians, and shortening the distance and time the pedestrians are in the roadway.

In 2020, the city implemented interim improvements consisting of additional traffic signs and markings, a painted median refuge, and tree trimming to enhance visibility to the crosswalk. The city also applied and was awarded a $101,000 Grant from Alameda CTC for the Lawrence Elementary School Safe Routes to School Improvements at Portola Avenue and Enos Way, which will implement the permanent improvements.

ENVIRONMENTAL DETERMINATION

The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State California Environmental Quality Act (CEQA) Guidelines) and therefore CEQA is not applicable. CEQA review and determination will be completed for the project in the design phase.

FISCAL AND ADMINISTRATIVE IMPACTS

The funding for the Crosswalk Safety Improvements 2022, Project Number 2022-06, is programmed in the FY 2021-23 Capital Improvement Plan with a budget allocation of $150,000 in Local Vehicle Registration Fee (F681). Staff was successful in securing $101,000 of Alameda CTC's Safe Route to School Grant and is requesting a supplemental appropriation from Gas Tax SB1 (F651) in FY 2022-23 to expedite the project's schedule. The Alameda CTC's Grant requires a 1-1 local match. The grant funds must be expended before December 2023.

A revised budget allocation of $123,000 is requested for FY 2022-23 and an appropriation of $137,000 will be requested for the subsequent Capital Improvement Plan for a total project budget cost of $260,000. Appropriation of $61,500 in Local & Other Grants (F624) and an appropriation of $61,500 in Gas Tax-SB1 (F651) to supplant the previously approved appropriation of $150,000 in Local Vehicle Registration Fees (F681) in FY 2022-23 is required to begin utilizing the awarded grant. The project design, environmental, and starting of construction will occur in FY 2022-2023. An appropriation of approximately $137,000 to complete project construction will be requested with the FY 2023-25 Capital Improvement Plan, which the City Council will consider in spring 2023.

Fund	Fund Name	FY 2022-2023			FY 2023-2024	Total
		Existing	Appropriation	Proposed	Future Appropriation (Not included in current request)	

624	Local & Other Grants		$61,500	$61,500	$39,500	$101,000
651	Gas Tax SB1		61,500	61,500	39,500	101,000
681	Local Vehicle Reg. Fee	$150,000	(150,000)	0	58,000	58,000
					Total	$260,000

ATTACHMENTS

1. Resolution - Accepting Grant
2. Exhibit A - Alameda CTC Agreement No. A22-0013
3. Resolution - Supplemental Appropriation

Prepared by: Julie Chiu
Associate Civil Engineer

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LIVERMORE ACCEPTING FUNDS FROM THE ALAMEDA COUNTY TRANSPORTATION COMMISSION FOR THE LAWRENCE ELEMENTARY SCHOOL SAFE ROUTES TO SCHOOL IMPROVEMENTS AT PORTOLA AVENUE AND ENOS WAY

(Crosswalk Safety Improvements 2022, Project Number 2022-06, **Alameda CTC Agreement No. A22-0013/Project No. 1557000)**

The City of Livermore is a general law city of the State of California.

Alameda County Transportation Commission ("ALAMEDA CTC") administers funding programs consisting of 2000 Measure B, 2010 Vehicle Registration Fee, 2014 Measure BB, CMA-TIP, and Transportation Fund for Clean Air Programs for projects and programs that benefit the Alameda County transportation system, and such funding is collectively defined as and shall be referenced herein as the "ALAMEDA CTC ADMINISTERED FUNDS"; and

City of Livermore ("FUND RECIPIENT") submitted a funding application (APPLICATION) to ALAMEDA CTC requesting $101,000 for Lawrence Elementary School Safe Routes To School Improvements At Portola Avenue And Enos Way ("PROJECT") from the ALAMEDA CTC's programming and allocation process of ALAMEDA CTC's administered fund sources; and

The PROJECT will implement safety improvements identified in the 2019 School Site Assessment performed by the ALAMEDA CTC for Lawrence Elementary School.

ALAMEDA CTC awarded $101,000 in ALAMEDA CTC ADMINISTERED FUNDS for the implementation and delivery of the PROJECT to the FUND RECIPIENT; and

As part of the requirements to receive ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT, ALAMEDA CTC requires a resolution adopted by the responsible funding recipient stating the following:

1. Commitment of FUND RECIPIENT's matching funds against the awarded ALAMEDA CTC ADMINISTERED FUNDS; and
2. Confirmation of FUND RECIPIENT understanding that the amount of ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT is capped at the amount awarded by ALAMEDA CTC, and therefore any cost increase cannot be expected to be funded with additional ALAMEDA CTC ADMINISTERED FUNDS; and
3. Confirmation FUND RECIPIENT shall complete the project as described in the funding application and the subsequent funding agreement between ALAMEDA CTC and the FUND RECIPIENT; and

4. Confirmation PROJECT will comply with all the project-specific requirements set forth in the ALAMEDA CTC Project Funding Agreement "AGREEMENT".

NOW, THEREFORE, BE IT RESOLVED that FUND RECIPIENT agrees to accept award of $101,000 in ALAMEDA CTC ADMINISTERED FUNDS; and

BE IT FURTHER RESOLVED that FUND RECIPIENT, by adopting this resolution, does hereby state that:

1. FUND RECIPIENT will provide $101,000 in matching funds and $58,000 in other non-match funds, consisting of Gas Tax-SB1; and
2. FUND RECIPIENT understands that the amount of ALAMEDA CTC ADMINISTERED FUNDS funding for the project is capped at the amount awarded by ALAMEDA CTC, and that any cost increases will be funded through other means by the FUND RECIPIENT, and will not to be funded with additional ALAMEDA CTC ADMINISTERED FUNDS; and
3. PROJECT will be implemented as described in the APPLICATION, AGREEMENT, and in this resolution; and
4. FUND RECIPIENT and the PROJECT will comply with the requirements as set forth in the AGREEMENT; and therefore

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the APPLICANT ability to implement and deliver the proposed PROJECT; and

BE IT FURTHER RESOLVED that FUND RECIPIENT authorizes its City Manager, or designee to execute a funding AGREEMENT with ALAMEDA CTC for ALAMEDA CTC ADMINISTERED FUNDS awarded to the PROJECT as referenced in this resolution; and

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to ALAMEDA CTC.

On motion of Council Member _____, seconded by Council Member _____, the City Council passed the foregoing resolution on April 11, 2022, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

Exhibit A- ALAMEDA CTC AGREEMENT NO. A22-0013

PROJECT FUNDING AGREEMENT
between
ALAMEDA COUNTY TRANSPORTATION COMMISSION
and the
CITY OF LIVERMORE
for the
LAWRENCE ELEMENTARY SCHOOL SAFE ROUTES TO SCHOOL IMPROVEMENTS

This Project Funding Agreement ("AGREEMENT"), dated for reference purposes only as of July 22, 2021, is by and between ALAMEDA COUNTY TRANSPORTATION COMMISSION, a joint powers agency ("ALAMEDA CTC"), and the CITY OF LIVERMORE, a public agency ("PROJECT SPONSOR").

This AGREEMENT obligates funds from one or more ALAMEDA CTC administered funding programs as indicated below, and as further specified in Appendix A: Project Control Information and Appendix B: Alameda CTC Administered Funds Obligated by this AGREEMENT, for the PROJECT, as such term is defined in Recital K below.

☒ 2000 Measure B
☐ 2014 Measure BB
☐ Vehicle Registration Fee
☐ Transportation Fund for Clean Air
☐ CMA TIP

RECITALS

A. The voters of Alameda County, pursuant to the provisions of the Bay Area County Traffic and Transportation Funding Act, Public Utilities Code Section 131000, et seq., approved Measure B at the General Election held in November 1986, authorizing the collection of a one-half cent transaction and use tax over a fifteen (15)-year period to address major transportation needs and congestion in Alameda County and giving Alameda County Transportation Authority ("ACTA") the responsibility for the administration of the proceeds of the tax. The proceeds from the 1986 Measure B tax have been and continue to be used to pay for investments as outlined in the 1986 Alameda County Transportation Expenditure Plan ("1986 TEP"), as it may be amended. Although collection of the 1986 Measure B tax ceased in 2002, capital projects funded wholly or in part by 1986 Measure B funds are still being delivered using these funds.

B. The voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, Public Utilities Code Section 180000, et seq., approved the reauthorization of Measure B at the General Election held on November 7, 2000, authorizing the collection of a one-half cent transaction and use tax to be collected for twenty (20) years beginning April 1, 2002 and giving Alameda County Transportation Improvement Authority ("ACTIA") responsibility for the administration of the proceeds of the tax.. The proceeds from the 2000 Measure B tax have been and continue to be used to pay for investments as outlined in the 2000 Alameda County Transportation Expenditure Plan ("2000 TEP"), as it may be amended.

C. The voters of Alameda County, pursuant to Section 65089.20 of the Government Code, approved Measure F, the Vehicle Registration Fee ("VRF"), authorizing Alameda County Congestion Management Agency ("ACCMA") to administer the proceeds from a $10 per year vehicle registration fee on

each annual motor-vehicle registration in Alameda County, starting with registrations effective July 2011 with collection beginning in May 2011, six months following approval of Measure F. Vehicles subject to the VRF include all motorized vehicles, including passenger cars, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses of all sizes, motorcycles, and motorized camper homes, unless vehicles are expressly exempted from the payment of the VRF.

D. By resolutions adopted by the ACTA and ACTIA Boards on June 24, 2010, all of ACTA's functions and responsibilities were assigned to, and accepted by, ACTIA. On that same date, the ACTIA and ACCMA Boards took the final actions to create ALAMEDA CTC, a joint powers authority with all responsibilities of ACTIA and ACCMA. Pursuant to resolutions adopted by the ACTIA and ACCMA Boards and the Commission of ALAMEDA CTC, ACCMA and ACTIA were terminated as of the close of business on February 29, 2012, with ALAMEDA CTC designated as the successor entity. All of its predecessors' functions and responsibilities have been assigned to, and accepted by, ALAMEDA CTC.

E. The voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, California Public Utilities Code Section 180000 et seq., approved Measure BB at the General Election held on November 4, 2014, authorizing the extension of an existing one-half of one percent transaction and use tax scheduled to terminate on March 31, 2022, and the augmentation of the tax by one-half of one percent, and giving ALAMEDA CTC responsibility for the administration of the proceeds of the 2014 Measure BB tax. The duration of the 2014 Measure BB tax will be 30 years from the initial year of collection, which began April 1, 2015, with said tax to terminate/expire on March 31, 2045. The proceeds from the 2014 Measure BB will be used to pay for investments as outlined in the 2014 Alameda County Transportation Expenditure Plan ("2014 TEP"), as it may be amended.

F. As the Transportation Fund for Clean Air ("TFCA") Program Manager in Alameda County, ALAMEDA CTC annually programs 40 percent of the TFCA funds collected in Alameda County. ALAMEDA CTC receives these funds from the Bay Area Air Quality Management District ("BAAQMD"), and then distributes these funds on a reimbursement basis to eligible project sponsors.

G. ALAMEDA CTC is continuing the implementation of the CMA Exchange Program, originally established by the ACCMA, for the purpose of providing local or otherwise unrestricted funds to ALAMEDA CTC for use in projects and programs adopted into the CMA Transportation Improvement Program ("CMA TIP") by ALAMEDA CTC.

H. The funding programs administered by ALAMEDA CTC and available for projects and programs that benefit the Alameda County transportation system, consisting of 1986 Measure B, 2000 Measure B, 2014 Measure BB, VRF, TFCA, and CMA TIP, are collectively defined as and shall be referenced herein as the "ALAMEDA CTC ADMINISTERED FUNDS". Requirements related to 2000 Measure B, VRF and 2014 Measure BB Direct Local Distribution ("DLD") funding distributed pursuant to 2000 Measure B, VRF and 2014 Measure BB Transportation Expenditure Plans are covered by separate agreements between ALAMEDA CTC and DLD recipients.

I. Measure B, Measure BB, VRF, and TFCA funds obligated by this AGREEMENT shall be programmed, allocated, and expended for the purpose defined and in accordance with the provisions set

forth in the applicable transportation expenditure plans, or the BAAQMD-approved TFCA County Program Manager Policies.

J. ALAMEDA CTC programs and allocates ALAMEDA CTC ADMINISTERED FUNDS through the ALAMEDA CTC Comprehensive Investment Plan ("CIP") that is updated periodically to summarize the programming and allocations of ALAMEDA CTC ADMINISTERED FUNDS, and the policies, procedures and requirements related to the expenditure of ALAMEDA CTC ADMINISTERED FUNDS.

K. The PROJECT SPONSOR is implementing a project or program ("PROJECT") that is eligible for ALAMEDA CTC ADMINISTERED FUNDS. The PROJECT and the strategy to implement the PROJECT are described in greater detail in Appendix A: Project Control Information.

L. This AGREEMENT obligates funds from one or more of ALAMEDA CTC administered funding programs as specified in Appendix B: Alameda CTC Administered Funds Obligated by this Agreement, for the PROJECT and the phase(s) described in Appendix A: Project Control Information. ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are available to reimburse eligible costs incurred by PROJECT SPONSOR for the PROJECT and the phase(s) described in Appendix A: Project Control Information.

M. The issuance of bonds or another financing mechanism are possible funding options as part of ALAMEDA CTC administered funding programs to meet cash flow requirements of each individual program based on current schedule and project delivery information.

NOW, THEREFORE, it is agreed by and between the parties as follows:

SECTION I

PROJECT SPONSOR AGREES:

1. PROJECT SPONSOR shall implement the PROJECT in accordance with all requirements in this AGREEMENT and the following appendices attached hereto and incorporated herein by reference.

   a. Appendix A: Project Control Information
   b. Appendix B: Alameda CTC Administered Funds Obligated by this Agreement
   c. Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements
   d. Appendix D: Local Business Contract Equity Program
   e. Appendix E: Deliverables and Due Dates
   f. Appendix F: Project Performance Measures
   g. Appendix G: Transportation Fund for Clean Air Policies and Requirements

2. PROJECT SPONSOR shall perform the necessary work associated with the PROJECT required to implement PROJECT as described in Appendix A: Project Control Information.

3. PROJECT SPONSOR shall inform ALAMEDA CTC in writing of any changes to the information contained in Appendix A: Project Control Information as soon as PROJECT SPONSOR becomes aware of such changes. Per Section III.2, any change that requires an amendment to this AGREEMENT must be approved by ALAMEDA CTC prior to PROJECT SPONSOR implementing the change.

4. PROJECT SPONSOR shall commit to the timing of ALAMEDA CTC ADMINISTERED FUNDS as described in Appendix B: Alameda CTC Administered Funds Obligated by this Agreement.

5. PROJECT SPONSOR shall expend ALAMEDA CTC ADMINISTERED FUNDS received under this AGREEMENT in accordance with all applicable provisions of law and shall return to ALAMEDA CTC all funds that are not expended in accordance with all applicable provisions of law.

6. PROJECT SPONSOR shall be responsible for costs in excess of the total funding obligations shown in Appendix A: Project Control Information. Costs in excess of the total funding obligations will not be reimbursed with ALAMEDA CTC ADMINISTERED FUNDS unless this AGREEMENT is amended in writing or the parties execute a separate agreement for a subsequent phase of the PROJECT.

7. PROJECT SPONSOR shall return to ALAMEDA CTC, on a pro-rated basis, funds realized from the sale of any vehicle(s) purchased with ALAMEDA CTC ADMINISTERED FUNDS, if the sale of the vehicle(s) is completed prior to the last day of the last year listed as the PROJECT'S "Years of Effectiveness" as identified in either Appendix A: Project Control Information or Appendix G: Transportation Fund for Clean Air Policies and Requirements, as applicable. The amount of sale proceeds required to be returned to ALAMEDA CTC shall be proportional to the percentage of ALAMEDA CTC ADMINISTERED FUNDS originally used to purchase the vehicle(s).

8. PROJECT SPONSOR staff costs for any local agency which receives DLD funding shall not be eligible for reimbursement from ALAMEDA CTC ADMINISTERED FUNDS allocated to the PROJECT unless staff costs are specifically identified as eligible in Appendix A: Project Control Information. Staff costs included in Appendix A are limited to project implementation costs. Staff costs related to the administration of this AGREEMENT including preparation of requests for reimbursement or progress reports are ineligible for reimbursement. PROJECT SPONSOR staff costs funded by other sources can be included in the total cost for the purpose of meeting the cost and risk sharing provisions of this AGREEMENT.

9. PROJECT SPONSOR staff costs eligible for reimbursement may include the individual's actual hourly wage plus a fringe benefit rate, as approved by a cognizant agency or an independent auditor, of up to a maximum of 70% of the hourly wage. Staff costs also may include direct costs including contracted services, such as legal counsel, that are considered an extension of the PROJECT SPONSOR'S staff.

10. PROJECT SPONSOR overhead, or "indirect," costs are not eligible for reimbursement from ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT, and shall not be included in the total eligible PROJECT cost calculations used to determine the ALAMEDA CTC ADMINISTERED FUNDS share of such total eligible PROJECT costs.

11. The cost of maintenance, security, or protection performed by PROJECT SPONSOR or third-party contractors during any temporary suspension of activities associated with the PROJECT will not be considered an eligible cost for reimbursement by ALAMEDA CTC.

12. PROJECT SPONSOR shall advertise, award and administer all professional services contracts for PROJECT work not performed by PROJECT SPONSOR.

13. PROJECT SPONSOR shall invite ALAMEDA CTC staff to participate as a voting member of PROJECT SPONSOR's selection panel for the selection of all professional consultants, and furnish drafts of all professional services contracts, upon ALAMEDA CTC's request.

14. All locally funded contracts approved by PROJECT SPONSOR, funded wholly or in part with Measure B, Measure BB, and/or Vehicle Registration Fee funds administered by ALAMEDA CTC, except for contracts that also include state and/or federal funds or contracts funding non-capital projects (e.g., transit operations), are required to comply with ALAMEDA CTC's Local Business Contract Equity (LBCE) Program as listed and described in Appendix D: Local Business Contract Equity Program Requirements. PROJECT SPONSOR shall comply with the reporting requirements set forth in the LBCE Program and provide the required information to ALAMEDA CTC in accordance with Appendix D for all contracts partially or wholly funded by ALAMEDA CTC, whether or not the specific contract is subject to the LBCE Program.

15. PROJECT SPONSOR shall require insurance coverage that names ALAMEDA CTC, its governing body, officers, employees and consultants as additional insureds of the PROJECT SPONSOR, professional services consultants and subconsultants, construction services contractors and subcontractors, volunteer service individuals, and any other contractors or subcontractors involved with the PROJECT on all insurance required by PROJECT SPONSOR for PROJECT. PROJECT SPONSOR shall keep and maintain insurance certificates and policy endorsements evidencing the policies on file, and furnish the same to ALAMEDA CTC upon request. ALAMEDA CTC will not be responsible for any premiums or assessments on any policy. If this AGREEMENT includes any TFCA funds, PROJECT SPONSOR shall also comply with the insurance requirements specified in Appendix G: Transportation Fund for Clean Air Policies and Requirements.

16. PROJECT SPONSOR shall provide ALAMEDA CTC with periodic (i.e., monthly, quarterly or semi-annually) progress reports describing the current status of the PROJECT. The required progress reporting frequency schedule and forms are provided in Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements. Progress reports are due by the last day of each calendar month following the established reporting period in which the work was performed. These reports shall include PROJECT status information such as the scope of work completed to date, total costs incurred, future actions, project performance, issues identification, changes to scope or schedule, and any additional relevant information requested by ALAMEDA CTC.

17. PROJECT SPONSOR shall submit to ALAMEDA CTC a Request for Reimbursement in accordance with the minimum required invoicing frequency established for the PROJECT, but not more than one such request per month, for reimbursement of eligible PROJECT costs and expenses incurred by PROJECT SPONSOR. The required minimum invoicing frequency and invoice forms are provided in Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements. If PROJECT SPONSOR does not

incur any reimbursable expenses during the minimum invoicing period, in lieu of submitting an invoice, PROJECT SPONSOR shall submit a letter or a statement as part of the required progress report for the same period confirming that no reimbursable costs were incurred during the given period. If PROJECT SPONSOR requests reimbursement for costs incurred as a result of a contract or agreement with a third party that contains a contract value of $50,000 or greater, e.g. a consultant, contractor or other entity, PROJECT SPONSOR shall submit an electronic copy of the fully executed contract or agreement to ALAMEDA CTC prior to ALAMEDA CTC authorizing reimbursement of such costs. Supporting documentation for the Request for Reimbursement packages includes copies of invoices from vendors, consultants, or contractors and summaries of eligible PROJECT SPONSOR staff time charges. PROJECT SPONSOR may suggest an alternative method, subject to approval in advance by ALAMEDA CTC, to document staff costs charged to the PROJECT.

18. PROJECT SPONSOR shall provide a Parcel and Utility Agreement Tracking Log upon ALAMEDA CTC's request, if the PROJECT includes the acquisition of right-of-way and/or the relocation or protection of utility facilities.

19. PROJECT SPONSOR shall keep all necessary PROJECT records to demonstrate compliance with this AGREEMENT, including documentation of activities, performance, progress reports, final report, expenses and charges to support invoices submitted to ALAMEDA CTC and other PROJECT reporting requirements as described in Appendix C: Alameda CTC Request for Reimbursement and Reporting Requirements in one central location for a period of not less than five (5) years after the later of (i) ALAMEDA CTC's payment of the final invoice, (ii) the PROJECT SPONSOR'S submittal of the Final Report for ALAMEDA CTC ADMINISTERED FUNDS under this AGREEMENT, and (iii) the end of the PROJECT'S established "Years of Effectiveness" period (as identified in Appendix G: Transportation Fund for Clean Air Policies and Requirements) if any TFCA funds are provided under this AGREEMENT.

a. PROJECT SPONSOR and PROJECT SPONSOR's contractors and subcontractors shall each maintain and make available for inspection and audit all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts.

b. PROJECT SPONSOR shall allow ALAMEDA CTC or its authorized representatives to inspect, audit, or make copies of any PROJECT records for a period of five (5) years after ALAMEDA CTC's payment of the final invoice and the PROJECT SPONSOR'S submittal of the Final Report. The same access also shall be granted to BAAQMD or its authorized representatives for TFCA funds obligated by this AGREEMENT.

20. PROJECT SPONSOR shall comply with all of the following publicity requirements to inform the public on the use of ALAMEDA CTC ADMINISTERED FUNDS on the PROJECT.

a. PROJECT SPONSOR shall credit ALAMEDA CTC as a funding source and display the approved ALAMEDA CTC logo, where practical, on construction informational signs, vehicles or equipment operated or obtained as part of the PROJECT, and on any publicly distributed information (e.g., fact sheets, flyers, brochures, maps, schedules, websites, press releases), created for or associated with the PROJECT. For TFCA funding obligated through

this AGREEMENT, SPONSOR shall also credit the BAAQMD as a funding source and display the BAAQMD-approved TFCA logo.

b. PROJECT SPONSOR shall provide updated and accurate PROJECT information on the PROJECT SPONSOR's website, or create such a website if none exists, and provide a link to ALAMEDA CTC website.

c. PROJECT SPONSOR shall publish an article in a printed or electronically distributed publication such as a newsletter, local newspaper, e-publications, or website highlighting the PROJECT and the use of ALAMEDA CTC ADMINISTERED FUNDS at least once per fiscal year. For TFCA funding obligated through this AGREEMENT, SPONSOR shall also credit the BAAQMD as a funding source.

d. PROJECT SPONSOR shall document compliance with the publicity requirements and furnish such documentation upon request, and regularly through the progress and final reporting required by this AGREEMENT, through evidence such as photos of construction and vehicle signage, copies of print, electronic and other media published to satisfy this requirement. For TFCA funding obligated through this AGREEMENT, SPONSOR shall also document that the BAAQMD was credited as a funding source and the BAAQMD-approved TFCA logos were displayed.

e. PROJECT SPONSOR shall notify ALAMEDA CTC and request an exemption as soon as it is reasonably known that the PROJECT SPONSOR is unable to fulfill the requirements under this Section I.20 due to extraordinary circumstances.

21. PROJECT SPONSOR shall, to the extent not otherwise prohibited by law, and to the extent required by the California Public Records Act (California Government Code section 6250 et seq.), place in the public domain any software, written document, or other product developed with ALAMEDA CTC ADMINISTERED FUNDS received through this AGREEMENT.

22. PROJECT SPONSOR shall participate, upon the request of ALAMEDA CTC, in a Public Awareness Program in partnership with ALAMEDA CTC and/or its community advisory committees as a means of informing the public of the benefits derived from the use of ALAMEDA CTC ADMINISTERED FUNDS.

23. PROJECT SPONSOR shall obtain all state, local and federal permits and approvals for work, including environmental approvals in accordance with the National Environment Policy Act (NEPA) and the California Environmental Quality Act (CEQA), as applicable. PROJECT SPONSOR will comply with all applicable state and federal laws and regulations.

24. PROJECT SPONSOR shall render a report or answer any and all inquiries, upon ALAMEDA CTC's request, in regards to its receipt of ALAMEDA CTC ADMINISTERED FUNDS, compliance audit findings, and usage of ALAMEDA CTC ADMINISTERED FUNDS before the ALAMEDA CTC Commission, Independent Watchdog Committee, and/or community advisory committees, as applicable.

25. For TFCA funds obligated by this AGREEMENT, a PROJECT SPONSOR who has failed a BAAQMD financial or performance audit for the PROJECT will be excluded from receiving an award of any TFCA funds for five (5) years from the date of BAAQMD's final audit determination. Existing TFCA funds already awarded to the SPONSOR will not be released until all audit recommendations and remedies have been satisfactorily implemented. A failed BAAQMD financial audit means a final audit report that includes an uncorrected audit finding that confirms an ineligible expenditure of TFCA funds. A failed BAAQMD performance audit means that the PROJECT was not implemented in accordance with the AGREEMENT. SPONSOR shall be afforded a reasonable amount of time to address/cure adverse audit findings.

26. For TFCA funds obligated by this AGREEMENT, PROJECT SPONSOR shall return to ALAMEDA CTC, on a pro-rated basis, TFCA funds received under this Agreement if PROJECT is not maintained and/or operated throughout, and at least until the conclusion of, its "Years of Effectiveness" as identified in Appendix G: Transportation Fund for Clean Air Policies and Requirements.

27. For TFCA funds obligated by this AGREEMENT, PROJECT SPONSOR shall submit a TFCA Final Report to the ALAMEDA CTC. The required content for the TFCA Final Report is identified in the TFCA Final Report Form referenced in Appendix G.

SECTION II

ALAMEDA CTC AGREES:

1. ALAMEDA CTC shall make a good faith effort to provide all ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT.

2. ALAMEDA CTC shall assist PROJECT SPONSOR when able, upon request and as necessary, in resolving issues related to the PROJECT.

3. ALAMEDA CTC shall provide a copy of its approved logo for PROJECT SPONSOR to use as required by this AGREEMENT.

4. ALAMEDA CTC shall provide notice to the PROJECT SPONSOR of any and all expenditures made by PROJECT SPONSOR, which are not in compliance with the AGREEMENT or the applicable ALAMEDA CTC ADMINISTERED FUNDS promptly after ALAMEDA CTC becomes aware of any such expenditures.

5. ALAMEDA CTC shall provide timely notice to PROJECT SPONSOR prior to conducting an audit of expenditures made by PROJECT SPONSOR to determine whether such expenditures are compliant with this AGREEMENT or the applicable ALAMEDA CTC ADMINISTERED FUNDS.

SECTION III

IT IS MUTUALLY AGREED AS FOLLOWS:

1. That ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT may be shifted between the phases of the PROJECT or between activities in the same phase of the PROJECT, so long as each of the following occurs: 1) PROJECT SPONSOR submits a written amendment request that provides revised and updated Appendix A: Project Control Information forms documenting the requested funding obligation shift and demonstrating to ALAMEDA CTC's satisfaction that the phase or activity from which the funds were shifted remains fully funded, and 2) the parties execute an amendment to this AGREEMENT incorporating the revised and updated Appendix A forms as described above, which amendment shall be approved by ALAMEDA CTC pursuant to applicable ALAMEDA CTC policies.

2. ALAMEDA CTC and the PROJECT SPONSOR may jointly authorize an "Administrative Amendment" for any minor schedule revisions, deliverables, or budget revisions that do not increase the total ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT. Any change in the PROJECT scope of work must be approved by ALAMEDA CTC prior to implementation of the change by the PROJECT SPONSOR. Administrative amendment requests sent to ALAMEDA CTC must include a revised Appendix A: Project Control Information which reflects the requested changes by the PROJECT SPONSOR.

3. For the purposes of this AGREEMENT, (i) a "Contract" shall mean and refer to a third party agreement with the PROJECT SPONSOR for services related to PROJECT, including agreements with another public agency, consultant firm, contractor or entity; (ii) "PROJECT SPONSOR Staff" costs include costs for staff dedicated directly to project implementation, management, oversight, and/or project development and may include direct costs including contracted services, such as legal counsel, that are considered an extension of PROJECT SPONSOR Staff; (iii) "Capital" with respect to any Right-of-Way Capital phase shall mean and refer to the cost to acquire real property, access rights and other property interests; and (iv) "Agreement Expiration Date" shall mean and refer to the expiration date of this AGREEMENT.

4. Reimbursable costs will be limited to the costs shown in Appendix A: Project Control Information. Funds expended for work directly related to the phases of the PROJECT covered by this AGREEMENT prior to the applicable allowable start date identified in Appendix B: ALAMEDA CTC ADMINISTERED FUNDS Obligated by this AGREEMENT are ineligible for reimbursement pursuant to this AGREEMENT. ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are subject to fund availability and any new requirements and policies imposed by ALAMEDA CTC. The AGREEMENT shall be amended, as necessary, to reflect the applicable requirements.

5. If additional local, state or federal funding is obtained to partially offset ALAMEDA CTC ADMINISTERED FUNDS planned for the PROJECT, ALAMEDA CTC ADMINISTERED FUNDS will not be transferred from the PROJECT until after it is ensured that all phases of the PROJECT can be fully delivered. ALAMEDA CTC ADMINISTERED FUNDS offset by additional local, state or federal funding shall be available for PROJECT only after all other funding planned for PROJECT, as described in Appendix A: Project Control Information, has been committed and/or encumbered to the PROJECT.

6. Should any portion of PROJECT be financed with federal or state funds, all applicable laws, rules and policies relating to the use of such funds shall apply, notwithstanding other provisions of this AGREEMENT.

7. For TFCA funds obligated by this AGREEMENT, this AGREEMENT is subject to the current BAAQMD-approved TFCA County Program Manager Fund Policies included in Appendix G: Transportation Fund for Clean Air Policies and Requirements and any new requirements imposed by the BAAQMD upon ALAMEDA CTC with respect to the TFCA funds distributed hereunder. ALAMEDA CTC will only distribute TFCA funds under this AGREEMENT to the extent the documented project costs are eligible under the applicable BAAQMD TFCA Policies.

8. The laws of the State of California shall govern this AGREEMENT.

9. All correspondence and communications will contain ALAMEDA CTC project number and name for PROJECT in a clearly identifiable location. For projects with TFCA funds obligated by this AGREEMENT, all correspondence and communications will also contain the TFCA project number as identified in Appendix G: Transportation Fund for Clean Air Policies and Requirements.

10. ALAMEDA CTC reserves the right to conduct technical and financial audits of PROJECT work and records when determined to be necessary or appropriate and PROJECT SPONSOR agrees, and shall require its contractors and subcontractors to agree, to cooperate with ALAMEDA CTC by making all appropriate and relevant PROJECT records promptly available for audit and copying.

11. PROJECT costs incurred by PROJECT SPONSOR are only eligible for reimbursement on a pro-rated basis unless specifically provided for in Appendix A: Project Control Information, and PROJECT SPONSOR is expected to concurrently seek reimbursement from the other sources shown in Project A: Project Control Information. Pro-rated basis, as used herein, equals the amount of ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT to a phase, divided by the total funding for the phase, as shown in Appendix A: Project Control Information. For any Request for Reimbursement which includes such expenditures, PROJECT SPONSOR shall (i) report the total expenditures during the reimbursement period, (ii) indicate the percentage of the total expenditures for the phase expected to be funded by ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT, and (iii) request reimbursement for the dollar amount which equals the product of such total expenditures and such percentage.

12. ALAMEDA CTC approval of PROJECT SPONSOR submitted Requests for Reimbursement will be contingent on the submittal of progress reports and deliverables by PROJECT SPONSOR as required by this AGREEMENT. In the event that progress reports and deliverables are not complete and current, approval of Requests for Reimbursement shall be withheld until an acceptable remedy has been implemented and approved by ALAMEDA CTC. If PROJECT SPONSOR fails to submit the required deliverables or otherwise fails to meet the reporting and invoicing requirements of this AGREEMENT, ALAMEDA CTC may deobligate funds from the PROJECT and this AGREEMENT. Not less than thirty (30) days prior to the effective date of any such action, ALAMEDA CTC will endeavor to notify PROJECT SPONSOR in writing that the required deliverables, invoicing and reporting is overdue.

13. Request for Reimbursements submitted after the Agreement Expiration Date identified in Appendix B: Alameda CTC Administered Funds Obligated by this AGREEMENT will be ineligible for reimbursement by ALAMEDA CTC unless an exception is requested by the PROJECT SPONSOR no less than sixty (60) days before the Agreement Expiration Date, and the exception is approved by ALAMEDA CTC.

ALAMEDA CTC will deobligate any remaining ALAMEDA CTC ADMINISTERED FUNDS from PROJECT and this AGREEMENT.

14. Each Right-of-Way transaction which is funded either wholly or in part with ALAMEDA CTC ADMINISTERED FUNDS shall be subject to repayment or reimbursement to ALAMEDA CTC under ALAMEDA CTC Policies in effect as of the effective date of this AGREEMENT, irrespective of the party holding title to the real estate which is the subject of the Right-of-Way transaction in question. The parties agree that Section III.15(a) through Section III.15(f), the provisions of which are intended to provide further detail regarding the application of such Policies, shall govern the extent to which such repayment is required and the conditions applicable to any such repayment. If such Policies are amended after the effective date of this AGREEMENT by ALAMEDA CTC, the PROJECT SPONSOR and ALAMEDA CTC shall execute an amendment to this AGREEMENT which references the revised Policies.

15. For the purposes of the following provisions, "ALAMEDA CTC Share" shall mean the percentage share of the original property purchase price funded by ALAMEDA CTC ADMINISTERED FUNDS (i.e., if the purchase was fully funded by ALAMEDA CTC ADMINISTERED FUNDS, ALAMEDA CTC Share shall equal 100%); any appraisal required under Section III.15(a) and Section III.15(f) only, shall be conducted at no cost to ALAMEDA CTC; "Fair Market Value" of a given property shall mean the net proceeds from the sale of such property if such sale occurs in an open market transaction or by auction, or the value of the property determined by an independent third-party appraisal of the property if some or all of the property is retained by PROJECT SPONSOR or otherwise transferred to any other party without an auction or open market transaction; and "CPI" means the Consumer Price Index, All Items for All Urban Consumers, San Francisco-Oakland, San Jose, CA.

a. If any property is acquired for the PROJECT using ALAMEDA CTC ADMINISTERED FUNDS to finance some or all of the acquisition, and the PROJECT is cancelled or otherwise does not begin construction within five (5) years after the effective date of AGREEMENT (as such deadline may be extended by agreement between the parties hereto), then PROJECT SPONSOR shall, within one (1) year after such cancellation decision or the expiration of such five (5) year period, reimburse ALAMEDA CTC for the greater of the following: ALAMEDA CTC Share of the property's Fair Market Value or the full amount of ALAMEDA CTC ADMINISTERED FUNDS used to acquire the property, as escalated by the increase in the CPI during the most recent period for which CPI data is available which is equal in length to the period between the date ALAMEDA CTC ADMINISTERED FUNDS were paid to PROJECT SPONSOR and the date reimbursement is made to ALAMEDA CTC.

b. If any property is acquired for the PROJECT using ALAMEDA CTC ADMINISTERED FUNDS to finance some or all of the acquisition and only a portion of the acquired property is required for the PROJECT, and if the PROJECT begins construction within five (5) years after the effective date of this AGREEMENT (as such deadline may be extended by agreement between the parties hereto), then PROJECT SPONSOR shall, within one (1) year after PROJECT completion, reimburse ALAMEDA CTC for ALAMEDA CTC Share of the Fair Market Value of any property determined to be "excess property".

c. If the PROJECT begins construction within five (5) years after the effective date of this AGREEMENT (as such deadline may be extended by agreement between the parties hereto), then except as provided in subparagraph (d) below, no reimbursement is due with respect to any property interest acquired for the project using ALAMEDA CTC ADMINISTERED FUNDS if the entirety of the acquired property is required for the PROJECT.

d. If PROJECT SPONSOR anticipates receiving net revenues (i.e., rental or other income generated by the property, less reasonable costs for insurance, maintenance and related items) from any property acquired using ALAMEDA CTC ADMINISTERED FUNDS, PROJECT SPONSOR shall notify ALAMEDA CTC on how PROJECT SPONSOR will use such revenue to offset other project costs, and document such revenue separately in project reimbursement requests.

e. If PROJECT is suspended, PROJECT SPONSOR shall pay all property management costs.

f. Property that is required for the PROJECT and acquired wholly or in part with ALAMEDA CTC ADMINISTERED FUNDS shall be available for PROJECT construction within ten (10) years of ALAMEDA CTC reimbursement to the PROJECT SPONSOR. If, after ten (10) years, PROJECT has not been completed, PROJECT SPONSOR shall reimburse ALAMEDA CTC Share of the fair market value of the property, based on the net proceeds from the sale of the property or an appraisal of the property conducted at no cost to ALAMEDA CTC, within one (1) year after the expiration of this ten (10) year period.

16. If condemnation procedures are required to obtain possession to Right-of-Way, ALAMEDA CTC will consider the required deposit as an eligible cost and reimburse the PROJECT SPONSOR upon request. PROJECT SPONSOR shall submit documentation of the final order of condemnation settlement within ninety (90) days after the date of the court recording of the final order of condemnation. If the amount of ALAMEDA CTC reimbursement to the PROJECT SPONSOR is higher than ALAMEDA CTC Share of the amount of settlement in the final order of condemnation, the PROJECT SPONSOR shall pay ALAMEDA CTC the difference between the amount reimbursed and ALAMEDA CTC Share of the amount settled plus ALAMEDA CTC Share of the interest accrued to the deposit account within one (1) year of the final order of condemnation.

17. PROJECT SPONSOR shall not initiate condemnation of any property until full funding for the construction of the PROJECT has been secured.

18. Reimbursement to PROJECT SPONSOR by ALAMEDA CTC for PROJECT Right-of-Way is limited to the following (and net of any relocation payments provided by other sources):

a. The cost to purchase all real property required for the PROJECT free and clear of liens and/or conflicting easements, including the costs for preparation of documents, negotiations and legal services.

b. The cost of damages to owners of the remainder of real property not actually taken but injuriously affected by PROJECT.

c. The cost of relocation payments and services provided to owners and occupants pursuant to the appropriate State laws and regulations when the PROJECT displaces an individual, family, business, farm operation or nonprofit organization.

d. The cost of demolition and/or the sale of all improvements on the right-of-way. Proceeds from the sale of any such improvements shall be credited to the PROJECT and used to offset PROJECT costs.

e. The cost of all unavoidable utility relocation, protection or removal necessary for the completion of the PROJECT.

f. The cost of all necessary hazardous material and hazardous waste treatment, encapsulation or removal and protective storage for which PROJECT SPONSOR accepts responsibility and where the actual generator cannot be identified and recovery made.

19. If PROJECT SPONSOR materially breaches this AGREEMENT, including but not limited to failing to deliver the PROJECT within the schedule defined by this AGREEMENT without compelling reason, failing to file required progress reports in the time specified by this AGREEMENT, or failing to comply with applicable regulations, ALAMEDA CTC may either terminate this AGREEMENT or suspend payments to PROJECT SPONSOR until such time as PROJECT SPONSOR makes reasonable efforts to comply with this AGREEMENT.

20. Neither ALAMEDA CTC, nor its governing body or any officer, consultant, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by PROJECT SPONSOR in connection with the PROJECT. It is also understood and agreed, pursuant to Government Code Section 895.4, PROJECT SPONSOR shall fully defend, protect, indemnify and hold harmless ALAMEDA CTC, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury (as defined in Government Code Section 810.8) or damages occurring by reason of anything done or omitted to be done by PROJECT SPONSOR in connection with PROJECT, including the performance of the PROJECT or operation or use of the equipment that is subject to this AGREEMENT. If TFCA funds are obligated by this AGREEMENT, PROJECT SPONSOR shall also fully defend, protect, indemnify and hold harmless BAAQMD, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, from any liability imposed on BAAQMD for injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by PROJECT SPONSOR in connection with PROJECT.

21. Neither PROJECT SPONSOR, nor its governing body or any officer, consultant, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ALAMEDA CTC under or in connection with any work, authority or jurisdiction delegated to ALAMEDA CTC under this AGREEMENT. It is also understood and agreed, pursuant to Government Code Section 895.4, ALAMEDA CTC shall fully defend, protect, indemnify and hold harmless PROJECT SPONSOR, its governing body, and all its officers, employees, agents, representatives, and successors-in-interest, against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury (as defined in Government Code Section 810.8) or damages occurring by reason of anything done or omitted to be done by

ALAMEDA CTC in connection with PROJECT, including the performance of the PROJECT or operation or use of the equipment that is subject to this AGREEMENT.

22. Nothing in the provisions of this AGREEMENT is intended to create duties or obligations to or rights in third parties not party to this AGREEMENT. This AGREEMENT gives no rights or benefits to anyone other than ALAMEDA CTC and PROJECT SPONSOR and has no third-party beneficiaries.

23. All legal actions by either party against the other arising from this AGREEMENT, or for the failure to perform in accordance with the applicable standard of care, or for any other cause of action, will be subject to the statutes of limitations of the State of California.

24. Should it become necessary to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to recover reasonable expenses and attorney's fees from the other party.

25. This AGREEMENT shall terminate upon the Agreement Expiration Date identified in Appendix B: Funds Obligated by this AGREEMENT unless this AGREEMENT is extended by mutual agreement of the parties. Notwithstanding the foregoing, Sections I.7, I.19, III.21 and III.22 shall survive the termination or expiration of this AGREEMENT.

26. This AGREEMENT, including its Recitals and Appendices, constitutes the entire AGREEMENT. This AGREEMENT may be changed only as allowed in Sections III.1 and Section III.2 of this AGREEMENT or by a written amendment executed by both parties.

[Signatures on the next page]

CITY OF LIVERMOVE
(PROJECT SPONSOR)

By: _____

Marc Roberts Date
City Manager

Approved as to Legal form:

By: _____

Tara Mazzanti Date
Assistant City Attorney
Legal Counsel to the CITY OF LIVERMORE

ALAMEDA COUNTY
TRANSPORTATION COMMISSION
(ALAMEDA CTC)

By: _____

Tess Lengyel Date
Executive Director

Recommended

By: _____

Gary Huisingh Date
Deputy Executive Director of
Capital Projects

Reviewed as to Budget/Financial Controls:

By: _____

Patricia Reavey Date
Deputy Executive Director of
Finance and Administration

Approved as to Legal Form:

By: _____

Wendel Rosen LLP Date
Legal Counsel to ALAMEDA CTC

LIST OF APPENDICES

APPENDIX A: PROJECT CONTROL INFORMATION

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Note: Appendix G is only included and attached to this AGREEMENT if TFCA funds are obligated and applicable to AGREEMENT.

APPENDIX A

PROJECT CONTROL INFORMATION

Appendix Index

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APPENDIX A-1

PROJECT DESCRIPTION

Project Description

The City of Livermore will implement improvements identified in the School Site Assessments (SSA) for Lawrence Elementary School to improve safety for active transportation.

This project will include the following improvements on Portola Avenue at the intersection with Enos Way:

- Installation of Rectangular Rapid Flashing Beacons (RRFBs)
- Restripe and straighten existing high-visibility crosswalk
- Install advance yield markings
- Install curb extensions and raised medians

Project Limits

- Portola Avenue at Enos Way

APPENDIX A-2

PROJECT SCOPE DETAIL BY PHASE

The ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are to support the project phase(s) identified and described below:

FINAL DESIGN (PS&E)

- Development of final plans and specifications related to the PROJECT

CONSTRUCTION

Construction includes the following improvements at Portola Avenue at the intersection with Enos Way:

- Installation of Rectangular Rapid Flashing Beacons (RRFBs)
- Restripe and straighten existing high-visibility crosswalk
- Install advance yield markings
- Install curb extensions and raised medians

APPENDIX A-3

PROJECT MILESTONE SCHEDULE

Phase/Milestone	Begin	End
Final Design (PS&E)	07/2022	12/2022
Construction		
Release Advertisement	01/2023	03/2023
Contract Award	03/2023	04/2023
Construction Activities	04/2023	10/2023
Project Closeout	10/2023	12/2023

APPENDIX A-4

PROJECT COST SUMMARY BY PHASE AND FUND SOURCE

This Project Cost Summary provides a project funding plan for all Project phases, regardless if funded through ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT.

PHASE	Alameda CTC Administered Funds	Sponsor Funds	Other Non-Match Funds	Total Funding
	2000 Measure B Disc-BP	Local Funds		
Final Design (PS&E)	$17,000	$17,000	$21,000	**$55,000**
Construction	$84,000	$84,000	$37,000	**$205,000**
Total Project Cost	**$101,000**	**$101,000**	**$58,000**	**$260,000**

APPENDIX A-5

PROJECT FUNDING SUMMARY BY PHASE AND REIMBURSEMENT RATIO

(Only Phases Funded with Alameda CTC Administered Funds)

The ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT are to support the project phase(s) identified and described below:

Project Funding Summary by Phase and Reimbursement Ratio					
PHASE	**Alameda CTC Administered Funds** **2000 Measure B Disc-BP**	**Matching Funds**	**Reimbursement Ratio Percentage**	**Other Non-Match Funds**	**Total Funding**
Final Design (PS&E)	$17,000	$17,000	50%	$21,000	**$55,000**
Construction	$84,000	$84,000	50%	$37,000	**$205,000**
Total Funding	**$101,000**	**$101,000**		**$58,000**	**$260,000**

Notes:

- PROJECT SPONSOR shall be reimbursed eligible costs in the percentage of Total ALAMEDA CTC ADMINISTERED FUNDS to Total Funding per the Reimbursement Ratio Percentage for each phase. Each Alameda CTC Administered Fund amount identified is a not-to-exceed amount. The Reimbursement Ratio is defined as ALAMEDA CTC ADMINISTERED FUNDS divided by the Total Funding.

APPENDIX A-6

PROJECT PHASE COST DETAIL

This Project Phase Cost Detail summarizes the total cost for each phase with ALAMEDA CTC ADMINISTERED FUNDS obligated in this AGREEMENT.

FINAL DESIGN (PS&E)	2000 Measure B Disc-BP	Matching Funds	Other Non-Match Funds	Total Cost
Staff/Labor Cost	$-	$ 10,000	$-	**$10,000**
Contract(s)/Other Direct Cost	$17,000	$7,000	$21,000	**$45,000**
Total Phase Cost *(Staff + Contract Costs)*	**$17,000**	**$17,000**	**$21,000**	**$55,000**

CONSTRUCTION	2000 Measure B Disc-BP	Matching Funds	Other Non-Match Funds	Total Cost
Staff/Labor Cost	$-	$ 18,000	**$-**	**$18,000**
Contract(s)/Other Direct Cost	$84,000	$66,000	**$37,000**	**$187,000**
Total Phase Cost *(Staff + Contract Costs)*	**$84,000**	**$84,000**	**$37,000**	**$205,000**

Notes:

- Contracts funded with any combination of Measure B, Measure BB, Vehicle Registration Fee and local funds that do not contain State or federal funds are subject to Alameda CTC's Local Business Contract Equity Program (refer to Appendix D).

APPENDIX B

ALAMEDA CTC ADMINISTERED FUNDS OBLIGATED BY THIS AGREEMENT

The following Table B-1 identifies the ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT and establishes a unique allowable start date for each obligated fund source.

TABLE B-1
FUNDS OBLIGATED BY THIS AGREEMENT
AND ALLOWABLE START AND EXPENDITURE DEADLINE DATES

Fund Source	Fund Subset	Phase	Commission Approval Date	Allowable Start Date	Expenditure Deadline Date	Obligated Amount
2000 MB	Disc-BP	Final Design	7/22/2021	7/1/2021	*The Agreement Expiration Date serves as the expenditure deadline date.*	$17,000
2000 MB	Disc-BP	Construction	7/22/2021	7/1/2021		$84,000
Total Alameda CTC Administered Funds Obligated by AGREEMENT:						**$101,000**

Agreement Expiration Date:	**12/31/2023**

Notes:

1. ALAMEDA CTC reimbursement amounts by fund source for PROJECT shall not exceed the total amount obligated by this AGREEMENT, by fund source.
2. The Commission Approval Date is the date of the meeting at which the Commission approved the allocation.
3. The Allowable Start Date identified for each fund source is the earliest date at which costs eligible for reimbursement by the fund source indicated may be incurred. Any costs incurred on the PROJECT before this date will not be eligible for reimbursement under this AGREEMENT.
4. The Expenditure Deadline Date is the last date by which eligible reimbursable costs may be incurred. Any costs incurred on the PROJECT after this date will not be eligible for reimbursement under this AGREEMENT.
5. The Agreement Expiration Date shall mean and refer to the expiration date of this AGREEMENT.
6. For TFCA funds obligated by this agreement, the Expenditure Deadline Date in the above table is two (2) years from the date when ALAMEDA CTC first received funds from BAAQMD, unless an extended deadline is approved at the time of programming or an extension has been approved by the ALAMEDA CTC. An estimated deadline date is noted in the above table if at the time of this agreement the Alameda CTC has yet to receive funds from BAAQMD. Extended deadlines will be reflected in an amended Table B-1, once approved.
7. For TFCA funds obligated by this agreement, the Commission may approve up to two one-year extensions to the Expenditure Deadline Date. Any additional extensions require approval from both ALAMEDA CTC and BAAQMD.

APPENDIX B (CONT.)

Reimbursement of ALAMEDA CTC ADMINISTERED FUNDS obligated by this AGREEMENT shall be in accordance with the Drawdown Limitation Schedule below.

TABLE B-2
ALAMEDA CTC ADMINISTERED FUNDS
REIMBURSEMENT - DRAWDOWN LIMITATION SCHEDULE

No.	Fiscal Year	Quarter	Fund Source	Drawdown Limitation Amount	Cumulative Drawdown Limitation Amount
1	FY 22/23	Q1/Q2	2000 MB	$17,000	$17,000
2	FY 22/23	Q3/Q4	2000 MB	$44,500	$61,500
3	FY 23/24	Q1/Q2	2000 MB	$39,500	$101,000

Notes:

1. Fiscal Year (FY) begins July 1 and ends June 30.
2. Quarter 1 begins July 1 and ends September 30; Quarter 2 begins October 1 and ends December 31; Quarter 3 begins January 1 and ends March 31; and Quarter 4 begins April 1 and ends June 30.
3. ALAMEDA CTC shall endeavor to transmit payments to PROJECT SPONSOR following the receipt and approval of a complete Request for Reimbursement(s) submitted by the PROJECT SPONSOR.
4. Actual reimbursements from ALAMEDA CTC to the PROJECT SPONSOR shall not exceed the Cumulative Drawdown Limitation Amount without Alameda CTC's written approval. Any portion of a reimbursement request, which exceeds the applicable Cumulative Drawdown Limitation without such prior approval by ALAMEDA CTC shall be deferred until the following quarter or until sufficient capacity in the cumulative drawdown limitation amount is achieved.

APPENDIX C

REQUEST FOR REIMBURSEMENT AND REPORTING REQUIREMENTS

The below table establishes the required minimum frequency for Requests for Reimbursement and Progress Reports. Requests for Reimbursements and Progress Reports are required either monthly, quarterly, or semi-annually, as indicated below with an "X".

REQUEST FOR REIMBURSEMENT AND PROGRESS REPORTING FREQUENCY AND DUE DATES			
Frequency Required *(as checked)*	**Minimum Frequency**	**Period Covered**	**Due Dates**
☐	Monthly *(once every month)*	One month	By 30 days following the end of billed activity
☐	Quarterly *(once every 3 months)*	Quarter 1: 7/1– 9/30 Quarter 2: 10/1 – 12/31 Quarter 3: 1/1– 3/31 Quarter 4: 4/1– 6/30	By October 31st By January 31st By April 30th By July 31st
☒	Semi-annually *(once every 6 months)*	Quarters 1 & 2: 7/1 – 12/31 Quarters 3 & 4: 1/1 – 6/30	By January 31st By July 31st
☐	Annually *(TFCA Annual Report)*	Fiscal Year: 7/1 – 6/30	By July 31st
☒	Final Request for Reimbursement	Any work period eligible under Appendix B.	Must be submitted prior to the Agreement Expiration Date

Notes:

1. For all projects, the maximum frequency for Requests for Reimbursement is one (1) per month.
2. If no costs were incurred during the reporting period, a progress report for the corresponding period is still required.
3. TFCA funding requires annual reporting to BAAQMD in addition to the minimum required frequency for Alameda CTC progress reports and invoices.
4. Requests for Reimbursement must be submitted prior to the Agreement Expiration Date in order to be eligible for reimbursement.

REQUEST FOR REIMBURSEMENT AND REPORTING FORMS

Any PROJECT SPONSOR awarded ALAMEDA CTC Administered Funds shall use the following forms included in the link below for progress reporting, final reporting, request for reimbursements, and requests for amendments to this funding agreement. Note that the format and required content of these forms is subject to change.

List of Downloadable Forms: https://www.alamedactc.org/funding/reporting-and-grant-forms/

1. Request for Reimbursement (RFR) Form
2. Alameda CTC Progress Report Form
3. Alameda CTC Final Report Form
4. Transportation Fund for Clean Air Program Reporting Forms (Interim and Final Report)
5. Amendment Request Form

APPENDIX D

LOCAL BUSINESS CONTRACT EQUITY PROGRAM REQUIREMENTS

As noted in Section I.14, PROJECT SPONSOR is obligated to comply with all applicable provisions of the Alameda CTC Local Business Contract Equity (LBCE) Program, incorporated herein by reference as if attached hereto.

LBCE Program Substitution: The LBCE Program allows substitution of Alameda CTC's program if a sponsor agency's local preference program has been approved in writing by the Alameda CTC's LBCE Liaison Officer. This approval letter from Alameda CTC shall be attached as part of Appendix D.

The following resources are available to guide Project Sponsors through the LBCE Program requirements for procurement and contracting processes:

- Sample template language for professional and construction services is available from ALAMEDA CTC's website: https://www.alamedactc.org/get-involved/contract-equity

- Prime and Subconsultant/Subcontractor Local Business Enterprise, Small Local Business Enterprise and Very Small Local Business Enterprise Utilization Form: https://www.alamedactc.org/get-involved/contracting-forms/

- The LBCE Program Guidelines, available at the above link, includes a Project Sponsor Responsibility Checklist. Appendix B of the LBCE Program Guidelines identifies the Responsibilities of Sponsor Agencies.

- Direct inquiries about the LBCE Program to ALAMEDA CTC's LBCE Liaison Officer:

  Seung Cho
  Director of Procurement and Information Technology
  Alameda County Transportation Commission
  Email: scho@alamedactc.org
  Phone: (510) 208-7472

APPENDIX E

DELIVERABLES AND DUE DATES

Project Deliverables and Due Dates: The Deliverables and Due Dates table below shows deliverables and due dates, if any, for the phases listed in Appendix A-2 Project Phase Descriptions that contain ALAMEDA CTC ADMINISTERED FUNDS.

Deliverables and Due Dates		
No.	**Description**	**Due Date to Alameda CTC**
1	Copy of Final Design Concepts and/or Specifications	December 31, 2022
2	Copy of Bid for Construction	February 28,2023
3	Progress Report #1: July to December 2022	January 31, 2023
4	Progress Report #2: January to June, 2023	July 31, 2023
5	Progress Report #3: July to December 2023	January 31, 2024
6	Photos of Project Completion	By the Agreement Expiration Date
7	Final Invoice	By the Agreement Expiration Date
8	Final Report	By the Agreement Expiration Date

Note:

- Per Section III.19 of AGREEMENT, Alameda CTC may withhold payment of reimbursement requests until past due deliverables are received and approved.

APPENDIX F

PROJECT PERFORMANCE MEASURES

Project Performance Measures: The Project Performance Measures and Targets describes what outcome-based performance measure(s) the PROJECT SPONSOR plans to evaluate to ensure that the project/program is meeting its objectives.

Appendix F is Not Applicable.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING SUPPLEMENTAL APPROPRIATION OF FUNDS FOR THE CROSSWALK SAFETY IMPROVEMENTS 2022, PROJECT NUMBER 2022-06

Crosswalk improvements at Portola Avenue and Enos Way at Lawrence Elementary School will improve safety for pedestrians and bicyclists. The crossing improvements will be completed under the Crosswalk Safety Improvements 2022, Project Number 2022-06, and an appropriation in the amount of $260,000 is required to design the crossing improvements in FY 2022-2023.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore, that a supplemental appropriation of $61,500 in Local & Other Grants (F624), and $61,500 in Gas Tax-SB1 (F651) for a total appropriation of $123,000 to supplant the previously approved appropriation of $150,000 in Local Vehicle Registration Fees (F681) in FY 2022-23 is approved.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.5**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Anwan Baker, Library Director

SUBJECT: Resolution ratifying an agreement with the California State Library to accept a $27,274 grant to be used to support the Livermore Public Library's English as a Second Language (ESL) programs and services, and approving appropriation of these funds during FY 2021-22

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Ratifying the City's acceptance of $27,274 in grant funds from the California State Library to be used by the Livermore Public Library for English as a Second Language (ESL) services, supplies, supports, and programs.
2. Approving the appropriation authorizing the expenditure of the accepted funds in FY 2021-22.

SUMMARY

The California State Library has made funds available to libraries within the State for use in developing and supporting ESL programs and services. Of these available funds, the State determined that the City of Livermore was eligible to receive $27,274.

The California State Library dictates that these funds should be distributed to recipient libraries and expended by the end of the fiscal year on June 30, 2022.

Due to the timing of the announcement of the availability of these funds, the time needed to prepare an item for City Council consideration, and the State’s request for the Library to submit their required agreement as soon as possible, the City reviewed and executed the agreement prior to City Council consideration with plans to seek ratification of the agreement. Ratification of the agreement is now required to formally accept the referenced grant funds.

As these funds were unanticipated, the City could not have entered these items into the budget at the beginning of the fiscal year; upon ratification of the executed agreement, the appropriation of these funds for expenditure during the current fiscal is required.

DISCUSSION

The Livermore Public Library's strategic objectives state that the Library will promote literacy in all its forms to help people fulfill their life goals and be more active and engaged community members; will affirm equity and inclusion by reflecting the diverse local community in staffing, materials, and services offered; and will enable all community members to participate in and benefit from library services by increasing their awareness of and accessibility to these resources. Efforts to support English learners are among the most important activities of the Library and they meet all three strategic objectives.

Accepting grants from the California State Library is a logical undertaking in that it allows the Livermore Public Library to be more and do more for community members who have taken the first step to improve their personal outcomes.

In addition to covering the salaries and benefits of those employees directly working with and supporting English learners and tutors, funds will be used for supplies, guides, materials, and learning supports. Funds will also be used for an online database that will help manage, support, and assist learners and their assigned tutors, while also measuring the impact of the combined efforts.

FISCAL AND ADMINISTRATIVE IMPACTS

Of the $27,274 in proposed grant funds, $14,774 has been designated to cover salary and benefits of Library staff members who are supporting ESL efforts. These efforts include direct support to English learners, tutor trainings, and statistical/database tracking. Staff hours needed for Library efforts have not yet been finalized, but the grant funds will result in a reduction in the use of general funds for Library salaries.

ATTACHMENTS

1. Resolution
2. Exhibit A - California State Library State Funded Grants Award Agreement and Certificate of Compliance

Prepared by: Allen McFarland
Administrative Assistant

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RATIFYING AN AGREEMENT WITH THE CALIFORNIA STATE LIBRARY TO ACCEPT A $27,274 GRANT TO BE USED TO SUPPORT THE LIVERMORE PUBLIC LIBRARY'S ENGLISH AS A SECOND LANGUAGE (ESL) PROGRAMS AND SERVICES, AND APPROVING APPROPRIATION OF THESE FUNDS DURING FISCAL YEAR 2021-2022

The California State Library has made funds available to libraries within the State for use in developing and supporting ESL programs and services. Of these available funds, the State determined that the City of Livermore was eligible to receive $27,274.

The California State Library decided that these funds should be distributed to recipient libraries and expended by the end of the fiscal year on June 30, 2022.

Due to the timing of the announcement of the availability of these funds, the time needed to prepare an item for City Council consideration, and the State's request for the Library to submit their required agreement as soon as possible, the City reviewed and executed the agreement prior to City Council consideration with plans to seek ratification of the agreement. Ratification of the agreement is now required to formally accept the referenced grant funds.

As these funds were unanticipated, the City could not have entered these items into the budget at the beginning of the fiscal year; upon ratification of the executed agreement, the appropriation of these funds for expenditure during the current fiscal is required.

Receiving and utilizing these funds to improve literacy programs and services and improve outcomes for our community members who are non-English speakers promotes growth and acceptance and is directly in alignment with the Library's strategic objective to promote literacy in all its forms to help people fulfill their life goals and be more active and engaged community members.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livermore hereby ratifies City's acceptance of $27,274 in grant funds from the California State Library to be used by the Livermore Public Library for English as a Second Language (ESL) services, supplies, supports, and programs.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore hereby approves the appropriation authorizing the expenditure of the accepted funds during fiscal year 2021-2022.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kelly J. Trujillo
Kelly J. Trujillo
Assistant City Attorney

Exhibit A – California State Library State Funded Grants Award Agreement and Certificate of Compliance

DocuSign Envelope ID: 7A19E11E-A382-4368-9AC0-ED6631B086B4

EXHIBIT A

22-121



STATE FUNDED GRANTS

AWARD AGREEMENT AND CERTIFICATE OF COMPLIANCE

DocuSign Envelope ID: 7A19E11E-A382-4368-9AC0-ED6631B086B4

22-121

California STATE LIBRARY
PRESERVING OUR HERITAGE. SHAPING OUR FUTURE

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California STATE LIBRARY
PRESERVING OUR HERITAGE, SHAPING OUR FUTURE

PROJECT SUMMARY

AWARD AGREEMENT BETWEEN THE STATE LIBRARY and Livermore Public Library for the English as a Second Language Services project.

AWARD AGREEMENT NUMBER ESL21-13

This Award Agreement ("Agreement") is entered into on January 1, 2022 by and between the California State Library ("State Library") and Livermore Public Library, ("Grantee").

This Award Agreement pertains to Grantee's State-funded English as a Second Language Service project.

The Library Development Services Bureau ("LDS") of the State Library administers state and federal funds in the form of awards.

The Grantee was selected by the State Library to receive state grant funds in the amount of $27274 through the process adopted by the State Library in administering such grants.

The State Library and the Grantee, for the consideration and under the conditions hereinafter set forth in the Grant Agreement, agree as follows:



PROCEDURES and REQUIREMENTS

A. Term of the Agreement

The Grant term begins on the date of execution of the Agreement by both parties, until June 30, 2022. If completion of the project occurs prior to the end of the grant period this will be the end date of the term of this agreement. Grant eligible program expenditures may begin no earlier than the start date. The project period ends on June 30, 2022 and all eligible program costs must be incurred by this date.

B. Scope of Work

1. Grantee agrees to perform all activities specifically identified in the Grantee's application and submitted to the State Library in response to the English as a Second Language Services project.

2. The following activities and deliverables to be performed by the Grantee include, but are not limited to the following:

   - Maintain and keep records of expenditures related to the grant that are consistent with Generally Acceptable Accounting Practices (GAAP).
   - Make financial records available to the State Library upon request.
   - Work with the State Library staff to assure that funds are disbursed in compliance with the purpose of the grant.
   - Prepare and submit required narrative and financial reports.
   - Procure equipment, and other supplies as needed for the project.
   - Issue contracts for services, personnel, and consultants as needed for the project.
   - If applicable, make payments for services, including for hours worked and travel reimbursements, to consultants and contractors.
   - Oversee the implementation of project activities.

C. Budget Detail

The State Library shall provide the Grantee funding for the expenses incurred in performing the Scope of Work and activities specified in the Grantee's application. The Grantee shall request the distribution of grant funding consistent with its proposal and the budget worksheet that was included with the application. Under no circumstances shall payments exceed the total grant amount identified in this Agreement.

D. Narrative and Financial Reports

1. The Grantee shall be responsible for submission of interim and final **narrative and financial** reports on the progress and activities of the project, to the California State Library, using the sample report documents provided by the California State Library.

2. All the reports must be current, include all required sections and documents, and must be approved by the Grant Monitor before any payment request can be processed. Failure to comply with the specified reporting requirements may be considered a breach of this Agreement and result in the termination of the Agreement or rejection of the payment request and/or forfeiture by the Grantee of claims for costs incurred that might otherwise have been eligible for grant funding. Any problems or delays must be reported immediately to the Grant Monitor. The financial reports shall reflect the expenditures made by the Grantee under the Agreement and may be incorporated into the same reporting structure as the narrative reports.

3. The reports shall be submitted by the following dates:

Reporting Period	Report	Due Date
January 1, 2022 – June 30, 2022	Final Report	September 30, 2022

4. Failure to submit timely reports with the appropriate documentation by the due date may result in rejection of the payment request and/or forfeiture by the Grantee of claims for costs incurred that might otherwise have been eligible for grant funding.

5. The Grantee agrees to maintain records and supporting documentation pertaining to the performance of this grant, subject to possible audit for a minimum of five (5) years after final payment date or grant term end date, whichever is later. Please refer to Exhibit A, Terms and Conditions for more information.

E. Claim Form and Payment

1. The California State Library shall provide the Grantee payment as outlined in the payment schedule only if all requirements for claiming the funds as outline in this document have been met, and only for those activities and costs specified in the approved award application.

2. The Grantee shall complete, sign, and submit Certification of Compliance form (Exhibit B) and the Financial Claim form (included in your award packet), to the California State Library within 14 days of receiving this award packet. These forms will be issued, signed, and submitted using the online signature and agreement

platform, DocuSign, unless DocuSign is unallowable or inconsistent with practices and policies of the local jurisdiction. If the use of DocuSign is not acceptable to your organization, please contact your grant monitor regarding alternate options.

3. Any of the sums appearing under the categories in the approved budget may be adjusted with prior authorization from the California State Library Grant Monitor. This would be to increase the allotment with the understanding that there will be corresponding decreases in the other allotments so that the total amount paid by the California State Library to the Grantee under this Agreement shall not exceed the awarded amount, which shall be expended/encumbered during the grant period.

4. If the payment amount made by the California State Library exceeds the actual expenses incurred during the term of this Agreement, as reflected in the financial reports to be filed by the Grantee, the Grantee shall immediately refund the excess payment amount to the California State Library.

5. The Award payments will only be made to the Grantee. It is the Grantee's responsibility to pay all contractors and subcontractors for purchased goods and services.

6. The Final Payment of 10% will be withheld and retained by the California State Library until all conditions agreed upon in this Agreement, including submission and grant monitor approval of the interim and final narrative and financial reports, have been satisfied.

7. **Prompt Payment Clause**
   The California State Library will make payments to the Grantee in accordance with the Prompt Payment Clause under Government Code, section 927, *et. seq.* The Grantee may typically expect payment within 45 days from the date a grant payment request is properly submitted and approved by the Grant Monitor.

8. **Budget Contingency Clause**
   a. It is mutually agreed that if the Budget Act of the current fiscal year or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall no longer be in full force and effect. In this event, the California State Library shall have no liability to pay any funds whatsoever to the Grantee or to furnish any other considerations under this Agreement and the Grantee shall not be obligated to perform any provisions of this Agreement.
   b. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Program, the California State Library shall have the option to either cancel this Agreement with no liability occurring to itself or offer an Agreement amendment to the Grantee to reflect the reduced amount.



EXHIBIT A: TERMS and CONDITIONS

1. Accessibility: The State is responsible for ensuring that public websites are accessible to both the general public and state employees, including persons with disabilities. Grantee shall assist the State in meeting its responsibility. Therefore, all project materials generated by state funded programs must meet the **California Accessibility Standards.** Additionally all project materials designed, developed, and maintained shall be in compliance with the California Government Code, sections 7405 and 11135, and the Web Content Accessibility Guidelines 2.0, or a subsequent version, as published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.

   However, if for some reason project material is not generated to be in compliance to meet these standards, please still submit it to the State Library. When submitting the material make sure to note that the material is not accessible by including "NOT ACCESSIBLE" in the file name.

   The California State Library reserves the right to post project materials to its website that are in compliance with these standards.

2. Acknowledgment: The State of California and the California State Library shall be acknowledged in all promotional materials and publications related to the Statewide Broadband Services Program.

   a. Grant award recipients must ensure that the State of California receives full credit as the source of funds and that the California State Library, likewise, is acknowledged as the administrator.
   b. Publications and information releases about the project must credit the State of California. An appropriate statement for a publication or project press release is:

      "This [publication/project] was supported in whole or in part by funding provided by the State of California, administered by the California State Library."

      Grantees must include the above statement in any publications, vehicle wraps, and promotional materials, including websites. If space is limited the State Library logo and the following shortened acknowledgement statement is acceptable:

      "Funding provided by the State of California."

c. This credit line on products of a project, such as materials, is important to foster support from the public, and state funding sources.
d. California State Library Logo: Use of the California State Library logo, which can be downloaded on the California State Library website, is required on any publication, vehicle wrap, or promotional material along with the above statement(s).
e. Photo Documentation: Digital photos are a great way to document the happenings of your project. It is recommended that you use a photo release form when taking photos of the public. You may use your library's photo release form, or contact your grant monitor for the State Library's form.

3. Agency: In the performance of this Agreement the Grantee and it's agents and employees shall act in an independent capacity and not as officers, employees or agents of the California State Library. The Grantee is solely responsible for all activities supported by the grant. Nothing in this Agreement creates a partnership, agency, joint venture, employment, or any other type of relationship between the parties. The Grantee shall not represent itself as an agent of the California State Library for any purpose, and has no authority to bind the State Library in any manner whatsoever.

4. Amendment: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties. This Agreement may be amended, modified or augmented by mutual consent of the parties, subject to the requirements and restrictions of this paragraph.

5. Applicable law: The laws of the State of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and place where the obligation is incurred is Sacramento County, California.

6. Assignment, Successors, and Assigns: The Grantee may not assign this Agreement or delegate its performance to any third-party person or entity, either in whole or in part, without the California State Library's prior written consent. The provisions of this Agreement shall be binding upon and inure to the benefit of the California State Library, the Grantee, and their respective successors and assigns.

7. Audit and Records Access: The Grantee agrees that the California State Library, the Department of General Services, the State Auditor, or their designated representatives shall have the right to review, audit, inspect and copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for possible audit for a minimum of five (5) years after the final payment, or grant term end date, whichever is later, unless a longer period of records retention is stipulated, or until

completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement.

Examples of audit documentation may include, but not limited to, competitive bids, grant amendments, if any, relating to the budget or work plan, copies of any agreements with contractors or subcontractors if utilized, expenditure ledger, payroll register entries, time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts and change orders, samples of items and materials developed with grant funds, invoices and/or cancelled checks.

8. Authorized Representative: Grantee and the California State Library mutually represent that their authorized representatives have the requisite legal authority to sign on their organization's behalf.

9. Communication: All communications from either party, including an interim check-in at any time during the grant term, shall be directed to the respective grant manager or representative of the California State Library or Grantee. For this purpose, the following contact information is provided below:

Livermore Public Library
Anwan D. Baker
1188 S. Livermore Ave.
Livermore, CA 94550
adbaker@livermore.lib.ca.us

California State Library
Allyson Jeffredo
900 N Street
Sacramento, CA 95814
Allyson.Jeffredo@library.ca.gov
(916) 603-6709

1. Confidentiality: Grantee will maintain as confidential any material it receives or produces that is marked **Confidential** or is inherently confidential or is protected by privilege. Grantee agrees to alert the State Library to this status in advance, and State Library agrees to maintain this status in conformity with the Public Records Act.

2. Contractor and Subcontractors: Nothing contained in this Grant Agreement or otherwise shall create any contractual relation between the State and any contractor or subcontractors, and no contract or subcontract shall relieve the Grantee of his or her responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the State for the acts and omissions of its contractors, subcontractors, volunteers, student interns and of persons either

directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors and subcontractors is an independent obligation from the State's obligation to make payments to the Grantee. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any contractor or subcontractor.

3. Copyright: Grantee owns and retains titles to any copyrights or copyrightable material from any original works that it creates within the scope of this Agreement in accordance with the federal Copyright Act. (17 U.S.C. 101, *et seq.*) Grantee is responsible for obtaining any necessary licenses, permissions, releases or authorizations to use text, images, or other materials owned, copyrighted, or trademarked by third parties and for extending such licenses, permissions, releases, or authorizations to the California State Library pursuant to this section. Also, the California State Library may upload, post or transmit copyrighted material produced or purchased with grant funds on a California State Library website for public access and viewing.

4. Discharge of Grant Obligations: The Grantee's obligations under this Agreement shall be deemed discharged only upon acceptance of the final report by California State Library. If the Grantee is a non-profit entity, the Grantee's Board of Directors shall accept and certify as accurate the final report prior to its submission to California State Library.

5. Dispute Resolution: In the event of a dispute, Grantee will discuss the problem informally with the Grant Monitor. If unresolved, the Grantee shall file a written "Notice of Dispute" with the State Library Grant Monitor within ten (10) days of discovery of the problem. Within ten (10) days of receipt, the Grant Monitor shall meet with the Grantee for purposes of resolving the dispute. Any dispute arising under the terms of this Agreement which is not disposed of within a reasonable period of time, the Grantee may bring it to the attention of the State Librarian or the designated representative. The decision of the State Librarian or designated representative shall be final. Unless otherwise instructed by the Grant Monitor, the Grantee shall continue with its responsibilities under this Agreement during any dispute.

6. Drug-free Workplace: The Grantee certifies under penalty of perjury under the laws of California, that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 *et. seq.*) and will provide a drug-free workplace by taking the following actions:

   a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
   b. Establish a Drug-Free Awareness Program to inform employees about all of the following:

1) The dangers of drug abuse in the workplace.
2) The Grantee's policy of maintaining a drug-free workplace;
3) Any available counseling, rehabilitation and employee assistance programs.
4) Penalties that may be imposed upon employees for drug abuse violations.

c. Require that every employee who works on the Agreement will:

1) Receive a copy of the Grantee's drug-free workplace policy statement.
2) Agrees to abide by the terms of the Grantee's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and grantee may be ineligible for award of any future state agreements if the California State Library determines that the grantee has made a false certification or violated the certification by failing to carry out the requirements as noted above.

7. Effectiveness of Agreement: This Agreement is of no force or effect until signed by both parties.

8. Entire Agreement: This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire agreement of the parties.

9. Exclusive Agreement: This is the entire Agreement between the California State Library and Grantee.

10. Extension: The State Librarian or designee may extend the final deadline for good cause. The Grantee's request for an extension of the grant period must be made in writing and received by the California State Library at least 30 days prior to the final deadline.

11. Failure to Perform: The grant being utilized by the Grantee is to benefit the [insert phrase]. If the Grant Monitor determines the Grantee has not complied with this Agreement, the Grantee may forfeit the right to reimbursement of any grant funds not already paid by the California State Library, including, but not limited to, the ten percent (10%) withhold.

12. Federal and State Taxes: The State Library shall not:

a. Withhold Federal Insurance Contributions Act (FICA) payments from Grantee's payments or make FICA payments on the Grantee's behalf; or
b. Make Federal or State unemployment insurance contributions on Grantee's behalf; or
c. Withhold Federal or State income taxes from Grantee's payments

Grantee shall pay all taxes required on payments made under this Agreement including applicable income taxes and FICA.

13. Force Majeure: Neither the California State Library nor the Grantee, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by the California State Library or the Grantee, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.

14. Forfeit of Grant Funds and Repayment of Funds Improperly Expended: If grant funds are not expended, or have not been expended, in accordance with this Agreement, the State Librarian or designee, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Grantee to forfeit the unexpended portion of the grant funds, including, but not limited to, the ten percent (10%) withhold, and/or to repay to the California State Library any funds improperly expended.

15. Fringe Benefit Ineligibility: Grantee agrees that neither the Grantee nor its employees and contract personnel are eligible to participate in any employee pension, health benefit, vacation pay, sick pay or other fringe benefit plan of the State of California or the State Library.

16. Generally Accepted Accounting Principles: The Grantee is required to use Generally Accepted Accounting Principles in documenting all grant expenditures.

17. Grant Monitor: The Grant Monitor's responsibilities include monitoring grant progress, and reviewing and approving Grant Payment Requests and other documents delivered to the California State Library pursuant to this Agreement. The Grant Monitor may monitor Grantee performance to ensure Grantee expends grant funds appropriately and in a manner consistent with the terms and conditions contained herein. The Grant Monitor does not have the authority to approve any deviation from or revision to the Terms and Conditions (Exhibit A) or the Procedures and Requirements unless such authority is expressly stated in the Procedures and Requirements.

18. Grantee: the government or legal entity to which a grant is awarded and which is accountable to the California State Library for the use of the funds provided.

    a. The grantee will make reports to the State Librarian in such form and containing such information as may be required to ensure the proper used of funds consistent with the grantee's application and award agreement. The grantee will keep such records and afford such access as

the California State Library may find necessary to assure the correctness and verification of such reports.

19. Grantee Accountability: The Grantee is ultimately responsible and accountable for the manner in which the grant funds are utilized and accounted for and the way the grant is administered, even if the Grantee has contracted with another organization, public or private, to administer or operate its grant program. In the event an audit should determine that grant funds are owed to the California State Library, the Grantee is responsible for repayment of the funds to the California State Library.

20. Grantee Funds: It is mutually agreed that the Grantee is responsible for furnishing funds beyond the grant award that may be necessary to complete the project.

21. Independent Action: Grantee reserves the right to fulfill its obligations under this Agreement in an independent manner, at any location and at any time within the agreed-upon timeline. Grantee's employees or contract personnel shall perform all services required by this Agreement, but their time need not be devoted solely to fulfilling obligations under this Agreement. Grantee shall furnish all equipment and materials used to meet its obligations, and complete the Project. The State Library shall not provide any personnel or other resources beyond the grant award, and is not required to provide training in connection with this Agreement.

22. Indemnification: Grantee agrees to indemnify, defend and save harmless the State of California, the California State Library and its officers, employees, and agents, from any and all claims, losses, and liabilities accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Grantee in the performance of this Agreement.

23. License to Use: The California State Library reserves a fully paid-up, royalty-free, nonexclusive, sub-licensable and irrevocable license to reproduce, publish, prepare derivative works, distribute or otherwise use, and to authorize third parties to use, any material received or maintained by Grantee in connection with this Agreement. This includes intellectual property, with or without third-party rights. All such usages will be for public library and State governmental purposes:

    a. The copyright in any work developed under this grant, sub-grant, or contract under this grant or sub-grant; and

b. Any rights of copyright to which a Grantee, sub-grantee, or a contractor purchases ownership with grant support.

24. Limitation of Expenditure: Expenditure for all projects must conform to the grantee's approved budget and with applicable State laws and regulations. The total amount paid by the California State Library to the Grantee under this agreement shall not exceed $27274 and shall be expended/encumbered in the designated award period.

    During the award period, the grantee may find that the awarded budget may need to be modified. Budget changes, requests for additional funds, or requests for reductions in award funding must be discussed with the assigned State Library Grant Monitor and a Grant Award Modification may be required to be submitted according to the instructions. Approval is by the State Librarian or their designee. Adjustments should be reported on the next financial report. Any adjustments in approved budgets must be documented and documentation retained in project accounts.

25. Lobbying: Grantee confirms that the grant funds will not be used for the purposes of lobbying or otherwise attempting to influence legislation, as those purposes are defined by the U.S. Internal Revenue Code of 1986.

26. Non-Discrimination Clause: During this grant period, the Grantee and the Grantee's contractors, and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military and veteran status. Grantee shall insure that the evaluation and treatment of contractors, employees and applicants for employment are free from such discrimination and harassment.

    Additionally, Grantee, contractors, and subcontractors, if applicable, shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 *et seq.*), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 *et seq.*), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135-11139.5), and the regulations or standards adopted by the California State Library to implement such article.

    Grantee shall permit access by representatives of the Department of Fair Employment and Housing and the California State Library upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the California State Library shall require ascertaining compliance with this clause. Grantee, and it's contractors, and subcontractors shall give written notice of their obligations

under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.) Grantee shall include the non-discrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the Agreement.

27. Notices: All notices and other communications in connection with this Agreement shall be in writing, and shall be considered delivered as follows:
    a. **Electronic Mail (E-mail):** When sent by e-mail to the last e-mail address of the recipient known to the party giving notice. Notice is effective upon transmission.
    b. **DocuSign (e-signature platform)**: When sent via DocuSign a notification will be sent to the last e-mail address of the recipient known to the party giving notice. Notice is effective upon transmission.
    c. **Grants Management System**: When sent via / uploaded to the California State Library's Grants Management System a notification will be sent to the last e-mail address of the recipient known to the party giving notice. Notice is effective upon transmission.
    d. **Personally:** When delivered personally to the recipient's physical address as stated in this Agreement.
    e. **U.S. Mail:** Five days after being deposited in the U.S. Mail, postage prepaid, and addressed to recipient's address as stated in this Agreement.

28. Order of Precedence: The performance of this Agreement shall be conducted in accordance with the Terms and Conditions, Procedures and Requirements, Certificate of Compliance, Project Summary, Activities Timeline, and Budget, of this Agreement, or other combination of exhibits specified on the Grant Agreement Coversheet attached hereto (collectively referred to as "Terms"). Grantee's California State Library-approved Application (Grantee's Application) is hereby incorporated herein by this reference. In the event of conflict or inconsistency between the articles, exhibits, attachments, specifications or provisions that constitute this Agreement, the following order of precedence shall apply:
    a. Grant Agreement Coversheet and any Amendments thereto
    b. Terms and Conditions
    c. Procedures and Requirements
    d. Certificate of Compliance
    e. Project Summary
    f. Grantee's Application (including Budget and Activities Timeline)
    g. All other attachments hereto, including any that are incorporated by reference.

29. Payment:

    a. The approved Budget, if applicable, is attached hereto and incorporated herein by this reference and states the maximum amount of allowable costs for each of the tasks identified in the Project Summary and Activity Timeline included in the project application. California State Library shall provide funding to the Grantee for only the work and tasks specified in the Grantee's Application at only those costs specified in the Budget and incurred in the term of the Agreement.
    b. The Grantee shall carry out the work described in the Work Plan or in the Grantee's Application in accordance with the approved Budget and shall obtain the Grant Monitor's written approval of any changes or modifications to the Work Plan, approved project as described in the Grantee's Application, or the approved Budget prior to performing the changed work or incurring the changed cost. If the Grantee fails to obtain such prior written approval, the State Librarian or designee, at his or her sole discretion, may refuse to provide funds to pay for such work or costs.
    c. The Grantee shall request funds in accordance with the funding schedule included in this agreement.
    d. Lodgings, Meals and Incidentals: Grantee's eligible costs are limited to the amounts authorized in the California State Administrative Manual (see Exhibit C or contact the Grant Monitor for more information).
    e. Payment will be made only to the Grantee.
    f. Reimbursable expenses shall not be incurred unless and until the grantee receives a Notice to Proceed as described in the Procedures and Requirements.

30. Personal Jurisdiction: The Grantee consents to personal jurisdiction in the State of California for all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties. Native American Tribal grantees expressly waive tribal sovereign immunity as a defense to any and all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties.

31. Personnel Costs: Any personnel expenditures to be paid for with grant funds must be computed based on actual time spent on grant-related activities and on the actual salary or equivalent hourly wage the employee is paid for their regular job duties, including a proportionate share of any benefits to which the employee is entitled.

32. Pledge: This Agreement shall not be interpreted to create any pledge or any commitment by the State Library to make any other or further grants or contributions to Grantee, or any other person or entity in connection with the

Project. It is mutually agreed that Grantee is responsible for furnishing funds beyond the grant award that may be necessary to complete outcomes or deliverables.

33. Privacy Protection: Both parties agree to protect the confidentiality of any non-public, personal information that may be contained in materials received or produced in connection with this Agreement, as required by Civil Code, section 1798, *et. seq*.

34. Prohibited Use: The expenditure under this program shall not be used to supplant Grantee efforts in other grant programs provided by the California State Library.

35. Public Records Act: Material maintained or used by the California State Library is considered "public record" under the Public Records Act (PRA) at Government Code, sections 6250, *et. seq*. This includes the Interim and Final reports, and any other written communications between the parties. Grantee agrees to ensure that all content contained in its written reports are appropriate for publication. Said material, along with all other reports, documentation and data collected during the term of the Agreement, will be subject to disclosure unless it qualifies for exemption under the PRA in whole or in part. Grantee agrees to alert the State Library as to a basis for exemption, if any exists.

36. Publicity Obligations: Grantee will notify the State Library of any promotional materials or publications resulting from the grant no later than five (5) days in advance of distribution, whether they are print, film, electronic, or in any other format or medium. Copies of all promotional materials will be provided to the State Library. Grantee will acknowledge the State Library's support as noted above. Grantee agrees that the State Library may include information about this grant and its outcomes in its own annual reports, with specific reference to Grantee, and may distribute such information to third parties.

37. Records: Communications, grant related documents, data, original receipts, and invoices must be maintained by Grantee and shall be made available to the State Library upon request. Grantee agrees to maintain adequate grant program records and adequate financial records consistent with generally accepted accounting practices, and to retain all records for at least five (5) years after the end-of-term. The State Library may monitor or conduct an onsite evaluation of Grantee's operation to ensure compliance with this Agreement, with reasonable advance notice.

38. Reduction of Waste: In the performance of this Agreement, Grantee shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials

used; alternatives to disposal of materials consumed; and the practice of other waste reduction measures where feasible and appropriate.

39. Reimbursement Limitations: Under no circumstances shall the Grantee seek reimbursement pursuant to this Agreement for a cost or activity that has been or will be paid for through another funding source. The Grantee shall not seek reimbursement for any costs used to meet cost sharing or matching requirements of any other California State Library funded program.

40. Reports and Claims: It is the responsibility of the grantee make the required reports and claims to the California State Library.

    a. The grantee shall be responsible for submitting to the State Library a final report detailing progress and activities. The report is due on the dates specified in the reporting schedule detailed in the Procedures and Requirements section.
    b. To obtain payment hereunder the grantee shall submit authorized claims provided by the State Library for that purpose, on each of the following mentioned dates for payment, and the California State Library agrees to reimburse the Library as soon thereafter as State fiscal procedures will permit.
    c. Payment will be provided to cover the expenditures incurred by the grantee for the project in the following manner:
        - $27274 upon execution of the agreement and submission of claim by the grantee organization.

41. Self-Dealing and Arm's Length Transactions: All expenditures for which reimbursement pursuant to this Agreement is sought shall be the result of arm's-length transactions and not the result of, or motivated by, self-dealing on the part of the Grantee or any employee or agent of the Grantee. For purposes of this provision, "arm's-length transactions" are those in which both parties are on equal footing and fair market forces are at play, such as when multiple vendors are invited to compete for an entity's business and the entity chooses the lowest of the resulting bids. "Self-dealing" is involved where an individual or entity is obligated to act as a trustee or fiduciary, as when handling public funds, and chooses to act in a manner that will benefit the individual or entity, directly or indirectly, to the detriment of, and in conflict with, the public purpose for which all grant monies are to be expended.

42. Severability: If any part of this Agreement is found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement, but the remainder of the provisions in the Agreement will remain in full force and effect.

43. Site Visits: The Grantee shall allow the California State Library to access and conduct site visits, with reasonable notice, at which grant funds are expended and related work being performed at any time during the performance of the work and for up to ninety (90) days after completion of the work, or until all issues related to the grant project have been resolved. A site visit may include, but not be limited to, monitoring the use of grant funds, provide technical assistance when needed, and to visit the State funded project.

44. Termination: The Agreement shall be subject to termination by the State Librarian or designee upon notice to the Grantee at least thirty (30) days prior to the effective date of termination. In the event this agreement is terminated, the Grantee shall deliver to the State Librarian copies of all reports, accounting, data, and materials prepared up to the date of termination. The State Librarian shall determine and pay the Grantee for necessary and appropriate expenditures and obligations up to the date of termination which have not been covered by prior installments previously paid to the Grantee. Upon such termination, the unused portion of the grant award must be returned to the California State Library within 45 days. If funding has been advanced to the Grantee, any unobligated balances, as determined by the State Librarian, shall be returned to the State Library within 45 days of the notice of termination.

45. Timeline: Time is of the essence to this Agreement. It is mutually agreed between the parties that the grant application and the timeline included therein are part of the Agreement.

46. Unused Funds: At the end-of-term Grantee agrees to return any unexpended or unaccounted for funds to the State Library, or to submit a written request for an extension of the grant period. Funds will be considered unexpended or unaccounted if they were: (1) not used for their intended purpose, or (2) used inconsistent with the terms of this Agreement.

    Funds will also be considered unaccounted for, and must be returned, if the proposal outcomes or deliverables are materially incomplete by the end-of-term or earlier termination, as determined by the State Library in its sole discretion.

47. Waiver of Rights: California State Library shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by California State Library. No delay or omission on the part of California State Library in exercising any rights shall operate as a waiver of such right or any other right. A waiver by California State Library of a provision of this Agreement shall not prejudice or constitute a waiver of California State Library's right otherwise to demand strict compliance with that provision or any other provision of this

Agreement. No prior waiver by California State Library, nor any course of dealing between California State Library and Grantee, shall constitute a waiver of any of California State Library's rights or of any of grantee's obligations as to any future transactions. Whenever the consent of California State Library is required under this Agreement, the granting of such consent by California State Library in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of California State Library.

48. Work Products: Grantee shall provide California State Library with copies of all final products identified in the Work Plan and Application. Grantee shall also provide the State Library with copies of all public education and advertising material produced pursuant to this Agreement.

49. Worker's Compensation: The State of California will not provide Workers' Compensation insurance for Grantee or Grantee's employees or contract personnel. If Grantee hires employees to perform services required by this Agreement, Grantee shall provide Workers' Compensation insurance for them. The Grantee is aware of Labor Code Section 3700, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the Labor Code, and the Grantee agrees to comply with such provisions before commencing the performance of the work of this Agreement.



EXHIBIT B: CERTIFICATION of COMPLIANCE FORM

1. **AUTHORIZED REPRESENTATIVE:** I certify that the authorized representative named below is the legally designated representative of the Grantee for this Grant Agreement and project and is authorized to receive and expend funds in order to administer this grant program.
2. I certify that all information provided to the California State Library for review in association with this award is correct and complete to the best of my knowledge, and as the authorized representative of the Grantee, I commit to the conditions of this award, and I have the legal authority to do so.
3. I certify that any or all other participants or contractors in the grant program have agreed to the terms of the application/grant award and have entered into an agreement(s) concerning the final disposition of equipment, facilities, and materials purchased for this program from the funds awarded for the activities and services described in the attached, as approved and/or as amended in the application by the California State Librarian.
4. The authorized representative, on behalf of the Grantee, certifies that the Grantee will comply with all applicable requirements of State and Federal laws, regulations, and policies governing this program, to include the requirements listed below in this Certification of Compliance Form.
5. The authorized representative, on behalf of the Grantee, hereby certifies to the California State Library, for an award of funds in the amount 27274. This award will provide library services as set forth in the Project Application as approved and/or as amended by the California State Librarian.
6. **STATEMENT OF COMPLIANCE:** Grantee has, unless exempted, complied with the non-discrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102).
7. **DRUG-FREE WORKPLACE REQUIREMENTS:** Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
   a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
   b. Establish a Drug-Free Awareness Program to inform employees about:
      1) the dangers of drug abuse in the workplace;

2) the person's or organization's policy of maintaining a drug-free workplace;
3) any available counseling, rehabilitation and employee assistance programs; and,
4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

1) receive a copy of the company's drug-free workplace policy statement; and,
2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Grantee has made false certification or violated the certification by failing to carry out the requirements as noted above. (Gov. Code § 8350 *et. seq.*)

8. **CONFLICT OF INTEREST:** Grantee needs to be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the California State Library must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code § 10410):

a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code § 10411):

a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void. (Pub. Contract Code § 10420).

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code § 10430 (e)).

9. **LABOR CODE/WORKERS' COMPENSATION:** Grantee needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code § 3700).

10. **AMERICANS WITH DISABILITIES ACT:** Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 *et. seq.*)

11. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

12. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all Grantees that are not another state agency or other governmental entity.

13. **DRUG FREE WORKPLACE:**
    a. Continue to provide a drug-free workplace by complying with the requirements in 2 C.F.R. part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, the recipient must comply with drug-free workplace requirements in subpart B of 2 C.F.R. part 3186, which adopts the Government-wide implementation (2 C.F.R. part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (P. L. 100-690, Title V, Subtitle D; 41 U.S.C. §§ 701-707).
    b. This includes but is not limited to: making a good faith effort, on a continuing basis, to maintain a drug-free workplace; publishing a drug-free workplace statement; establishing a drug-free awareness program for the employees; taking actions concerning employees who are convicted of violating drug statutes in the workplace.

14. **ACCESSIBILITY:** The organization receiving this award, as listed in the certification section below, and all program staff, will ensure all project materials will meet California accessibility standards.

15. **NON-DISCRIMINATION:** The organization receiving this award, as listed in the certification section below, and all program staff, agree to comply with all California non-discrimination laws.

16. **ACKNOWLEDGEMENT:** The organization receiving this award, as listed in the certification section below, and all program staff, agree to comply with California State Library acknowledgement requirements.

Certification

ORGANIZATION	
Name: City of Livermore	**Address** *(official and complete)*: 1052 S. Livermore Ave. Livermore, CA 94550
PROJECT COORDINATOR	
Name: Carey Jones	
Email: cjones@livermore.lib.ca.us	**Phone:** 925.373.5507
GRANTTEE AUTHORIZED REPRESENTATIVE	
Name: Marc Roberts	**Title:** City manager
Email: citymanager@cityoflivermore.net	**Phone:** 925.960.4040
Signature:	**Date:** 3/18/22

APPROVED AS TO FORM:

City Attorney

California STATE LIBRARY
PRESERVING OUR HERITAGE. SHAPING OUR FUTURE

Authorized Representative Signature

ORGANIZATION	
Name: City of Livermore	**Address** *(official and complete)*: 1052 S. Livermore Ave. Livermore CA 94550
AUTHROIZED REPRESENTATIVE	
Signature:	**Date:** 3/18/22
Printed Name of Person Signing: Marc Roberts	**Title:** City manager
STATE OF CALIFORNIA	
Agency Name: California State Library	**Address:** 900 N. St Sacramento, CA 95814
Signature: DocuSigned by: Greg Lucas BDA509A1C41C416...	**Date:** 1/27/2022
Printed Name of Person Signing: Greg Lucas	**Title:** State Librarian



EXHIBIT B: STATE REIMBURSABLE TRAVEL EXPENSES

Rates are subject to change per State of California, Department of Human Resources Please Check State of California, Department of Human Resources Website for updated expenses:
http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx

Mileage: Rate subject to change	$0.56 per mile – approved business/travel expense
Meals: Receipts are required	$7.00 – Breakfast $11.00 – Lunch $23.00 – Dinner $5.00 - Incidentals

Meals Note: Lunch can only be claimed if travel is more than 24 hours. Incidental charge may be claimed once for every 24-hour period and should cover incidental expenses, such as but not limited to, tip, baggage handling, etc.

Hotel: Receipts are required and MUST have a zero balance.	$ 90.00 plus tax for all counties/cities not listed below $ 95.00 plus tax for Napa, Riverside, and Sacramento Counties $ 110.00 plus tax for Marin County $ 120.00 plus tax for Los Angeles, Orange, and Ventura Counties, and Edwards AFB. Excluding the city of Santa Monica $ 125.00 plus tax for Monterey and San Diego Counties $ 140.00 plus tax for Alameda, San Mateo and Santa Clara Counties $ 150.00 plus tax for the City of Santa Monica $ 250.00 plus tax for San Francisco County **Out of State:** Prior authorization must be obtained, as well as three print-out hotel quotes. Actual receipt must be included with authorization and additional quotes.

Hotel Note: If the above approved reimbursable hotel rates cannot be secured, please contact your grant monitor to obtain an excess lodging form. This form must be approved prior to actual travel.

AIRLINE TICKETS: Itinerary and receipts are required	Actual reasonable fees pertaining to airline travel will be reimbursed. Business, First Class, or Early Bird Check-in fee is not an approved reimbursable expense.

EXHIBIT A

LIVERMORE
CALIFORNIA

LOG #CC0022-22-121

City Clerk's Office
1052 South Livermore Avenue
Livermore, CA 94550-4899
Phone: 925.960.4200 Fax: 925.960.4205

DOCUMENT TRANSMITTAL FORM

Date: March 18, 2022

To: Allen McFarland, Library cc: N/A

PLEASE READ THE FOLLOWING:

[X] Scan of Original documents sent via Email and 2 sets of the Original documents sent via inter-office mail. Please route for signature and return the fully executed original marked "City Clerk's File" to us.

Date of Document:	March 18, 2022
Type of Document:	Award Agreement & Certificate of Compliance
Parties:	City of Livermore and California State Library

By: Marie Weber, City Clerk
Joanne Carsi-Cruz
925.960.4200

TAB THROUGH DOCUMENT TO ENTER INFORMATION **EXHIBIT A** 22-121

CONTRACT TRANSMITTAL FORM

RUSH

To: City Attorney's Office
From: Contact (Person Routing): Allen McFarland
Date: 3/14/2022
Dept/Div: Library
Phone #: (925) 373-5527

RECEIVED
MAR 14 2022
City Attorney's Office

Contractor/Consultant/Developer: CA, State of - Library
Type of Contract: Award Agreement and Certificate of Compliance
Brief Description of Project/Work: Grant Funds Acceptance

Records Retention:

☐ ***Permanent (CC-006)*** *(DDAs, JPAs, OPAs, MOUs, MOAs, Housing Regulatory Agreements, property & property restrictions, settlements, and any infrastructure contracts, e.g., architects, buildings, bridges, environmental, sewers, sidewalks, street improvements, subdivisions, utilities, etc.)*

☒ ***Non-Permanent (CC-007)*** *(Consulting, professional services, general services, grants, franchises, leases, legal services, loans, paving, painting, slurry seals, etc.)*

Contract Expiration Date: 6/30/2022 ☐ As shown on document ☐ Estimated

Council Approval:

☒ Requires City Council approval. Meeting Date: 4/11/2022 (This agreement will be executed ASAP, and ratified at the meeting of 4/11/2022.)

☐ Does not require City Council approval, because the contract is under $100,000 and (1) is not for the construction of a public work or (2) does not involve the acquisition or disposition of real property.

Routing:
1. City Attorney/Risk Manager for insurance check and form approval
2. Business License review
2. City Clerk will log and obtain signature of City Manager or Department Head
3. When agreements are fully executed, the City Clerk's Office will distribute as follows:

Send **BOTH originals** to:
Allen in Library for distribution with other forms

Send and/or route copies to:
Allen McFarland

Attorney Pre-Review Completed By: K. Trujillo

Attachments: ***ORIGINAL SIGNATURES ARE REQUIRED.***

☒ **TWO** wet-signed Contract (State/Federal/County contracts - signatures can be obtained after City)
☐ One wet-signed Amendment/Extension/Supplemental Contract AND:
  ☐ 1 copy of original contract & all previous amendments attached or emailed.
  Original/Master Contract #CC
☐ Exhibits attached to each contract
☐ Determination of Conflict of Interest Form (**only** for Professional, Engineering or Design Services)
☐ Certificates of Insurance in PINS. Status:
☐ Bonds (if required)
☐ Current Business License on file. BL #: NA Library

***Routing** (Attorney's Office Use Only):* [✓] KTJ [ ] KWE [ ] JAL [ ] KCI LOG NO. 2022-059

No insurance verification

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.6**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Brandon Cardwell, Innovation and Economic Development Director

SUBJECT: Resolution authorizing the execution of an agreement with artist Cecilia Lueza, for the acquisition and oversight of the installation of the outdoor art sculpture entitled "Influx" at the entry point to Livermore's Springtown District, in an amount not-to-exceed $40,000.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager or his designee to execute the Artwork Acquisition Agreement with the artist Cecilia Lueza in the not-to-exceed amount of $40,000, which is budgeted as part of the Citywide Sculptures Project #202122 of FY 2021-23 Capital Improvement Plan, and covered by City Public Art Funds.

SUMMARY

On July 9, 2021, the City of Livermore Commission for the Arts issued a Call for Artists and invited qualified artists to submit proposals for an outdoor sculpture to be placed at one of the entry points into Livermore's Springtown District. The sculpture is one of four projects identified in the Citywide Sculptures Project #202122 in the FY 2021-23 Capital Improvement Plan. The total budget for this sculpture project is up to $125,000, including $40,000 for acquisition of the sculpture, which will be covered by the Public Art Fund (Fund 608). The balance of the project cost is dedicated to installation and is already programmed in the Capital Improvement Plan budget.

On August 20, 2021, staff received 61 proposals that were reviewed by the Ad Hoc Committee of the Commission for the Arts (Commission). The top three finalists were presented to the Commission, which selected "Influx" by Cecilia Lueza as the preferred choice for the Springtown Sculpture.

Under the Agreement, the artist Cecilia Lueza will fabricate and deliver Influx to the City, provide all components necessary to anchor the Artwork to the foundation, and provide oversight of the installation to the satisfaction of the City and in substantial conformance with Artist's Design Proposal. The actual installation process will be managed by the City's Engineering Division.

DISCUSSION

On July 9, 2021, in an effort to include all areas of the community when considering art installations, the Commission for the Arts (Commission) issued its first request for proposals that focused on a site in the Springtown area of Livermore.

Qualified artists were invited to submit their proposals for the Outdoor Sculpture Project in Springtown through the Western States Arts Federation's website www.callforentry.org. The budget for the artwork acquisition was $40,000, including all costs related to the artist's design, supplies, materials, fabrication, transportation, and delivery of the sculpture, as well as insurance required by the City of Livermore and all other costs associated with the art project. Installation, identification plaque, and ongoing maintenance costs were identified to be the responsibility of the City.
The Call for Artists (Attachment 1. Livermore Sculptures RFP) was open to all sculpture artists residing in the United States, with special consideration given to submissions by local San Francisco Bay Area artists. Previous placement of a permanent outdoor sculpture was not a requirement. However, artists were required to demonstrate their experience in successfully realizing permanent public art installations.

By August 20, 2021, staff had received a total of 61 proposals, which were reviewed by the Ad Hoc Committee of the Commission. On October 26, 2021, the Sculpture Ad Hoc Committee presented three finalists for the Springtown sculpture to the full Commission. The three finalists selected were: Influx by Cecilia Lueza, Magnetic Storms of Space by Norman Moore, and Livermore Outdoor Sculpture Concept by Seth Palmiter. After discussion and deliberation, the Commission selected Influx as its preferred choice, and voted to recommend the project for Council approval.

According to the artist, the Influx sculpture is inspired by the beauty of nature and the dynamics of the ocean. The artwork aims to explore the visual effects of color and geometry while providing a bright and engaging focal point for the public. The sculpture will be made of water jet cut, welded 6061 aircraft grade aluminum of varying thickness. All parts will have an industrial, UV resistant coating system comprised of an epoxy primer and powder coat finish. Under the Agreement, the Artist will fabricate and deliver Influx to the City, provide all components necessary to anchor the Artwork to the foundation, and provide oversight of the installation to the satisfaction of the City and in substantial conformance with Artist’s Design Proposal, as more particularly set forth in Exhibit A to the resolution. The actual installation process will be managed by the City's Engineering Division as part of the Citywide Sculptures- Project #202122 of the Capital Improvement Plan.

FINANCIAL AND ADMINISTRATIVE IMPACTS

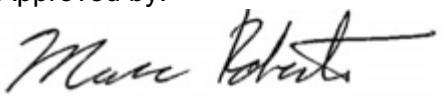
The cost of purchasing the artwork under the Artwork Acquisition Agreement is forty thousand dollars ($40,000). The cost of purchasing the artwork and the installation is covered in the budget for Citywide Sculptures Project #202122 of the FY 2021-23 Capital Improvement Plan, which will be funded through the Public Art Fund (Fund 608).

ATTACHMENTS

1. Livermore Sculptures RFP
2. Resolution
3. Exhibit A - Cecilia Lueza Artwork Acquisition Final Agreement

Prepared by: Theresa De La Vega
Management Analyst

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

REQUEST FOR PROPOSALS
Public Art Program
Livermore Commission for the Arts

Call for Artists – Outdoor Sculpture Project for Livermore

The City of Livermore Commission for the Arts invites qualified artists to submit proposals for an outdoor sculpture to be placed in Livermore, California, according to the below specifications. The Commission for the Arts has allocated up to $40,000 for the sculpture. The selected sculptures will become the property of the City of Livermore and will be a permanent part of Livermore's public art collection.

Artists may submit a maximum of four sculpture proposals for this Call. This Call is limited to the first 250 proposals.

Applications must be submitted using the Western States Arts Federation's online website: www.callforentry.org, CaFÉ. The name of this Call is "City of Livermore: Outdoor Sculpture" Applications that are incomplete will not be considered.

Request for Proposals submission deadline is
August 20, 2021 at 10:00 pm Pacific Daylight Time

Eligibility

This Call for Artists is open to all sculpture artists residing in the United States, with special consideration given to submissions by local San Francisco Bay Area artists. The first 250 proposals will be accepted. Previous placement of a permanent outdoor sculpture is not a requirement; however, demonstrated experience in successfully realizing permanent public art installations will be considered when reviewing submissions.

Background

Founded in 1869, Livermore is California's oldest wine region and is surrounded by vineyards, wineries, farm lands and ranches that mirror the valley's western heritage. The City's current population of 91,411 encompasses 26.44 square miles and is the easternmost city in the San Francisco Bay Area and the gateway to California's Central Valley. Protection by the coastal range provides the Livermore Valley with a mild climate that enhances the pursuit of a more relaxed, less congested lifestyle.

Livermore's arts, culture, western heritage and vibrant wine and craft brew industries provide a unique blend to this special community. Historic Downtown Livermore is enjoying a renaissance reestablishing the downtown as the city's preeminent shopping, dining, entertainment and cultural district with a 10-screen cinema, an independent movie theater and a 500-seat performing arts center. With the addition of several residential development projects and a pedestrian oriented environment, the City is establishing an active urban living experience in the Tri-Valley.

As home to renowned science and technology centers, Lawrence Livermore National Laboratory and Sandia National Laboratory, Livermore is a technological hub and an academically engaged community. It has become an integral part of the Bay Area, successfully competing in the global market powered by its wealth of research, technology and innovation.

Public Art Budget

The budget for this project is $40,000. The project budget includes all costs related to the artist's design, supplies, materials, fabrication, transportation and delivery of the sculpture, as well as insurance required by the City of Livermore and all other costs associated with the art project up to receipt of the selected sculpture by the City. Installation, identification plaque, and ongoing maintenance costs will be the responsibility of the City.

Location

The proposed location is detailed below; specific site location, description and limitations are detailed in the Site Map at the end of this RFP. The City reserves the right to substitute an alternate location for a proposed location if it is deemed necessary by the City.

Sculpture Site –Livermore is divided into 4 voting districts; past City funded sculpture installations have been centered in the downtown Cultural Arts District. In an effort to include all districts when considering art installations, this RFP will be the first to focus on a site in District 2, commonly referred to as Springtown. Refer to site location information at the end of this document.

Application

You must use the online site to apply for this project. The name of this Call is "City of Livermore: "Outdoor Sculpture Project" The Call is limited to the first 250 applicants. All requirements listed below must be met for consideration.

- Full application completed through the Western States Arts Federation website: www.callforentry.org.
- Artist Statement or Résumé must be current and include a website if available.
- You must provide three (3) color images of ONE sculpture with each application: two images clearly showing the front and back of the sculpture and the other showing detail. Be sure to show the scale of the work.
- Artists may submit up to four (4) applications for this Call, with (3) color images of ONE sculpture per application.
- You must provide two (2) color images of sample works representing the artist's original work that best illustrate sculpture experience.
- If the sculpture is kinetic, Artist should include a maximum of one (1) video file.
- Contact Information for three references from projects of similar scope and size.

Selection Criteria

Proposals submitted will be reviewed by a committee of the Livermore Commission for the Arts. Recommendations from the committee will be presented to the Livermore Commission for the Arts for approval. Approved recommendations from the Commission for the Arts will then be presented to the Livermore City Council for final approval.

The Commission for the Arts will use the following guidelines as established in the City's Cultural Arts Plan. A proposed sculpture should:

- Capture attention, engage the public, and be appropriate to its specific location;
- Aesthetically enhance the surrounding area and otherwise interact with its surrounding environment;
- Be appropriate for a high-pedestrian traffic environment;

- Be designed with consideration of the safety of the public;
- Be constructed of permanent, durable materials and preferably be maintenance-free;
- Be capable of withstanding adverse weather conditions including high winds, high temperatures, heavy rain, storms, etc.;
- Not involve electric power, water, electronics, or be based solely on light sources;
- Be suitable by way of form and quality for public viewing, and if appropriate, approachability (depending on installation location);
- Be one of a kind or limited edition, unique to the region. Sculptures that are identical to sculptures already placed or to be placed in other similar public sculpture programs within 200 miles of Livermore will not be considered.

Proposed Schedule

Deadline for entry	Aug 20, 2021
Approval by Commission for the Arts	Sept 28, 2021
Approval by City Council	Oct 25, 2021
Enter into contract with Artist	October 2021
Artist delivers artwork	TBD

Address questions to: **Adam Van de Water, Staff Liaison Commission for the Arts**
arts@cityoflivermore.net
(925) 960-4405

SITE MAP - PROPOSED SCULPTURE LOCATION

This is the proposed sculpture location (as of May '21). The City reserves the right to select a different location within Livermore, depending upon the size and subject matter of the sculpture design approved for this project. Where landscaping is currently shown in photos, the landscaping will be adjusted to accommodate the selected sculpture.

Location: Directly West of 998 Bluebell Dr., Livermore CA





C



This site is one of the entry points into Livermore's Springtown district, i.e., Livermore District 2, and is clearly visible from all directions by both vehicular traffic and pedestrian traffic. It is on Bluebell Dr., Livermore CA, on the north side of the street between Springtown Blvd and Sunflower Ct, approximately 50 yards west of the Livermore Public Library - Springtown Branch building. The sculpture will be in the landscaped area pictured above.

This location is easily viewed by vehicle traffic moving east and west on Bluebell Drive. In addition, there is pedestrian traffic in this area, sitting benches and a nearby bus stop.

The planted area runs between 62 and 85 ft wide depending on exact location with the sculpture location between the existing rocks ranging between 22 and 35 feet. Proposals must indicate how wide a base will be necessary for installation. Existing trees may not be relocated, only plants and shrubs.

Proposed designs must not obstruct drivers' vision or impede pedestrian traffic in any way.

Thank you for your interest! We look forward to the prospect of working with you.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE EXECUTION OF AN ARTWORK ACQUISITION AGREEMENT WITH CECILIA LUEZA FOR THE ACQUISITION OF INFLUX IN AN AMOUNT NOT-TO-EXCEED $40,000

The City of Livermore is divided into four (4) voting districts. Past City-funded sculpture installations have been centered in the Downtown Cultural Arts District. On July 9, 2021, in an effort to include all districts when considering art installations, the Commission for the Arts issued its first request for proposals that focused on a site in District 2, which is commonly referred to as Springtown.

Qualified artists were invited to submit their proposals for the Outdoor Sculpture Project in Springtown through the Western States Arts Federation's website www.callforentry.org. The budget for the artwork acquisition is $40,000, which includes all costs related to the artist's design, supplies, materials, fabrication, transportation, and delivery of the sculpture, as well as insurance required by the City of Livermore and all other costs associated with the art project. Installation, identification plaque, and ongoing maintenance costs will be the responsibility of the City.

On August 20, 2021, staff received a total of 61 proposals. The proposals were reviewed by the Ad Hoc Committee of the Livermore Commission for the Arts. On October 26, 2021, the Sculpture Ad Hoc Committee presented the three finalists that they have selected for the Springtown sculpture. The three finalists selected are Influx by Cecilia Lueza, Magnetic Storms of Space by Norman Moore, and Livermore Outdoor Sculpture Concept by Seth Palmiter. After discussion and deliberation, the Commission for the Arts selected the proposal entitled Influx by Cecilia Lueza. The sculpture entitled Influx is inspired by the beauty of nature and the dynamics of the ocean. The artwork aims to explore the visual effects of color and geometry while providing a bright and engaging focal point for the public. The sculpture will be made of water jet cut, welded 6061 aircraft grade aluminum of varying thickness. All parts will have an industrial, UV resistant coating system comprised of an epoxy primer and powder coat finish.

The proposed Artwork Acquisition Agreement is for the artist to provide the artwork entitled “Influx” (the “Artwork”) and fabricate and deliver the Artwork to the City. Artist shall also provide all components necessary to anchor the artwork to the foundation and provide oversight of the installation to the satisfaction of the City and in substantial conformance with Artist’s Design Proposal.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that the City Manager is authorized to execute the artwork acquisition agreement with Cecilia Lueza, attached hereto as Exhibit A, in an amount not-to-exceed $40,000. The cost of purchasing the artwork and the installation is covered in the budget for Citywide Sculptures Project #2021-22 of FY 2021-2023 Capital Improvement Plan.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kelly J. Trujillo
Kelly J. Trujillo
Assistant City Attorney

Exhibit A - Cecilia Lueza Artwork Acquisition Final Agreement

EXHIBIT A

22-127

ARTWORK ACQUISITION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2022, by and between the City of Livermore ("City"), a municipal corporation, and Cecilia Lueza ("Artist and/or Consultant"), an individual.

RECITALS

A. City desires to engage Artist to provide a specific piece of artwork outlined in the Artist's Design Proposal, attached hereto as Exhibit "A", to be displayed by the City of Livermore.

B. Artist warrants it possesses the distinct skills, qualifications, experience, and resources necessary to timely provide the Artwork described in this Agreement. Artist acknowledges City has relied upon these warranties to retain Artist.

AGREEMENT

NOW, THEREFORE, City and Artist hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. **Retention as Contractor.** City hereby retains Artist, and Artist hereby accepts such engagement, to perform the services described in Section 3 below subject to the terms and conditions in this Agreement.

2. **Relationship of Parties – Independent Contractors.** The relationship of the parties shall be that of independent contractor. Artist and its employees are not City officers or employees. Artist is responsible for the supervision and management of its employees, including any workers' compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the delivery of the services contemplated by this Agreement.

3. **Scope of Work.** Artist shall provide the artwork entitled "Influx" (the "Artwork"), and fabricate and deliver the Artwork to the City, Artist shall also provide all components necessary to anchor the Artwork to the foundation and provide oversight of the installation to the satisfaction of the City and in substantial conformance with Artist's Design Proposal, as more particularly set forth in Exhibit "A" (the "Services").

4. **Contractor's Responsibilities and warranties.** Artist shall:

(a) Comply with all laws in effect that are related to Artist and the provision of Services;

(b) Coordinate the Services with Brandon Cardwell ("Project Manager"), or such other person designated as the Project Manager by City;

(c) *Originality of Work*. Artist warrants that the Artwork is original and is solely the product of Artist's own creative efforts and does not infringe the rights, including copyrights, of any person or entity. Artist also warrants that, unless otherwise stipulated

in writing, the Artwork is original and that Artist shall not sell, license, perform, or reproduce a substantially similar copy of the Artwork within a 200-mile radius of the City without the prior written consent of City. However, nothing contained herein shall prevent the Artist from creating future works in his/her style and manner of working;

(d) Artist warrants that the Artwork and workmanship will be free of defects in workmanship, including Inherent Defect, and that Artist will, at its own expense, remedy any defects due to faulty workmanship or Inherent Defect, which appear within a period of three years from the date the Artwork is formally accepted. If the Artwork should deteriorate because of Inherent Defect within three years from the date the Artwork is formally accepted, Artist will repair or replace the Artwork without charge to the City for Artist's services or materials. The term "Inherent Defect" means any quality within the material or materials incorporated into the Artwork which, either alone or in combination, results in the deterioration of the Artwork. Inherent Defect does not include any potential for deterioration that is specifically identified in the Artist's Design Proposal.

(e) If applicable, the Artist shall make every effort to ensure the Artwork is free of any grammatical and spelling errors before delivery of the Artwork to the City.

(f) Artist further warrants that the Artwork shall not constitute any threat to the safety of persons or property when used in the manner for which it is designed. Artist agrees to cooperate with City in making or permitting adjustments to the Artwork if necessary to eliminate any potential safety concerns or hazards, which become apparent after the Artwork is accepted by the City.

(g) If applicable, Artist shall ensure that all work for compensation is provided in compliance with the requirements of the California Labor Code including but not limited to hours of labor, nondiscrimination, payroll records, apprentices, worker's compensation and prevailing wages. If applicable, Artist shall comply with all prevailing wage laws, such as sections 1773, 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the California Labor Code and any other applicable wage and hour law. If any violation of prevailing wage law associated with this Agreement is deemed to have occurred by any court or administrative authority, Artist shall forfeit to the City, as a penalty, the sum of fifty dollars ($50.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the applicable prevailing rates for any work done to accomplish the purposes of this Agreement.

5. Compensation and Payment.

(a) The total compensation payable by City to Artist for the Services shall be the sum of $40,000 ("not-to-exceed amount"). This not to exceed amount is intended to be Artist's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, travel expenses, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Artist, its agents, and employees to produce and provide the Artwork.

(b) City agrees to pay the Artist Twenty Thousand Dollars ($20,000) upon execution of this Agreement, and the remaining balance of Twenty Thousand Dollars ($20,000) within thirty (30) days after delivery and installation of the Artwork.

(c) City shall pay Artist no later than 30 days after City receives a written invoice from Artist and verifies installation of Artwork in satisfactory condition. Artist agrees that City has no obligations regarding commissions or any agreements with galleries or agents with whom Artist may have contracted. City is not responsible for paying sales tax.

6. Term. The term of this Agreement commences on March 16, 2022, and terminates upon the completion of the Services or December 31, 2022, whichever occurs first.

7. Removal. Artist understands that City intends to display the Artwork directly west of 998 Bluebell Drive in the landscaped area (the "Location"). Should City reasonably determine that the Artwork is no longer appropriate for the Location and/or limiting the City's use of the Location for the purpose, which it is intended City may provide Artist with 60-day notice that City will remove the Artwork from the Location at the end of the notice period. If possible, City shall work with Artist to find another suitable site for the Artwork. Otherwise, the City may, at its sole discretion dispose of the Artwork, including the disposal by auction sale or the destruction of the Artwork in accordance with California Civil Code section 980-989 inclusive.

8. Maintenance, Repair, and Restoration.

(a) *Maintenance.* City shall consider Artist's written recommendations concerning the maintenance of the Artwork and shall use reasonable efforts to maintain the Artwork in accordance with those recommendations.

(b) *Damaged Artwork.* City is responsible for repairing the Artwork in the event of damage and/or vandalism that is unrelated to an Inherent Defect. Artwork damaged or vandalized shall be repaired as closely as possible to the original approved Artwork. It is the policy of the City to consult with the Artist regarding repair and restoration when it is practicable. The City may, in its sole discretion, engage the original Artist to conduct the required repairs or restoration. All repairs and restorations, whether performed by Artist, City, or by third parties responsible to Artist or City, shall be made in accordance with professionally recognized principles of conservation of artworks and in accordance with the maintenance instructions provided to the City by the Artist pursuant to Exhibit "A". In the event the City makes repairs or restoration not approved by the Artist, Artist shall have the right, at Artist's sole option, to have Artist's association with the Artwork severed.

9. Termination by City. City may terminate any portion or all of the Services by giving Artist at least 30 calendar-days written notice. Upon receipt of a termination notice, Artist shall immediately stop all work in progress on the Services except where necessary to preserve the benefit of the work, and assemble the work on the Services for delivery to City on the termination date. All compensation for Services performed prior to the termination date shall be payable to Artist in accordance with Section 5.

10. Copyright. Subject to the restrictions and usage rights and licenses granted to City hereunder, and unless otherwise agreed to by the parties in writing, Artist shall retain all 17 U.S.C. § 106 copyrights in all original works of authorship produced under this Agreement. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the Artwork.

11. City's Intellectual Property License. Artist hereby grants to City, and City's agents, authorized contractors, and assignees an unlimited and irrevocable license to do the following with respect to the Artwork:

(a) *Implementation, Use, and Display*: City may use and display the Artwork as outlined in this Agreement. To the extent the Artwork involves design elements that are incorporated by Artistin to the design of the location selected for display of the Artwork, the City may implement such design elements.

(b) *Reproduction and Distribution*: City may make, display, and distribute, and authorize the making, display, and distribution of photographs and other reproductions of the Artwork. City may use such reproductions for any City-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, electronic, and multimedia publicity. City shall ensure that such reproductions are made in a professional and tasteful manner, in its sole and reasonable judgment. City shall make reasonable efforts to ensure such reproductions include the following credit line and copyright notice where practicable: ["Title of Artwork" © (Year of completion) by (Contractor's Name or Other Copyright Holder's Name).] Failure to include such credit line and notice in any reproductions shall not constitute a breach of this Agreement. The City may not license or sublicense its rights for any private or commercial purpose. This license granted hereunder does not include the right to sell photographs or reproductions of the Artwork or to authorize the sale of such photographs or reproductions.

(c) *Publicity:* City shall have the right to use Contractor's name, likeness, and biographical information in connection with the Artwork; City shall have an exclusive and irrevocable right in such trademark, service mark, or trade dress.

(d) *Third Party Infringement:* City is not responsible for any third party infringement of Artist's copyright or for protecting Artist's intellectual property rights.

12. Waiver of Artists Rights. With respect to the Artwork produced under this Agreement, and in consideration of the procedures and remedies specified in this Agreement, Artist hereby waives any and all claims, arising at any time and under any circumstances, against City, elected officials, officers, directors, employees, agents, or designated volunteers, arising under the federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§987, et seq.), or any other type of moral right protecting the integrity of works of art. Specifically, Artist hereby waives any and all such claims against City, and its elected officials, officers, directors, employees, agents, or designated volunteers for alteration of the Artwork regardless of whether such alteration is made necessary for City to utilize the Artwork for its intended purposes. Artist hereby represents and warrants that the Artist is authorized to sign this waiver.

13. Indemnity. Artist represents and warrants that the Artwork is the sole work of the Artists and does not infringe on the intellectual property rights of any third parties. Artist agrees to indemnify City against any claims brought against City alleging that the Artwork infringes on the intellectual property rights of any third parties.

14. Insurance. Artist shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims that may arise from or in connection with this Agreement and performance of the Services. Upon reasonable written notice, Artist shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager.

15. Acceptance of Final Payment. Artist's acceptance of final payment will release City from any and all claims and liabilities for compensation under this Agreement.

16. Acceptance of Work. City's acceptance of, or payment to Artist for the Services does not release Artist from its responsibility for the accuracy, completeness, or competency of the Services, nor do the actions constitute an assumption of Artist's responsibility or liability by City for any defect or error in the Services.

17. Conflict of Interest. Artist represents that no City employee or official has a financial interest in Artist. Artist shall not offer, encourage, or accept any financial interest in any part of Artist's business by or from a City employee or official during the term of this Agreement or as a result of being awarded this Agreement. If any of the Services are paid by reimbursement from an agreement between City and a private party, Artist represents that it has not performed any work for that private party during the 12-month period prior to the execution of this Agreement, and that it shall not negotiate, offer or accept any contract for services from that party during the term of this Agreement.

18. Economic Disclosure. Artist shall comply with City's local conflict of interest code and the Political Reform Act, and prepare and file an economic disclosure statement if the Services involve making, or participation in making, decisions which may have a material effect on the Artists' financial interest. While it is Artist's sole responsibility to evaluate its conflicts of interest, the Artist nevertheless agrees to prepare and file an economic disclosure statement if requested by City.

19. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other Artists to provide, services that are the same or similar to the Services described in this Agreement.

20. No Assignment. Artist shall not assign or subcontract any of the Services without City's prior written consent. For the purposes of this section, a change of fifty-percent or more in the ownership or control of Artist constitutes an assignment.

21. Remedies. All remedies permitted or available under this Agreement, or at law or in equity, are cumulative and alternative, and the invocation of a right or remedy will not be construed to waive or elect a remedy with respect to any other available right or remedy. As a condition precedent to commencing legal action involving a claim or dispute against City arising from this Agreement, the Artist must present a written claim to City in accordance with Chapter 3.42 of the Livermore Municipal Code.

22. Construction of Language. The terms and conditions in this Agreement have been arrived at through negotiation and each party had a full and fair opportunity to review and revise this Agreement with legal counsel. Any ambiguity in this Agreement will not

be resolved against either party as the drafting party. In the event of an inconsistency or conflict between the language in the body of the Agreement and an attachment hereto, the language in the body of the Agreement controls.

23. Entire Agreement; Modification. This Agreement supersedes all other agreements, whether oral or written, between the parties with respect to the Services. Any modification to this Agreement must be in writing and signed by both parties. In the event the original of this Agreement is lost or destroyed, an archival copy maintained by City can be used in place of the original for all purposes with the same effect as if it was the original.

24. Notice. Notices under this Agreement must be delivered to the addresses below by deposit in the United States mail or by overnight delivery service, with postage prepaid and delivery confirmation:

TO CITY: Attention: Brandon Cardwell
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO ARTIST: Attention: Cecilia Lueza
5155 5th Avenue
St. Petersburg, FL 33710

25. Waiver. Failure to insist upon the strict performance of any term or conditions in this Agreement, no matter how long the failure continues, is not a waiver of the term or condition and does not bar the right to subsequently demand strict performance. To be effective, a waiver must be in writing and signed by the non-breaching party.

26. Severability. If a court of competent jurisdiction determines a provision in this Agreement is invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired in any way.

27. Counterparts. This Agreement may be executed in counterpart by delivering a facsimile or secure electronic copy of the signed agreement to the other party, followed by delivery of the original documents bearing the original signatures. However, failure to deliver the original documents does not affect the enforceability of this Agreement.

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement, effective on the date first written above.

ARTIST: **Dated:**

3/14/22

By: Cecilia Lueza
Title: Artist

CITY OF LIVERMORE: **Dated:**

Marc Roberts
City Manager

APPROVED AS TO FORM:

Assistant/City Attorney

APPROVED AS TO INSURANCE:

Risk Manager/Analyst

Attachments:

Exhibit A – Artist's Design Proposal
Exhibit B – Insurance Requirements

EXHIBIT A

Artist's Design Proposal Influx

Fillable PDF, please type answers or print and fill out.
Must be completed before final payment.

Artist's Design Proposal

1. General Information

a) Artist: Cecilia Lueza
b) Telephone: (727) 517-6558
c) Address: 5155 5th Avenue North
St Petersburg, FL 33710
d) e-mail: contact@lueza.com

2. Artwork

a) Title of Artwork: Influx

b) Date artwork created: 2017

c) Installation Location: 998 Bluebell Drive

d) Description of Artwork (attach photos of artwork; front, back, sides and close-up of details):

Inspired by water and movement, the sculpture aims to capture the dynamics of an ocean wave. The sculpture is made of water jet cut, welded 6061 aircraft grade aluminum of varying thicknesses. All parts received an industrial, UV resistant urethane coating system assuring decades of maintenance free exposure.

e) Artwork Dimensions:

Height: 12 feet Width: 5 feet Depth: 12 inches

f) Pedestal Dimensions and Materials (attach separately if necessary):

g) Pad Dimensions and Materials:

Height: _____ Width: _____ Depth: _____

h) Location and Description of Signature Markings (or copyright):

Artist signature located at the bottom of the sculpture

i) Edition Information (if applicable): Original

j) Collaborating Artist(s): N/A

k) Fabricator (if other than artist): N/A

l) Fabricator Address: N/A

3. Methods/Materials Used in Execution of Artwork

a) Materials - list type, brand name and manufacturer of all materials (attach Material Safety & Technical Data). Include names and contact information for all specialty suppliers, and attach warranty information, clearly labeled. (Attach separately if necessary):

The sculpture was fabricated using welded 6061 aircraft grade aluminum of varying thicknesses. When it comes to sculptural work, our preferred material is aluminum because of its many great properties such as low density and therefore low weight, high strength, superior malleability, easy machining and excellent corrosion resistance just to name a few.

Aluminum supplier: Metallic Products, 4365 NW 128th St, Opa Locka FL 33054. Phone: 305-953-8993

b) Construction Description – list all fabricators and any architects, engineers or other technicians involved in the creation and, if applicable, installation of this artwork. (Attach all warranties & agreements, clearly labeled.)

Design, engineering and fabrication by the artist, Cecilia Lueza Art Projects Inc.

c) Material(s) Specifications:

Structure: Welded 6061 aircraft grade aluminum of varying thicknesses.

Finish: Nason Select Clear 496-00. UV resistant urethane coating.

d) Joining Methods:

Welding

e) Welding Rod Alloy or Joint Material & Application Method:

MIG welded with ER5356 aluminum wire

f) Casting Alloy, Wax Body, Glass or Fiber Type:

No. It's aluminum sheet.

g) Finishes & Coatings – paint color and type, glaze, patina, any and all coating including fixative, UV, anti-graffiti, etc. (list all vendors and contact information and provide all product information):

The sculpture is painted in different shades of blue with industrial spray paint and has an industrial, UV resistant urethane coating finish assuring decades of maintenance free exposure. The brand of the urethane coating is Nason Select Clear 496-00. It has a lifespan of about 15-20 years.
Vendor: Refinish Line, 14805 49th St N, Clearwater FL 33762. Phone: 727-573-546

h) Pedestals, Foundations & Footings, Mounting and Attachment Applications – list all materials recommended to be used to install artwork. Include vendor information and parts numbers:

The mounting base cleat is concealed inside of the sculpture. Please view attached photo.
Once the mounting base cleat is attached to the concrete pad with lag bolts, the sculpture then slides down onto it. The sculpture is held onto the base cleat system by means if 10 flat head stainless steel machine screws.
Materials needed for installation: Small crane to move the sculpture to the concrete pad, power drill, lag bolts and epoxy fastener.

i) Integrated Components – List all components included in design and fabrication contracts that function as a part of the final sculpture. Include all vendor information, parts numbers, warranties and agreements, and any/all design schematics):

N/A

4. Installation

Installation method to be used by Artist:

Once the mounting base cleat is attached to the concrete pad with lag bolts, the sculpture then slides down onto it. The sculpture is held onto the base cleat system by means if 10 flat head stainless steel machine screws.

Installation will be done by the City of Livermore Engineering Division or their contractor DC Electric.

5. Recommended Routine Maintenance

a) Artist recommendation based on experience and consultation with conservation expert.

We recommend to clean the sculpture twice a year.

Pressure washing is likely the most efficient method of cleaning coated surfaces to remove dirt and grime. The pressure washer should be used on a low-pressure setting with filtered water. Don't use unfiltered tap water or groundwater.

Low pressure should be used for pressure-cleaning coated surfaces. The artwork should be cleaned with either a soft cloth or a sponge, using a solution of mild soap and warm water. The best type of soap to use for this purpose is one that has emulsifiers that can break down the most common types of stains.

Please avoid using commercial cleaning solutions. Solvents and petroleum-based cleaning products are very effective at removing dirt and grease from surfaces but they are not the right choice for clear coated surfaces.

b) Conservation Consultant used (Provide Name and contact information):

RLA Conservation. 305-573-7011, info@rosalowinger.com

c) Attach Conservator's Long Term Maintenance Recommendations.

View Recommended Routine Maintenance

d) Unusual or Special Circumstances of Note

— Recycled and chlorinated water from nearby sprinkler systems can stain the sculpture finishes.
— Dirt, grime and bird droppings can accumulate on top of the sculpture.

e) Artist's Intention

Describe your view of how the artwork will change over time and in response to environmental conditions. The artist's vision of how the artwork will look in the future assists the City in realizing an appropriate conservation action plan. In addition to environmental conditions, public artworks are often affected by public handling, landscaping and site changes. Clearly detail your expectation for this artwork. Address issues related to the life expectancy of this artwork. (Attach separately if more room is needed.)

Artwork should keep its current appearance for at least 20 years.
Structurally, the artwork has been fabricated to last more than a lifetime.


NE 4 St





EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products and completed operations, as applicable:
   $1,000,000/$2,000,000 aggregate per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional

insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.7**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of an agreement with Mydatt Services, Inc d/b/a Block By Block to provide Community Ambassador and Bio-Hazard Clean-Up services in an amount not-to-exceed $272,400

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager, or his designee, to approve and enter into an agreement with Mydatt Services, Inc. d/b/a Block by Block to provide the Community Ambassador Program and Bio-Hazard Clean-Up services in the amount not-to-exceed $272,400.

SUMMARY

Staff is requesting an agreement in the a not-to-exceed amount of $272,400 to continue Block by Block's services in the area of bio-hazard clean-up and power washing, drug paraphernalia clean-up, cleaning, and trash removal related to the unsheltered for the period of March 1, 2022 to February 28, 2023.

DISCUSSION

In 2018, the City Council appointed Vice Mayor Carling and Council Member Munro to a City Council Subcommittee on Homelessness to develop a Strategic Framework to address short-, medium-, and long-term strategies. The Subcommittee work plan included a series of community meetings with presentations from experts and service providers to expand the community dialogue around homelessness issues and to discuss potential program strengths, challenges, and resources.

The Council approved the Subcommittee on Homelessness' recommendations of several pilot programs, which included Block by Block to provide bio-hazard clean-up services. The initial funding was provided by the state's Homeless Emergency Aid Program (HEAP), administered by Alameda County.

Block by Block provides bio-hazard clean-up services related to the homeless population throughout the City. The City, in partnership with Block by Block, has identified daily cleaning "hot spots" and has a communication system in place to identify, report, and direct work. The Cleaning Community

Ambassadors work closely with the City's Police, Public Works, and Human Services staff, and local homeless services providers.

On November 4, 2019, the City entered into an agreement with Block by Block utilizing a one-time allocation of Homeless Emergency Aid Program (HEAP) funds to provide the Livermore Community Ambassador Program, bio-hazard clean-up, program service referrals related to the homeless population, and overnight attendant services for the Safe Parking Program.

On April 26, 2021, when HEAP funds were no longer available, the City Council recognized the ongoing benefit of the Block by Block services and approved resolution number 2021-056 to award Block by Block $272,000 from its FY 2021-22 General Fund to provide the Community Ambassador Program, bio-hazard clean-up, and safety services to unsheltered residents in Livermore. Based on the funding allocation, on June 17, 2021, the City entered into an extension of their agreement with Block by Block to provide these ongoing services.

The following table shows the number of bio-hazard clean-up services provided by Block by Block from February 1, 2021 through February 28, 2022:

Service Provided	Total
Bio-Hazard/Power Washing	1,244
Drug Paraphernalia/syringe clean-up	1,140
Restroom Checks	1,461
Restroom Supply Maintenance	941
Trash Removal (Bags)	5,517

In addition to bio-hazard and clean-up services, Block by Block participated in the 2022 Alameda County Point in Time Count, providing staff knowledge of homeless encampment locations throughout the City. Their efforts assisted the City with developing an efficient plan to count Livermore's homeless population.

Staff recommends approval of an agreement in the not-to-exceed amount of $272,400 to continue Block by Block's services in the area of bio-hazard clean-up and power washing, drug paraphernalia clean-up, general community cleaning, and trash removal related to the unsheltered for the period of March1, 2022 to February 28, 2023.

FISCAL AND AMINISTRATIVE IMPACTS

Funding for the months of March 2022 through June 2022 is included in the current approved General Fund budget for FY 2021-22. The remaining funding for the agreement will be included as a General Fund cost in the budget update for Fiscal Year 2022-23.

ATTACHMENTS

1. Resolution
2. Exhibit A - Grant Agreement

Prepared by: Josh Thurman
Homeless Services Management
Analyst I

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH MYDATT SERVICES, INC. D/B/A BLOCK BY BLOCK TO PROVIDE COMMUNITY AMBASSADOR AND BIO-HAZARD CLEAN-UP SERVICES IN THE AMOUNT NOT TO EXCEED $272,400

On October 24, 2016, the City Council recognized homelessness as a priority and committed local funds and dedicated staff to develop and implement strategies that address the growing number of homeless families and individuals.

On November 4, 2019, the City entered into an agreement with Block by Block utilizing a one-time allocation of Homeless Emergency Aid Program (HEAP) funds to provide the Livermore Community Ambassador Program, bio-hazard clean-up, program service referrals related to the homeless population, and overnight attendant services for the Safe Parking Program.

On November 23, 2020, the Livermore City Council approved Resolution No. 2020-213 to award Block by Block $100,000 from its FY 2020-2021 General Funds to provide essential health and safety services to unsheltered residents in Livermore.

On April 26, 2021, the Livermore City Council approved Resolution No. 2021-056 to award Block by Block $272,000 from its FY 2021-2022 General Funds to provide the Community Ambassador Program, bio-hazard clean-up, and safety services to unsheltered residents in Livermore.

Block by Block provides essential health and safety services that include Community Ambassador Program and bio-hazard clean-up services related to the unsheltered residents in Livermore

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livermore authorizes the City Manager, or his designee, to sign the agreement with Mydatt Services, Inc. d/b/a Block by Block, attached hereto as Exhibit A, to provide the Community Ambassador Program and bio-hazard clean-up services in the amount not to exceed $272,400, and authorize the City Manager to make minor changes to the Scope of Services to that agreement if needed.

On motion of Council Member _____, seconded by Council Member _____ the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

Exhibit A – Grant Agreement between City of Livermore and Mydatt Services, Inc. D/B/A Block by Block

GRANT AGREEMENT BETWEEN CITY OF LIVERMORE AND MYDATT SERVICES INC., D/B/A BLOCK BY BLOCK FOR FISCAL YEAR 2022-2023 GENERAL FUND

THIS GRANT AGREEMENT, entered into this ____ day of _____, 2022, between the City of Livermore, a municipal corporation ("City"), and Mydatt Services, Inc. d/b/a Block by Block, a corporation qualified to do business in the State of California ("Recipient").

RECITALS

On October 24, 2016, the City Council recognized homelessness as a priority and committed local funds and dedicated staff to develop and implement strategies that address the growing number of homeless families and individuals.

On November 4, 2019, the City entered into an agreement with Block by Block utilizing a one-time allocation of Homeless Emergency Aid Program (HEAP) funds to provide the Livermore Community Ambassador Program, bio-hazard clean-up, program service referrals related to the homeless population, and overnight attendant services for the Safe Parking Program.

On November 23, 2020, the Livermore City Council approved resolution number 2020-213 to award Block by Block $100,000 from its FY 2020-2021 General Funds to provide essential health and safety services to unsheltered residents in Livermore.

On April 26, 2021, the Livermore City Council approved resolution number 2021-056 to award Block by Block $272,000 from its FY 2021-2022 General Funds to provide the Community Ambassador Program, bio-hazard clean-up, and safety services to unsheltered residents in Livermore.

One of the City's life safety priorities is to ensure the health and safety of Livermore's unsheltered residents.

City wishes to engage the Recipient to provide homeless services in the City of Livermore.

Recipient has applied to City for funding to provide essential health and safety services that include Community Ambassador Program and bio-hazard clean-up services related to the unsheltered residents in Livermore ("Project").

On April 11, 2022, the Livermore City Council approved resolution number to award the Recipient the amount of $272,400 ("Funds") from its 2022-2023 General Funds ("Program") for the project.

AGREEMENT

NOW THEREFORE, in recognition of the mutual consideration provided herein, City and Recipient hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. **Relationship of Parties (Independent Contractors).** The relationship of the parties shall be that of independent contractors. Recipient and its employees are not City officers or employees. Recipient is responsible for the supervision and management of its employees, including any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the performance of the Activities contemplated by this Agreement.

2. **Grant Activities.**

A. Activities. Recipient is responsible for administering the Grant Funds awarded in a manner satisfactory to City as set forth in Exhibit "A" "Scope of Work and Budget" for the Project (collectively "Activities").

i) *Project Overview*: Provide essential health and safety services to unsheltered residents in Livermore.

ii) *Service Objective.* Provide Community Ambassador Program, bio-hazard clean-up services as particulary set forth in "Exhibit A". All Activities shall be completed no later than February 28, 2023.

iii) *General Administration*. The Grant Funds for the Activities are to be administered under the direction of the Recipient's Regional Manager.

B. Budget. City will grant, and Recipient will use, the Grant Funds awarded pursuant to this Agreement under the budget terms set forth in Exhibit "A" to perform the Activities consistent with the terms and conditions of this Agreement, the Project, and any conditions imposed upon the Project.

C. Performance Monitoring. City will monitor Recipient's performance against the service objective outlined in Section 2A(ii). Substandard performance as determined by the City will constitute non-compliance with this agreement.

D. Changes to Scope of Work. The City may request changes to the scope of work or service objective to align with programmatic adjustments. If the parties cannot mutually agree to changes to the scope of work or service objectives within thirty (30) days, either party may terminate the agreement by providing thirty (30) days written notice to the other party.

3. **Time for Performance.** Recipient shall commence the Activities on March 1, 2022, and continue the Activities through February 28, 2023.

4. **Contractor's Responsibilities.** Recipient Shall:

a) Diligently perform the Activities in a manner commensurate with industry, professional, and community standards;

b) Provide the resources necessary to complete Activities in a timely manner;

c) Obtain a business license from the City of Livermore, and keep it in effect for the term of this Agreement;

d) Obtain and keep in effect all necessary licensees, permits, qualifications, insurance, and approvals legally and professionally required for Recipient and the Activities;

e) Comply with all laws in effect that are related to Recipient and the Activities;

f) Coordinate the Activities with Josh Thurman ("Project Manager"), or such other person designated as the Project Manager by City;

g) Maintain and submit monthly reports of the Activities to the Project Manager in the form set forth in Exhibit A-1;

h) Be available to the Project Manager, and other parties referred to Recipient by the Project Manager, to answer questions or inquiries related to the Activities;

i) Only invoice City for Activities performed. Recipient's invoice shall be in writing and describe the Activities performed for the grant draw requested. Recipient shall not submit an invoice to City more frequently than once a calendar month

5. **Payment.** It is expressly agreed and understood that the total amount of Grant Funds available from City to Recipient for the Activities under this Agreement shall not exceed the amount of $272,400 under the budget terms set forth in Exhibit "A". Even though the Grant Funds are available, Recipient shall only be entitled to draw that portion of the Grant Funds commensurate with the Activities provided. City shall only make draw payments to Recipient for those Activities that comply with the terms and conditions of this Agreement.

6. **Hold Harmless and Indemnity.** Recipient shall defend, indemnify and hold City, its elected officials, officers, directors, employees, agents, and designated volunteers harmless from and against any and all loss, liability, damage, including but not limited to, reasonable attorney, consultant and expert fees, and court costs arising out of or in connection with this Agreement, except for the gross negligence and willful misconduct of City, its elected officials, officers, directors, employees, agents, and designated volunteers.

7. **Insurance.** Recipient shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims that may arise from or in connection with this Agreement and performance of the Activities. Upon reasonable written notice, Recipient shall comply with any changes in the amounts and terms of

insurance as may be required from time-to-time by the City's Risk Manager.

8. **Copyright and Right of Use.** All items created by Recipient under this Agreement are works made for hire, and Recipient shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Activities. Recipient agrees that all aspects of the Activities and items created thereby will be original works of creation and will not use, in whole or in part, any work created by any other party, except when expressly disclosed by Recipient to City and Recipient obtains a license to such items for the benefit of City. All licenses must be perpetual, world-wide, non-exclusive, and royalty-free sufficient in scope to permit City's full use and enjoyment of its ownership rights in the items created by the Activities.

9. **Notices.** Any notice required or permitted under the terms of this Agreement shall be effective upon receipt in writing either by personal service upon the authorized agent for the party, or by mailing the notice via U.S. Mail to the party as follows:

City: City of Livermore
Attn: Josh Thurman, Homeless Services Analyst
1052 Livermore Avenue
Livermore, California 94550

Recipient: Mydatt Services, Inc., d/b/a Block by Block
Attn: Derreck Hughes, Vice President of Operations
7135 Charlotte Pike, Suite 100
Nashville, TN 37209

10. **Severability.** If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

11. **Waiver.** City's failure to act with respect to a breach by Recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

12. **Construction of Language.** The terms and conditions in this Agreement have been arrived at through negotiation and each party had a full and fair opportunity to review and revise this Agreement with legal counsel. Any ambiguity in this Agreement will not be resolved against either party as the drafting party. In the event of an inconsistency or conflict between the language in the body of the Agreement and an attachment hereto or document incorporated by reference, the language in the body of the Agreement controls.

13. **Entire Agreement; Modification.** This Agreement supersedes all other agreements, whether oral or written, between the parties with respect to the Activities. Any modification to this Agreement must be in writing and signed by both parties. No amendment may invalidate this Agreement, or relieve or release City or Recipient from its obligations under this Agreement. City may, in its discretion, amend this Agreement in writing to conform with Federal, State, or

local laws, regulations, guidelines, or policies related to the use of the Funds for the Activities. However, if such amendments result in a change in the funding, the scope of services, or the Activities, such modifications shall be incorporated only by written amendment signed by both City and Recipient. In the event the original of this Agreement is lost or destroyed, an archival copy maintained by City may be used in place of the original for all purposes with the same effect as if it was the original.

14. **Right of Termination.** "Either party may terminate this Agreement with or without cause by providing thirty (30) days prior written notice to the other party.

15. **Force Majeure.** Neither party shall be liable for damages to the other party for any delay or default in performing hereunder if such delay or default is caused by reason of any circumstance beyond its reasonable control, including but not limited to Acts of God, fire, flood, earthquake, extraordinary weather conditions, acts of war, acts of terrorism, labor disputes, riots, active shooter incident, civil disorders, rebellions or revolutions in any country ("Force Majeure"), that party shall be excused from any further performance or observance of the obligations so affected for as long as such circumstances prevail and that party continues to use all commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay."

****

Signatures and Attachment List on the Next Page

IN WITNESS THEREOF, the Recipient and City have executed this Agreement as of the date first written above.

MYDATT SERVICES INC., D/B/A BLOCK BY BLOCK
"Recipient"

BY: _____ **DATED**: _____
Derreck Hughes
Vice President of Operations

Federal I.D. or Social Security No.

31-1332763

CITY OF LIVERMORE
a Municipal Corporation
"City"

BY: _____ **DATED:** _____
Marc Roberts
City Manager

APPROVED AS TO FORM:

_____
ASSISTANT/CITY ATTORNEY

Attachments:

Exhibit A Scope of Work and Budget
Exhibit A-1 Record Submission Form
Exhibit B Insurance Requirements

Exhibit A

Scope of Work and Budget

Description:

Bio-Hazard Clean-Up Services

Block by Block (BBB) will be responsible for providing bio-hazards clean-up related to the homeless population throughout the City. The City will outline the daily "hot spots" and set up a communication system to identify and report instances. In addition, the City will provide an area for items/belongings identified during clean-up that require storage. The BBB cleaning Community Ambassadors will work closely with the City's Police, Public Works and Human Services Divisions and other local homeless providers to make services referrals to people experiencing homelessness and to identify units of measures for reporting purposes.

Schedule

BBB will adhere to the budget and hours listed below for each employee assigned to perform duties under this Scope of Work.

Service	Total not to exceed per service type
Bio-Hazard/Clean-Up/Ambassador Services	$272,400

Bio-Hazard Services/Clean-Up Ambassador Services

Personnel	Expense
Operations Manager/Clean-Up Ambassadors	$170,994.72
Benefits	$15,878.09

Operating	Expense
Labor Related (background checks, recruiting, etc.)	$1,701.49
Uniforms	$2,126.67
Cell Phones	$2,200.00

Equipment (truck, other 'capital' equipment)	$24,051.22
Equipment Related (fuel, maintenance, insurance, parking)	$13,636.51
Janitorial Supplies	$3,637.19
Office Supplies & Printing	$600.00
Miscellaneous	$1,200.00
Administrative Support (mgmt., travel, postage, etc.)	$11,583.33
Program Overhead	$24,760.92
Total	**$272,370.13**

Schedule	**Hours**
Bio-Hazard/Clean-Up Ambassadors	80.00
Operations Manager	40.00
Weekly Total	120.00
Annual	6,240.00
Employees	**3.00**

	Wed	Thurs	Fri	Sat	Sun	Mon	Tues	Total Hours
Cleaning Ambassador	8	8	8	8	xxxxx	xxxxx	8	40
Cleaning Ambassador	8	8	8	xxxxx	xxxxx	8	8	40
Operations Manager	8	8	8	xxxxx	xxxxx	8	8	40
Hours	**24**	**24**	**24**	**8**	**0**	**16**	**24**	**120**

EXHIBIT A-1

Record Submission Form

Bio-Hazards Clean-Up Services

Measure	Total
Total # of bio-hazard Clean-up instances	
Total # Syringe/Drug Paraphernalia disposal instances	
Total # Power Washing Hot Spots	
Total # Trash Bags	

EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products and completed operations, as applicable:
   $3,000,000 per occurrence/**$6,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability."

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.
2. The limits of insurance required in this agreement may be satisfied by a

combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.8**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing the execution of a subordination agreement with Fremont Bank for the City's Deeds of Trust recorded on the properties located at 1031 and 1045 Bluebell Drive, and authorizing the City Manager to negotiate with the Livermore Housing Authority for new and restated loan and Regulatory Agreements on the properties

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing:

1. The City Manager to execute a Subordination Agreement with Fremont Bank, in substantially the form attached as Exhibit A to the Resolution, and subject to final form approval by the City Attorney for the City's Deeds of Trust on 1031 and 1045 Bluebell Drive.
2. The City Manager or his designee to negotiate new and/or restated loan and Regulatory Agreements with the Livermore Housing Authority (LHA) for the properties located at 1031 and 1045 Bluebell Drive using the terms described in the letter agreement between the City and LHA, attached as Exhibit B to the Resolution.

SUMMARY

In 1995 and 1997, the City provided loans to assist the Housing Authority of the City of Livermore with the purchase of two five-unit multi-family buildings located at 1031 and 1045 Bluebell Drive, which are part of the 27-unit Bluebell Apartments community. The City recorded two Deeds of Trust on the properties located at 1031 and 1045 Bluebell to evidence the City's loans totaling $643,670. The city also recorded a Regulatory Agreement which restricts units for very low-income households and families transitioning out of local shelters. Now, the Housing Authority has requested that the City subordinate its Deeds of Trust to a new first mortgage of $1,800,000 from Fremont Bank which will be used to substantially renovate all 27 Bluebell Apartments. The Housing Authority has further requested to negotiate an extension of the City's loans and affordability restrictions beyond the current expiration of December 2025.

Staff recommends City Council authorize the City Manager to execute a subordination agreement with Fremont Bank substantially in the form attached as Exhibit A to the Resolution with the final form subject

to City Attorney approval, and authorize the City Manager, or his designee, to negotiate extended and/or restated loan and regulatory agreements using the terms described in the letter agreement attached as Exhibit B to the Resolution.

DISCUSSION

In 1995, the City provided a loan of Federal HOME, former Redevelopment Agency and City Housing In-Lieu funds to the Housing Authority of the City of Livermore ("LHA") to acquire two, five-unit multi-family buildings located at 1031and 1045 Bluebell Drive. These properties are among several acquisitions of the LHA which altogether comprise the 27-unit Bluebell Apartments community. Deeds of Trust totaling $643,670 were recorded on the 1031 and 1045 properties to secure the City's loans, and the City also recorded a Regulatory Agreement which restricted seven units in those properties for Very Low-Income households (defined as at or below 50% of Area Median Income) who are transitioning from shelters, and three units for households at or below 110% of Area Median Income. The City's loan and regulatory agreements established a due date/expiration of 30 years from recording in Alameda County records and therefore, the affordability terms are nearing conclusion.

LHA has developed a plan to substantially renovate and upgrade the interiors and major systems in all 27 units at Bluebell Apartments, along with making overdue exterior improvements, including painting. They have secured a commitment for a new first mortgage in the amount of $1,800,000 from Fremont Bank to finance the renovations. The new first mortgage offers a 30-year amortization, with a 15-year repayment term at a 4% fixed interest rate for the first five years. These terms are reasonable and affordable for LHA. Fremont Bank requests that the City subordinate its existing Deeds of Trust to the new first mortgage which is a typical and customary condition among private lenders. The City's existing Regulatory Agreements controlling the affordability restrictions would not be subordinated to the new financing.

Since the City's loan financing will become due during the term of the new first mortgage, the Housing Authority has requested to negotiate an extension in order to preserve affordable units in the project and ensure overall financial feasibility. Recommended terms for those future agreements are describe in the letter agreement attached as Exhibit B to the Resolution, and include among the following key provisions:

- The city will require LHA to negotiate and execute an amended and restated promissory note and Regulatory Agreement restricting rents on at least the same number of existing units and at rent levels that are the same or lower than the existing rent levels described in the current Regulatory Agreements for 1031 and 1045 Bluebell Drive.
- City financing would be provided in accordance with the City's standard affordable housing financing, regulatory and underwriting terms, including a 55-year affordability period.
- LHA and City will work on a plan that reflects mutual agency goals of prioritizing City-restricted units for homeless or at-risk households.

Staff recommends City Council authorize the City Manager to execute a subordination agreement with Fremont Bank for the City's Deeds of Trust substantially in the form attached as Exhibit A to the Resolution with the final forms of those documents subject to City Attorney approval. Staff further recommends that the City Council authorize the City Manager to negotiate new and/or restated loan and regulatory agreements on the properties located at 1031 and 1045 Bluebell which reflect the terms set forth in the letter agreement included as Exhibit B to the Resolution.

FISCAL AND ADMINISTRATIVE IMPACTS

There will be no additional fiscal impact created by approval of the subordination of the existing Deeds of Trust for 1031 and 1045 Bluebell Drive. If approved, staff will process the subordination of the existing City Deeds of Trust and commence with negotiation of new and restated loan agreements for the 1031 and 1045 Bluebell Drive properties using the terms included in the letter agreement. Those new and restated agreements would be presented for City Council approval at a future meeting.

ATTACHMENTS

1. Resolution
2. Exhibit A - Form of Subordination Agreement
3. Exhibit B - Letter Agreement

Prepared by: Fran Reisner
Housing Programs Manager

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING A SUBORDINATION AGREEMENT WITH FREMONT BANK REGARDING CITY DEEDS OF TRUST ON 1031 AND 1045 BLUEBELL DRIVE, AND AUTHORIZING NEGOTIATION OF NEW AND RESTATED LOAN AND REGULATORY AGREEMENTS FOR PROPERTIES LOCATED AT 1031 AND 1045 BLUEBELL DRIVE

In 1995 and 1997, the City provided loans to assist the Housing Authority of the City of Livermore ("LHA") with the purchase of two, five-unit multi-family buildings located at 1031 and 1045 Bluebell Drive, which are part of the 27-unit Bluebell Apartments community. The City recorded two Deeds of Trust on the properties at 1031 and 1045 Bluebell to evidence the City's loans totaling $643,670. The City also recorded a Regulatory Agreement on each of the properties which restricts units for very low-income households and families transitioning out of local shelters.

Now, LHA has requested that the City subordinate its Deeds of Trust to a new first mortgage of $1,800,000 from Fremont Bank that will be used to finance the substantial renovation of all 27 units of Bluebell Apartments. The City will not subordinate its Regulatory Agreements to the new financing. LHA has further requested to negotiate an extension of the current term of City financing beyond February 2025 to preserve affordable units in the project. Both the City and LHA wish to negotiate new and/or restated loan documents to achieve mutual goals and objectives for preserving affordable units in the project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore:

1. The City Manager is authorized to execute a Subordination Agreement with Fremont Bank, in substantially the form attached to the Resolution as Exhibit A, and subject to final form approval by the City Attorney for the City's Deeds of Trust on 1031 and 1045 Bluebell Drive; and,

2. The City Manager, or his designee, is authorized to negotiate new and/or restated loan and Regulatory Agreements for 1031 and 1045 Bluebell Drive using the terms described in the letter agreement attached to the Resolution as Exhibit B.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kelly J. Trujillo
Kelly J. Trujillo
Assistant City Attorney

Exhibit A – Form of Subordination Agreement with Fremont Bank
Exhibit B – Letter Agreement with LHA

RECORDING REQUESTED BY
OLD REPUBLIC TITLE COMPANY

Escrow No.: 1117024417
APN:

WHEN RECORDED MAIL TO

,

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, made this 2nd day of February, 2022, by , owner of the land hereinafter described and hereinafter referred to as "Owner", and , present owner and holder of the deed of trust and note first hereinafter described and hereinafter referred to as "Beneficiary":

WITNESSETH

THAT WHEREAS, did execute a deed of trust, dated , to , as Trustee, covering;

See "Exhibit A" attached hereto and made a part hereof

to secure a note in the sum of , dated , in favor of , which deed of trust was recorded on , in Book/Reel , at Page/Image , Series/Instrument , Official Records of said county; and

WHEREAS, Owner has executed, or is about to execute, a deed of trust and note in the sum of $1,800,000.00, dated _____, in favor of , hereinafter referred to as "Lender", payable with interest and upon the terms and conditions described therein, which deed of trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said deed of trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the deed of trust first above mentioned; and

WHEREAS, Lender is willing to make said loan provided the deed of trust securing the same is a lien or charge upon the above described property prior and superior to the lien of charge of the deed of trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the deed of trust first above mentioned to the lien or charge of the deed of trust in favor of Lender; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Beneficiary is willing that the deed of trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the deed of trust first above mentioned.

NOW THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

(1) That said deed of trust securing said note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the deed of trust first above mentioned;
(2) That Lender would not make its loan above described without this subordination agreement;
(3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the deed of trust first above mentioned to the lien or charge of the deed of trust in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the deeds of trust hereinbefore specifically described, any prior agreements as to such subordination, including, but not limited to, those provisions, if any, contained in the deed of trust first above mentioned, which provide for the subordination of the lien or charge thereof to another deed or deeds of trust or to another mortgage or mortgages.

Beneficiary declares, agrees and acknowledges that:

(a) He/She consents to and approves (i) all provisions of the note and deed of trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's loan;
(b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;
(c) He/She intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the deed of trust first above mentioned in favor of the lien or charge upon said land of the deed of trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination; and
(d) An endorsement has been placed upon the Note secured by the deed of trust first above mentioned that said deed of trust has by this instrument been subordinated to the lien or charge of the deed of trust in favor of Lender above referred to.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

Signature of Beneficiary(s) Signature of Owner(s)

_____ _____

_____ _____

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.
(CLTA SUBORDINATION FORM "A")

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____
County of _____

On _____ before me, _____ a Notary Public, personally appeared

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

Name: _____
(Typed or Printed) (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____
County of _____

On _____ before me, _____ a Notary Public, personally appeared

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

Name: _____
(Typed or Printed) (Seal)

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.
(CLTA SUBORDINATION FORM "A")

LIVERMORE
CALIFORNIA

22-131

March 22, 2022

D'Jon Scott-Miller, Executive Director
Livermore Housing Authority
3203 Leahy Way
Livermore, CA 94550

Subject: City Deeds of Trust and Regulatory Agreements for the Properties Located at 1031 and 1045 Bluebell Drive, Livermore.

Dear Mr. Scott-Miller:

This letter serves to document the mutual understanding and agreement between the City of Livermore and the Housing Authority (LHA) of the City of Livermore (City) in regard to current and future proposals to refinance and restrict affordability on the above-named properties.

As you know, the City holds the following Deeds of Trust and Regulatory Agreement in connection with those properties:

Address/APN	Document	Document Number	Date	Expiration/Due Date
1031 Bluebell Dr./99-28-4-4	Deed of Trust $321,835	95280840	12/4/95	12/4/25
1045 Bluebell Dr./99-28-6-3	Deed of Trust $321,835	95280839	12/4/95	12/4/25
1031 & 1045 Bluebell Dr.	Regulatory Agreement	95280841	12/4/95	12/4/25

LHA has requested subordination of the City's Deeds of Trust to approximately $1,800,000 in new financing from Fremont Bank for the purpose of substantially rehabilitating and upgrading Bluebell Apartments. To confirm, the City will not allow subordination of any existing Regulatory Agreements recorded on any of the properties, which are subject to the refinancing.

City staff is in coordination with Fremont Bank and, contingent upon City Council approval, will facilitate the subordination process so that the improvements may commence as soon as possible.

The City Deeds of Trust will become due and payable during the term of the new proposed senior financing, and LHA has requested the City extend the terms of the City financing beyond the current due dates.

Subject to the approval of the Livermore City Council, City will extend the financing for the properties at 1031 and 1045 Bluebell Drive for the existing principal amounts as listed above under the following terms and conditions:

- Financing for the upgrades and rehabilitation at Bluebell Apartments is approved and construction has commenced.
- City will require LHA to negotiate and execute an amended and restated promissory note and Regulatory Agreement restricting rents on at least the same number of existing units and at rent levels that are the same or lower than the existing rent levels described in the current Regulatory Agreement.
- City financing would be provided in accordance with the City's current standard affordable housing financing, regulatory and underwriting terms which would be for a standard term of 55 years, at up to a three percent (3%) interest rate, and with annual payments due based on the available of residual receipts in the project (approximately defined as net cash after expenses, debt payments and any City-approved owner/partnership fees).
- LHA and City will work on a plan that reflects mutual agency goals of prioritizing City-restricted units for homeless or at-risk households.
- LHA will coordinate with the City and provide all documents necessary to demonstrate a financing and rehabilitation plan for the properties aimed at providing a safe, financially feasible, and well managed property management program for Bluebell Apartments.

On March 9, 2022, the Housing Authority approved a resolution authorizing its Executive Director to enter into this letter agreement.

The City appreciates the partnership of LHA in addressing the critical need for safe, decent and affordable housing for low and moderate income households in Livermore. Should you have any questions, please contact Fran Reisner, Housing Programs Manager at (925) 960-4583 or fdreisner@cityoflivermore.net.

Sincerely,

Marc Roberts
City Manager
City of Livermore

APPROVED AS TO FORM:

Acknowledged and Agreed by:

D'Jon Scott-Miller
Executive Director
Livermore Housing Authority

Date: 3/25/2022

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.9**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing a lease agreement with CityServe of the Tri-Valley for office space at the Multi-Service Center, 3311 Pacific Avenue

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing execution of a lease agreement with CityServe of the Tri-Valley for office space at the Multi-Service Center, 3311 Pacific Avenue.

SUMMARY

CityServe of the Tri-Valley has requested a lease of office space at the Multi-Service Center (MSC). CityServe provides social safety net resource coordination for unsheltered and vulnerable individuals and families in the Tri-Valley. If approved, the lease agreement would provide the space at no cost to allow CityServe to establish a service headquarters at the MSC for three years, with a term ending February 28, 2025.

DISCUSSION

Since 1979, the City has provided office space to government agencies and non-profit organizations at the Multi-Service Center (MSC) at below-market rates to support the local availability of vital social services for low-income residents who would otherwise have to travel outside of the Tri-Valley. The MSC was originally constructed by the City with funds from the Federal Housing and Community Development Grant Act of 1974 to provide low or no-cost office space to qualified public service-oriented tenants within the community. The MSC is a 9,860 square foot building that includes a community medical clinic operated by Axis Community Health, private offices and cubical workspaces, a conference room, and a staff area/kitchen.

Seven agencies currently lease space in the Multi-Service Center, and numerous agencies have historically used the building's conference room for activities that support the City's social services network. Agencies at the MSC are typically charged rent based on a pro rata share of average monthly operating expenses incurred by the City which is currently $0.85 per square foot, while a comparable space at market rate would cost agencies approximately $2.25 per square foot. The City has historically

provided very low or no-cost space for community agencies that are establishing a new or expanded presence in Livermore, or who are able to use a free or reduced cost space as in-kind match for other agency grants. This subsidy has been a key source of City support for the non-profit community.

CityServe has become a critical provider of crisis stabilization services to unsheltered and vulnerable individuals and families in the Tri-Valley. In 2021, the agency provided services to over 1,500 clients with over 500 from Livermore. CityServe proposes to establish their headquarters at the MSC and provide such services as case management, outreach, housing navigation, safety net service referrals, and assistance with applications to access other public benefits. CityServe has been operating out of several temporary locations which do not adequately support their operations and create difficulty in providing confidential services to their clients. The City's recent MSC construction project included upgrades to reconfigure and expand office capacity and accommodate approximately 12 CityServe staff. Establishing a headquarters in Livermore will provide an enhanced benefit to Livermore residents and visitors to the Multi-Service Center. These services will complement the mix of providers and bring an expanded services coordination capacity to the MSC.

As proposed, the lease includes 1,228 square feet of private office space and non-exclusive access to the MSC reception area space to support the public counter reception duties and service referrals to the public. CityServe has requested, and staff recommends, entering into a three-year lease with a term ending February 28, 2025. CityServe has also requested the space be offered at no cost to allow the agency to focus their limited financial resources towards expenses to set up and begin operating in the space, while maintaining their existing staffing levels in support of the Livermore community. Staff supports this proposal, which will allow CityServe to maintain existing operations while they work to identify additional ongoing sources of funding from State and County sources. The intent at the end of the three-year term will be for CityServe to transition to the reduced rent rate that most other tenants are asked to pay.

If approved, the lease would run through a three-year term beginning March 1, 2022 and ending February 28, 2025.

FISCAL AND ADMINISTRATIVE IMPACTS

The Multi-Service Center (MSC) is required to provide low-cost, below market rents for social service providers within the community by the Federal funding requirements used for the building's construction. Operating costs for the MSC include janitorial, utilities, insurance, maintenance, repairs and building security and are budgeted annually through the General Fund. Sufficient operating have funds have already been appropriated to the MSC budget (Fund 5010) for FY 2021-22 and 2022-23. The City's operating expenses do not include services contracted directly by tenants such as phone and internet. Any rent collected from non-profit agency tenants offsets the City's operating expenses.

If approved, the lease with CityServe would not generate any revenue during the term and the City would therefore subsidize CityServe's pro rata share of operating costs in the amount of approximately $12,525 per year and $37,575, over the three-year term. The subsidy based on market rents would be approximately $33,156, annually.

The City is required to implement provisions of the Government Accounting Standards Board (GASB) Statement No. 87, Leases, during current fiscal year. Based on the requirements for this Statement, the Finance Division has estimated that they will spend approximately 30 hours the first year to comply with

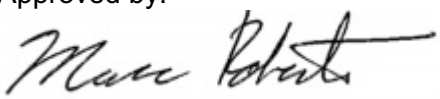
reporting requirements of this Statement for this lease, which equates to approximately $5,000 and 20 hours annually every year thereafter or approximately $3,000.

ATTACHMENTS

1. Resolution
2. Exhibit A - Multi-Service Center Lease with CityServe of the Tri-Valley

Prepared by: Fran Reisner
Housing Programs Manager

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT FOR SPACE AT THE MULTI-SERVICE CENTER WITH CITYSERVE OF THE TRI-VALLEY

The City's Multi-Service Center, located at 3311 Pacific Avenue in Livermore, provides office space at below-market rates in order to facilitate access to social services for local residents. The City wishes to enter into a three-year lease with CityServe of the Tri-Valley for office space at the Multi-Service Center. CityServe provides social safety net resource coordination for unsheltered and vulnerable individuals and families in the Tri-Valley.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that the City Manager is authorized to sign on behalf of the City of Livermore a lease with CityServe of the Tri-Valley, attached as Exhibit A.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED AS TO FORM:

_____ */s/ Tara M. Mazzanti*

Marie Weber
City Clerk

Tara M. Mazzanti
Assistant City Attorney

Exhibit A – Multi-Service Center Lease with CityServe of the Tri-Valley

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Livermore
1052 S Livermore Avenue
Livermore, CA 94550
Attention: City Clerk

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§ 6103, 27383

Space above this line for Recorder's use.

CITY OF LIVERMORE

MULTI-SERVICE CENTER LEASE AGREEMENT

CITY SERVE OF THE TRI-VALLEY

THIS LEASE AGREEMENT ("Lease") dated as of this _____ day of _____, 2022, is made and entered into by and between the City of Livermore, a municipal corporation ("City") and City Serve of the Tri-Valley, a California nonprofit corporation ("Lessee").

RECITALS

A. The City owns that particular piece of real property ("Real Property") located at 3311 Pacific Avenue, Livermore, California 94550, and the facility referred to as the Multi-Service Center ("Building") as more particularly described in Exhibit A attached hereto and incorporated herein.

B. Lessee desires to lease from City and City desires to lease to Lessee that certain portion of the Real Property ("Leased Premises") as more particularly shown cross hatched on Exhibit A attached hereto and incorporated herein which Leased Premises constitutes approximately 1,228 rentable square feet of the Building.

C. The City leases space in the Building to community, government, educational, and non-profit agencies who provide social services to enhance the quality of life for all members of the community, consistent with the goals and purposes for which the Building was created and is operated.

D. Lessee provides case management and resource referrals/connections for low income and homeless residents in need of services to meet basic needs, physical health, vocational/educational needs, financial health and housing in Livermore and the Tri-Valley. Lessee desires to rent space in the Leased Premises to use as services offices for program administration, client case management, services referrals and homeless outreach coordination ("Stated Purpose"). The City desires to lease space in the Building for the Stated Purpose to Lessee and Lessee desires to lease from City the Leased Premises on the terms and conditions contained in this Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1) Leased Premises. City leases to Lessee and Lessee leases from City, the Leased Premises identified as space(s) Area Numbers (#) 4 and 8 (including Offices 8a and 8b), and Office #14, which consists of approximately 1,228 square feet of floor space, and the non-exclusive use of reception Area #7 for the building as indicated on Exhibit A.

2) Possession; Delay in Delivery of Possession.

(a) Except as otherwise provided in this Lease, Lessee agrees to accept possession of the Leased Premises in its existing "as is" condition, including, but not limited to, all patent and latent defects and subject to all applicable laws, ordinances, and regulations governing and regulating the use of the Real Property and/or the Leased Premises and any recorded covenants, conditions, restrictions, easements, licenses, or right of ways.

(b) If City, for any reason whatsoever, cannot deliver possession of the Leased Premises to Lessee on or before the commencement date, this Lease shall not be void or voidable and no obligation of Lessee shall be affected thereby, and neither City nor City's agents shall be liable to Lessee for any loss or damage resulting therefrom. However, Monthly Rent owing hereunder shall be abated in proportion to that portion of the Leased Premises not delivered on or before the Commencement Date for the period commencing with the Commencement Date and ending on the actual delivery of possession of such portion of the Leased Premises by City.

3) Security Deposit. Lessee is making a good faith deposit with the City in the amount of $(300.00) to ensure Lessee's faithful performance of the terms of this Lease. The deposit is a non-refundable amount to be used for cleaning and painting of the unit upon vacancy and does not include Lessee's payment obligation pursuant to Section 4(c) of Lease.

4) Rent and Operating expenses.

(a) Lessee agrees to pay monthly rent ("Monthly Rent") as follows:

Months	Monthly Rent
[1-12]	*[$1]*
[13-24]	*[$1]*
[25-36]	*[$1]*

Rent shall be payable without deduction, offset, abatement, prior notice or demand, except as otherwise provided herein.

(b) The Monthly Rent shall be payable in advance on the first day of each month at City's address as provided herein. In the event that the Term defined in Section 5 commences on a date other than the first day of a calendar month, then on the date of commencement of the Term, Tenant shall pay to City as Monthly Rent for the period from such date of commencement to the first day of the next succeeding calendar month that proportion of the first month's Monthly Rent due hereunder which the number of days between such date of commencement and the first day of the next succeeding calendar month bears to thirty (30). In the event that the Term for any reason ends on a date other than the last day of a calendar month, then on the first day of the last partial calendar month of such term, Lessee shall pay to City as Monthly Rent for the period from said first day of said last partial calendar month to and including the last day of the Term that proportion of that Monthly Rent then due hereunder which the number of days between said first day of said last partial calendar month and the last day of the term hereof bears to thirty (30).

(c) Upon execution of this Lease, Lessee shall pay $(N/A), which amount shall be applied toward the last payment of Monthly Rent due hereunder. City shall not be required to hold such last month's payment of rent in a segregated account or to pay Lessee interest on such payment.

(d) In the event of a Chronic Delinquency as defined in this subsection, at City's option City may require that monthly rent be paid by Lessee quarterly, in advance. This provision shall not limit in any way nor be construed as a waiver of any rights and remedies of City provided herein or by law in the event of delinquency. "Chronic Delinquency" shall mean failure by Lessee to pay monthly rent, or any other payments required to be paid by Lessee under this Lease, when due in any of three (3) months (consecutive or nonconsecutive) during any twelve (12) month period.

(e) If Lessee shall fail to pay any additional rent in accordance with the terms hereof, City shall have all the rights and remedies with respect thereto as City has for nonpayment of Monthly Rent.

(f) All payments must be made to the City of Livermore, attention Housing & Human Services and sent to 1052 S. Livermore Ave., Livermore, CA 94550.

5) Term. This Lease shall be for a term of three years commencing on March 1, 2022 ("Commencement Date") and terminating on February 28, 2025 ("Term"). This Lease shall supersede and replace any other lease between said parties, or their predecessors in interest, concerning the use of the Leased Premises, or any other space or area of the Property.

6) Lessee's Use of Leased Premises.

(a) Use of Leased Premises. Lessee shall only use the Leased Premises for the Stated Purpose in the recitals.

(b) Appurtenant Rights. In addition to use of the Leased Premises during the

term of this Lease Agreement, Lessee shall also have a non-exclusive right to use the Property's common areas, which include the conference room, hallways, kitchen/staff room area, common restroom, and other publicly accessible areas ("Common Areas"). All use of the Commons Areas shall be subject to the terms and conditions of this Lease and such other rules regarding their use as may be implemented by the City. Lessee further agrees to use the Common Areas in a manner which does not conflict or interfere with their use by the City or prevent their use by other Property tenants, unless exclusively reserved for use with the City's approval.

(c) Rules Regarding Use. Lessee shall observe and comply with the rules and regulations annexed to this Lease and, after notice of these rules, Lessee's use of the Leased Premises shall be subject to the following rules as may be reasonably implemented and revised by the City as provided in this Lease Agreement:

(i) Lessee shall not allow, authorize, or permit the Leased Premises, or any part thereof, to be used for any use or any illegal activity or purpose in violation of federal or state laws and/or ordinances, regulations and requirements of County, City, or any other enforcement authority.

(ii) Lessee shall not commit, allow, or permit to be used for any offensive or improper use or nuisance, the Leased Premises which may unreasonably or unlawfully disturb or damage the Property or Leased Premises.

(iii) Lessee shall not leave or store any trash, garbage, or refuse of any kind in, on, or about the Leased Premises and shall cause any refuse, trash, or other waste deposited on the Leased Premises by any of its employees, agents, or representatives to be picked up and disposed of in the appropriate manner so as to keep the Leased Premises in a neat and clean condition.

(iv) Lessee shall not use, commit, allow, or permit to be used or committed, any waste upon the Leased Premises.

(v) These rules regarding use of the Leased Premises shall also apply to Lessee's use of the Common Areas.

(vi) Use of the Common Areas shall be limited with equal access based on advance notice to Lessee, Property tenants, and City employees. Lessee agrees to use, clean, and maintain the Common Areas in such a condition that they can thereafter be used prior to the City's routine maintenance; failure to do so shall result in the loss of use privileges. Use of the Common Areas shall be limited to Lessee's business activities to include use of the conference room limited to group meetings, trainings, and events. Common Areas may not be for personal use of Lessee's employees and third-party vendors. Lessee shall not be permitted to use the conference room and/or any other Common Area to meet with clients. Lessee shall not use the kitchen and staff room area to meet with clients.

(vii) Access to the Property after-hours shall be limited to Lessee's designated employees and contractors.

(viii) Lessee may not provide key access to third party vendors. A Designated Employee must be present when a third-party vendor needs to access the building and/or service room areas.

(d) Changes to Rules and Regulations of Use. In its discretion, City may make such changes to the rules set forth in Section 6(c) as it deems necessary. City shall give Lessee written notice of any such changes and Lessee agrees to comply with such provisions.

(e) Hazardous Materials. Lessee shall not cause or permit any Hazardous Materials to be permanently stored, used or disposed of in the Property, Leased Premises or Common Areas by Lessee, Lessee's agents, employees, contractors or invitees, without having obtained City's prior, written consent. For purposes of this Lease, the following terms shall have the meanings set forth below:

"Hazardous Materials" shall mean any toxic or hazardous wastes, pollutants, materials or substances, including, without limitation, asbestos, PCB's, petroleum products, radioactive substances or their by-products, other substances defined or listed as "hazardous substances", "hazardous materials", "hazardous wastes" or "toxic substances in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C §§ 5101, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Toxic Substance Control Act of 1976, 15 U.S.C. §§ 2601 et seq.; any "toxic pollutant" under the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; any hazardous air pollutant under the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the California Hazardous Substance Account Act, California Health & Safety Code ("HSC") §§ 25300 et seq., the Hazardous Waste Disposal Land Use Act, HSC §§ 25100 et seq.; in or pursuant to or identified as causing cancer or reproductive toxicity in the California Safe Drinking Water & Toxic Enforcement Act of 1986, HSC §§ 25249.5 et seq.; and HSC §§ 25117, 25316; all as such laws may be amended; any hazardous or toxic substance, material, chemical, waste, or pollutant now or hereafter regulated under any other applicable Federal, State, or local environmental laws, without limitation; and any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

"Hazardous Discharge" and "Contamination" shall mean the happening of any event involving an emission, spill, release, or discharge ("Release") into or upon (i) the air, (ii) soils or any improvements located thereon, (iii) surface or ground water, (iv) the sewer, septic system, or waste treatment, storage, or disposal system servicing the Premises, of any Hazardous Material, or (v) any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

"Environmental Laws" shall mean all applicable Federal, State, and local laws, ordinances, regulations, orders, procedures, policies, and directives of every kind and nature whatsoever pertaining to Hazardous Materials in, at, on, under, or from the Leased Premises or any portion thereof.

7) Tenant Improvements [if applicable to lessee]. City and Lessee acknowledge that Lessee desires to affect a program of Alterations for the renovation of the Leased Premises (all such Alterations being hereinafter referred to as the "Tenant Improvements"). The Tenant Improvements shall be accomplished in accordance with the provisions of Section 11 of this Lease, Construction and Repair, and the Tenant Improvements Addendum to the Lease and is subject to the following modifications:

(a) Upon a fully executed lease the Tenant Improvements may be commenced any time after the delivery date of the Leased Premises to Lessee and shall be completed within a reasonable period of time following commencement of such alterations. However, no delay in completion of the Tenant Improvements shall change or extend the Commencement Date or change or extend the Termination Date.

(b) Lessee shall bear the cost of the Tenant Improvements and the cost of architectural and engineering consultants in connection therewith, City shall have no liability or responsibility for repairs to, changes to, or code upgrades required in connection with the construction of the Tenant Improvements.

(c) Lessee shall not commence construction of any Tenant Improvements until:

(i) all required governmental approvals and permits have been obtained.

(ii) all requirements regarding insurance imposed by this Lease have been satisfied by the City's Risk Manager.

(iii) Lessee has given City at least ten (10) days' prior written notice of Lessee's intention to commence construction; and

(iv) Lessee has provided to City, at Lessee's sole cost and expense, a performance and payment bond in an amount equal to 150% of the estimated cost of the Tenant Improvements, to insure City against any liability for mechanics' and materialmen's liens and to ensure completion of the Tenant Improvements.

(d) Lessee agrees that as part of the Tenant Improvements, it shall cause to be constructed a demising wall between the Premises and the leased premises. Lessee agrees that within ten (10) days following the execution of this Lease, it shall cause its architect to complete an application for a building permit and submit to City for its approval working drawings for such demising wall. Following the receipt of City's approval and the issuance of a building permit with regard to such demising wall, Lessee will promptly commence and diligently pursue to completion such demising wall in accordance with the drawings approved by City.

(e) Construction of Tenant Improvements will require prior written consent by City which may be withheld at City's sole discretion. Should Lessee desire to construct improvements to the Leased Premises, Lessee agrees to submit all required applications, plans, designs, and construction timelines to City for review and approval. Lessee shall

procure construction services only upon prior written approval by City. Lessee agrees to hire contractors and subcontractors approved by the City and who are in compliance with all applicable State and Federal contractor licensing requirements and prevailing wage requirements.

(f) Lessee is responsible for any maintenance of the Tenant improvements except as stated in section 8.

8) City Obligations.

(a) Services and Utilities. City shall furnish basic landscaping and gardening for the Property and basic janitorial service for the Leased Premises and Commons Areas. Except as provided in Section 8(c) below, City shall also provide basic electricity, heat, gas, power, air conditioning, garbage, water, and sewer charges for the Leased Premises and Common Areas.

(b) Common Areas. City agrees to post and enforce rules for use of the Common Areas as well as a sign-up schedule for their use.

(c) Maintenance and Services. Except as otherwise provided herein, City shall at its own cost and expense, maintain the Real Property, the Building, Common Areas, and every part thereof, in good and sanitary order, condition, and repair. Limited janitorial services will be provided and includes basic cleaning services of the Leased Premises: general cleaning five (5) times a week, including trash collection, sweeping, vacuuming, and cleaning restroom facilities. In additional to Limited janitorial services, the City may schedule additional maintenance on a quarterly, semi-annual, and/or annual basis in accordance with the City's facility maintenance schedule. Additional maintenance may include strip wax and polish of non-carpeted floors, carpet cleaning, and window cleaning. City is responsible for replacement or repair of windows, mechanical (HVAC system), plumbing and electrical equipment. City is responsible for replacement or repair of windows, mechanical (HVAC system) including the maintenance and changing of filters in accordance with the manufacturers recommendation, plumbing and electrical equipment. Damage by Lessee shall be repaired by City at Lessee's expense.

(d) Building Security.

(i) Panic Button. City shall provide a panic button in each tenant space that is connected to City's emergency response system. Lessee shall comply with the rules of use established by City for use of the panic button. Lessee shall not move the panic button without City's prior written approval. Lessee understands the panic button is not a protection against harm or injury but is merely a device that may be used to summon aid in a crisis situation. Lessee further understands that tampering with the panic button, moving it without City's written approval, or using it in a manner inconsistent with City's rules, may result in the panic button not functioning properly or being deactivated. It is Lessee's responsibility to understand and explain the operation of the panic button and City's rules of use to its employees. Lessee will be responsible for charges from the security company that result in a false alarm dispatch to the Livermore Police Department.

This amount can range from $100-$500 dollars.

(ii) Locked Facility/After-Hours. The common entry doors of the Property shall be locked and secured by the City from 5:00 p.m. to 9:00 a.m. Monday through Friday and shall remain locked on the weekends and on all City holidays (collectively "After-Hours"). Lessee may access the Leased Premises After-Hours as provided in Section 9(e) below.

9) Lessee Obligations.

(a) Services and Utilities. Lessee shall, at its own expense, pay for telephone and all other utilities and services incurred by Lessee for its use of the Leased Premises greater than the basic utilities and services provided by City at the time this Lease was signed ("Enhanced Services"). The costs for any Enhanced Services requested by Lessee, including but not limited to internet, telephone, and specialized cleaning and disposal, shall be at Lessee's cost. Any Enhanced Services shall be approved in writing by the City prior to installation and/or delivery.

(b) Common Areas. Lessee shall not assign its right to use the Common Areas to any third party and shall limit their use to its employees consistent with its use of and Stated Purpose for the Leased Premises. Lessee shall not station equipment, furniture, and/or belongings of any sort in the common areas. Lessee may not use common areas to meet with clients.

(c) Maintenance. Lessee agrees to provide City written notice of any necessary repairs not included in section 8 and/or that are a specific requirement for the Lessee to conduct business and grant City a reasonable opportunity to make such repairs.

(i) Lessee shall be responsible for the cost of any and all repairs or maintenance to the Building, Leased Premises, and/or Common Areas caused by negligent, careless, or willful acts of Lessee, its employees, agents, equipment, or invitees.

(ii) In consideration of leasing the Leased Premises, Lessee waives the provisions of California Civil Code §§ 1941 and 1942 and any other law that would require City to maintain the Leased Premises in a tenantable condition or would provide Lessee with the right to make repairs and deduct the cost of those repairs from the rent. Any controversy relating to a condition of the premises claimed to make the Leased Premises untenantable, may by application of either party be submitted to arbitration, pursuant to the provisions of Title 9 (commencing with Section 1280), Part 3 of the Code of Civil Procedure, and the costs of such arbitration shall be apportioned by the arbitrator between the parties.

(d) Building Security. Lessee agrees to keep a list of names of all Lessee's employees issued keys to the Property ("Designated Employees"), and to provide this information to the City by completion of a building key agreement form for each employee issued building keys. This form is required for employees who are accessing the areas

of the building through key card or building keys. Lessee shall recover all building keys from any Designated Employee who ceases to work for Lessee, and return them to City, and/or notify the City immediately when employee key card access should be disabled. A $100 deposit shall be paid by Lessee for each set of building keys issued. The deposit is refundable with the return of the keys to the City.

(e) Use After-Hours. Lessee may access the Leased Premises After-Hours, and provide services After-Hours, subject to the following:

(i) Lessee shall give written notice to City prior to using the Leased Premises (excluding Clinical Space) to provide services After-Hours;

(ii) In the event Lessee, or its employees, access the Leased Premises After-Hours, Lessee shall ensure the Leased Premises, all Common Areas, and the Property are secured at all times After-Hours; and,

(iii) Failure to secure and lock the Leased Premises and Property once an After-Hours use is completed shall constitute grounds for termination of the Lease.

(iv) Lessee may not provide access to third party vendors to the non-Clinic Space without a Lessee employee present at all times. Third party vendors shall not represent the City or any of the existing tenants.

(f) Furnishings. Lessee shall supply all furnishings and office supplies at its sole expense. All furnishings provided by Lessor shall remain the property of Lessor. The City is responsible for furnishing the Common Areas of Leased Premises. The Property is equipped with partitions. Lessee agrees to make no alterations or improvements, including but not limited to, shelving along any partitions or walls. Any furnishings, counters, shelving, and improvements, attached in any way to the floors, walls, or ceilings, shall be subject to the City's prior written approval. The City shall have the right to charge Lessee for, and Lessee shall be responsible for paying, any damages to the Property, Leased Premises, or Common Areas resulting from unauthorized installation of furnishings. All furnishings and office equipment must remain in the leased area and shall not be installed or placed in the Common Areas.

(g) Parking. Lessee, or its employees, shall park vehicles on the street and/or available designated public parking and disability stalls. Lessee, or its employees, shall not park vehicles in the Pacific Avenue City employee parking lot.

(h) Reporting. Lessee shall report annually to the City in the form of the attached Exhibit C on the number of clients served by the Leased Premises. This data will be used for the purposes of assessing the community benefit of Lessees operations in the Building and reporting to the City Council on annual operations.

10) Condition of Leased Premises. Lessee represents and warrants that Lessee has made a thorough and complete inspection of the Leased Premises and all improvements and equipment located thereon, using qualified consultants and experts of its own choosing, and that the Leased Premises and all improvements and equipment

located thereon are suitable for the Stated Purpose in the recitals, and for Lessee's Mission and are in good and sanitary order, repair, and condition. Lessee hereby accepts the Leased Premises, the Building and tenant improvements included in the Leased Premises in their present condition and, except as otherwise may be set forth herein, without representation or warranty by City as to the condition of such Leased Premises or as to the use of occupancy which may be made thereof.

11) Construction and Repair.

(a) Mechanic's Lien. Lessee shall pay, or cause to be paid, all costs and expenses for work done by Lessee, or caused to be done by Lessee, on the Leased Premises of a character which could result in any lien on the Property, and Lessee will keep the Property free and clear of any mechanic's lien and/or other lien on account of work done for Lessee or at its request.

Should any claims of lien be filed and/or recorded against the Property, or any action affecting the title thereto commenced, Lessee shall give City written notice thereof as soon as it has knowledge of the action.

(b) Construction. Lessee shall not build or construct any improvement, or make any structural change, addition, or remodeling to the Leased Premises, nor install any equipment, fixtures, or appurtenances in the Leased Premises without the City's prior written consent. Should City provide consent as per section 7 of Lease, Tenant Improvements. Lessee shall at its own cost comply with any and all Federal, State, or local laws and/or regulations applicable to any such construction, alteration, or remodeling to or within the Leased Premises to upgrade them to satisfy current standards.

12) Destruction. If the Leased Premises is totally destroyed during the term of this Lease Agreement by fire, flood, earthquake, or other casualty, whether or not covered by insurance, this Lease Agreement shall terminate and Lessee shall be liable for the rent only up to the time of such destruction.

13) Condemnation. If all or part of the Leased Premises is taken by condemnation such that the Leased Premises is no longer usable for the Stated Purpose contemplated by this Lease Agreement, this Lease shall terminate. Lessee shall be entitled only to that portion of the proceeds of condemnation which is directly attributable to the value of Lessee's interest in this Lease Agreement.

14) Compliance with Laws. Lessee agrees to comply with all applicable zoning, municipal, county and state laws, ordinances and regulations governing the use of the Leased Premises. Lessee agrees to secure and maintain throughout the Term and any Extended Term any federal, state or local licenses or permits required in order to use the Leased Premises for the Stated Purpose specified hereinabove. Lessee's failure to do so shall be considered a material breach of this Lease. Lessee is responsible for compliance with all Federal requirements for Tenant Improvements, Construction and or repair work outside of the City's obligations.

15) Assignment.

(a) Prohibition Against Assignment and Encumbrance. This Lease Agreement and any rights or obligations of Lessee hereunder shall not be sold, assigned, transferred, leased, assigned, sublet, conveyed, hypothecated either in whole or in part, or in any manner, without City's prior written consent. Lessee shall not allow any other person or entity to occupy or use all or any part of the Property, Leased Premises, or Commons Areas without first obtaining City's written consent. Consent to any assignment shall not constitute a further waiver of the provisions of this section.

(b) Involuntary Assignment. No interest of Lessee in this Lease Agreement shall be assignable by operation of law, including, without limitation, the transfer of this Lease by testacy or intestacy. Each of the following acts shall be considered an involuntary assignment:

(i) If Lessee is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which Lessee is the bankrupt party; or, if Lessee is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

(ii) If a writ of attachment or execution is levied on this Lease Agreement;

(iii) If, in any proceeding or action to which Lessee is a party, a receiver is appointed with authority to take possession of the Leased Premises.

(iv) An involuntary assignment shall constitute a default by Lessee and City shall have the right to elect to terminate this Lease Agreement, in which case this Lease shall not be treated as an asset of Lessee.

(v) If a writ of attachment or execution is levied on this Lease Agreement, Lessee shall have ten (10) days in which to cause the attachment or execution to be removed. If any involuntary proceeding in bankruptcy is brought against Lessee, or if a receiver is appointed, Lessee shall have sixty (60) days in which to have the involuntary proceeding dismissed or the receiver removed.

16) Taxes. Lessee recognizes and understands that this Lease Agreement may create a real property possessory interest tax that may subject Lessee to real property taxes.

Lessee, prior to delinquency, shall pay all taxes, including possessory taxes, assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever applicable to it lease and occupancy of the Leased Premises, including such taxes which are attributable to any alteration, expansion, modification, structural change, addition, remodeling and other improvement to the Leased Premises by Lessee, and all personal property taxes.

Lessee is not required to pay personal property taxes for property incurred by City as a result of their ownership of the Property and/or the Leased Premises.

17) Indemnity. To the fullest extent permitted by law Lessee shall hold harmless, indemnify, and defend with counsel selected by the City or otherwise acceptable to City, the City and its elected and appointed officials, officers, directors, employees, agents and designated volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Lessee's lease of the Leased Premises, or in connection with Lessee's failure to comply with any of its obligations contained in this Agreement, except for such Liability caused by the sole active negligence or willful misconduct of City. Lessee's obligations to hold harmless, defend, and indemnify shall not be excused because of Lessee's inability to evaluate Liability or because Lessee evaluates Liability and determines that Lessee is not liable to the claimant. These obligations are independent of, and shall not in any way be limited by, the minimum insurance obligations contained in this Lease Agreement. These obligations shall survive the completion or termination of this Lease Agreement. Lessee must respond within 30 days to the tender of any claim for defense and indemnity by the City.

Except as otherwise provided in this Lease, City shall not be liable to Lessee, nor shall Lessee be entitled to terminate this Lease or to any abatement of rent for any damage to City's property or any injury to Lessee or any of Lessee's employees, agents, or invitees, or loss to Lessee's business arising out of any cause, other than City's active gross negligence or willful misconduct, including, but not limited to: (i) the failure, interruption, or installation of any heating, air conditioning, or ventilation equipment; (ii) the failure, interruption, or installation of any fire sprinklers or alarms; (iii) the loss or interruption of any utility service; (iv) the failure to furnish or delay in furnishing any utilities or services; (v) the limitation, curtailment, rationing, or restriction on the use of water or electricity, gas or any other form of utility; (vi) vandalism, malicious mischief, or forcible entry by unauthorized persons or the criminal act of any person; or (vii) seepage, flooding, or other penetration of water into any portion of the Premises. The provisions of this Section shall survive the expiration or sooner termination of this Lease.

Lessee, as a material part of the consideration given to City, hereby (i) assumes all risk of damage to property or injury to persons in, upon or about the Leased Premises arising from any cause including, but not limited to, any theft, vandalism, damage, injury to person or death resulting from the condition of the Leased Premises during the Term hereof but excluding any claims (except for those claims arising from City's alleged failure to supervise or control Lessee's actions or Lessee's use of the Leased Premises) arising from the negligence or willful misconduct of City, and (ii) waives all claims in respect thereof against City.

18) Insurance. For the duration of this Lease Agreement, Lessee shall procure and maintain, at its own cost, insurance in the amounts and under the terms set forth in Exhibit B attached hereto against claims for injuries to persons or damages to property which may arise from or in connection with this Lease Agreement. Lessee agrees to comply

with any changes in the amounts and terms of such insurance as may be required from time to time by the City's Risk Manager, upon reasonable written notice.

19) Health Emergency Preparedness and Response. In the event this Lease is impacted by a national or localized outbreak of a highly contagious epidemic or pandemic the following shall apply:

(a) City agrees to comply with any and all Health Emergency Orders and preparedness plans whenever a Health Emergency is declared by a qualified agency such as the County of Alameda, the State of California, the Federal Government or a qualified internationally recognized organization tasked with declaring public health emergencies. Notwithstanding any notice requirements pursuant to this Lease, Lessee shall be deemed to have been notified of such Health Emergency's existence upon City providing notice thereof in accordance with this Clause.

(b) City shall have the right to make any revisions or modifications to this Health Emergency Preparedness and Response clause that it considers necessary or prudent for the safe and efficient operation of the Building. Upon City providing Notice of such revisions and modifications in accordance with the notice provisions of this Lease, or in the event that a Health Emergency exists, in accordance with the notice provision contained in the Lease or this clause, Lessee shall be deemed to have had Notice of such revision and modifications and shall be obligated to comply therewith.

(c) City shall have the full and unfettered right as part of implementing a Health Emergency Preparedness and Response Plan, to change the Operating Standards and the Building's general procedures with respect to the daily operation thereof, including, but not limited to:

(i) limiting the operating hours of the Building;

(ii) limiting or restricting access couriers may have to the Building;

(iii) providing services which are generally provided on-site from off-site locations;

(iv) limiting or restricting access to the Building by Lessee, its employees and its invitees;

(v) restricting public gatherings in the Building and Leased Premises;

(vi) to the extent not in conflict with privacy laws, requiring Lessor and its employees and invitees to sign in upon entering the Building and indicate whether or not they have been experiencing symptoms consistent with those which are known to exist in a health condition for which a Health Emergency has been declared;

(vii) removing from the Building Lessee, if Lessee is an individual, and any employee or invitee of Lessee exhibiting, or known to City to have recently suffered from, a highly contagious condition for which a Health Emergency has been declared, as

determined by City in its sole discretion, and forcibly removing any such persons who do not vacate the Building on their own accord; and

(viii) closing all or any part of the Building if it determines that, as a result of a Health Emergency or the impact of a Health Emergency on staff or personnel of City, it is not safe to continue to operate the Building or certain parts of the Building.

(d) In the event a Health Emergency is declared, City shall implement a bulletin board, email or website notice system providing tenants with notice of actions taken, or scheduled to be taken, in accordance with the Health Emergency Preparedness and Response Plan. Any notice whatsoever placed on such bulletin board, email or website shall be deemed adequately and sufficiently given to Lessee notwithstanding any of the other notice provisions under this Lease. City shall have no obligation to make any postings on such bulletin board, email or website and no failure to notify Lessee in accordance with such bulletin board, email or website system shall be deemed negligence on the part of City. City shall have no liability whatsoever for any losses, costs, expenses, claims or damages suffered by Lessee as a result of City's failure to inform Lessee of the existence of a Health Emergency. Lessee shall have no obligation to enact or abide by any actions taken or scheduled to be taken if Landlord fails to communicate such matters to Lessee.

(e) Lessee shall prepare, and at all times comply with, its own Health Emergency preparedness and response plan to coincide with and operate alongside this Health Emergency Preparedness and Response Plan. Such plan shall require Lessee to:

(i) send all employees home who exhibit symptoms consistent with those known to exist in a highly contagious condition for which a Health Emergency has been declared, and

(ii) at all times provide City with an up-to-date list of its key employees and representatives as well as their emergency phone numbers. Lessee's Health Emergency preparedness and response plan shall be modified in accordance with any reasonable direction by City.

(f) To the extent not in conflict with privacy laws, Lessee shall provide immediate notice to City during a Health Emergency of any employee or invitee exhibiting symptoms during a Health Emergency.

(g) City shall have the right during a Health Emergency to require Lessee to decontaminate all or any part of the Leased Premises, failing which City shall be entitled to enter the Leased Premises and do so at Lessee's expense. Any steps that City may choose to take are in its sole and unfettered discretion and nothing herein shall obligate City to affect any such decontamination.

(h) City has no obligation whatsoever to perform Health Emergency Preparedness and Response Drills. However, Lessee shall cooperate with any efforts of City to perform Drills and participate in any such Drill that City reasonably requests. City shall not be liable in any manner for any interruption to the business of Lessee or the

access to the Leased Premises by Lessee, its employees or its invitees, so long as it performs its Drill outside of operating hours.

20) Termination.

(a) Termination by City. In the event Lessee engages in, or permits any other person to engage in, any illegal activities in, on, or about the Property, Leased Premises, or common areas, whether with or without a criminal conviction, City shall have the right to immediately terminate this Lease Agreement and demand Lessee surrender the Leased Premises.

Except for immediate termination as provided for in this Lease Agreement, should Lessee at any time during the term of this Lease Agreement be in default in the performance of any of the terms, conditions, rules, covenants, or requirements herein contained or otherwise agreed to by the parties, including the rules and regulations established by City regarding the use of, or access to, the Property, Leased Premises, and Common Areas, and should such default continue for thirty (30) days after written notice thereof from City to Lessee specifying the particulars of such default, or should Lessee vacate or abandon the Leased Premises, then in any such event it shall be at the option of the City, the City's right to declare this Lease Agreement terminated and re-enter the Leased Premises and take possession thereof and remove Lessee's fixtures and furnishings, and Lessee shall have no further claim thereon or hereunder.

(b) City's remedies in this section shall be in addition and supplemental to any and all other rights or remedies which City may have pursuant to this Lease Agreement and/or under the law.

(c) Termination for Convenience. This Lease Agreement may be terminated for convenience by either City or Lessee, in whole or in part, by giving notice of such termination, the effective date of the termination, and in the case of partial termination, the portion to be terminated. Written notice of termination must be provided at least thirty (30) days before the effective date of such termination.

21) Default. Any of the following events or occurrences shall constitute a material breach of this Lease by Lessee and, after the expiration of any applicable grace period, shall constitute an event of default (each an "Event of Default"):

(a) The failure by Lessee to pay any amount in full when it is due under the Lease;

(b) The failure by Lessee to perform any obligation under this Lease, which by its nature Lessee has no capacity to cure;

(c) The failure by Lessee to perform any other obligation under this Lease, if the failure has continued for a period of ten (10) days after City demands in writing that Lessee cure the failure. If, however, by its nature the failure cannot be cured within ten (10) days, Lessee may have a longer period as is necessary to cure the failure, but this is conditioned on Lessee's promptly commencing to cure within the ten (10) day period

and thereafter completing the cure within thirty (30) days after City demands in writing that Lessee cure the failure. Lessee shall indemnify and defend City against any liability, claim, damage, loss, or penalty that may be threatened or may in fact arise from that failure during the period the failure is uncured;

(d) Any of the following: a general assignment by Lessee for the benefit of Lessee's creditors; any voluntary filing, petition, or application by Lessee under any law relating to insolvency or bankruptcy, whether for a declaration of bankruptcy, a reorganization, an arrangement, or otherwise; the abandonment, vacation, or surrender of the Leased Premises by Lessee without City's prior written consent; or the dispossession of Lessee from the Leased Premises (other than by City) by process of law or otherwise;

(e) The abandonment of the Leased Premises by Lessee.

22) Remedies. Upon the occurrence of an Event of Default, City may pursue all rights or remedies available to City at law or in equity.

23) Waiver. Any express or implied waiver of a breach of any term of this Lease shall not constitute a waiver of any further breach of the same or other term of this Lease; and the acceptance of rent shall not constitute a waiver of any breach of any term of this Lease, except as to the payment of rent accepted.

24) Surrender of Leased Premises. Upon the expiration of this Lease Agreement, or no later than ten (10) days after its termination, Lessee shall surrender the Leased Premises to City, and all improvements and alterations thereto, in good condition except for ordinary wear and tear occurring after the last necessary maintenance made by Lessee and/or destruction to the Leased Premises covered by section 6. Such improvements and alterations shall not include the fixtures and furnishings which shall be removed by Lessee prior to the surrender of the Leased Premises.

Lessee shall perform all restoration made necessary by the improvements or alterations or by the removal the fixtures and furnishings within the time periods stated in this section.

City may elect to retain or dispose of in any manner any alterations, improvements, fixtures, or furnishings that Lessee does not remove from the Leased Premises on expiration or termination of the Lease Agreement by giving at least ten (10) days' notice to Lessee. Title to any such improvements, alterations, fixtures, or furnishings that City elects to retain or dispose of on expiration of the ten (10) day period shall vest in City. Lessee waives all claims against City for any damage to Lessee resulting from City's retention or disposition of any such improvements, alterations, fixtures, or furnishings. Lessee shall be liable to City for City's costs for storing, removing, and disposing of any improvements, alterations, fixtures, or furnishings.

25) Entry by City. Lessee shall permit City, its officials, officers, employees, and agents to enter into and upon the Leased Premises upon reasonable notice for the purpose of inspecting the Leased Premises, enforcing the rules and regulations under

this Lease Agreement, and the posting of such legal notices as City may deem necessary or convenient.

(a) City and its agents may enter the Leased Premises at any reasonable time upon reasonable notice to Lessee, or immediately in the case of an emergency, for the purpose of: (i) inspecting the Leased Premises; (ii) posting notices of nonresponsibility; (iii) supplying any service to be provided by City to Lessee; (iv) showing the Leased Premises to prospective purchasers, mortgagees, or tenant's; (v) making necessary alterations, additions, or repairs as required by this Lease or to otherwise perform City's duties under this Lease; (vi) determining whether Lessee is complying with the terms of this Lease; (vii) performing Lessee's obligations when Lessee has failed to do so after written notice from City, if required by the terms of this Lease; (viii) placing on the Leased Premises ordinary for lease signs or for sale signs; (ix) doing of other lawful acts that may be necessary to protect City's interest in the Premises under this Lease; and (x) responding to an emergency.

(b) City shall have the right to use any means City deems necessary and proper to enter the Leased Premises in an emergency. Any entry into the Leased Premises obtained by City in accordance with this Section shall not be a forcible or unlawful entry into, or a detainer of, the Leased Premises, or an eviction, actual or constructive, of Lessee from the Leased Premises, nor shall such entry give rise to a claim for rent abatement.

26) Accessibility Requirements. The following requirements are included herein by City to comply with Civil Code, § 1938:

☐ The Premises have not undergone inspection by a Certified Access Specialist (CASp).

☒ The Premises has undergone a review and inspection by a Certified Access Specialist (CASp) and a CASp report has not been prepared.

☐ Attached hereto is a copy of the current disability access inspection certificate.

☐ Lessee acknowledges that it has received at least 48 hours prior to the execution of this Lease a copy of the report prepared by the Certified Access Specialist ("CASp") dated [date of report], a copy of which is attached hereto as Exhibit [ ](the "CASp Report"). Lessee's initials _____.

☐Lessor/☐Lessee shall bear the cost of any work called for under the CASp Report.

(a) Lessee hereby agrees to keep and maintain the confidentiality of the CASp Report and will not disclose the contents thereof to any third party without first obtaining the written consent of City, which consent City may grant or withhold in its sole and absolute discretion, except as necessary for Lessee to complete repairs and corrections of violations of construction-related accessibility standards that Lessee agrees to make.

(b) Lessee acknowledges and agrees that a Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, City may not prohibit the Lessee from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the Lessee, if requested by the Lessee. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

27) Notices. Wherever in this Lease Agreement it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served in writing and forwarded by registered mail, addressed as follows, though any party may change such address or contact person by written notice by registered mail to the other:

City: Housing and Human Services Manager
City of Livermore
1052 South Livermore Avenue
Livermore, California 94550

Lessee: City Serve of the Tri-Valley
Attn: Christine Beitsch-Bahmani, Chief Executive Officer
P.O. Box 1613
Pleasanton, CA 94566

28) Holding Over. Any holding over without the City's prior written consent shall be prohibited.

29) Modification. This Lease Agreement may only be modified or amended by written agreement signed by both parties hereto.

30) General Provisions.

(a) Time of Essence. Time is of the essence for each provision of this Lease Agreement.

(b) Relationship of the Parties. Nothing contained in this Lease Agreement shall be deemed or construed by the parties or by a third party to create the relationship of principal and agent, and/or of partnership, and/or of joint venture, and/or of any association between the parties, other than the relationship of lessor and lessee.

(c) Entire Agreement. This instrument, including any attachments hereto, constitutes the entire agreement of the parties relating to the subject matter of this Lease Agreement and correctly sets forth the rights, duties, and obligations of each party to the other.

(d) Partial Invalidity. If any provision or portion of this Lease Agreement shall be deemed invalid, it is agreed that such invalidity shall affect only such provision or portion thereof, and the remainder of this contract shall remain in force and effect.

(e) California Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of California.

(f) Review of Lease. Each party to this Lease Agreement declares that prior to the execution of this Lease, each party had the opportunity to seek the independent advice of counsel and that they apprised themselves of sufficient relevant information in order that they might intelligently exercise their own judgment in deciding whether to execute this Lease Agreement. Each party agrees that they have completely read and understood the Lease Agreement, know the contents thereof, and have signed the Lease Agreement of their own free will and free of any duress. No single party has drafted this Lease Agreement and it shall not be interpreted against any party as the drafting party.

(g) Performance Excused. The parties shall be excused from performance, as hereunder agreed to, if such performance is rendered impossible, impractical, or unreasonably difficult by, but not limited to, any strike, lockout, labor disturbance of any kind, civil commotion, war, acts of terrorism, shortage of any supply or labor, shortage of water, weather, act of government authority, enactment or change in laws or regulations, breakdown of facilities or any cause outside of the parties' control.

(h) Mutual Termination. This Lease Agreement may be terminated at any time concerning the rights and responsibilities of the parties who, between them, agree to such a termination.

(i) Headings. The headings used in this Lease are intended for reference only and do not define or limit the scope or meaning of any provision of this Lease.

(j) Waiver. A term or condition of this Lease Agreement may be waived at any time by the party entitled to the benefit thereof, but no such waiver shall affect the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition. Lessee shall not be excused from complying with any of the terms and conditions of this Lease Agreement by any failure of the City upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

(k) Attachments. All attachments referred to in and attached to this Lease Agreement are incorporated by reference as though set forth in full.

(l) Attorney's Fees and Costs. If either party commences an action against the other party to enforce this Lease Agreement, the prevailing party is entitled to reasonable attorney's fees, costs of suit, investigation costs and discovery costs, including costs of appeal.

****

Signatures and Attachment List on Next Page

IN WITNESS WHEREOF, the parties to this Lease have executed this Lease as of the dates set forth below.

City Serve of the Tri-Valley
A California Non-Profit Corporation
Lessee

By: _____ Dated: 3/3/22
Christine Beitch-Bahmani
Executive Director

City of Livermore
A Municipal Corporation

By: _____ Dated: _____
Marc Roberts
City Manager

Approved as to Insurance:

By: _____
Risk Analyst/Manager

Approved as to Form:

By: _____
Assistant/City Attorney

SIGNATURES MUST BE NOTARIZED.

Attachments:

Exhibit A – Real Property Site Plan
Exhibit B – Insurance Requirements
Exhibit C – Service Report

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of Alameda)

On 3/3/22, before me, Deborah S. Davis, Notary Public
(Name of Notary)

notary public, personally appeared Christine Beitch-Bahmani who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Deborah S. Davis
(Notary Signature)

DEBORAH S. DAVIS
Notary Public - California
Alameda County
Commission # 2357707
My Comm. Expires May 15, 2025

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, before me, _____, Notary Public_____,
(Name of Notary)

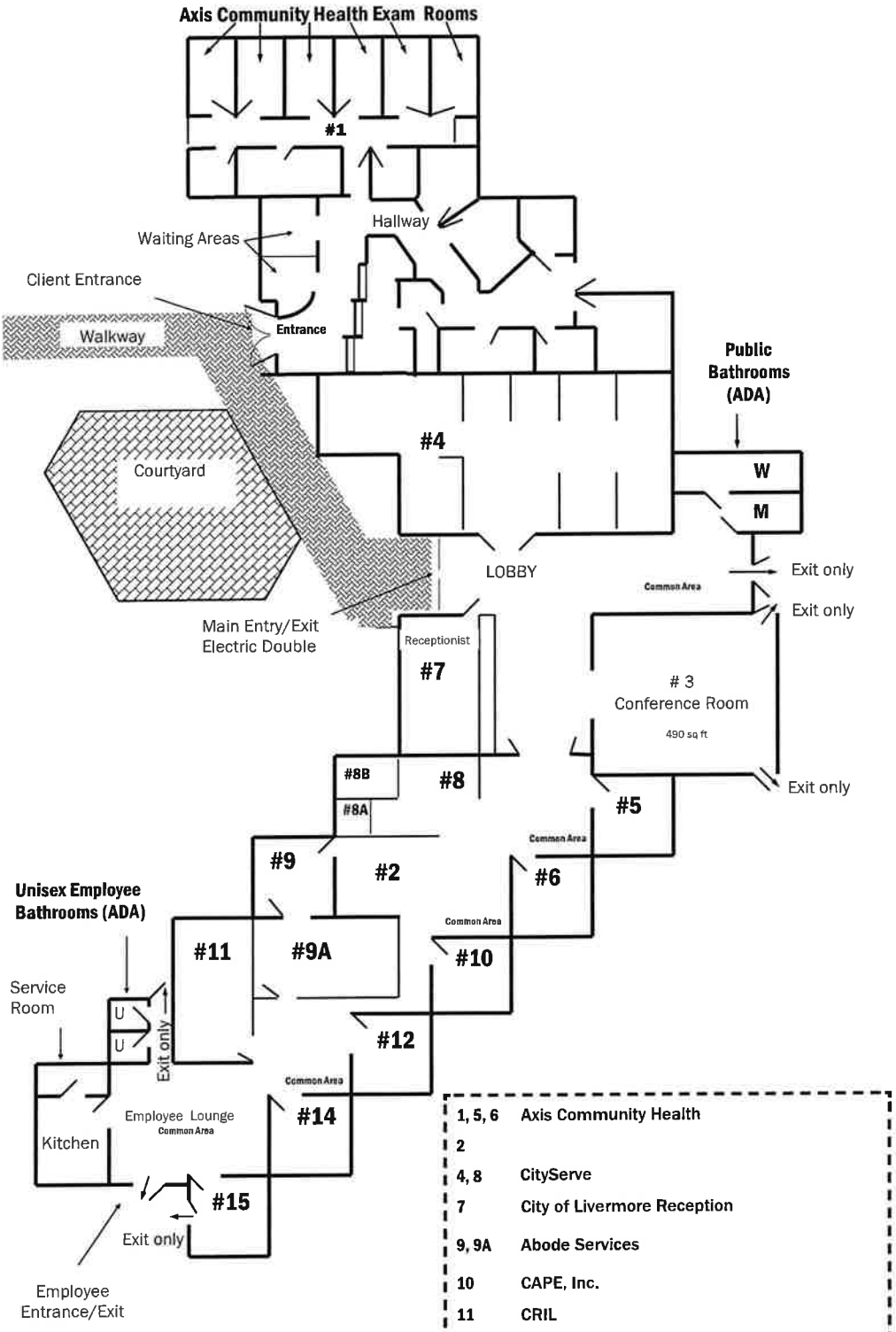
notary public, personally appeared _____who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
(Notary Signature)

MULTI-SERVICE CENTER FLOOR PLAN



S/Human Services/1-Multi-Service Center/Floor Plans & Map/Lease Exhibit A – MSC Floor Plan 07/31/19

EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Licensee/Lessee shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $1,000,000 per occurrence/**$2,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Licensee/Lessee is a sole proprietor, then Licensee/Lessee must sign "Contractor Release of Liability."
4. Property Insurance:
   Total value of all tenant improvements, betterments, and contents. The City of Livermore shall be named as loss payee as its interest may appear. The insurer shall waive all rights against City.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Licensee/Lessee;

or automobiles owned, leased, hired or borrowed by the Licensee/Lessee. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or designated volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Licensee's/Lessee's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or designated volunteers.
4. The Licensee's/Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Licensee/Lessee shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before License/Lease commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

Exhibit C
Annual Report of Service and Lessee Activities
For Period of January 1st – December 30th
Due January 15th of each year of lease

General Information

1. Name of Person Completing Report:
2. Title:
3. Telephone:
4. E-Mail:

Operations Status:

5. Please briefly describe the current status of your programs/activities in the space and any significant actions taken or changes to staffing, programming or occupancy during the reporting period.

Service Data:

6. Please indicate how client data are reported for this project or program (please keep consistent for Questions 7 through 11):

- Persons
- Households

7. Please provide the total number of CLIENTS served by this program/project during this annual reporting period (unduplicated).

a. Of those, indicate the number of unduplicated *Livermore* clients served during this reporting period, as reported in Question 7 above.

8. Please indicate the number of clients served during this annual reporting period, as reported in Question 7 above, who met the following income categories:

- Extremely Low Income (<30% Median)
- Very Low Income (30% to 50% Median)
- Low Income (50% to 80% Median)
- Moderate Income (80% to 120% Median)
- Above Mod Income (>120% Median)

9. Please indicate the number of clients served during this reporting period, as reported in Question 7 above, by the following race/ethnicity categories.
Note: Total must match Question 7. For standardized reporting purposes, HUD considers "Hispanic/Latino" an ethnicity and not a separate race.

- White
  Black/African American
  Asian
  American Indian/Alaskan Native
  Native Hawaiian/Other Pacific Islander
  Other Multiple Race Identifying
  Other/Decline to State
- # of HISPANIC/LATINO identifying for each category

Exhibit C
Annual Report of Service and Lessee Activities
For Period of January 1st – December 30th
Due January 15th of each year of lease

10. Please indicate the number of unduplicated clients served during this reporting period, as reported in Question 7 above, who identify by the following special categories:
Note: Multiple categories may apply to some clients while none will apply to other clients, so the total of this table DOES NOT need to match Question 7.

- Seniors (62 and older)
  People with Disabilities
  Female-Headed Households
  Youth
  Homeless

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.10**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing the acceptance for permanent maintenance and release of the security bonds for the Miscellaneous Corrective and Incomplete Work at the Civic Center Meeting Hall, Project 2004-3901.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the acceptance for permanent maintenance and release of the security bonds for the Miscellaneous Corrective and Incomplete Work at the Livermore Civic Center Meeting Hall, Project 2004-3901.

SUMMARY

On May 4, 2021, the City Manager awarded a contract for construction of the Miscellaneous Corrective and Incomplete Work at the Livermore Civic Center Meeting Hall (City Project No. 2004-3901) to Integra Construction Services Inc. for $407,909 plus a $50,000 contingency. The project has been substantially completed and is now ready to accept for permanent maintenance. The City can begin releasing the contractor's security bonds.

DISCUSSION

On December 11, 2017, the City Council awarded the original contract for construction of the Livermore Civic Center Meeting Hall, Project No. 2004-39, to D.L. Falk Construction, Inc. (D.L. Falk). The original contract, which was reduced to reflect work not performed by D.L. Falk, was accepted by City Council on November 23, 2020. Final completion was a result of the City's final notice to take back all remaining incomplete work via Contract Change Orders #35, #37, #38, #39, #40, #42, and #43, which occurred on September 28, 2020.

In November 2020, City staff started negotiations with Integra Construction Services Inc. to complete the miscellaneous corrective and incomplete work at the Civic Center Meeting Hall. In order to expedite completion of this work, Resolution No. 2021-011 was approved by the City Council on January 26, 2021, authorizing the City Manager to execute any and all contracts and agreements necessary for the completion of the Livermore Civic Center Meeting Hall Project No. 2004-39 within the limits of the

approved FY 2020-21 budget and authorizing a supplemental appropriation of $235,000 from the General Fund in FY 2020-21 for the Livermore Civic Center Meeting Hall Project. On May 4, 2021, the City Manager awarded a contract for construction of the Miscellaneous Corrective and Incomplete Work at the Livermore Civic Center Meeting Hall, City Project No. 2004-3901 to Integra Construction Services Inc.

During the course of performing this work, the Contractor discovered additional minor work items under D.L. Falk's contract that were incomplete or needed correction plus a few additional minor items that were not included in the original project design. Staff is negotiating general services contracts to address these remaining deficiencies.

The Miscellaneous Corrective and Incomplete Work at the Livermore Civic Center Meeting Hall was completed in accordance with the contract documents in a manner acceptable to the City Engineer. The project is ready to be accepted by the City for permanent maintenance.

At time of award, the contractor provided a faithful performance bond guaranteeing completion of the project, and that bond must now be released. Six months after the date of the resolution accepting the project, the labor and materials bond guaranteeing the improvements should be reduced to an amount equal to any claims filed and of which notice has been given. The balance of the bond will be released upon the settlement of all claims and obligations for which the security was given. There are no known claims at this time. The security for the guarantee and warranty of work shall remain in effect for one year from the date of the resolution.

FISCAL AND ADMINISTRATIVE IMPACTS

The original construction contract amount was $407,909 plus a $50,000 contingency. The final project amount was $405,226.39, which is less than 1% percent below the original contract based on final bid item quantities and 15 change orders. The total value of change orders was $42,962.26, which consisted primarily of extension of bid item work required to complete the work due to unforeseen conditions discovered during construction and reduction of bid item work.

Funding for this work is included in the 2021-23 Capital Improvement Plan. There is sufficient funding budgeted to close out work on the Integra contract. Additional budget to complete the remaining deficiencies listed above will be proposed in the June 2022 update to the Capital Improvement Plan.

Ongoing maintenance and operational costs for the Civic Center Meeting Hall are estimated at $72,000 and $44,000 respectively per year in annual replacement costs, including sidewalks, streets, lighting, landscape, and utilities (water, electricity).

ATTACHMENTS

1. Resolution
2. Exhibit A - Notice of Completion

Prepared by: Mike Stamm
Construction Inspection Manager

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING ACCEPTANCE FOR PERMANENT MAINTENANCE AND RELEASE OF SECURITY

Miscellaneous Corrective and Incomplete Work at the Civic Center Meeting Hall, Project No. 2004-3901

The City Engineer of the City of Livermore has filed with the City Clerk his report in writing that all work on the Miscellaneous Corrective and Incomplete Work at the Civic Center Meeting Hall, Project No 2004-3901 ("Project"), has been completed to City standards. The Project is ready for acceptance by the City of Livermore for routine maintenance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that:

1. The faithful performance bond guaranteeing the Project is hereby released.

2. The labor and materials bond guaranteeing the Project shall, six months after the date of this resolution, be reduced to an amount equal to the amount of all claims filed and of which notice has been given. The balance of the bond shall be released upon the settlement of all such claims and obligations for which the security was given;

3. The security for the guarantee and warranty of work shall remain in effect for one year from the date of this resolution. The contractor is required to reconstruct any deficiencies that occur and repair or replace defective materials during the maintenance period; and

4. The City hereby accepts the improvements.

5. The City Manager is authorized to take whatever actions are appropriate and necessary to carry out the purpose and intent of this resolution.

On motion of Council Member _____ seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

Exhibit A- Notice of Completion

NOTICE OF COMPLETION

City's Project No. 2004-3901 Date: April 12, 2022

Project: Miscellaneous Corrective and Incomplete Work at the Civic Center Meeting Hall

Contractor: Integra Construction Services, Inc.

Contract for Construction of: Corrective and Incomplete Work at the Civic Center Meeting Hall
Project No. 2024-3901

Project or Specified Part Shall Include: All that work as set forth in the Bid Schedule(s) on the Bid Forms, as awarded by the City of Livermore pursuant to the Contract Documents for Public Works Project No. 2004-3901

Document located at: 1052 S. Livermore Ave., Livermore, CA 94550 Contract Date: May 4, 2021

The work performed under this contract has been inspected by authorized representatives of the City, Contractor, and Engineer, and the Project (or specified part of the Project, as indicated above) is hereby accepted by the City and declared to be substantially completed on the above date.

> Completion of the Work shall be the date of such acceptance of the Work by the City, as provided under California Civil Code Section 3086. Completion shall mean substantial performance of the Contract as such is defined in Black's Law Dictionary, Revised Fourth Edition, West Publishing Company.

A list of all items remaining to be completed or corrected has been sent to the Contractor in the City's letter dated February 16, 2022. All such work shall be completed or corrected to the satisfaction of the City prior to the release of the Contractor's retention and within 30 calendar days following the date of the Notice of Completion, otherwise the Contractor does hereby waive any and all claims to all monies withheld by the City under the Contract to cover the value of such uncompleted or uncorrected items.

ENGINEERING DIVISION
Engineer

By _____
Mike Stamm, Const. Insp. Manager

The Contractor hereby accepts the above Notice of Completion and agrees to complete and correct all of the items as outlined in the City's letter to the Contractor dated 2-16-22 or waives all rights to any monies withheld therefor.

Integra Construction Services, Inc.
Contractor

By _____
Alex Giammona, Project Manager

The City accepts the project or specified area of the project as substantially completed and will assume full possession of the Project or specified area of the Project at 8:00 am (time), on 4-12-2022 (date). The responsibility for heat, utilities, security, and insurance under the Contract Documents will be assumed by the City after that date. Nature of interest of owner: Fee

I certify (declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Owner:
City of Livermore
1052 S. Livermore Ave.
Livermore, CA 94550

FOR THE CITY OF LIVERMORE

By _____
Marc Roberts, City Manager Date

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.11**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Scott Lanphier, Public Works Director

SUBJECT: Resolution directing the City Engineer to file the Annual Engineer's Report for the City's Landscape Maintenance Districts

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution directing the City Engineer to file the Annual Engineer's Report for the City's Landscape Maintenance Districts.

SUMMARY

In order to levy and collect annual assessments for landscape maintenance districts under the Landscape and Lighting Act of 1972, the City must follow certain legal procedures. The initial procedures consist of directing the filing of annual report(s), approving the report(s), and then passing resolutions of intention and authorizing the levy and collection of assessments.

DISCUSSION

A consolidated Engineer's Report will be prepared for 92 districts for Fiscal Year 2022-2023 in accordance with the requirements of the Landscape and Lighting Act of 1972. The districts are Maintenance District No. LL-1: Annexation Nos. 1989-1, 1989-2, 1989-4, 1990-1, 1990-2; Maintenance District No. LL-2; Maintenance District No. LL-2 (1992-0): Annexation Nos. 1992-1, 1993-1, 1993-2, 1994 1, 1994-2, 1994-3, 1994-4, 1994-6, 1994-7, 1994-8, 1995 1, 1995-2, 1995-3, 1995-4, 1995 6, 1995-7, 1996-1, 1996-2, 1996-3, 1996-5, 1996 6, 1996-7, 1996-8, 1996-9, 1997-2, 1997 3, 1997-4,1997-5; and Maintenance District Nos. LL-801, LL-802, LL-803, LL-804, LL 805, LL 806, LL-807, LL-808, LL-809, LL-810, LL-811, LL-813, LL-814, LL-815, LL-817, LL-818, LL-819, LL-820, LL-821, LL 822, LL-823, LL-824, LL-826, LL-827, LL-828, LL-829, LL-830, LL-831, LL-832, LL 833, LL-835, LL-836, LL-837, LL-838, LL-839, LL-840, LL-841, LL-842, LL-843, LL 844, LL-845, LL-846, LL-847, LL-848, LL-849, LL-850, LL-851, LL-852, LL-853, LL 854, LL-855, LL-857, LL-858, LL-859, LL-860, LL-861, LL-862, and LL-863. These reports will include estimates of expenditures and revenues for Fiscal Year 2022-2023.

Proposed Schedule for the Levy of Assessments for Fiscal Year 2022-2023

Staff will return to the Council to ask for the approval of the Engineer's Report and then to pass a Resolution of Intention to levy assessments that will establish the date, time, and place of the public hearing for these actions. The following tentative schedule is proposed:

- June 13, 2022 - Council adopts a resolution approving the Engineer's Report and then passes a Resolution of Intention to Levy Annual Assessments for the Landscape Maintenance Districts for Fiscal Year 2022-2023 and establishing a public hearing date of June 27, 2022.
- June 27, 2022 - Council holds a public hearing and considers levying the assessments for the City's landscape maintenance districts.
- August 10, 2022 - Deadline to file assessments with Alameda County Assessor's Office.

FISCAL AND ADMINISTRATIVE IMPACTS

Property owners within each maintenance district pay assessments to cover the cost of landscape maintenance, utilities, operation, and maintenance of equipment. Maintenance operations are performed by City staff and supplemented by private contractors under the direction of City staff. Preparing and filing the annual Engineer's Report will only utilize staff time and consultant time which has been previously budgeted.

ATTACHMENTS

1. Resolution

Prepared by: Sean Prevette
Management Analyst II

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION DIRECTING THE CITY ENGINEER TO FILE AN ANNUAL REPORT FOR LANDSCAPE MAINTENANCE DISTRICTS ORGANIZED UNDER THE LANDSCAPE AND LIGHTING ACT OF 1972

MAINTENANCE DISTRICT NO. LL-1: ANNEXATION NOS. 1989-1, 1989-2, 1989-4, 1990-1, 1990-2

MAINTENANCE DISTRICT NO. LL-2: ANNEXATION NOS. 1992-0, 1992-1,1993-1, 1993-2, 1994-1, 1994-2, 1994-3, 1994-4, 1994-6, 1994-7, 1994-8, 1995-1, 1995-2, 1995-3, 1995-4, 1995-6, 1995-7, 1996-1, 1996-2, 1996-3, 1996-5, 1996-6, 1996-7, 1996-8, 1996-9, 1997-2, 1997-3, 1997-4, 1997-5

MAINTENANCE DISTRICT NOS. LL-801, LL-802, LL-803, LL-804, LL-805, LL-806, LL-807, LL-808, LL-809, LL-810, LL-811, LL-813, LL-814, LL-815, LL-817, LL-818, LL-819, LL-820, LL-821, LL-822, LL-823, LL-824, LL-826, LL-827, LL-828, LL-829, LL-830, LL-831, LL-832, LL-833, LL-835, LL-836, LL-837, LL-838, LL-839, LL-840, LL-841, LL-842, LL-843, LL-844, LL-845, LL-846, LL-847, LL-848, LL-849, LL-850, LL-851, LL-852, LL-853, LL-854, LL-855, LL-857, LL-858, LL-859, LL-860, LL-861, LL-862, LL-863

There are 92 Landscape and Lighting Districts within the city of Livermore. Under the regulations governing Landscape and Lighting Districts, the City Council must follow certain procedures to levy annual assessments. The first step in this process requires the preparation and filing of the *Annual Engineer's Report for the City of Livermore's Landscape Maintenance Districts* ("Annual Engineer's Report") for each of the 92 districts. Any proposed new improvements, or substantial changes in existing improvements, must also be described.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that the engineer of record is directed to file with the City Clerk the Annual Engineer's Report for the maintenance districts. The improvements are the same as the ones described in the prior Engineer's Report, and no new improvements or substantial changes to existing improvements, are proposed.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.12**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution approving the City of Livermore Cybersecurity Policy

RECOMMENDED ACTION

Staff recommends City Council approve the City of Livermore Cybersecurity Policy.

SUMMARY

A cybersecurity policy is necessary for an organization to establish and support cybersecurity, cyber risk management, and cyber resiliency operations and capabilities. Cybersecurity policies are required by many standards, agreements, and regulations in addition to cyber insurance requirements. A cybersecurity policy demonstrates Council due diligence, commitment to, and prioritization of, cybersecurity and can potentially have a positive impact on a City's bond rating.

The City of Livermore Cybersecurity Policy:

- establishes guiding principles for the City's cybersecurity and cyber risk management programs
- assigns key cybersecurity responsibilities
- adopts the National Institute of Standards and Technology (NIST) Cybersecurity Framework

DISCUSSION

There are a number of requirements for organizations to have cybersecurity policies. First, the Criminal Justice Information Services (CJIS) Security Policy requires law enforcement organizations to adopt cybersecurity policies. Second, as a condition of accepting credit and debit card payments, the Payment Card Industry Data Security Standard (PCI-DSS) requires organizations that store, process, or transmit payment card to adopt cybersecurity policies. Finally, there are a number of industry best practices and standards that recommend the adoption of cybersecurity policies such as, the COBIT® governance framework, the National Institute of Standards and Technology (NIST) Special Publication 800-53 Security and Privacy Controls for Information Systems and Organizations, and ISO/IEC 27002:2022 Information security, cybersecurity and privacy protection.

Benefits

Adopting a cybersecurity policy demonstrates commitment to, and prioritization of, cybersecurity and cyber resiliency for the City of Livermore. In addition, a Council approved cybersecurity policy may have a positive impact on the City's bond rating and cyber insurance rates, as providers set bond ratings and determine insurance rates based on having an adopted policy.

Cybersecurity Standard

With this policy, the City adopts the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity (CSF) as the standard for cybersecurity. The CSF is a set of best practices recommended for businesses to protect critical IT infrastructure. According to NIST, "The Framework enables organizations – regardless of size, degree of cybersecurity risk, or cybersecurity sophistication – to apply the principles and best practices of risk management to improving security and resilience." The CSF uses the City's mission, goals, and objectives as drivers to guide cybersecurity activities and to consider cyber risks as part of the City's risk management processes. The framework will help the City align and prioritize its cybersecurity activities with its business/mission requirements, risk tolerances, and resources.

The NIST Cybersecurity Framework is recommended for use by local governments by the Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (CISA), the American Water Works Association (AWWA), and most recently by the Western Governors Association.

Finally, the City has been voluntarily reporting to The Nationwide Cyber Security Review (NCSR) on how well our practices align with the Cybersecurity Framework. Although reporting to the NCSR is voluntary, some Federal grants require local governments to report to the NCSR as a condition of receiving Federal funding.

Adopting an industry standard, especially one recommended for local governments and critical infrastructure, will allow the City to adapt to changes without the need to continuously update policy. NIST will revise the Cybersecurity Framework as needed to meet future demands of yet unforeseen cyber threats. The City will adapt as NIST updates that standard without the need for a policy revision. In essence, the policy is made to have a long shelf life by pointing to a standard that will keep pace with the rapid and ever-changing technology and risks.

Cybersecurity Policy

The Cybersecurity Policy lays the foundation for the City's Cybersecurity Program as a whole and articulates executive level support for the effort. The Cybersecurity Policy supports the City's Cybersecurity Program established to:

- protect City's critical infrastructure,
- protect the sensitive information entrusted to the City,
- manage cyber risk,
- continuously improve our ability to detect and respond to cybersecurity events,
- contain and eradicate compromises, restoring information resources to a secure and operational status,
- ensure cyber security aligns with the City's operations, mission, and risk management strategies,
- facilitate cybersecurity awareness of risks to City operations and mission, and
- comply with external and regulatory data protection requirements.

The requirements identified in the policy apply to all information resources operated by or for the City, its departments, and advisory bodies. This includes all software, devices, and services that process, store, or transmit data, or anything that connects to a City device, systems, or network.

Elected officials, employees, consultants, and vendors working on behalf of the City of Livermore will be required to comply with this policy.

The policy requires the City to:
• Assign cybersecurity responsibilities to the Cybersecurity Manager to coordinate citywide cybersecurity efforts
• Adopt the National Institute of Standards and Technology (NIST) Cybersecurity Framework as a methodology to secure information resources
• Use other NIST guidelines as applicable (csrc.nist.gov)
• Implement and assess cybersecurity compliance or regulatory controls, such as Payment Card Industry Data Security Standard (PCI DSS), Criminal Justice Information (CJIS), Protected Health Information (PHI), and other security and privacy requirements.
• Conduct and update, at least annually, a cybersecurity risk assessment or with major changes to systems
• Develop and update, at least annually, Cyber Incident Response Plan.
• Conduct cybersecurity, risk, and compliance assessments.

If approved, the policy will guide subsequent administrative regulations, procedures, and plans that will address specific compliance requirements and identified cyber risks.

FISCAL AND ADMINISTRATIVE IMPACTS

The financial impact is difficult to quantify, however, the adoption of a Cybersecurity Policy can result in:

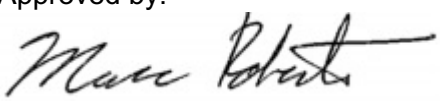
- a more favorable bond rating,
- saving money on cyber insurance premiums, and
- access to Federal grants.

ATTACHMENTS

1. Resolution
2. Exhibit A - City of Livermore Cybersecurity Policy

Prepared by: Donald Hester
Cybersecurity Manager

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING THE CITY OF LIVERMORE CYBERSECURITY POLICY

In the age of automation, digitization, big data, artificial intelligence, and machine-to-machine learning, the City of Livermore's capabilities to prevent, detect and respond to cyberattacks is of ever-growing importance. Modernizing the City's systems to be more resilient to minimize vulnerabilities and protect against cyberattacks is a priority.

The City of Livermore Cybersecurity Policy is intended to build a strong cybersecurity program to support, maintain, and secure critical infrastructure and data. The policy is intended to establish key elements of a citywide cybersecurity program.

This policy establishes guiding principles for the City's cybersecurity and cyber risk management programs. The policy assigns key cybersecurity responsibilities and adopts the National Institute of Standards and Technology (NIST) Cybersecurity Framework as a methodology to secure information resources and critical infrastructure.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby approves the City of Livermore Cybersecurity Policy attached as Exhibit A.

BE IT FURTHER RESOLVED that the City Manager, in coordination with the City Attorney, is authorized to take all necessary actions to implement the policy.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED AS TO FORM:

_____ */s/ Jason R. Alcala*

Marie Weber
City Clerk

Jason R. Alcala
City Attorney

Exhibit A – City of Livermore Cybersecurity Policy

I. PURPOSE

The City of Livermore (City) is dedicated to building a strong cybersecurity program to support, maintain, and secure critical infrastructure and data. The following policy is intended to maintain and enhance key elements of a citywide cybersecurity program.

Purpose and Scope
The Cybersecurity Policy lays the foundation for the City's Cybersecurity Program as a whole and articulates executive level support for the effort. The Cybersecurity Policy supports the City's Cybersecurity Program established to:

- protect City's critical infrastructure,
- protect the sensitive information entrusted to the City,
- manage cyber risk,
- continuously improve our ability to detect and respond to cybersecurity events,
- contain and eradicate compromises, restoring information resources to a secure and operational status,
- ensure cyber security aligns with the City's operations, mission, and risk management strategies,
- facilitate cybersecurity awareness of risks to City operations and mission, and
- comply with external and regulatory data protection requirements.

The requirements identified in this policy apply to all information resources operated by or for the City, its departments, and advisory bodies. This includes all software, devices, and services that process, store, or transmit data, or anything that connects to a City device, systems, or network. Elected officials, employees, consultants, and vendors working on behalf of the City of Livermore are required to comply with this policy.

II. POLICY STATEMENT

The City shall:

- Assign cybersecurity responsibilities to the Cybersecurity Manager to coordinate citywide cybersecurity efforts
- Adopt the National Institute of Standards and Technology (NIST) Cybersecurity Framework as a methodology to secure information resources
- Use other NIST guidelines as applicable (csrc.nist.gov)
- Implement and assess cybersecurity compliance or regulatory controls, such as Payment Card Industry Data Security Standard (PCI DSS), Criminal Justice Information (CJIS), Protected Health Information (PHI), and other security and privacy requirements.
- Conduct and update, at least annually, a cybersecurity risk assessment or with major changes to systems
- Develop and update, at least annually, Cyber Incident Response Plan.
- Conduct cybersecurity, risk, and compliance assessments.

Cybersecurity Framework
In order to adequately protect information resources, systems and data must be properly categorized based on information sensitivity and criticality to operations. A risk-based methodology standardizes security architecture, creates a common understanding of shared or transferred risk when systems and infrastructure are connected, and makes securing systems and data more straightforward.

The NIST Cybersecurity framework provides five elements to a cybersecurity program:

- **Identify:** Develop the organizational understanding to manage cybersecurity risk to systems, assets, data, and capabilities.
- **Protect:** Develop and implement appropriate safeguards to ensure delivery of infrastructure services.
- **Detect:** Develop and implement appropriate activities to identify the occurrence of a cybersecurity event.
- **Respond:** Develop and implement appropriate activities to respond to a cybersecurity event.
- **Recover:** Develop and implement appropriate activities to maintain plans for resilience and to restore any capabilities or services impaired by a cybersecurity event.

Cybersecurity Risk Assessment
A cyber risk assessment is the process of identifying, estimating, and prioritizing information security risks. Assessing risk requires the careful analysis of threat and vulnerability information to determine the extent to which circumstances or events could adversely impact the City and the likelihood that such circumstances or events will occur.

The purpose of a cyber risk assessment is to inform decision makers and support risk responses by identifying:

1. Relevant cyber threats to the City,
2. Internal and external vulnerabilities both internal and external,
3. Impact (i.e., harm) to the City that may occur given the potential for threats exploiting vulnerabilities, and
4. Likelihood that harm will occur.

The result is a determination of risk (i.e., typically a function of the degree of harm and likelihood of harm occurring). Risk assessments enable the City to determine current cybersecurity capabilities, set individual goals for a target state, and establish a plan for improving and maintaining cybersecurity program.

III. ROLES AND RESPONSIBILITIES

- Executive Team shall:
    - Promote a culture of cybersecurity awareness and compliance with the City's cybersecurity policy. Department heads must remind their employees and contractors about the City's Cybersecurity policies, standards, procedures, guidelines, and best practices.

  - To the extent resources allow, ensure that all systems procured, operated, or contracted by their departments and the data contained by them are protected.
  - To the extent possible, adequately support and fund cybersecurity operations based upon risk to City operations and mission.
  - With the aid of the City Attorney, determine the requirements and execute necessary breach disclosures.
  - Collaborate with the Information Technology Division and Cybersecurity Division on all technology procurements to ensure the technology will meet cybersecurity standards, compliance requirements, and that a cyber risk assessment has been completed.
  - Department and Division heads shall be responsible for any compliance requirements of City data being used for their respective operations and shall collaborate with the Cybersecurity Division to ensure compliance and reporting.
- Cybersecurity Manager shall:
  - Lead enterprise governance of information and technology efforts throughout the City.
  - Establish and maintain a security team and function with the ability to identify, protect, detect, respond, and recover from attacks against City information resources.
  - Develop and maintain a cyber incident response plan capable of addressing major compromises of City information resources.
  - Organize and coordinate the City Cyber-Incident Response Team.
  - Ensure that Departments and the Information Technology Division programs employ a risk-based assessment and treatment program, and regularly report the status of the City's cybersecurity status and efforts to City Council.
  - Select, design, monitor, and assess cybersecurity controls for all City systems.
  - Perform cyber risk assessments on all technology purchases and cloud-based services.
  - Inform the City Manager, City Attorney, and Risk Manager when there is an event which compromises the confidentiality, integrity, or availability of a system or data involving Personally Identifiable Information (including payment card information), Regulatory Protected Information (such as but not limited to, CJIS, HIPAA or Social Security Numbers), and/or data that is not considered public as soon as practicable.
  - Establish necessary procedures to support the cybersecurity program such as but not limited to, cybersecurity awareness, business continuity, incident response, access control, configuration management, change control, etc.
  - Monitor current cyber threats and trends and recommend any necessary changes.
  - Report to Council twice a year on current cyber risks and cybersecurity activities.
- Risk Manager shall:
  - Work with the Cybersecurity Manager to ensure the cybersecurity program aligns with the City's operations, mission, and risk management strategies.
  - Collaborate with the Cybersecurity Manager to identify and understand the cyber risks associated with the City's operations and then: (1) identify and implement insurance language in the City's transactional documents commensurate with the

risk related to the transaction; (2) issue appropriate insurance requirements for City operations involving third parties; and (3) maintain cyber insurance for the City and its operations for the identified cyber risks.
    - Coordinate with the Cybersecurity Manager to file cyber insurance claims so the Cybersecurity Manager can direct the resources provided by cyber insurance as well as gather documentation to substantiate the City's cyber insurance claims.
- Information Technology Manager shall:
    - Work with the Cybersecurity Manager to develop and maintain the necessary policies, procedures, and programs to maintain the confidentiality, integrity, and availability of City systems and data.
    - Implement, operate, and maintain cybersecurity controls for all City systems.
- Emergency Manager shall:
    - Activate the city emergency operations center to coordinate response to emergency level cyber event as outlined in Emergency Support Function 18 Unified Cyber Command.
    - Support cybersecurity emergency exercise for City leaders in coordination with the Cybersecurity Manager.
- City Clerk shall:
    - Work with the Cybersecurity Manager to develop and maintain an information classification system and support departments in their data classification efforts.
- City Employees, contractors, and vendors shall:
    - Comply with cybersecurity practices, requirements, and acceptable use Administrative Regulation.
    - Promptly report any incidents to the IT Service Desk.
    - Report suspicious emails.
    - Attend cybersecurity training at least annually.

IV. EXCEPTIONS

City cybersecurity requirements shall not supersede State or Federal requirements that may apply to certain specific data or systems.

No exceptions to this policy will be approved.

V. DEFINITIONS

For a list of definitions please refer to: https://csrc.nist.gov/glossary

VI. AUTHORIZATION

Adopted by City Council: [Date]

Lead Division: Cybersecurity Division with support from Information Technology.

VII. REFERENCES

- NIST Computer Security Resource Center - https://csrc.nist.gov/
- NIST Cybersecurity Framework Website - http://www.nist.gov/cyberframework
- Payment Card Industry - https://www.pcisecuritystandards.org
- Criminal Justice Information Services (CJIS) Security Policy (latest version) https://www.fbi.gov/
- California Emergency Support Function 18 Cybersecurity, Annex to the California State Emergency Plan https://www.caloes.ca.gov/
- Health Information Privacy https://www.hhs.gov/hipaa/for-professionals/index.html
- Cybersecurity & Infrastructure Security Agency https://www.cisa.gov/

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.13**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution approving the City of Livermore Salary Plan as of May 2022 in accordance with California Code of Regulations, Title 2, Section 570.5.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution approving the City of Livermore Salary Plan as of May 2022, in accordance with California Code of Regulations, Title 2, Section 570.5.

SUMMARY

A summary of the changes to the Salary Plan are as follows:

1. Incorporate wage related adjustments associated with the approved Livermore Police Officers Association (LPOA) Memorandum of Understanding (MOU) effective May 9, 2022;
2. Establish a new classification, Finance Manager, Assistant (Class Code 137), and assign it to the Management Salary Schedule with a maximum salary of $12,484.55 per month.

DISCUSSION

1. On April 26, 2021, the City Council adopted a successor MOU with the LPOA. The MOU provides for a base salary increase of 3.5% effective May 9, 2022.

2. Management of the Finance Division of the Administrative Services Department currently includes the Administrative Services Director, the Finance Manager, and three Accounting Supervisors. The Division handles a wide variety of services for the public and City departments. They oversee and monitor the internal controls of the City to protect City assets, prepare the City's financial statements, assist in the development and administration of the City's financial plans, coordinate independent audits, submit required reports and documents with the State Controller's Office, coordinate preparation of the budget and the financial transactions report, and complete utility billing and dog licenses. The general management structure of the division has gone unchanged since 2012, while the regulations, reporting,

and audit requirements have advanced, and become more complex. To ensure accurate and timely compliance with changing regulations, the division seeks to add a new classification of Finance Manager, Assistant. This new position will assist the Finance Manager in the management of the Division and supervise a section of the Division.

FISCAL AND ADMINISTRATIVE IMPACTS

The fiscal impact of the wage increase for the LPOA was included in the 2021-23 Financial Plan approved by the City Council.

There will be no net increase in Full Time Equivalent (FTE) positions to add the Finance Manager, Assistant. Any position filled this fiscal year will be done so within the authorized FTE's included in the 2021-23 Financial Plan staffing allocations by converting a currently vacant Administrative Accounting Technician position. The annual incremental fiscal impact of adding this classification and converting the currently vacant position is $87,500 which includes salary and benefits.

ATTACHMENTS

1. Resolution
2. Exhibit A - Salary Plan effective May 2022

Prepared by: Kaylin Larson
HR Analyst II

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ADOPTING THE CITY OF LIVERMORE SALARY PLAN DATED MAY 2022, IN ACCORDANCE WITH CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5

The proposed City of Livermore Salary Plan, attached as Exhibit A, is intended to make the following amendments:

- Incorporate wage related adjustments associated with the approved Livermore Police Officers Association Memorandum of Understanding effective May 9, 2022;
- Establish a new classification, Assistant Finance Manager (Class Code 137), and assign it to the Management Salary Schedule with a maximum salary of $12,484.55 per month.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that the amended Salary Plan attached as Exhibit A, is hereby approved in accordance with California Code of Regulations, Title 2, Section 570.5.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED AS TO FORM:

_____ */s/ Jason R. Alcala*

Marie Weber
City Clerk

Jason R. Alcala
City Attorney

Exhibit A – Salary Plan dated May 2022

LIVERMORE
CALIFORNIA

Salary Plan

May 2022

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/11/2021

CLASS CODE	RANGE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
221	01	ACCOUNT CLERK	61,523.80	64,573.17	67,765.55	71,117.56	74,637.17
	Sch=M22		5,126.98	5,381.10	5,647.13	5,926.46	6,219.76
			1,183.15	1,241.79	1,303.18	1,367.65	1,435.33
			29.57875	31.04479	32.57959	34.19113	35.88325
225	02	ACCOUNT CLERK, JUNIOR	55,638.30	58,383.95	61,266.88	64,293.95	67,472.37
	Sch=M22		4,636.53	4,865.33	5,105.57	5,357.83	5,622.70
			1,069.97	1,122.77	1,178.21	1,236.42	1,297.55
			26.74918	28.06921	29.45523	30.91055	32.43864
222	03	ACCOUNT CLERK, SENIOR	67,045.67	70,361.68	73,843.49	77,499.39	81,338.09
	Sch=M22		5,587.14	5,863.47	6,153.62	6,458.28	6,778.17
			1,289.34	1,353.11	1,420.07	1,490.37	1,564.19
			32.23350	33.82773	35.50168	37.25932	39.10485
224	04	ACCOUNTING TECHNICIAN	71,281.49	74,809.30	78,513.49	82,402.89	86,486.77
	Sch=M22		5,940.12	6,234.11	6,542.79	6,866.91	7,207.23
			1,370.80	1,438.64	1,509.87	1,584.67	1,663.21
			34.26995	35.96601	37.74687	39.61677	41.58018
223	05	ADMINISTRATIVE	75,222.35	78,947.20	82,858.29	86,964.93	91,276.91
	Sch=M22	ACCOUNT TECH	6,268.53	6,578.93	6,904.86	7,247.08	7,606.41
			1,446.58	1,518.22	1,593.43	1,672.40	1,755.33
			36.16459	37.95538	39.83572	41.81006	43.88313
213	14	ADMINISTRATIVE	74,741.38	78,442.18	82,328.02	86,408.15	90,692.29
	Sch=M22	ASSISTANT	6,228.45	6,536.85	6,860.67	7,200.68	7,557.69
			1,437.33	1,508.50	1,583.23	1,661.70	1,744.08
			35.93336	37.71259	39.58078	41.54238	43.60206
206	06	ADMINISTRATIVE	74,741.38	78,442.18	82,328.02	86,408.15	90,692.29
	Sch=M22	TECHNICIAN	6,228.45	6,536.85	6,860.67	7,200.68	7,557.69
			1,437.33	1,508.50	1,583.23	1,661.70	1,744.08
			35.93336	37.71259	39.58078	41.54238	43.60206
471	01	AIRPORT SERVICE	65,218.11	68,442.75	71,828.62	75,383.78	79,116.70
	Sch=PS1	ATTENDANT	5,434.84	5,703.56	5,985.72	6,281.98	6,593.06
			1,254.19	1,316.21	1,381.32	1,449.69	1,521.48
			31.35486	32.90517	34.53299	36.24220	38.03688
473	02	AIRPORT SERVICE	70,060.11	73,526.85	77,166.92	80,989.00	85,002.18
	Sch=PS1	ATTENDANT SENIOR	5,838.34	6,127.24	6,430.58	6,749.08	7,083.52
			1,347.31	1,413.98	1,483.98	1,557.48	1,634.66
			33.68275	35.34945	37.09948	38.93702	40.86643
290	07	ANIMAL CONTROL	74,142.55	77,813.41	81,667.81	85,714.92	89,964.39
	Sch=M22	OFFICER	6,178.55	6,484.45	6,805.65	7,142.91	7,497.03
			1,425.82	1,496.41	1,570.53	1,648.36	1,730.08
			35.64546	37.41029	39.26337	41.20910	43.25211
465	66	ASSET MANAGEMENT	100,357.68	105,339.30	110,570.00	116,062.23	121,829.06
	Sch=M22	SPECIALIST	8,363.14	8,778.28	9,214.17	9,671.85	10,152.42
			1,929.96	2,025.76	2,126.35	2,231.97	2,342.87
			48.24888	50.64389	53.15865	55.79915	58.57166

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/11/2021

CLASS CODE	RANGE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
281	08	BUILDING INSPECTOR I	88,085.42	92,453.42	97,039.82	101,855.54	106,912.05
	Sch=M22		7,340.45	7,704.45	8,086.65	8,487.96	8,909.34
			1,693.95	1,777.95	1,866.15	1,958.76	2,056.00
			42.34876	44.44876	46.65376	48.96901	51.40002
282	09	BUILDING INSPECTOR II	94,758.27	99,459.91	104,396.64	109,580.20	115,022.94
	Sch=M22		7,896.52	8,288.33	8,699.72	9,131.68	9,585.25
			1,822.27	1,912.69	2,007.63	2,107.31	2,211.98
			45.55686	47.81726	50.19069	52.68279	55.29949
277	56	BUILDING INSPECTOR III	97,572.81	102,415.18	107,499.66	112,838.37	118,444.02
	Sch=M22		8,131.07	8,534.60	8,958.31	9,403.20	9,870.34
			1,876.40	1,969.52	2,067.30	2,169.97	2,277.77
			46.91000	49.23807	51.68253	54.24922	56.94424
288	10	BUILDING INSPECTOR,	102,415.18	107,499.66	112,838.37	118,444.02	124,329.95
	Sch=M22	SENIOR	8,534.60	8,958.31	9,403.20	9,870.34	10,360.83
			1,969.52	2,067.30	2,169.97	2,277.77	2,390.96
			49.23807	51.68253	54.24922	56.94424	59.77401
249	11	CIVIL ENGINEER,	105,318.22	110,547.86	116,038.98	121,804.66	127,858.63
	Sch=M22	ASSISTANT	8,776.52	9,212.32	9,669.92	10,150.39	10,654.89
			2,025.35	2,125.92	2,231.52	2,342.40	2,458.82
			50.63376	53.14801	55.78797	58.55993	61.47050
254	12	CIVIL ENGINEER,	114,167.48	119,839.59	125,795.30	132,048.80	138,614.98
	Sch=M22	ASSOCIATE	9,513.96	9,986.63	10,482.94	11,004.07	11,551.25
			2,195.53	2,304.61	2,419.14	2,539.40	2,665.67
			54.88821	57.61519	60.47851	63.48500	66.64182
247	13	CIVIL ENGINEER, JUNIOR	92,469.59	97,056.79	101,873.36	106,930.76	112,241.03
	Sch=M22		7,705.80	8,088.07	8,489.45	8,910.90	9,353.42
			1,778.26	1,866.48	1,959.10	2,056.36	2,158.48
			44.45653	46.66192	48.97758	51.40902	53.96203
292	17	COMMUNITY	65,298.88	68,527.55	71,917.67	75,477.28	79,214.88
	Sch=M22	SERVICE SPECIALIST	5,441.57	5,710.63	5,993.14	6,289.77	6,601.24
			1,255.75	1,317.84	1,383.03	1,451.49	1,523.36
			31.39369	32.94594	34.57580	36.28715	38.08408
294	19	CRIME ANALYST	85,396.72	89,630.29	94,075.53	98,743.04	103,643.92
	Sch=M22		7,116.39	7,469.19	7,839.63	8,228.59	8,636.99
			1,642.24	1,723.66	1,809.14	1,898.90	1,993.15
			41.05612	43.09149	45.22862	47.47262	49.82881
296	62	CRIME PREVENTION	70,572.45	74,064.81	77,731.78	81,582.10	85,624.93
	Sch=M22	SPECIALIST	5,881.04	6,172.07	6,477.65	6,798.51	7,135.41
			1,357.16	1,424.32	1,494.84	1,568.89	1,646.63
			33.92906	35.60808	37.37105	39.22216	41.16583
208	21	DIVISION CLERK	63,023.02	66,137.91	69,408.54	72,842.69	76,448.57
	Sch=M22		5,251.92	5,511.49	5,784.05	6,070.22	6,370.71
			1,211.98	1,271.88	1,334.78	1,400.82	1,470.16
			30.29953	31.79707	33.36949	35.02052	36.75412

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234	64	ECONOMIC DEVELOPMENT	82,142.93	86,213.81	90,488.24	94,976.38	99,688.92
	Sch=M22	SPECIALIST	6,845.24	7,184.48	7,540.69	7,914.70	8,307.41
			1,579.67	1,657.96	1,740.16	1,826.47	1,917.09
			39.49179	41.44895	43.50396	45.66172	47.92737
467	38	ELECTRICIAN	81,809.70	85,863.91	90,120.84	94,590.61	99,283.88
	Sch=PS1		6,817.48	7,155.33	7,510.07	7,882.55	8,273.66
			1,573.26	1,651.23	1,733.09	1,819.05	1,909.31
			39.33159	41.28073	43.32733	45.47625	47.73263
255	23	ENGINEER, ASSISTANT	100,357.67	105,339.29	110,569.99	116,062.22	121,829.05
	Sch=M22		8,363.14	8,778.27	9,214.17	9,671.85	10,152.42
			1,929.96	2,025.76	2,126.35	2,231.97	2,342.87
			48.24888	50.64389	53.15865	55.79914	58.57166
256	24	ENGINEER, JUNIOR	88,100.82	92,469.60	97,056.80	101,873.37	106,930.77
	Sch=M22		7,341.74	7,705.80	8,088.07	8,489.45	8,910.90
			1,694.25	1,778.26	1,866.48	1,959.10	2,056.36
			42.35616	44.45654	46.66192	48.97758	51.40902
273	63	ENGINEERING SPECIALIST	100,357.67	105,339.29	110,569.99	116,062.22	121,829.05
	Sch=M22		8,363.14	8,778.27	9,214.17	9,671.85	10,152.42
			1,929.96	2,025.76	2,126.35	2,231.97	2,342.87
			48.24888	50.64389	53.15865	55.79914	58.57166
284	25	ENGINEERING	86,151.86	90,423.18	94,908.07	99,617.21	104,561.80
	Sch=M22	TECHNICIAN, ASSIST	7,179.32	7,535.27	7,909.01	8,301.43	8,713.48
			1,656.77	1,738.91	1,825.16	1,915.72	2,010.80
			41.41916	43.47268	45.62888	47.89289	50.27010
275	26	ENGINEERING	92,469.59	97,056.79	101,873.36	106,930.76	112,241.03
	Sch=M22	TECHNICIAN, ASSOC	7,705.80	8,088.07	8,489.45	8,910.90	9,353.42
			1,778.26	1,866.48	1,959.10	2,056.36	2,158.48
			44.45653	46.66192	48.97758	51.40902	53.96203
279	28	ENGINEERING	96,108.21	100,877.35	105,884.95	111,142.93	116,663.81
	Sch=M22	TECHNICIAN, SENIOR	8,009.02	8,406.45	8,823.75	9,261.91	9,721.98
			1,848.23	1,939.95	2,036.25	2,137.36	2,243.53
			46.20587	48.49873	50.90623	53.43410	56.08837
410	40	FACILITIES MAINTENANCE	55,328.92	58,059.09	60,925.78	63,935.80	67,096.32
	Sch=PS1	TRAINEE	4,610.74	4,838.26	5,077.15	5,327.98	5,591.36
			1,064.02	1,116.52	1,171.65	1,229.53	1,290.31
			26.60044	27.91302	29.29124	30.73837	32.25785
411	41	FACILITIES MAINTENANCE	62,099.06	65,167.74	68,389.85	71,773.07	75,325.46
	Sch=PS1	WORKER I	5,174.92	5,430.65	5,699.15	5,981.09	6,277.12
			1,194.21	1,253.23	1,315.19	1,380.25	1,448.57
			29.85532	31.33064	32.87974	34.50628	36.21416
412	42	FACILITIES MAINTENANCE	66,679.23	69,976.92	73,439.50	77,075.21	80,892.70
	Sch=PS1	WORKER II	5,556.60	5,831.41	6,119.96	6,422.93	6,741.06
			1,282.29	1,345.71	1,412.30	1,482.22	1,555.63
			32.05732	33.64275	35.30745	37.05539	38.89072

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413	43	FACILITIES MAINTENANCE	70,060.11	73,526.85	77,166.92	80,989.00	85,002.18
	Sch=PS1	WORKER, SENIOR	5,838.34	6,127.24	6,430.58	6,749.08	7,083.52
			1,347.31	1,413.98	1,483.98	1,557.48	1,634.66
			33.68275	35.34945	37.09948	38.93702	40.86643
414	20	FACILITIES MAINTENANCE	78,989.99	82,903.22	87,012.11	91,326.44	95,856.50
	Sch=PS1	WORKER, SUPERVISING	6,582.50	6,908.60	7,251.01	7,610.54	7,988.04
			1,519.04	1,594.29	1,673.31	1,756.28	1,843.39
			37.97596	39.85732	41.83275	43.90694	46.08486
950	18	FAMILY THERAPIST	86,677.76	90,975.38	95,487.88	100,226.00	105,201.03
	Sch=M22		7,223.15	7,581.28	7,957.32	8,352.17	8,766.75
			1,666.88	1,749.53	1,836.31	1,927.42	2,023.10
			41.67200	43.73816	45.90763	48.18558	50.57742
444	51	FLEET SERVICES WORKER	55,328.96	58,059.14	60,925.83	63,935.85	67,096.37
	Sch=PS1		4,610.75	4,838.26	5,077.15	5,327.99	5,591.36
			1,064.02	1,116.52	1,171.65	1,229.54	1,290.31
			26.60046	27.91305	29.29126	30.73839	32.25787
274	59	GIS SPECIALIST	100,357.67	105,339.28	110,569.98	116,062.21	121,829.04
	Sch=M22		8,363.14	8,778.27	9,214.17	9,671.85	10,152.42
			1,929.96	2,025.76	2,126.35	2,231.97	2,342.87
			48.24888	50.64388	53.15864	55.79914	58.57165
420	11	GROUNDSKEEPER	55,328.92	58,059.09	60,925.77	63,935.79	67,096.31
	Sch=PS1	TRAINEE	4,610.74	4,838.26	5,077.15	5,327.98	5,591.36
			1,064.02	1,116.52	1,171.65	1,229.53	1,290.31
			26.60044	27.91302	29.29124	30.73836	32.25784
421	12	GROUNDSKEEPER I	62,099.06	65,167.74	68,389.85	71,773.07	75,325.46
	Sch=PS1		5,174.92	5,430.65	5,699.15	5,981.09	6,277.12
			1,194.21	1,253.23	1,315.19	1,380.25	1,448.57
			29.85532	31.33064	32.87974	34.50628	36.21416
422	13	GROUNDSKEEPER II	66,679.23	69,976.93	73,439.50	77,075.21	80,892.70
	Sch=PS1		5,556.60	5,831.41	6,119.96	6,422.93	6,741.06
			1,282.29	1,345.71	1,412.30	1,482.22	1,555.63
			32.05732	33.64275	35.30745	37.05539	38.89072
423	14	GROUNDSKEEPER III	70,060.11	73,526.85	77,166.92	80,989.00	85,002.18
	Sch=PS1		5,838.34	6,127.24	6,430.58	6,749.08	7,083.52
			1,347.31	1,413.98	1,483.98	1,557.48	1,634.66
			33.68275	35.34945	37.09948	38.93702	40.86643
424	04	GROUNDSKEEPER,	78,989.99	82,903.22	87,012.11	91,326.44	95,856.50
	Sch=PS1	SUPERVISING	6,582.50	6,908.60	7,251.01	7,610.54	7,988.04
			1,519.04	1,594.29	1,673.31	1,756.28	1,843.39
			37.97596	39.85732	41.83275	43.90694	46.08486
228	16	INFORMATION	72,521.65	76,111.46	79,880.77	83,838.54	87,994.19
	Sch=M22	TECHNOLOGY TECHNICIAN	6,043.47	6,342.62	6,656.73	6,986.55	7,332.85
			1,394.65	1,463.68	1,536.17	1,612.28	1,692.20
			34.86618	36.59205	38.40422	40.30699	42.30490

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271	57	INFORMATION TECHNOLOGY	79,701.28	83,650.07	87,796.30	92,149.85	96,721.07
	Sch=M22	TECHNICIAN, SENIOR	6,641.77	6,970.84	7,316.36	7,679.15	8,060.09
			1,532.72	1,608.66	1,688.39	1,772.11	1,860.02
			38.31792	40.21638	42.20976	44.30281	46.50051
426	52	LANDSCAPE MAINTENANCE	74,996.75	78,710.32	82,609.56	86,703.77	91,002.68
	Sch=PS1	SPECIALIST	6,249.73	6,559.19	6,884.13	7,225.31	7,583.56
			1,442.25	1,513.66	1,588.65	1,667.38	1,750.05
			36.05613	37.84150	39.71613	41.68450	43.75129
263	29	LIBRARIAN I	67,433.64	70,769.06	74,271.24	77,948.53	81,809.68
	Sch=M22		5,619.47	5,897.42	6,189.27	6,495.71	6,817.47
			1,296.80	1,360.94	1,428.29	1,499.01	1,573.26
			32.42002	34.02359	35.70733	37.47525	39.33158
260	30	LIBRARIAN II	74,888.88	78,597.05	82,490.63	86,578.89	90,871.56
	Sch=M22		6,240.74	6,549.75	6,874.22	7,214.91	7,572.63
			1,440.17	1,511.48	1,586.36	1,664.98	1,747.53
			36.00427	37.78704	39.65896	41.62447	43.68825
242	32	LIBRARY ASSISTANT	63,417.44	66,552.04	69,843.37	73,299.28	76,927.97
	Sch=M22		5,284.79	5,546.00	5,820.28	6,108.27	6,410.66
			1,219.57	1,279.85	1,343.14	1,409.60	1,479.38
			30.48915	31.99617	33.57854	35.24004	36.98460
243	33	LIBRARY ASSISTANT,	71,281.49	74,809.30	78,513.49	82,402.89	86,486.77
	Sch=M22	SUPERVISING	5,940.12	6,234.11	6,542.79	6,866.91	7,207.23
			1,370.80	1,438.64	1,509.87	1,584.67	1,663.21
			34.26995	35.96601	37.74687	39.61677	41.58018
241	34	LIBRARY CLERK	55,638.34	58,383.99	61,266.92	64,293.99	67,472.42
	Sch=M22		4,636.53	4,865.33	5,105.58	5,357.83	5,622.70
			1,069.97	1,122.77	1,178.21	1,236.42	1,297.55
			26.74920	28.06923	29.45525	30.91057	32.43866
400	16	MAINTENANCE	55,328.92	58,059.09	60,925.77	63,935.79	67,096.31
	Sch=PS1	TRAINEE	4,610.74	4,838.26	5,077.15	5,327.98	5,591.36
			1,064.02	1,116.52	1,171.65	1,229.53	1,290.31
			26.60044	27.91302	29.29124	30.73836	32.25784
401	17	MAINTENANCE	62,099.06	65,167.74	68,389.85	71,773.07	75,325.46
	Sch=PS1	WORKER I	5,174.92	5,430.65	5,699.15	5,981.09	6,277.12
			1,194.21	1,253.23	1,315.19	1,380.25	1,448.57
			29.85532	31.33064	32.87974	34.50628	36.21416
402	18	MAINTENANCE	66,679.23	69,976.92	73,439.50	77,075.21	80,892.70
	Sch=PS1	WORKER II	5,556.60	5,831.41	6,119.96	6,422.93	6,741.06
			1,282.29	1,345.71	1,412.30	1,482.22	1,555.63
			32.05732	33.64275	35.30745	37.05539	38.89072
403	19	MAINTENANCE	70,060.11	73,526.85	77,166.92	80,989.00	85,002.18
	Sch=PS1	WORKER III	5,838.34	6,127.24	6,430.58	6,749.08	7,083.52
			1,347.31	1,413.98	1,483.98	1,557.48	1,634.66
			33.68275	35.34945	37.09948	38.93702	40.86643

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442	22	MECHANIC	77,413.31	81,247.71	85,273.82	89,501.24	93,940.04
	Sch=PS1		6,451.11	6,770.64	7,106.15	7,458.44	7,828.34
			1,488.72	1,562.46	1,639.88	1,721.18	1,806.54
			37.21794	39.06140	40.99703	43.02944	45.16348
440	23	MECHANIC SENIOR	84,168.63	88,340.79	92,721.56	97,321.37	102,151.17
	Sch=PS1		7,014.05	7,361.73	7,726.80	8,110.11	8,512.60
			1,618.63	1,698.86	1,783.11	1,871.56	1,964.45
			40.46569	42.47153	44.57767	46.78912	49.11114
251	15	NEIGHBORHOOD	92,469.59	97,056.79	101,873.36	106,930.76	112,241.03
	Sch=M22	PRESERVATION OFFICER	7,705.80	8,088.07	8,489.45	8,910.90	9,353.42
			1,778.26	1,866.48	1,959.10	2,056.36	2,158.48
			44.45653	46.66192	48.97758	51.40902	53.96203
407	03	PARTS AND INVENTORY	65,049.31	68,265.51	71,642.51	75,188.37	78,911.52
	Sch=PS1	CONTROL WORKER	5,420.78	5,688.79	5,970.21	6,265.70	6,575.96
			1,250.95	1,312.80	1,377.74	1,445.93	1,517.53
			31.27371	32.81996	34.44351	36.14825	37.93823
287	37	PERMIT TECHNICIAN	66,268.87	69,546.04	72,987.08	76,600.16	80,393.90
	Sch=M22		5,522.41	5,795.50	6,082.26	6,383.35	6,699.49
			1,274.40	1,337.42	1,403.60	1,473.08	1,546.04
			31.86003	33.43560	35.08994	36.82700	38.65091
291	60	PERMIT TECHNICIAN II	70,856.89	74,363.46	78,045.37	81,911.36	85,970.66
	Sch=M22		5,904.74	6,196.96	6,503.78	6,825.95	7,164.22
			1,362.63	1,430.07	1,500.87	1,575.22	1,653.28
			34.06581	35.75166	37.52181	39.38046	41.33205
252	38	PLAN CHECK ENGINEER	114,070.49	119,737.75	125,688.36	131,936.52	138,497.08
	Sch=M22		9,505.87	9,978.15	10,474.03	10,994.71	11,541.42
			2,193.66	2,302.65	2,417.08	2,537.24	2,663.41
			54.84158	57.56623	60.42710	63.43102	66.58513
258	41	PLANNER, ASSISTANT	92,185.78	96,758.80	101,560.47	106,602.23	111,896.07
	Sch=M22		7,682.15	8,063.23	8,463.37	8,883.52	9,324.67
			1,772.80	1,860.75	1,953.09	2,050.04	2,151.85
			44.32009	46.51865	48.82715	51.25107	53.79619
257	42	PLANNER, ASSOCIATE	106,602.23	111,896.07	117,454.60	123,291.06	129,419.34
	Sch=M22		8,883.52	9,324.67	9,787.88	10,274.26	10,784.95
			2,050.04	2,151.85	2,258.74	2,370.98	2,488.83
			51.25107	53.79619	56.46856	59.27455	62.22084
261	22	PLANNER, SENIOR	111,896.09	117,454.62	123,291.08	129,419.36	135,854.06
	Sch=M22		9,324.67	9,787.89	10,274.26	10,784.95	11,321.17
			2,151.85	2,258.74	2,370.98	2,488.83	2,612.58
			53.79620	56.46857	59.27456	62.22085	65.31445
231	43	POLICE CLERK	61,288.28	64,316.42	67,495.98	70,834.51	74,339.96
	Sch=M22		5,107.36	5,359.70	5,624.67	5,902.88	6,195.00
			1,178.62	1,236.85	1,298.00	1,362.20	1,429.61
			29.46552	30.92136	32.44999	34.05505	35.74037

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229	20	POLICE CLERK,	64,316.49	67,496.05	70,834.58	74,340.03	78,020.77
	Sch=M22	SENIOR	5,359.71	5,624.67	5,902.88	6,195.00	6,501.73
			1,236.86	1,298.00	1,362.20	1,429.62	1,500.40
			30.92139	32.45002	34.05509	35.74040	37.50999
230	52	POLICE CLERK,	76,197.57	79,971.18	83,933.47	88,093.88	92,462.30
	Sch=M22	SUPERVISING	6,349.80	6,664.27	6,994.46	7,341.16	7,705.19
			1,465.34	1,537.91	1,614.11	1,694.11	1,778.12
			36.63345	38.44768	40.35263	42.35283	44.45303
237	55	POLICE IDENTIFICATION	77,663.04	81,509.92	85,549.15	89,790.34	94,243.59
	Sch=M22	TECHNICIAN	6,471.92	6,792.49	7,129.10	7,482.53	7,853.63
			1,493.52	1,567.50	1,645.18	1,726.74	1,812.38
			37.33800	39.18746	41.12940	43.16843	45.30942
215	36	PROPERTY AND EVIDENCE	65,298.88	68,527.55	71,917.67	75,477.28	79,214.88
	Sch=M22	SPECIALIST	5,441.57	5,710.63	5,993.14	6,289.77	6,601.24
			1,255.75	1,317.84	1,383.03	1,451.49	1,523.36
			31.39369	32.94594	34.57580	36.28715	38.08408
236	54	PROPERTY AND EVIDENCE	73,999.36	77,663.06	81,509.94	85,549.17	89,790.36
	Sch=M22	SPECIALIST, SUPERVISING	6,166.61	6,471.92	6,792.50	7,129.10	7,482.53
			1,423.06	1,493.52	1,567.50	1,645.18	1,726.74
			35.57662	37.33801	39.18747	41.12941	43.16844
235	44	PUBLIC SAFETY	76,197.57	79,971.18	83,933.47	88,093.88	92,462.30
	Sch=M22	DISPATCHER	6,349.80	6,664.27	6,994.46	7,341.16	7,705.19
			1,465.34	1,537.91	1,614.11	1,694.11	1,778.12
			36.63345	38.44768	40.35263	42.35283	44.45303
245	31	PUBLIC SAFETY	79,971.14	83,933.43	88,093.84	92,462.26	97,049.11
	Sch=M22	DISPATCHER, SENIOR	6,664.26	6,994.45	7,341.15	7,705.19	8,087.43
			1,537.91	1,614.10	1,694.11	1,778.12	1,866.33
			38.44766	40.35261	42.35281	44.45301	46.65823
238	45	PUBLIC SAFETY	88,144.14	92,515.08	97,104.56	101,923.52	106,983.42
	Sch=M22	DISPATCHER, SUPERVISING	7,345.35	7,709.59	8,092.05	8,493.63	8,915.29
			1,695.08	1,779.14	1,867.40	1,960.07	2,057.37
			42.37699	44.47840	46.68488	49.00169	51.43434
220	46	PURCHASING SPECIALIST	72,095.96	75,664.49	79,411.44	83,345.75	87,476.77
	Sch=M22		6,008.00	6,305.37	6,617.62	6,945.48	7,289.73
			1,386.46	1,455.09	1,527.14	1,602.80	1,682.25
			34.66152	36.37716	38.17858	40.07007	42.05614
233	65	RECYCLING SPECIALIST	82,142.92	86,213.79	90,488.22	94,976.36	99,688.90
	Sch=M22		6,845.24	7,184.48	7,540.69	7,914.70	8,307.41
			1,579.67	1,657.96	1,740.16	1,826.47	1,917.09
			39.49179	41.44894	43.50395	45.66171	47.92736
214	49	SENIOR CLERK	59,737.92	62,688.54	65,786.70	69,039.77	72,455.48
	Sch=M22		4,978.16	5,224.05	5,482.23	5,753.31	6,037.96
			1,148.81	1,205.55	1,265.13	1,327.69	1,393.37
			28.72015	30.13872	31.62822	33.19220	34.83437

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/11/2021

CLASS CODE	RANGE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
405	39	TRAFFIC SIGNAL	67,468.14	70,805.28	74,309.27	77,988.46	81,851.62
	Sch=PS1	TECHNICIAN TRAINEE	5,622.35	5,900.44	6,192.44	6,499.04	6,820.97
			1,297.46	1,361.64	1,429.02	1,499.78	1,574.07
			32.43661	34.04100	35.72561	37.49445	39.35174
406	24	TRAFFIC SIGNAL	72,140.14	75,710.87	79,460.15	83,396.89	87,530.47
	Sch=PS1	TECHNICIAN	6,011.68	6,309.24	6,621.68	6,949.74	7,294.21
			1,387.31	1,455.98	1,528.08	1,603.79	1,683.28
			34.68276	36.39946	38.20200	40.09466	42.08196
408	53	TRAFFIC SIGNAL	75,710.99	79,460.26	83,397.00	87,530.58	91,870.85
	Sch=PS1	TECHNICIAN, SENIOR	6,309.25	6,621.69	6,949.75	7,294.22	7,655.90
			1,455.98	1,528.08	1,603.79	1,683.28	1,766.75
			36.39951	38.20205	40.09471	42.08201	44.16868
248	53	TRANSPORTATION	114,167.48	119,839.59	125,795.30	132,048.80	138,614.98
	Sch=M22	ENGINEER, ASSOCIATE	9,513.96	9,986.63	10,482.94	11,004.07	11,551.25
			2,195.53	2,304.61	2,419.14	2,539.40	2,665.67
			54.88821	57.61519	60.47851	63.48500	66.64182
211	50	TYPIST CLERK	55,638.34	58,383.99	61,266.92	64,293.99	67,472.42
	Sch=M22		4,636.53	4,865.33	5,105.58	5,357.83	5,622.70
			1,069.97	1,122.77	1,178.21	1,236.42	1,297.55
			26.74920	28.06923	29.45525	30.91057	32.43866
396	44	WASTEWATER COLLECTIONS	55,328.92	58,059.09	60,925.77	63,935.79	67,096.31
	Sch=PS1	SYSTEMS TRAINEE	4,610.74	4,838.26	5,077.15	5,327.98	5,591.36
			1,064.02	1,116.52	1,171.65	1,229.53	1,290.31
			26.60044	27.91302	29.29124	30.73836	32.25784
397	45	WASTEWATER COLLECTIONS	62,099.06	65,167.74	68,389.85	71,773.07	75,325.46
	Sch=PS1	SYSTEMS WORKER I	5,174.92	5,430.65	5,699.15	5,981.09	6,277.12
			1,194.21	1,253.23	1,315.19	1,380.25	1,448.57
			29.85532	31.33064	32.87974	34.50628	36.21416
398	46	WASTEWATER COLLECTIONS	66,679.23	69,976.92	73,439.50	77,075.21	80,892.70
	Sch=PS1	SYSTEMS WORKER II	5,556.60	5,831.41	6,119.96	6,422.93	6,741.06
			1,282.29	1,345.71	1,412.30	1,482.22	1,555.63
			32.05732	33.64275	35.30745	37.05539	38.89072
399	47	WASTEWATER COLLECTIONS	70,060.11	73,526.85	77,166.92	80,989.00	85,002.18
	Sch=PS1	SYSTEMS WORKER III	5,838.34	6,127.24	6,430.58	6,749.08	7,083.52
			1,347.31	1,413.98	1,483.98	1,557.48	1,634.66
			33.68275	35.34945	37.09948	38.93702	40.86643
445	15	WATER DISTRIBUTION	59,151.14	62,072.43	65,139.79	68,360.51	71,742.27
	Sch=PS1	OPERATOR TRAINEE	4,929.26	5,172.70	5,428.32	5,696.71	5,978.52
			1,137.52	1,193.70	1,252.69	1,314.63	1,379.66
			28.43805	29.84251	31.31721	32.86563	34.49148
446	32	WATER DISTRIBUTION	66,395.96	69,679.48	73,127.18	76,747.28	80,548.37
	Sch=PS1	OPERATOR I	5,533.00	5,806.62	6,093.93	6,395.61	6,712.36
			1,276.85	1,339.99	1,406.29	1,475.91	1,549.01
			31.92113	33.49975	35.15730	36.89773	38.72518

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/11/2021

CLASS CODE	RANGE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
447	33	WATER DISTRIBUTION	76,246.53	80,022.59	83,987.45	88,150.55	92,521.80
	Sch=PS1	OPERATOR II	6,353.88	6,668.55	6,998.95	7,345.88	7,710.15
			1,466.28	1,538.90	1,615.14	1,695.20	1,779.27
			36.65699	38.47240	40.37858	42.38007	44.48163
448	34	WATER DISTRIBUTION	82,288.20	86,366.34	90,648.40	95,144.55	99,865.50
	Sch=PS1	OPERATOR III	6,857.35	7,197.20	7,554.03	7,928.71	8,322.13
			1,582.47	1,660.89	1,743.24	1,829.70	1,920.49
			39.56163	41.52228	43.58096	45.74257	48.01226
470	05	WATER DISTRIBUTION	86,366.36	90,648.42	95,144.57	99,865.52	104,822.53
	Sch=PS1	SENIOR OPERATOR	7,197.20	7,554.04	7,928.71	8,322.13	8,735.21
			1,660.89	1,743.24	1,829.70	1,920.49	2,015.82
			41.52229	43.58097	45.74258	48.01227	50.39545
469	06	WATER DISTRIBUTION	94,930.46	99,640.72	104,586.48	109,779.54	115,232.25
	Sch=PS1	SUPERVISING OPERATOR	7,910.87	8,303.39	8,715.54	9,148.30	9,602.69
			1,825.59	1,916.17	2,011.28	2,111.15	2,216.00
			45.63964	47.90419	50.28196	52.77863	55.40012
456	37	WATER RESOURCES	87,483.43	91,821.32	96,376.12	101,158.66	106,180.32
	Sch=PS1	COORDINATOR	7,290.29	7,651.78	8,031.34	8,429.89	8,848.36
			1,682.37	1,765.79	1,853.39	1,945.36	2,041.93
			42.05934	44.14487	46.33467	48.63397	51.04823
463	25	WR INSTRUMENT	81,809.70	85,863.91	90,120.84	94,590.61	99,283.88
	Sch=PS1	CONTROL TECHNICIAN	6,817.48	7,155.33	7,510.07	7,882.55	8,273.66
			1,573.26	1,651.23	1,733.09	1,819.05	1,909.31
			39.33159	41.28073	43.32733	45.47625	47.73263
462	26	WR LABORATORY	72,333.59	75,914.01	79,673.44	83,620.84	87,765.62
	Sch=PS1	TECHNICIAN	6,027.80	6,326.17	6,639.45	6,968.40	7,313.80
			1,391.03	1,459.88	1,532.18	1,608.09	1,687.80
			34.77576	36.49712	38.30454	40.20233	42.19501
458	27	WR MECHANIC I	74,481.86	78,169.68	82,041.89	86,107.71	90,376.83
	Sch=PS1		6,206.82	6,514.14	6,836.82	7,175.64	7,531.40
			1,432.34	1,503.26	1,577.73	1,655.92	1,738.02
			35.80859	37.58158	39.44322	41.39794	43.45040
459	28	WR MECHANIC II	83,740.44	87,891.18	92,249.47	96,825.67	101,630.67
	Sch=PS1		6,978.37	7,324.27	7,687.46	8,068.81	8,469.22
			1,610.39	1,690.22	1,774.03	1,862.03	1,954.44
			40.25983	42.25538	44.35071	46.55080	48.86090
451	29	WR OPERATOR - GRADE I	75,733.92	79,484.34	83,422.29	87,557.13	91,898.71
	Sch=PS1		6,311.16	6,623.70	6,951.86	7,296.43	7,658.23
			1,456.42	1,528.55	1,604.27	1,683.79	1,767.28
			36.41054	38.21363	40.10687	42.09477	44.18207
453	48	WR OPERATOR - GRADE II	79,474.28	83,411.72	87,546.04	91,887.06	96,445.15
	Sch=PS1		6,622.86	6,950.98	7,295.50	7,657.26	8,037.10
			1,528.35	1,604.07	1,683.58	1,767.06	1,854.71
			38.20879	40.10179	42.08944	44.17647	46.36786

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/11/2021

CLASS CODE	RANGE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
452	30	WR OPERATOR - GRADE III	85,884.42	90,142.37	94,613.22	99,307.60	104,236.71
	Sch=PS1		7,157.04	7,511.86	7,884.44	8,275.63	8,686.39
			1,651.62	1,733.51	1,819.49	1,909.76	2,004.55
			41.29059	43.33768	45.48713	47.74404	50.11380
455	31	WR OPERATOR - TRAINEE	63,782.37	66,935.22	70,245.71	73,721.73	77,371.55
	Sch=PS1		5,315.20	5,577.94	5,853.81	6,143.48	6,447.63
			1,226.58	1,287.22	1,350.88	1,417.73	1,487.91
			30.66460	32.18039	33.77198	35.44314	37.19786
457	49	WR SENIOR OPERATOR	90,155.51	94,627.02	99,322.10	104,251.93	109,428.26
	Sch=PS1		7,512.96	7,885.59	8,276.84	8,687.66	9,119.02
			1,733.76	1,819.75	1,910.04	2,004.84	2,104.39
			43.34400	45.49376	47.75101	50.12112	52.60974
461	35	WR SOURCE CONTROL	83,352.07	87,483.41	91,821.30	96,376.10	101,158.64
	Sch=PS1	INSPECTOR	6,946.01	7,290.28	7,651.78	8,031.34	8,429.89
			1,602.92	1,682.37	1,765.79	1,853.39	1,945.36
			40.07311	42.05933	44.14486	46.33466	48.63396
460	36	WR SOURCE CONTROL	79,448.03	83,384.16	87,517.10	91,856.68	96,413.24
	Sch=PS1	TECHNICIAN	6,620.67	6,948.68	7,293.09	7,654.72	8,034.44
			1,527.85	1,603.54	1,683.02	1,766.47	1,854.10
			38.19617	40.08854	42.07553	44.16187	46.35252
464	50	WR SUPERVISING	99,091.95	104,010.27	109,174.51	114,596.97	120,290.54
	Sch=PS1	OPERATOR	8,257.66	8,667.52	9,097.88	9,549.75	10,024.21
			1,905.61	2,000.20	2,099.51	2,203.79	2,313.28
			47.64036	50.00494	52.48775	55.09470	57.83199
952	51	YOUTH SERVICES CASE	79,051.78	82,968.10	87,080.24	91,397.98	95,931.62
	Sch=M22	COORDINATOR	6,587.65	6,914.01	7,256.69	7,616.50	7,994.30
			1,520.23	1,595.54	1,674.62	1,757.65	1,844.84
			38.00566	39.88851	41.86550	43.94134	46.12097

CITY OF LIVERMORE
POLICE OFFICER'S ASSOCIATION
EFFECTIVE 05/09/2022

Schedule = P14

CLASS CODE	RANGE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
604	01	POLICE OFFICER	102,065.14	107,168.40	112,526.82	118,153.16	124,060.82
			8,505.43	8,930.70	9,377.24	9,846.10	10,338.40
			1962.79	2060.93	2163.98	2272.18	2385.79
			49.06978	51.52327	54.09943	56.80440	59.64463
603	02	POLICE SERGEANT	127,003.32	133,353.49	140,021.16	147,022.22	154,373.33
			10,583.61	11,112.79	11,668.43	12,251.85	12,864.44
			2442.37	2564.49	2692.71	2827.35	2968.72
			61.05929	64.11225	67.31787	70.68376	74.21795
606	03	POLICE TRAINEE (Non-Sworn)	35.75003	-	-	-	-

CITY OF LIVERMORE
MANAGEMENT SALARY SCHEDULE
$7,216 - $16,449/month
Effective July 5, 2021

Class Code	Classification	Monthly Salary Range		
		$13,158.43	-	$16,448.04
119	Assistant Administrative Services Director*			
100	Assistant City Attorney			
132	Assistant Community Development Director			
129	Assistant Public Works Director			
124	City Engineer			
		$12,240.66	-	$15,300.83
250	Assistant City Engineer			
289	Building Official			
218	Finance Manager			
125	Maintenance and Golf Operations Manager			
118	Planning Manager			
		$11,636.56	-	$14,545.70
123	Housing & Human Services Manager			
449	Water Resources Division Manager			
		$11,515.30	-	$14,394.13
246	Senior Transportation Engineer			
		$11,049.86	-	$13,812.33
283	Permit Center Manager			
		$11,027.64	-	$13,784.55
253	Senior Civil Engineer			
		$10,895.92	-	$13,619.89
269	Cyber Security Manager*			
268	Information Technology Manager*			
		$10,717.20	-	$13,396.50
127	Risk Manager			
		$10,578.56	-	$13,223.20
472	Airport Manager			
136	City Clerk			
134	Housing Programs Manager			
135	Human Services Programs Manager			
297	Police Support Services Manager			
259	Principal Planner			
951	Youth and Family Services Manager - Clinical			
		$9,987.64	-	$12,484.55
137	Assistant Finance Manager**			
130	Assistant Library Director*			
120	Economic Development Manager*			
278	Inspection & Neighborhood Preservation Manager			
450	Water Resources Operations Manager			
474	Water Resources Technical Programs Manager			
953	Youth and Family Services Manager - Programs			

CITY OF LIVERMORE
MANAGEMENT SALARY SCHEDULE
$7,216 - $16,449/month
Effective July 5, 2021

Class Code	Classification	Monthly Salary Range		
		$9,494.17	**-**	**$11,867.71**
232	**Information Technology Coordinator**			
148	**Management Analyst, Senior**			
133	**Public Works Manager**			
270	**Systems Administrator**			
468	**Water Distribution Operations Manager**			
		$9,393.40	**-**	**$11,741.75**
272	**Construction Inspection Manager**			
		$9,350.52	**-**	**$11,688.15**
128	**Deputy City Attorney**			
295	**Police Business Services Manager**			
293	**Police Facility & Equipment Manager**			
		$8,873.51	**-**	**$11,091.89**
217	**Accounting Supervisor**			
131	**Assistant City Clerk**			
150	**Management Analyst II**			
298	**Police Media & Community Relations Analyst***			
126	**Public Works Supervisor**			
		$7,216.24	**-**	**$9,020.30**
207	**Deputy City Clerk**			
152	**Management Analyst I**			
264	**Supervising Librarian**			
466	**Water Resources Communications Representative**			

*Added/Changed 8/2/2021
**Added 4/11/2022

CITY OF LIVERMORE
MANAGEMENT CONFIDENTIAL SALARY SCHEDULE
$7,216 - $17,734/month
Effective July 5, 2021

Class Code	Classification	Monthly Salary Range		
113	Assistant City Attorney, Senior (Confidential)	$14,186.62	-	$17,733.27
104	Assistant to the City Manager (Confidential)	$11,636.56	-	$14,545.70
122	Human Resources Manager (Confidential)	$12,240.66	-	$15,300.83
154	Human Resources Analyst, Senior (Confidential)	$9,494.17	-	$11,867.71
155	Human Resources Analyst II (Confidential)	$8,873.51	-	$11,091.89
156	Human Resources Analyst I (Confidential)	$7,216.24	-	$9,020.30
149	Management Analyst, Senior (Confidential)	$9,494.17	-	$11,867.71
151	Management Analyst II (Confidential)	$8,873.51	-	$11,091.89
153	Management Analyst I (Confidential)	$7,216.24	-	$9,020.30

EXHIBIT A

CITY OF LIVERMORE
POLICE MANAGEMENT SALARY SCHEDULE
$12,830 - $19,891/month
Effective July 5, 2021

Class Code	Classification	Salary Range		
605	Police Captain	$15,912.39	-	$19,890.48
602	Police Lieutenant	$12,831.06	-	$16,038.83

CITY OF LIVERMORE
CONFIDENTIAL SALARY SCHEDULE
$4,663 - $9,714/month
Effective July 5, 2021

Class Code	Classifications	Monthly Salary Range		
216	Administrative Receptionist	$4,779.70	-	$5,974.62
203	Administrative Specialist I	$5,532.36	-	$6,915.45
227	Administrative Specialist II	$6,222.13	-	$7,777.66
200	Executive Assistant	$7,965.27	-	$9,956.59
226	Human Resources Clerk I	$5,532.36	-	$6,915.45
212	Human Resources Clerk II	$6,086.22	-	$7,607.77
219	Human Resources Technician	$6,678.18	-	$8,347.72
201	Law Office Supervisor	$7,965.27	-	$9,956.59
204	Legal Assistant	$6,614.70	-	$8,268.38

EXHIBIT A

CITY OF LIVERMORE
EXECUTIVE MANAGEMENT SALARY SCHEDULE
$12,837.50 - $22,488.69/month
Effective December 6, 2021

Class Code	Classification	Monthly Salary Range		
109	Administrative Services Director	$15,343.01	-	$19,178.76
103	Assistant City Manager	$16,550.85	-	$20,688.56
105	Community Development Director	$15,343.01	-	$19,178.76
106	Deputy City Manager**	$12,837.50	-	$16,448.04
114	Innovation and Economic Development Director	$15,343.01	-	$19,178.76
121	Library Services Director*	$15,343.01	-	$19,178.76
107	Police Chief	$17,990.95	-	$22,488.69
111	Public Works Director	$15,343.01	-	$19,178.76

CITY OF LIVERMORE
APPOINTED MANAGEMENT

Class Code	Classification	Annual Salary	Effective
102	City Manager	$296,851	12/6/2021
112	City Attorney	$279,010	12/6/2021

EXHIBIT A

CITY OF LIVERMORE
UNCLASSIFIED AND HOURLY SALARY SCHEDULE

Class Code	Classification	Salary Range	Effective Date
210	Department Assistant	$15.00 - $25.25 Hourly	12/20/21
438	Field/Maintenance Aide	$15.00 - $25.25 Hourly	12/20/21
240	Law Clerk	$15.00 - $25.00 Hourly	07/05/99
915	Temporary Librarian	$19.00 - $23.50 Hourly	05/11/07
916	Temporary Library Assistant	$17.00 - $22.50 Hourly	05/11/07
917	Temporary Library Clerk	$15.75 - $19.00 Hourly	05/11/07
920	Library Aide	$15.00 Hour	12/20/21
961	Police Cadet	$15.00 - $19.00 Hourly	12/20/21
963	Reserve Police Officer	Hourly equivalent to Police Officer Step A	
956	Special Projects Coordinator	$20.00 - $100.00 Hourly	12/20/21

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.14**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Christine Martin, Assistant City Manager

SUBJECT: Resolution terminating the proclamation of local emergency (COVID-19) and the temporary suspension and revision of the City Council Meeting Rules of Procedure in Response to the COVID-19 pandemic

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution terminating the proclamation of local emergency, the temporary suspension and revision of the City Council Meeting Rules of Procedure, and all unexpired emergency orders, declared in response to the spread of COVID-19.

SUMMARY

On March 16, 2020, the City Council adopted a resolution ratifying the Proclamation of the Director of Emergency Services concerning the existence of a local emergency (Resolution No. 2020-033). From March 16, 2020 through March 28, 2022, consistent with California Government Code section 8630, the City Council adopted resolutions of continuing local emergency at least once every 60 days. The local emergency was required for both public safety and to engage assistance from county, state, and federal resources.

While it is evident that health risks from COVID-19 continue and some protective measures against that risk will need to remain in place, the actual and threatened condition of extreme peril to the safety of persons within the City of Livermore due to spread of COVID-19 no longer exists and there is no need to further extend the state of local emergency. The termination of the local emergency warrants the termination of the temporary suspension and revision of the City Council Meeting Rules of Procedure in response to the COVID-19 pandemic.

DISCUSSION

An outbreak of coronavirus disease (COVID-19) caused by the novel coronavirus (SARS-CoV-2) began in Wuhan, Hubei Province, China in December 2019, and has now spread throughout the world.

On March 1, 2020, the Health Officer of Alameda County declared a public health emergency throughout

the County of Alameda.

On March 4, 2020, the Governor of California proclaimed that a state of emergency exists in California after making determinations that:

1. The conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and,
2. Local authority is inadequate to cope with the threat posed by COVID-19.

On March 12, 2020, the Alameda County Department of Public Health confirmed evidence of community-acquired transmission.

On March 13, 2020, the President of the United States of America declared a national state of emergency in response to the spread of COVID-19 within the United States of America.

On March 13, 2020, the City Manager declared a Local Emergency. The declaration was based upon the Alameda County Department of Health confirming evidence of community-acquired transmission within Alameda County and the President of the United States declaring a National state of emergency.

On March 16, 2020, the City Council adopted a resolution ratifying the declaration of local emergency (Resolution No. 2020-033).

On June 8, July 27, September 14, November 9, December 14, 2020, February 8, March 22, May 10, June 28, July 26, September 13, October 25, November 22, December 13, 2021, January 10, February 14, February 28, and March 14, 2022, the City Council adopted resolutions of continued local emergency (Resolution Nos. 2020-78, 2020-133, 2020-166, 2020-207, 2020-235, 2021-018, 2021-037, 2021-063, 2021-112, 2021-140, 2021-155, 2021-179, 2021-195, 2021-217, 2022-006, 2022-016, 2022-022, and 2022-027 respectively).

In addition, the City Council also adopted resolutions to temporarily suspend and revise its Meeting Rules of Procedure in response to the COVID-19. The rules were first modified by Resolution No. 2020-061, which was later repealed and replaced by Resolution No. 2021-139.

For the past two years, the City has balanced pandemic response with ongoing local government operations. The City has executed numerous local emergency orders, shifted to virtual City Council and advisory body meetings, collaborated with Alameda County to bring vaccine and testing resources to Livermore, consistently reported to the City Council on the state of the pandemic in Livermore, and engaged staff in their capacity as Disaster Service Workers, among many other activities. Consistent with state and federal mandates, the City scaled emergency response to continuously evolving public health needs. The local emergency was required for public safety to support rapid decision-making in response to a rapidly evolving emergency situation, and to engage assistance from county, state, and federal resources.

All Emergency Orders that depend on the local emergency will also be terminated by this action. Emergency Order 20-5.1 (addressing outdoor dining) is the only Order currently in effect. New permanent regulations related to outdoor dining will be considered with a separate agenda item at this same meeting.

Health risks from COVID-19 continue, as evidenced by the emergence of new variants and continued reliance on health systems. However, at this point in the COVID-19 response, with vaccines, boosters, and testing widely available to the public and treatment options expanding, staff recommends the City Council end the state of declared local emergency, and the temporary changes to its Meeting Rules of Procedure in response to the COVID-19 pandemic.

FISCAL AND ADMINISTRATIVE IMPACTS

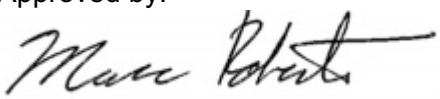
There are no fiscal or administrative impacts associated with the resolution.

ATTACHMENTS

1. Resolution

Prepared by: Christine Martin
Assistant City Manager

Approved by:



Marc Roberts
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION TERMINATING THE CITY OF LIVERMORE'S PROCLAMATION OF LOCAL EMERGENCY AND ALL UNEXPIRED EMERGENCY ORDERS, AND TERMINATING RESOLUTION 2021-139 (COVID-19)

In December 2019, an outbreak of coronavirus disease 2019 (COVID-19) caused by the 2019 novel coronavirus (SARS-CoV-2) began in Wuhan, Hubei Province China, and then spread throughout China and to numerous other countries and territories, including the United States.

In March of 2020, in response to the spread of COVID-19 the President of the United States of America declared a national state of emergency, the Alameda County Health Officer declared a countywide health emergency, and the Governor for the State of California proclaimed a statewide state of emergency.

On March 13, 2020, based upon the national, state, and county declarations of emergency in response to the spread of COVID-19, and following the notification of an outbreak and person-to-person transmission of COVID-19 in Alameda County, the Director of Emergency Services for the City of Livermore determined pursuant to Livermore Municipal Code sections 2.56.020 and 2.56.060 that COVID-19 presented an actual and threatened condition of extreme peril to the safety of persons within the City, and he proclaimed the existence of a local emergency.

On March 16, 2020, the City Council adopted Resolution No. 2020-033 *Ratifying the Proclamation of the Director of Emergency Services Concerning the Existence of a Local Emergency*.

On July 26, 2021, the City Council adopted Resolution No. 2021-139 to temporarily suspend and revised certain portions of the City Council Meeting Rules of Procedure in response to the COVID-19 pandemic.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby finds the actual and threatened condition of extreme peril to the safety of persons within the City of Livermore due to the spread of COVID-19 no longer exists and that it hereby terminates the proclamation of local emergency ratified by Resolution No. 2020-033, effective immediately.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that all unexpired emergency orders issued by the Director of Emergency Services, and ratified by the City Council, based upon the now terminated proclamation of local emergency are likewise terminated, effective immediately.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that Resolution No. 2021-139, and its temporary suspension and revision of the City Council

Meeting Rules of Procedure in response to the COVID-19 pandemic, is hereby terminated effective immediately.

On motion of Council Member _____ seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason R. Alcala
Jason R. Alcala
City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.1**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Scott Lanphier, Public Works Director

SUBJECT: Hearing to consider proposed Livermore Municipal Water rates and charges for calendar years 2023 through 2027

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Conduct a public hearing for proposed water rates;
2. Determine if a majority protest exists; and
3. If a majority protest does not exist, adopt a resolution amending water rates and charges for calendar years 2023 through 2027.

SUMMARY

The City operates the Livermore Municipal Water distribution system as an Enterprise Fund which is designed to be funded through user fees with no General Fund support. The City recently retained the services of IB Consulting, LLC to review the utility's financial position and recommend rates that are adequate to fund operation, maintenance, and replacement activities. Following completion of this cost of service study, staff provided the required public noticing as required by Proposition 218 to water customers which allows the submission of protests prior to the closing of the public hearing.

DISCUSSION

The City of Livermore's water utility, Livermore Municipal Water, provides potable (drinking) water service to properties in northern and eastern Livermore and recycled water service to commercial properties in northwest Livermore. The potable water system stores and distributes water that is purchased from Zone 7 Water Agency (Zone 7). The recycled water system stores and distributes recycled water that is produced at the Livermore Water Reclamation Plant. Combined, these systems include 180 miles of pipe, six storage tanks, and six pump stations. The City of Livermore operates these two distribution systems as a single municipal Enterprise Fund. As an Enterprise Fund, the activities of Livermore Municipal Water activities are funded through user fees.

City service and distribution charges are used to fund the operation and maintenance (O&M) of the

distribution systems and to generate funds to replace system assets over time. These charges are not used to fund expansions of the distribution systems to serve new developments. Developers pay separate development and connection fees to fund any infrastructure needed to connect new developments to the existing distribution system.

The wholesale cost of purchasing water from Zone 7 has been funded by a direct "pass-through" of costs to potable water customers since 2012. Zone 7 wholesale water costs include both fixed and variable components, which appear as separate line items on customer bills. Staff recommends that Council approve the continuation of the "pass-through" Zone 7 wholesale water costs for an additional 5-year period. Livermore Municipal Water provides its customers with a notice at least 30 days prior to Zone 7 rate adjustments taking effect.

Every five years City staff and financial consultants review Livermore Municipal Water's current financial position and recommend rate adjustments when necessary. City Council last approved potable and recycled water rates in August 2017, setting rates for fiscal years 2017-18 through 2021-22. The City recently retained the services of IB Consulting, LLC (Consultant) to review the utility's financial position and recommend rates that are adequate to fund operation, maintenance, and replacement activities. After completing an evaluation of the revenue requirements of the utility, the Consultant completed a cost-of-service study. This cost-of-service study functionalizes the various costs incurred by the utility and recommends a methodology by which to recover the required revenue.

Staff and the Consultant agree that Livermore Municipal Water is currently in a strong financial position with healthy operational and capital reserves. If the proposed rates are approved, the utility will use some reserve balance over the course of the next five years to minimize rate increases while continuing to meet the target reserve levels set in the City's fund balance policy. This policy requires minimum operational reserves equal to 120 days of operational costs and minimum capital reserves equal to two years of depreciation.

Proposition 218, passed by voters in 1996, gives property owners the right to protest increases in property-related fees. To meet this mandate, staff prepared a notice of public hearing which included all of the proposed rates and charges and distributed it to customers and property owners via US Mail on February 25, 2022. If a majority of the properties served (approximately 4,700) submit protest letters prior to the conclusion of the public hearing, the proposed rates may not be adopted by the Council.

The proposed rate structure is almost identical to the existing structure, aside from a proposed change to the multi-family property rate structure. Staff recommends that multi-family properties be converted from a two-tier structure to a uniform rate in which each unit of water is the same cost. This will improve the equity of the rates since multi-family complexes can vary widely in size and usage.

Staff also recommends that the City change the effective date of Livermore Municipal Water rate adjustments from July 1st to January 1st each year to align with potential Zone 7 pass-through rate changes. This will mean that Livermore Municipal Water customers will only see one rate change per year instead of the current two changes per year.

The proposed rate adjustments will result in approximately 2% increases per year following equity adjustments in the first year. Since customer bills are composed of City and Zone 7 charges, the overall impacts to customers from these City changes will be about 1% increase to their total bill (as noted in the rate study). During the first year of rate changes, the dollar impact will vary by water use, account type,

and meter size. Over 90% of the properties in Livermore Municipal Water's service area are single-family homes. These property types use an average of 13 units of water per month. A single-family home that uses 13 units of water would see a total increase of $2.04 per month on its water bill (moving from $93.22 to $95.26 per month). However, a single-family home that only used seven units of water per month would see an increase of about $0.78 per month on its water bill. Multi-family complexes will see minor reductions in their bills during the first year, assuming similar water use patterns. Non-residential customers with monthly use of 70 units of water would see an increase of about $9.82 per month (1.7% of their bill).

FISCAL AND ADMINISTRATIVE IMPACTS

The proposed rates will increase water revenue, leading to about $1 million more revenue per year in fiscal year 2026-27 compared to fiscal year 2021-22. This will allow Livermore Municipal Water to continue to fully fund all operational expenses, set aside funds for future capital improvements, and meet all required minimum reserve levels over the next five years.

When setting aside the pass through revenues and expenditures associated with the purchase of water from Zone 7, staff estimates that total reserve balances will reduce over the five year rate period by approximately $600,000 per year in a structured approach to slowly spend down reserves that are above the targeted amounts. This will help ensure rate stability in future terms.

The attached rate study includes an annual inflation in overall expenditures of approximately 2.9% (inflation in the model is calculated for each major category of expenses based on historical data). Overall reserve balances may also be further reduced by increased inflation in the costs of goods and services.

Staff does not anticipate any administrative impacts should the proposed rates be adopted.

ATTACHMENTS

1. Protest Letters Received
2. Resolution
3. Exhibit A - Water Rate Study

Prepared by: Anthony Smith
Management Analyst II

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

MARCH 7, 2022

MY NAME IS JOHN BUTTERWECK.

I AM THE PROPERTY OWNER OF

THE HOUSE LOCATED AT

[redacted] IN

LIVERMORE. WATER SERVICE

ACCOUNT NUMBER [redacted].

I PROTEST THE PROPOSED

WATER RATES.

PLEASE FEEL FREE TO CALL

ME AT [redacted]

City Clerk's Office
MAR 09 2022
City of Livermore

John Butterweck

ATTACHMENT 1

Livermore Muni Water
101 W. Jack London Blvd
Livermore CA 94551

3/21/2022

City Clerk's Office
MAR 25 2022
City of Livermore

This letter is a **PROTEST** to the proposed Livermore Municipal Water rates! Do not Increase.

Parcel number: [redacted]

LiverMuni Water Account number: ~~[redacted]~~ [redacted]

Property Address: [redacted] Livermore, CA

Dwight LeVan

Dwight LeVan

Homeowner
Account holder

Lisa LeVan

Lisa LeVan

Homeowner
Account holder.

3-30-22

This Letter is a protest To The proposed Livermore Municipal water rate increase. I John OBrien am The property owner and Account holder

John OBrien

[redacted]

Livermore, CA. 94551

City Clerk's Office
APR 01 2022
City of Livermore

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ADOPTING THE APRIL 2022 WATER RATE STUDY, APPROVING WATER RATE INCREASES AS IDENTIFIED IN THE STUDY, AND AMENDING WATER RATES AND CHARGES FOR CALENDAR YEARS 2023 THROUGH 2027

The City of Livermore operates the municipal water system as an Enterprise fund with all costs being borne by the users of this system.

Water rates and charges must be adjusted to continue to provide adequate financial resources to operate, maintain, and replace the municipal water system.

Council action is also required to continue to pass through all costs related to the wholesale purchase of water from the Zone 7 Water Agency and to pass through future increases on Zone 7 costs beginning on January 1, 2023, and continuing for five years.

IB Consulting, LLC, in conjunction with City staff has completed a comprehensive cost of service study which identifies the revenue necessary to fund expected expenditures of the municipal water system.

The April 2022 Water Rate Study, attached as Exhibit A, is complete and indicates the need to increase the rates for the City's water service charges and to establish surcharges that may be implemented when necessary to safeguard against significant financial losses resulting from reductions in water usage by City customers as a result of declared water shortage conditions to enable the water utility to meet its projected operations and maintenance costs, including debt service obligations and capital repair and replacement costs;

Notices for a public hearing were distributed in late February 2022, to all property owners and current customers being served by the Livermore Municipal Water system as required by the provisions of Proposition 218.

The notices were mailed on February 25, 2022, to approximately 13,000 affected customers and property owners representing approximately 9,500 parcels.

Notice of the time and place of the public hearing was published in The Valley Times on March 29, 2022, and April 5, 2022, and the Water Rate Study with the calculated rates was made available on the City's website on February 25, 2022, and placed on file with the City Clerk.

The City Council conducted a public hearing on this matter on April 11, 2022, not less than forty-five days after the notice was mailed, and at the public hearing, the City Council heard all oral testimony and considered all written materials and written protests

concerning the adoption and imposition of the proposed increases to rates for the water service charges.

At the close of the public hearing, the City did not receive written protests against the establishment and imposition of the proposed increases to the rates for water service charges from a majority of the affected property owners or tenants directly liable for the payment of the water service charges.

The City Council is authorized and has determined to approve the proposed water rate increase and act accordingly on the matter.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore, as follows:

1. The City Council has evaluated and adopts pursuant to Chapters 13.08, 13.16, 13.20, and 13.26 of the Livermore Municipal Code, the following deposits, meter testing fees, service reconnection fees, water rates, and charges for meters and water furnished by the City of Livermore:

DEPOSITS

The amount of deposit required for water service for an applicant who is not the owner of the premises shall be as follows:

5/8” or 3/4" Meter	$100.00
1” or 1 1/2" Meter	$100.00
2” or 3” Meter	$200.00
4” or Larger Meter	$400.00

The amount of deposit required for a temporary use hydrant meter shall be as follows:

1” Meter or Smaller	$300.00
3” Meter or Larger	$1,500.00

The cost of any damage to hydrant meters will be deducted from the deposit. Failure to return a meter will forfeit the total amount of the deposit.

METER TESTING FEES

The meter testing fee shall be $100.00 for meters up to and including 2 inches in size and $200.00 for meters large than 2 inches.

RECONNECTION FEES

The service reconnection fee shall be $60.00 for first-time restoration and $80.00 for any subsequent restoration in a 12-month period for all restorations during regular

business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The reconnection fee shall be $100.00 if the water meter is removed during regular business hours. The reconnection fee shall be $250.00 if reconnection occurs outside of normal business hours.

VOLUMETRIC RATES

These charges are per unit of water, which is equal to 100 cubic feet.

RECYCLED WATER

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Recycled Water	$2.74	$2.77	$2.80	$2.83	$2.86

Recycled water volumetric rates are not affected by water shortage stages.

POTABLE WATER IN NORMAL SUPPLY CONDITIONS

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$1.35	$1.39	$1.43	$1.47	$1.51
Single Family Residential Tier 2 (8+ units)	$1.95	$2.00	$2.05	$2.10	$2.15
Multi-Family Residential	$1.58	$1.62	$1.66	$1.70	$1.74
Non-Residential*	$1.55	$1.59	$1.63	$1.67	$1.71
Irrigation	$1.76	$1.80	$1.84	$1.88	$1.92

*Temporary use of fire hydrant meters shall pay the non-residential rates.

POTABLE WATER IN STAGE 1 SHORTAGE

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$1.54	$1.58	$1.63	$1.67	$1.72
Single Family Residential Tier 2 (8+ units)	$2.14	$2.19	$2.25	$2.30	$2.36
Multi-Family Residential	$1.77	$1.81	$1.86	$1.90	$1.95
Non-Residential	$1.74	$1.78	$1.83	$1.87	$1.92
Irrigation	$1.95	$1.99	$2.04	$2.08	$2.13

POTABLE WATER IN STAGE 2 SHORTAGE

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$1.76	$1.81	$1.87	$1.92	$1.97
Single Family Residential Tier 2 (8+ units)	$2.36	$2.42	$2.49	$2.55	$2.61
Multi-Family Residential	$1.99	$2.04	$2.10	$2.15	$2.20
Non-Residential	$1.96	$2.01	$2.07	$2.12	$2.17
Irrigation	$2.17	$2.22	$2.28	$2.33	$2.38

POTABLE WATER IN STAGE 3 SHORTAGE

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$2.05	$2.11	$2.17	$2.23	$2.29
Single Family Residential Tier 2 (8+ units)	$2.65	$2.72	$2.79	$2.86	$2.93
Multi-Family Residential	$2.28	$2.34	$2.40	$2.46	$2.52
Non-Residential	$2.25	$2.31	$2.37	$2.43	$2.49
Irrigation	$2.46	$2.52	$2.58	$2.64	$2.70

POTABLE WATER IN STAGE 4 SHORTAGE

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$2.44	$2.51	$2.58	$2.65	$2.72
Single Family Residential Tier 2 (8+ units)	$3.04	$3.12	$3.20	$3.28	$3.36
Multi-Family Residential	$2.67	$2.74	$2.81	$2.88	$2.95
Non-Residential	$2.64	$2.71	$2.78	$2.85	$2.92
Irrigation	$2.85	$2.92	$2.99	$3.06	$3.13

POTABLE WATER IN STAGE 5 SHORTAGE

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$2.99	$3.07	$3.16	$3.24	$3.33
Single Family Residential Tier 2 (8+ units)	$3.59	$3.68	$3.78	$3.87	$3.97
Multi-Family Residential	$3.22	$3.30	$3.39	$3.47	$3.56
Non-Residential	$3.19	$3.27	$3.36	$3.44	$3.53
Irrigation	$3.40	$3.48	$3.57	$3.65	$3.74

POTABLE WATER IN STAGE 6 SHORTAGE

	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
Single Family Residential Tier 1 (1-7 units)	$3.75	$3.86	$3.96	$4.07	$4.18
Single Family Residential Tier 2 (8+ units)	$4.35	$4.47	$4.58	$4.70	$4.82
Multi-Family Residential	$3.98	$4.09	$4.19	$4.30	$4.41
Non-Residential	$3.95	$4.06	$4.16	$4.27	$4.38
Irrigation	$4.16	$4.27	$4.37	$4.48	$4.59

METER SERVICE CHARGES

The following are per month, per meter charges:

Meter Size	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
5/8”	$22.92	$23.40	$23.88	$24.37	$24.86
3/4"	$30.22	$30.89	$31.57	$32.26	$32.95
1” w/ Fireline	$22.92	$23.40	$23.88	$24.37	$24.86
1”	$44.81	$45.87	$46.94	$48.02	$49.12
1.5” D*	$81.28	$83.32	$85.38	$87.46	$89.56
1.5” T**	$95.87	$98.30	$100.75	$103.23	$105.73
2” D*	$125.05	$128.26	$131.50	$134.77	$138.08
2” T**	$146.94	$150.73	$154.56	$158.43	$162.34
3”	$325.67	$334.24	$342.90	$351.64	$360.47
4”	$555.46	$570.17	$585.03	$600.04	$615.20
6”	$1,175.53	$1,206.82	$1,238.42	$1,270.34	$1,302.58
8”	$2,050.93	$2,105.62	$ 2,160.86	$2,216.65	$2,273.00
10”	$3,072.23	$3,154.22	$3,237.03	$3,320.67	$3,405.14
12”	$3,874.68	$3,978.12	$4,082.59	$4,188.11	$4,294.68

*Displacement type meter
**Turbine type meter

Private fire protection service charges

The following are per month, per meter charges:

Meter Size	Effective January 1, 2023	Effective January 1, 2024	Effective January 1, 2025	Effective January 1, 2026	Effective January 1, 2027
5/8”	$1.27	$1.29	$1.31	$1.33	$1.35
3/4"	$1.52	$1.54	$1.56	$1.58	$1.60
1”	$2.02	$2.05	$2.08	$2.11	$2.14
1.5”	$3.03	$3.07	$3.11	$3.15	$3.19
2”	$4.04	$4.09	$4.14	$4.19	$4.24
3”	$6.06	$6.13	$6.20	$6.27	$6.34
4”	$8.08	$8.17	$8.26	$8.35	$8.44
6”	$12.12	$12.25	$12.38	$12.51	$12.64
8”	$16.16	$16.33	$16.50	$16.67	$16.84
10”	$20.20	$20.41	$20.62	$20.83	$21.04
12”	$24.24	$24.49	$24.74	$24.99	$25.24

PASS-THROUGH CHARGES

The cost of purchasing water from the Zone 7 Water Agency will be passed through to Livermore Municipal Water customers for the period of January 1, 2023, through December 31, 2027. Adjustments to these pass-through charges will be made each year beginning on January 1. Variable rates will be passed through directly and fixed charges will be calculated on the number of active water meters using the same meter equivalent methodology used in the calculation of City meter service charges.

1. The Livermore City Council resolves to pass through without further Council action any increase in Zone 7 Water Agency rates for the five-year period beginning on January 1, 2023, through December 31, 2027.

2. The matters set forth above are true and correct statements and are made legislative findings and determinations of the City Council, and by this reference made an operative part of this Resolution.

3. The City Council has evaluated and adopts the water service charges at the maximum rates and on the effective dates set forth in Exhibit A to this Resolution and incorporated by this reference.

4. The City Council finds that the revenues derived from the water service charges established by this Resolution: (1) do not exceed the funds required to provide water services; (2) shall not be used for any other purpose than that for which the rates and charges are imposed; (3) do not exceed the proportional cost of the service attributable to each parcel upon which the charges are imposed; (4) provide services which are immediately available to the customer; and (5) are not levied for general governmental purposes.

5. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Council has determined that the increases in the water service charges are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines and Public Resources Code section 21080(b)(8) because: (i) the increased charges are for the purpose of meeting operational and maintenance expenses of the aforementioned services; and (ii) the charges constitute the creation of a funding mechanism/other governmental fiscal activity which does not involve any commitment to any specified project which may result in a potentially significant physical impact of the environment. The documents and materials that constitute the record of proceedings on which these findings have been based are located in the Office of the City Clerk located at 1052 South Livermore Avenue, Livermore, CA 94550. The custodian for these records is the City Clerk.

6. If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof.

The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

7. All resolutions, ordinances, or administrative actions by the City Council, or parts thereof, that are inconsistent or in conflict with any provision of this Resolution, are hereby superseded only to the extent of such inconsistency or conflict.

8. The City Manager is authorized and directed to take all appropriate actions to carry out the purpose and intent of this Resolution and the approvals set forth herein.

9. This Resolution shall take effect immediately upon its adoption.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara M. Mazzanti
Tara M. Mazzanti
Assistant City Attorney

Exhibit A – April 2022 Water Rate Study

EXHIBIT A

Public Hearing
April 11, 2022

Water Cost-of-Service Rate Study

LIVERMORE
CALIFORNIA

IB CONSULTING

IB Consulting, LLC
31938 Temecula Parkway, Suite A #350
Temecula, CA. 92592

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Executive Summary

The City of Livermore (City) periodically reviews its rates to determine if adjustments are required to continue meeting its operational costs, system improvements, and to adequately fund reserves based on adopted reserve policies. The last cost-of-service study in 2017 set rates for Fiscal Year (FY) 2018 through FY 2022. With the City at the end of its previously noticed rates, the City hired IB Consulting to conduct a comprehensive cost-of-service water rate study. This study was developed using industry recognized water rate setting principles and the base-extra capacity methodology outlined in the American Water Works Association (AWWA) M1 Manual (Base-Extra Capacity Methodology). In addition, this Report provides a basis for developing and implementing water rates which are cost-based, equitable and in compliance with the requirements of California Constitution Article XIII D, section 6 (Proposition 218).

The City's Municipal Code (Municipal Code) also includes a Water Conservation Contingency Plan (Chapter 13.26) with six different conservation stages reflecting reduced water usage. The City Council may enact conservation surcharges during water shortage events to recover the appropriate amount of revenue to fund water system operations from a reduced volume of water sold. Therefore, conservation surcharges are included as Appendix A for each conservation stage.

This Report provides a proposed financial plan for the City's water utility from FY 2023 through FY 2027 (Financial Plan Period) and corresponding rates for each fiscal year.

Water Utility

Updating the water utility's long-term financial plan and performing a comprehensive cost-of-service analysis is a prudent business practice to ensure the City can fully fund its revenue needs through FY 2027 and beyond. As part of reviewing and updating water rates, the first step is to conduct a thorough review of the financial health of the City's water utility. Based on a financial review of the water utility, the City is in a strong financial position with a healthy reserve balance that currently exceeds the recommended target. The capital replacement reserves have built up because of reduced annual capital spending than planned. However, the previously planned capital still remains outstanding, and as the City continues to address ongoing capital repair and replacement, capital replacement reserves will be utilized as a funding source. Therefore, the proposed financial plan includes an increase in capital spending and the use of capital replacement reserves as a primary funding source over the next ten years. Using reserves coupled with annual rate revenue to fund capital replacement will minimize rate increases and draw down reserves over the Financial Plan Period.

The City's water rate structure includes a monthly fixed charge based on meter size and variable rates that differ by customer class. The City purchases water from Zone 7 Water Agency (Zone 7) and incurs annual fixed charges and variable costs based on total water purchased. Residential customers have a two-tiered rate structure. The Tier 1 allotment is seven hundred cubic feet (CCF), reflecting the minimum monthly winter usage as a proxy for indoor use as outdoor watering is minimal. The Tier 1 allotment is consistent with meeting State AB 1668 and SB 6060 efficiency targets to achieve 55 gallons per capita per day (gpcd) by 2023. Non-Residential, Irrigation, and Recycled customers have uniform rates.

The proposed rate structure is similar to the existing rate structure with a slight adjustment to Multi-Family Residential customers. Multi-Family Residential will switch from a two-tiered rate structure to a uniform rate. The change to the rate structure eliminates the need for the City to compile and keep track of dwelling units associated with each multi-family complex. In addition, certain multi-family complexes have multiple meters, which requires the City to assign the number of occupied dwelling units served by each meter.

The proposed financial plan within this Report projects revenue adjustments over the Financial Plan Period, with no adjustment in FY 2023 and 1% revenue adjustments each year for FY 2024 through FY 2027. Beyond the Financial Plan Period, the City will continue to use capital replacement reserves to fund a portion of its capital plan.

By adopting the proposed financial plan and approving rates through FY 2027, the utility will continue to generate positive net income above operating expenses, fully fund its capital projects and maintain healthy reserve balances. The 1% revenue adjustments over the Financial Plan Period, along with modest revenue adjustments between FY 2028 through FY 2031, will slowly increase annual rate revenue to cover capital spending as excess capital replacement reserves are used. This measured approach over the long term will mitigate future rate spikes and smooth out rate adjustments over multiple years.

The proposed rates have been incorporated into a Proposition 218 Notice and mailed to each customer. A Public Hearing is scheduled for April 11, 2022, on the proposed rates identified in Table 1 through Table 5. Table 2 and Table 5 identify the current Zone 7 charges, and the City will continue to pass-through[1] any increases by Zone 7 for FY 2023 through FY 2027. If there's not a majority protest, proposed rates for FY 2023 will go into effect on January 1, 2023, with subsequent adjustments occurring each January 1st thereafter.

[1] Government Code 53756 allows an agency to authorize automatic adjustments that pass-through increases or decreases in wholesale charges for water established by the outside agency.

Table 1: Proposed Monthly Fixed City Service Charges by Meter Size

Service Charges by Meter Size ($/Month)					
Meter Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$22.92	$23.40	$23.88	$24.37	$24.86
3/4"	$30.22	$30.89	$31.57	$32.26	$32.95
1" w/Fire	$22.92	$23.40	$23.88	$24.37	$24.86
1"	$44.81	$45.87	$46.94	$48.02	$49.12
1 1/2"	$81.28	$83.32	$85.38	$87.46	$89.56
1 1/2" T	$95.87	$98.30	$100.75	$103.23	$105.73
2"	$125.05	$128.26	$131.50	$134.77	$138.08
2" T	$146.94	$150.73	$154.56	$158.43	$162.34
3"	$325.67	$334.24	$342.90	$351.64	$360.47
4"	$555.46	$570.17	$585.03	$600.04	$615.20
6"	$1,175.53	$1,206.82	$1,238.42	$1,270.34	$1,302.58
8"	$2,050.93	$2,105.62	$2,160.86	$2,216.65	$2,273.00
10"	$3,072.23	$3,154.22	$3,237.03	$3,320.67	$3,405.14
12"	$3,874.68	$3,978.12	$4,082.59	$4,188.11	$4,294.68

Table 2: Proposed Monthly Zone 7 Fixed Charges [2]

Zone 7 Fixed Meter Charges ($/Month)					
Meter Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$24.41	FY 2023 Charge + Annual Pass-Throughs			
3/4"	$36.62	FY 2023 Charge + Annual Pass-Throughs			
1" w/Fire	$24.41	FY 2023 Charge + Annual Pass-Throughs			
1"	$61.03	FY 2023 Charge + Annual Pass-Throughs			
1 1/2"	$122.05	FY 2023 Charge + Annual Pass-Throughs			
1 1/2" T	$146.46	FY 2023 Charge + Annual Pass-Throughs			
2"	$195.28	FY 2023 Charge + Annual Pass-Throughs			
2" T	$231.90	FY 2023 Charge + Annual Pass-Throughs			
3"	$530.92	FY 2023 Charge + Annual Pass-Throughs			
4"	$915.38	FY 2023 Charge + Annual Pass-Throughs			
6"	$1,952.80	FY 2023 Charge + Annual Pass-Throughs			
8"	$3,417.40	FY 2023 Charge + Annual Pass-Throughs			
10"	$5,126.10	FY 2023 Charge + Annual Pass-Throughs			
12"	$6,468.65	FY 2023 Charge + Annual Pass-Throughs			

Table 3: Proposed Dedicated Fire Line Charges

Fixed Dedicated Fire Line Charges ($/Month)					
Connection Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$1.27	$1.29	$1.31	$1.33	$1.35
3/4"	$1.52	$1.54	$1.56	$1.58	$1.60
1"	$2.02	$2.05	$2.08	$2.11	$2.14
1 1/2"	$3.03	$3.07	$3.11	$3.15	$3.19
2"	$4.04	$4.09	$4.14	$4.19	$4.24
3"	$6.06	$6.13	$6.20	$6.27	$6.34
4"	$8.08	$8.17	$8.26	$8.35	$8.44
6"	$12.12	$12.25	$12.38	$12.51	$12.64
8"	$16.16	$16.33	$16.50	$16.67	$16.84
10"	$20.20	$20.41	$20.62	$20.83	$21.04
12"	$24.24	$24.49	$24.74	$24.99	$25.24

[2] Zone 7 Fixed Charges shown in Table 2 are in currently in effect and applicable through December 2022. The Zone 7 Fixed Charges are subject to a pass-through from any adjustments by Zone 7 on January 1, 2023.

Table 4: Proposed City Distribution Rates

Distribution Rates ($/CCF)					
Customer Class	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Single-Family					
Tier 1	$1.35	$1.39	$1.43	$1.47	$1.51
Tier 2	$1.95	$2.00	$2.05	$2.10	$2.15
Multi-Family	$1.58	$1.62	$1.66	$1.70	$1.74
Non-Residential	$1.55	$1.59	$1.63	$1.67	$1.71
Irrigation	$1.76	$1.80	$1.84	$1.88	$1.92
Recycled	$2.74	$2.77	$2.80	$2.83	$2.86

Table 5: Proposed Zone 7 Variable Rates [3]

Zone 7 Variable Rates ($/CCF)					
Customer Class	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Single-Family					
Tier 1	$2.06	FY 2023 Charge + Annual Pass-Throughs			
Tier 2	$2.06	FY 2023 Charge + Annual Pass-Throughs			
Multi-Family	$2.06	FY 2023 Charge + Annual Pass-Throughs			
Non-Residential	$2.06	FY 2023 Charge + Annual Pass-Throughs			
Irrigation	$2.06	FY 2023 Charge + Annual Pass-Throughs			
Recycled	N/A	N/A	N/A	N/A	N/A

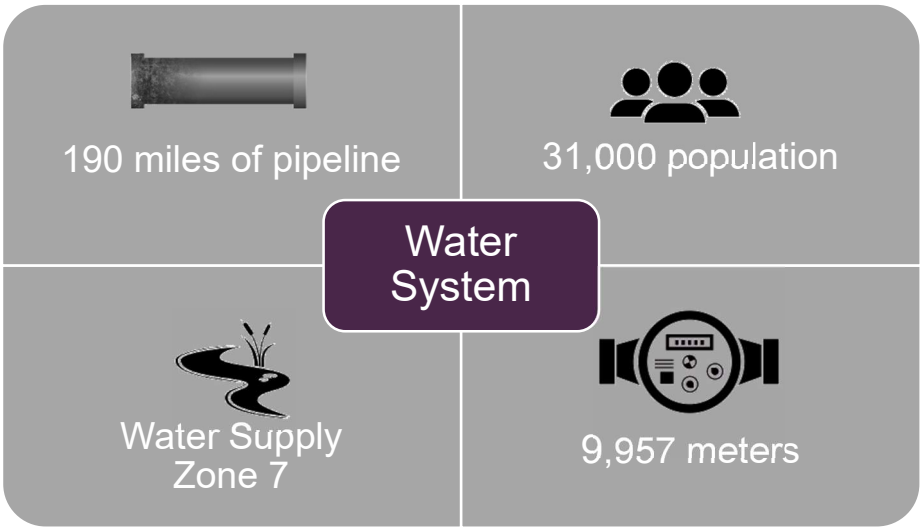
[3] Zone 7 Variable Rate shown in Table 5 are currently in effect and applicable through December 2022. The Zone 7 Variable Rate is subject to a pass-through from any adjustments by Zone 7 on January 1, 2023.

Water Enterprise

Water System

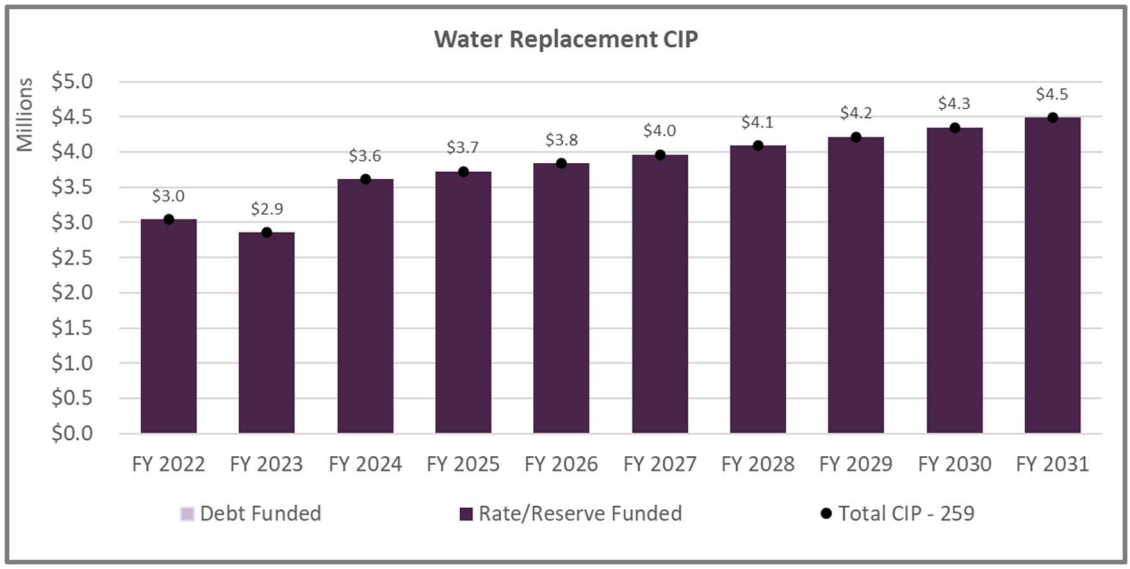
The City provides potable and recycled water service to portions of the City, located in the eastern part of Alameda County in the Tri-Valley. The City's water service area consists of three water service area zones: Zone 1 is west of Isabel Avenue and covers portions on both sides of the I-580 freeway; Zone 2 is on the eastern side of the City north of I-580; and Zone 3 is on the eastern side of the City, south of I-580. The remaining areas of the City are served by California Water Service Company (Cal Water). The City serves a population of around 31,000 residents through approximately 10,000 potable and recycled connections. The City receives all of its potable water from Zone 7. The water system spans approximately 190 miles of transmission and distribution lines ranging from 2" to 24" in diameter. Recycled water is produced by the City's Water Reclamation Plant and serves 15 business connections within Zone 1.

Figure 1: City of Livermore Water System



The City prepared an Asset Management Plan in 2016 (Asset Management Plan) and a Water Master Plan in 2017 (Master Plan). Through these two studies, the City developed a detailed Capital Improvement Plan (CIP) through FY 2025, with $3.5M in future years based on the Asset Management Plan. The City's average annual capital spending has been less than $3.5M, and capital replacement reserves have increased above the recommended target. Therefore, the City plans to draw down its capital replacement reserve as part of the proposed financial plan over the next 5-10 years. Figure 2 shows the City's capital plan through FY 2031.

Figure 2: Capital Improvement Plan



Customers

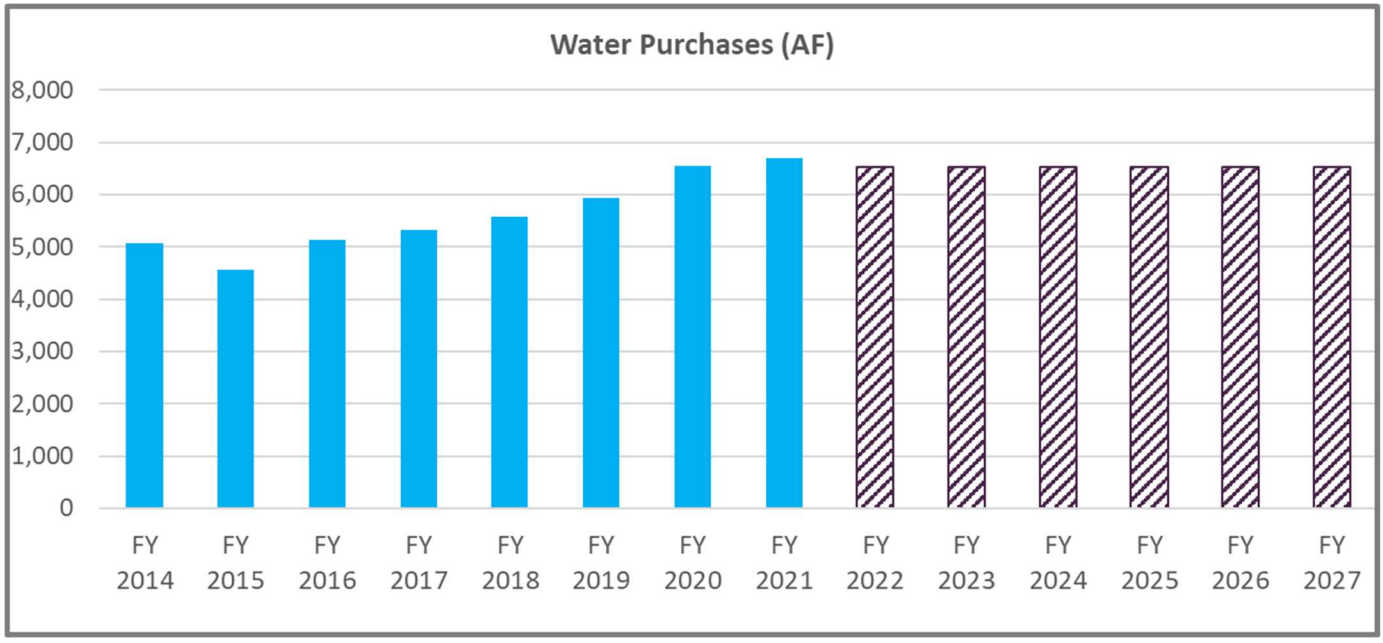
The City serves 9,957 meters, with approximately 87% of accounts classified as Residential. Table 6 provides a summary of meters by meter size.

Table 6: Meters by Meter Size

Meter Size	Number of Meters
5/8"	4,239
3/4"	102
1" w/Fire	4,482
1"	420
1 1/2"	219
1 1/2" T	105
2"	273
2" T	80
3"	28
4"	7
6"	1
8"	-
10"	-
12"	1
Total	9,957

In 2015 the State issued mandatory conservation requirements to combat the effects of the prolonged drought on California's water supplies. City customers responded by significantly reducing their water consumption. Since eliminating the mandatory conservation, sales have slowly rebounded through FY 2019. FY 2020 and FY 2021 were impacted by the COVID-19 pandemic with an increase in residential water usage from "stay-at-home orders" and a larger remote workforce. Figure 3 shows historical and projected purchased water in Acre-Feet (AF). For FY 2022 and beyond, a slight reduction from FY 2021 is assumed and equals 6,531 AF of purchased water.

Figure 3: Water Sales



As previously mentioned, the existing rate structure consists of a monthly fixed meter charge and variable rates that vary by customer class. Current monthly fixed charges are identified in Table 7 and Table 8, followed by variable rates shown in Table 9.

Table 7: FY 2022 Monthly Fixed Charges

Fixed Meter Charges ($/Month)		
Meter Size	City Service Charge	Zone 7 Fixed Charge
5/8"	$22.85	$24.40
3/4"	$30.46	$36.60
1" w/Fire	$22.85	$24.40
1"	$45.66	$61.00
1 1/2"	$83.68	$122.00
1 1/2" T	$98.89	$146.40
2"	$129.31	$195.20
2" T	$152.12	$231.80
3"	$338.42	$530.70
4"	$577.95	$915.00
6"	$1,224.29	$1,952.00
8"	$2,136.79	$3,416.00
10"	$3,201.35	$5,124.00
12"	$3,838.11	$6,466.00

Table 8: FY 2022 Monthly Fire Line Charges

Fire Line Charges ($/Month)	
Connection Size	Fixed Charge
1"	$2.82
1 1/2"	$4.23
2"	$5.63
3"	$8.44
4"	$11.25
6"	$16.86
8"	$22.48
10"	$28.08

Table 9: FY 2022 Variable Rates ($/CCF)

Variable Rates ($/CCF)		
Customer Class	City Distribution Rates	Zone 7 Variable Rate
Single-Family		
Tier 1	$1.25	$2.06
Tier 2	$1.74	$2.06
Multi-Family	$1.25	$2.06
Non-Residential	$1.35	$2.06
Irrigation	$1.74	$2.06
Recycled	$3.30	N/A

Financial Plan Overview

Financial Planning

Financial planning incorporates numerous considerations, including projecting revenues and forecasting expected costs using various inflationary adjustments. Utilities also need to account for changes in water demand driven by variations in weather, water availability, state mandates, growth, and economic factors. In addition, system maintenance and reinvestment, reserves, and debt compliance all influence the revenues needed in future years. Therefore, a comprehensive financial plan reviews the following:

1) Historical water sales and consumption patterns to determine an appropriate usage level for projecting future water demands.
2) Operational costs that may change over the planning period because of inflation and any new expenditures added to meet strategic goals, state mandates, or changes in operations.
3) Multi-year system improvement needs and scheduling based on priority. This review also considers available funding sources to complete projects such as pay-as-you-go (PAYGO), grants, loans, and debt financing.
4) Reserve funding to meet adopted reserve policies. The goal is to generate adequate cash on hand to mitigate financial risks related to operating cashflow needs, unexpected increases in expenses, shortages in system reinvestment, and mitigating potential system failures.

Figure 4 illustrates the key elements when developing a long-term financial plan.

Figure 4: Financial Plan Key Elements



Financial Planning Assumptions

Developing a long-term financial plan requires understanding the utility's financial position by evaluating existing revenue streams, ongoing expenses, how those expenses will change over time, existing debt requirements, and reserve policies. With these considerations, certain assumptions are required for projecting revenues, expenses, and expected ending fund balances. Through discussions with staff and their understanding of historical budget data and future obligations, Table 10 identifies assumptions used for forecasting revenues. Table 11 identifies assumptions used to forecast expense increases over the Financial Plan Period. Increases in purchased water are not assumed as the City will capture any increases or decreases from Zone 7 rate adjustments through a direct pass-through.

Table 10: Assumptions for Forecasting Revenues

Key Assumptions	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenue Escalation						
Non-Rate Revenues	0%	0%	0%	0%	0%	0%
Reserve Interest	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Account Growth	0%	0%	0%	0%	0%	0%
Water Sales (CCF)	2,860,942	2,860,942	2,860,942	2,860,942	2,860,942	2,860,942

Table 11: Assumptions for Forecasting Expense Requirements

Key Assumptions	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Expenditure Escalation						
Benefits	Budget	Budget	3.0%	3.0%	3.0%	3.0%
Capital Construction	Budget	Budget	3.2%	3.2%	3.2%	3.2%
Energy Costs	Budget	Budget	5.0%	5.0%	5.0%	5.0%
General Costs	Budget	Budget	2.4%	2.4%	2.4%	2.4%
Non-Inflated	Budget	Budget	0.0%	0.0%	0.0%	0.0%
Retirement - CalPers	Budget	Budget	3.0%	3.0%	3.0%	3.0%
Salaries	Budget	Budget	3.0%	3.0%	3.0%	3.0%
Water Purchases (Fixed)	Pass-Through					
Water Purchases (Variable)	Pass-Through					
Water Loss	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%

Current Financial Position

Revenues

Based on the forecasting assumptions, revenues were calculated using existing rates and account data, with projected total water sales shown in Table 10 as the baseline for usage. Table 12 shows the calculated rate revenues through the Financial Plan Period. The detailed calculations can be found in the rate model on file with the City. Table 13 summarizes calculated rate revenues and other non-rate revenues available through the Financial Plan Period with projections rounded to the nearest thousands.

Table 12: Calculated Rate Revenues

Fixed Revenues	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
City Fixed Charge						
Single-Family	$2,356,833	$2,356,833	$2,356,833	$2,356,833	$2,356,833	$2,356,833
Multi-Family	$218,427	$218,427	$218,427	$218,427	$218,427	$218,427
Non-Residential	$601,827	$601,827	$601,827	$601,827	$601,827	$601,827
Irrigation	$437,672	$437,672	$437,672	$437,672	$437,672	$437,672
Recycled	$181,123	$181,123	$181,123	$181,123	$181,123	$181,123
Total City Fixed Charge	$3,795,881	$3,795,881	$3,795,881	$3,795,881	$3,795,881	$3,795,881
Zone 7 Fixed Charge						
Single-Family	$2,301,264	$2,519,105	$2,519,105	$2,519,105	$2,519,105	$2,519,105
Multi-Family	$299,845	$328,229	$328,229	$328,229	$328,229	$328,229
Non-Residential	$803,310	$879,352	$879,352	$879,352	$879,352	$879,352
Irrigation	$574,413	$628,788	$628,788	$628,788	$628,788	$628,788
Recycled	$0	$0	$0	$0	$0	$0
Total Zone 7 Fixed Charge	$3,978,833	$4,355,473	$4,355,473	$4,355,473	$4,355,473	$4,355,473
Fireline Revenue	$144,916	$144,916	$144,916	$144,916	$144,916	$144,916
Variable Revenues	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**
City Variable						
Single-Family						
Tier 1	$707,841	$707,841	$707,841	$707,841	$707,841	$707,841
Tier 2	$1,255,507	$1,255,507	$1,255,507	$1,255,507	$1,255,507	$1,255,507
Single-Family Variable Revenue	$1,963,349	$1,963,349	$1,963,349	$1,963,349	$1,963,349	$1,963,349
Multi-Family						
Tier 1	$14,129	$14,129	$14,129	$14,129	$14,129	$14,129
Tier 2	$325,556	$325,556	$325,556	$325,556	$325,556	$325,556
Multi-Family Variable Revenue	$339,684	$339,684	$339,684	$339,684	$339,684	$339,684
Non-Residential	$603,003	$603,003	$603,003	$603,003	$603,003	$603,003
Irrigation	$1,092,022	$1,092,022	$1,092,022	$1,092,022	$1,092,022	$1,092,022
Recycled	$991,455	$991,455	$991,455	$991,455	$991,455	$991,455
Total City Variable	$4,989,514	$4,989,514	$4,989,514	$4,989,514	$4,989,514	$4,989,514
Zone 7 Variable						
Single-Family						
Tier 1	$1,180,339	$1,166,522	$1,166,522	$1,166,522	$1,166,522	$1,166,522
Tier 2	$1,504,011	$1,486,405	$1,486,405	$1,486,405	$1,486,405	$1,486,405
Single-Family Variable Revenue	$2,684,351	$2,652,928	$2,652,928	$2,652,928	$2,652,928	$2,652,928
Multi-Family						
Tier 1	$23,560	$23,284	$23,284	$23,284	$23,284	$23,284
Tier 2	$389,993	$385,428	$385,428	$385,428	$385,428	$385,428
Multi-Family Variable Revenue	$413,553	$408,712	$408,712	$408,712	$408,712	$408,712
Non-Residential	$920,138	$920,138	$920,138	$920,138	$920,138	$920,138
Irrigation	$1,292,854	$1,292,854	$1,292,854	$1,292,854	$1,292,854	$1,292,854
Recycled	$0	$0	$0	$0	$0	$0
Total Zone 7 Variable	$5,310,896	$5,274,632	$5,274,632	$5,274,632	$5,274,632	$5,274,632
Total Rate Revenue	$18,220,039	$18,560,415	$18,560,415	$18,560,415	$18,560,415	$18,560,415

Table 13: Projected Revenues

Revenue Summary	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Rate Revenues						
City Fixed Charge	$3,796,000	$3,796,000	$3,796,000	$3,796,000	$3,796,000	$3,796,000
Zone 7 Fixed Charge	$3,979,000	$4,355,000	$4,355,000	$4,355,000	$4,355,000	$4,355,000
Fireline Revenue	$145,000	$145,000	$145,000	$145,000	$145,000	$145,000
City Variable	$4,990,000	$4,990,000	$4,990,000	$4,990,000	$4,990,000	$4,990,000
Zone 7 Variable	$5,311,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000
Subtotal Rate Revenues	$18,221,000	$18,561,000	$18,561,000	$18,561,000	$18,561,000	$18,561,000
Operating Revenues						
Sale Of Water Mtr-Taxabl	$28,000	$28,000	$28,000	$28,000	$28,000	$28,000
Misc Sales-Taxable	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
Contract Recycled Revenue	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000
Subtotal Operating Revenues	$88,000	$88,000	$88,000	$88,000	$88,000	$88,000
Other Revenues						
Interest Income (F250)	$44,000	$44,000	$27,000	$28,000	$28,000	$28,000
Cell Tower Rent	$40,000	$40,000	$40,000	$40,000	$40,000	$40,000
Administrative Cost Rvry	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
Miscellaneous Revenue	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
Subtotal Other Revenues	$94,000	$94,000	$77,000	$78,000	$78,000	$78,000
Total Revenues	$18,403,000	$18,743,000	$18,726,000	$18,727,000	$18,727,000	$18,727,000

Expenses

The biennial FY 2022 / FY 2023 budget was used as the baseline expenses of the utility and adjusted in subsequent years based on the escalation factors shown in Table 11. Table 14 provides projected Operational & Maintenance (O&M) costs through FY 2027 with projections rounded to the nearest thousands. Each expense category includes detailed line-item expenditures that were discussed with staff to determine the appropriate escalation factor to use for forecasting how costs will increase over time. The price of purchased water is held constant because any increase will be captured through the pass-through provisions of Government Code section 53756.

Table 14: Projected O&M Expenses

O&M Expenses	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Purchased Water Costs						
Purchase of Water - Fixed	$3,975,000	$4,357,000	$4,357,000	$4,357,000	$4,357,000	$4,357,000
Purchase of Water - Variable	$5,337,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000
Purchased of Water - Water Loss	$593,000	$586,000	$586,000	$586,000	$586,000	$586,000
Subtotal Purchased Water Costs	$9,905,000	$10,218,000	$10,218,000	$10,218,000	$10,218,000	$10,218,000
Operating Expenses (250)						
Administrative & General	$3,069,000	$3,037,000	$3,116,000	$3,197,000	$3,280,000	$3,365,000
Water Pumping	$467,000	$386,000	$403,000	$422,000	$441,000	$462,000
Water Transmission & Distribution	$2,143,000	$2,071,000	$2,131,000	$2,193,000	$2,256,000	$2,322,000
Water Customer Accounts	$762,000	$773,000	$795,000	$817,000	$839,000	$862,000
Recycled Water	$81,000	$263,000	$275,000	$287,000	$299,000	$313,000
Subtotal Operating Expenses (250)	$6,522,000	$6,530,000	$6,720,000	$6,916,000	$7,115,000	$7,324,000
Total Expenses (before capital & capital-related debt)	$16,427,000	$16,748,000	$16,938,000	$17,134,000	$17,333,000	$17,542,000

Reserves

Figure 5: Water Utility Reserves



Established reserves include an Operating Fund and Capital Replacement Fund. These reserves help mitigate risks to the utility by ensuring sufficient cash is on hand for daily operations and to fund annual system improvements. In addition, these reserves help smooth rates and mitigate rate spikes due to emergencies or above-average system costs. Over the Financial Plan Period, the City plans to use capital replacement reserves to fund a portion of capital each year to keep rates as low as possible and draw down the Capital Replacement Fund to its recommended target. Table 15 summarizes each reserve's minimum reserve requirements and ideal funding targets.

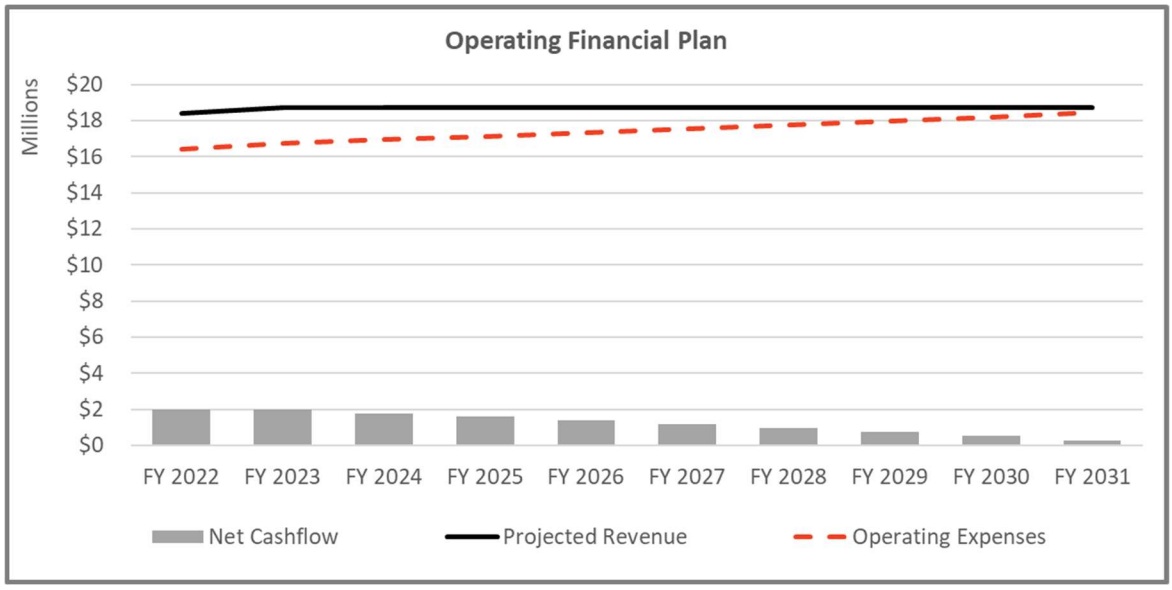
Table 15: Reserve Requirements and Targets

Reserve	Minimum Requirement	Reserve Target
Operating Fund	120 days of operating	180 days of operating
Capital Replacement Fund	2x annual depreciation	4x annual depreciation

Financial Outlook at Existing Rates

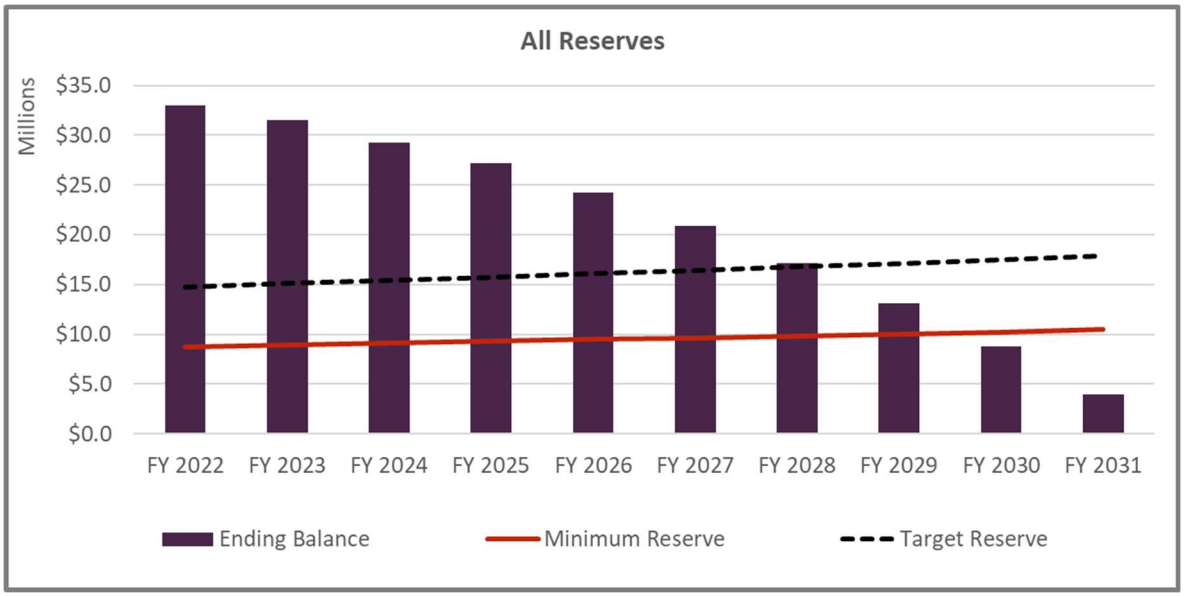
Calculating revenue using existing rates and projecting expenses helps determine the current financial health of the utility. Revenues from existing rates are sufficient to fund O&M and generate positive net operating income but continue to decline throughout the Financial Plan Period and beyond. Net operating income funds the utility's capital plan and reserves. However, the projected net operating income is not sufficient to fully fund capital on its own. As a result, reserves are needed to cover system reinvestment, which will be used over the Financial Plan Period, but is not sustainable long-term. Figure 6 illustrates the operating position of the utility, where O&M expenses are identified with the dashed red trendline, and the horizontal black trendline shows total revenues at existing rates. The bars represent the net operating income available for capital spending and reserve funding.

Figure 6: Current Operating Financial Position



With capital spending increasing each year, as shown in Figure 2, reserves will cover the remaining capital expenses to ensure necessary projects continue to move forward as scheduled. Figure 7 reflects the projected ending balances of reserves after funding operating and capital projects. By FY 2027, reserves are reduced to approximately $20.8M and fall below the minimum reserve requirement by FY 2030.

Figure 7: Projected Ending Reserves at Existing Rates



Proposed Financial Plan

From the financial outlook at existing rates, a proposed financial plan can be developed to fund the multi-year revenue requirements, while maintaining positive annual net operating income each year. The proposed financial plan generates approximately $1.5M in additional revenue over the Financial Plan Period. The additional revenue maintains a positive net operating income of at least $1.8M each year. However, annual net operating income is not enough to cover the utility's annual capital spending. Therefore, the proposed financial plan uses capital replacement reserves to fund a significant portion of planned capital. This approach minimizes rate increases and reduces the capital replacement reserve balance over time. Table 16 forecasts projected revenues and expenses through FY 2027.

Table 16: Proposed Financial Plan – Projected Reveues and Expenses Through FY 2027

Revenue	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Rate Revenues						
City Fixed Charge	$3,796,000	$3,796,000	$3,796,000	$3,796,000	$3,796,000	$3,796,000
Zone 7 Fixed Charge	$3,979,000	$4,355,000	$4,355,000	$4,355,000	$4,355,000	$4,355,000
Fireline Revenue	$145,000	$145,000	$145,000	$145,000	$145,000	$145,000
City Variable	$4,990,000	$4,990,000	$4,990,000	$4,990,000	$4,990,000	$4,990,000
Zone 7 Variable	$5,311,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000
Total Rate Revenues	$18,221,000	$18,561,000	$18,561,000	$18,561,000	$18,561,000	$18,561,000
Additional Revenue *(from revenue adjustments)*:						
Fiscal Year / Revenue Adjustment / Effective Month						
FY 2024 / 1.0% / January			$92,000	$185,000	$185,000	$185,000
FY 2025 / 1.0% / January				$93,000	$187,000	$187,000
FY 2026 / 1.0% / January					$94,000	$189,000
FY 2027 / 1.0% / January						$95,000
Total Additional Revenue	$0	$0	$92,000	$278,000	$466,000	$656,000
Projected Rate Revenues	$18,221,000	$18,561,000	$18,653,000	$18,839,000	$19,027,000	$19,217,000
Operating Revenues						
Sale Of Water Mtr-Taxabl	$28,000	$28,000	$28,000	$28,000	$28,000	$28,000
Misc Sales-Taxable	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
Contract Recycled Revenue	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000
Subtotal Operating Revenues	$88,000	$88,000	$88,000	$88,000	$88,000	$88,000
Other Revenues						
Interest Income (F250)	$44,000	$44,000	$27,000	$28,000	$28,000	$28,000
Cell Tower Rent	$40,000	$40,000	$40,000	$40,000	$40,000	$40,000
Administrative Cost Rvry	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
Miscellaneous Revenue	$5,000	$5,000	$5,000	$5,000	$5,000	$5,000
Subtotal Other Revenues	$94,000	$94,000	$77,000	$78,000	$78,000	$78,000
Total Revenues	$18,403,000	$18,743,000	$18,818,000	$19,005,000	$19,193,000	$19,383,000

O&M Expenses	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Purchased Water Costs						
Purchase of Water - Fixed	$3,975,000	$4,357,000	$4,357,000	$4,357,000	$4,357,000	$4,357,000
Purchase of Water - Variable	$5,337,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000
Purchased of Water - Water Loss	$593,000	$586,000	$586,000	$586,000	$586,000	$586,000
Subtotal Purchased Water Costs	$9,905,000	$10,218,000	$10,218,000	$10,218,000	$10,218,000	$10,218,000
Operating Expenses (250)						
Administrative & General	$3,069,000	$3,037,000	$3,116,000	$3,197,000	$3,280,000	$3,365,000
Water Pumping	$467,000	$386,000	$403,000	$422,000	$441,000	$462,000
Water Transmission & Distribution	$2,143,000	$2,071,000	$2,131,000	$2,193,000	$2,256,000	$2,322,000
Water Customer Accounts	$762,000	$773,000	$795,000	$817,000	$839,000	$862,000
Recycled Water	$81,000	$263,000	$275,000	$287,000	$299,000	$313,000
Subtotal Operating Expenses (250)	$6,522,000	$6,530,000	$6,720,000	$6,916,000	$7,115,000	$7,324,000
Total Expenses (before capital & debt)	$16,427,000	$16,748,000	$16,938,000	$17,134,000	$17,333,000	$17,542,000
Net Cashflow	$1,976,000	$1,995,000	$1,880,000	$1,871,000	$1,860,000	$1,841,000

Figure 8 through Figure 10 extends beyond the Financial Plan Period and spans a ten-year outlook to show how the combination of revenue adjustments and the use of capital replacement reserves reduces the current reserve balance down to within the City's reserve requirements. For FY 2028 through FY 2031, 3% revenue adjustments are assumed but may not be adopted by City Council at that time and will be confirmed/updated as part of the next cost-of-service study. Figure 8 identifies the operating position based on the proposed financial plan, and Figure 9 and Figure 10 show the capital plan with funding sources and projected ending reserve balances, respectively.

Figure 8: Proposed Operating Position

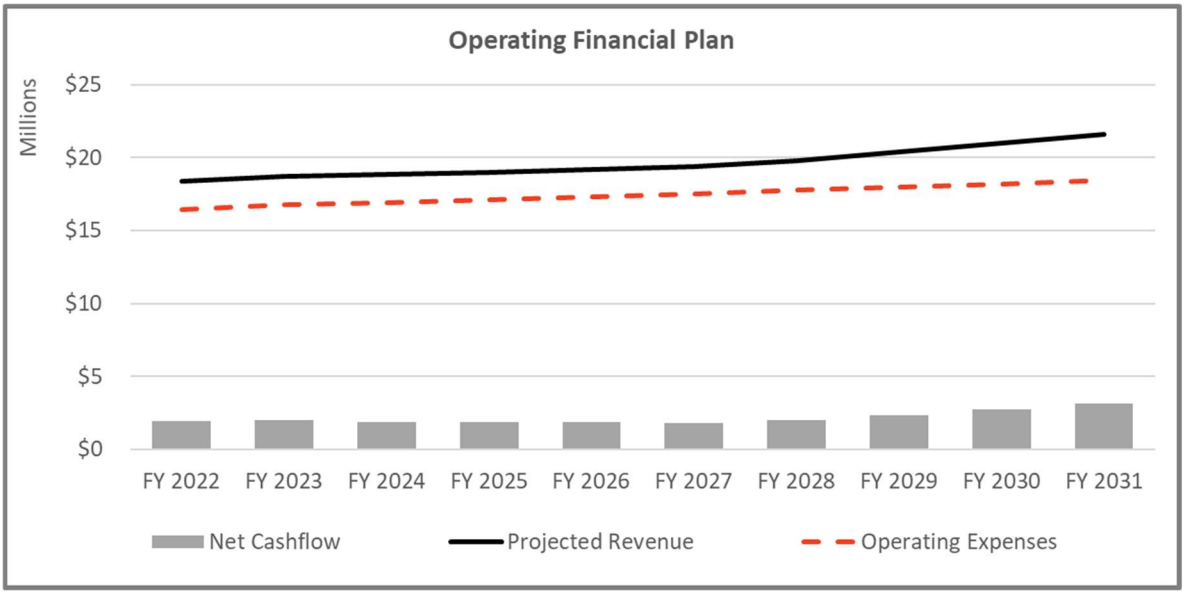


Figure 9: Capital Improvement Plan with Funding Sources

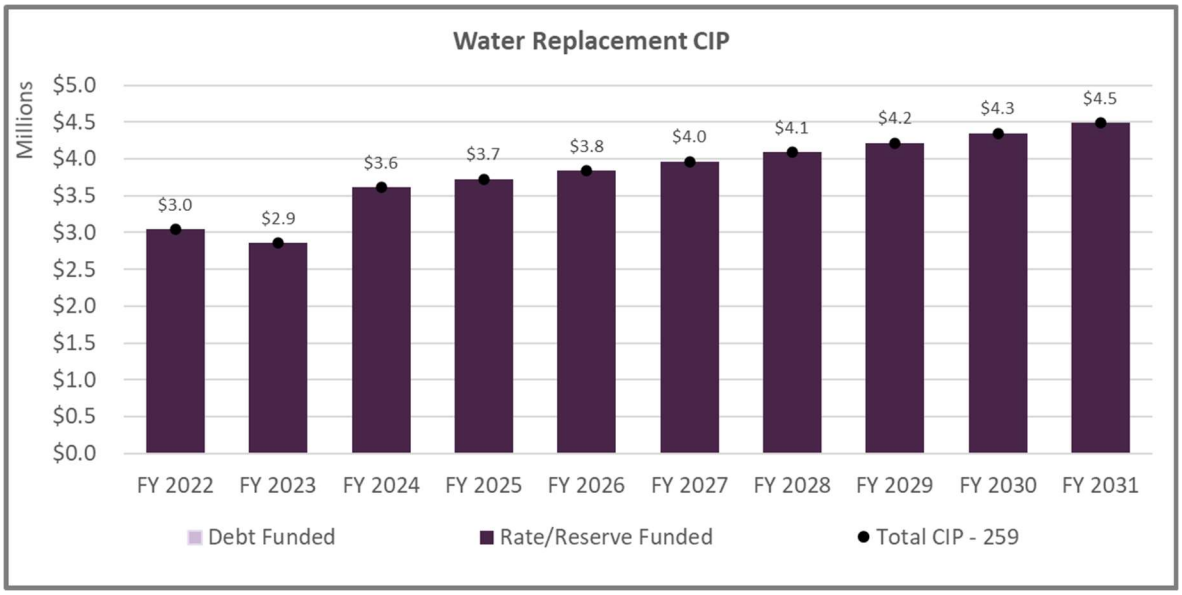
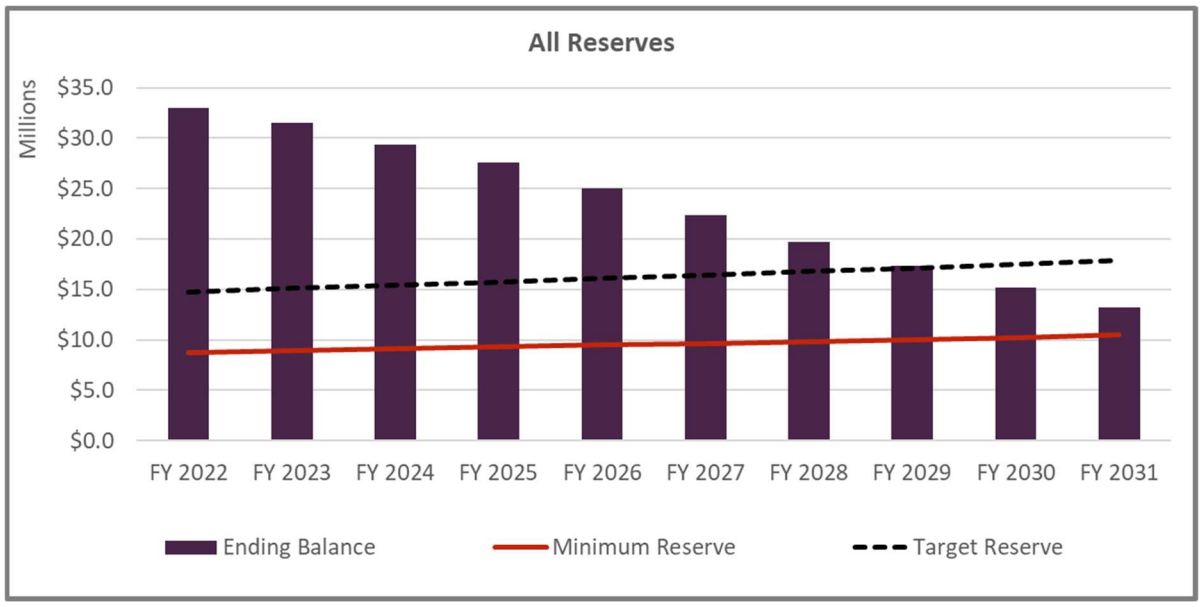


Figure 10: Proposed Ending Reserves



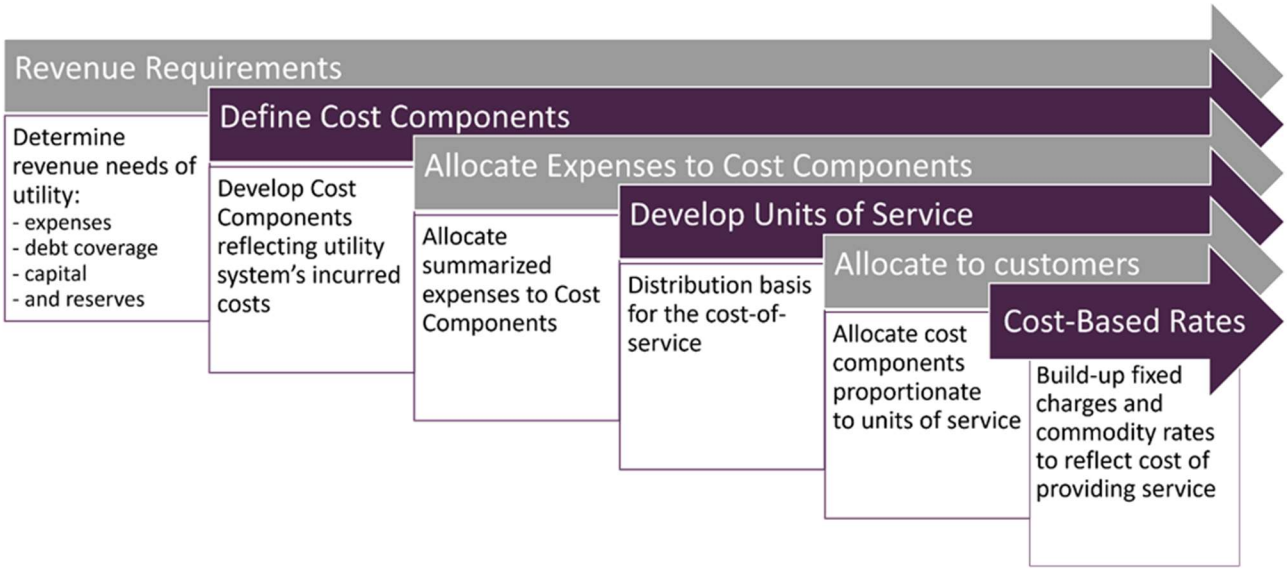
Cost-of-Service Analysis

Cost-of-Service Process

The next step in developing rates is to perform a cost-of-service analysis. Developing cost-based and equitable rates are significant considerations in developing proposed water rates. Meeting the statutory requirements of Proposition 218 is of paramount importance in the development of water rates. Proposition 218 does not provide a particular methodology for establishing cost-based rates. This study uses the Base-Extra Capacity Methodology for developing water rates and adheres to the cost-of-service provisions of Proposition 218.

It is important to understand **how** costs are incurred in order to determine the most appropriate way to recover these costs. The following graphic summarizes the cost-of-service process. This process allocates costs incurred to customers and tiers based on their proportional share. As a result, proposed rates are cost-based and reflect the costs incurred to deliver water service to all customers.

Figure 11: Cost-of-Service Process



Revenue Requirements

With FY 2023 as the first year of the proposed rate schedule, revenue requirements are determined for FY 2023 and used for the cost-of-service. Revenue requirements include O&M expenses, available offsets from non-rate revenues, annual net income, and any mid-year adjustments if rates are implemented after the start of the fiscal year. The proposed revenue adjustments and corresponding rates collectively accumulate the necessary funding over the Financial Plan Period to fund total revenue requirements while drawing down reserves and maintaining annual net operating income of at least $1.8M. The results of the financial plan analysis are summarized in Table 17 and represent the revenue required from rates over the Financial Plan Period.

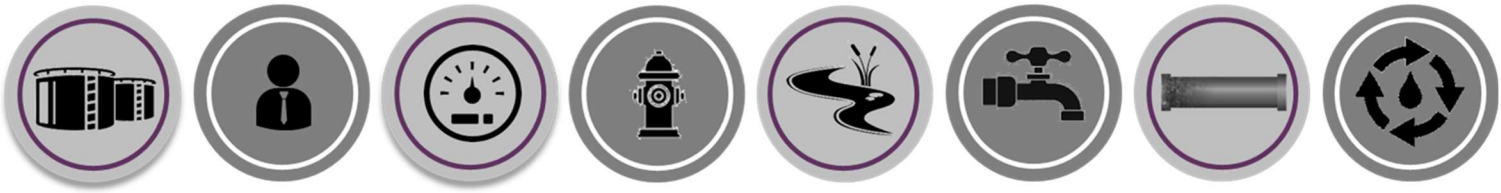
Table 17: FY 2022 Revenue Requirements

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenue Requirements					
Purchased Water Costs					
Purchase of Water - Fixed	$4,357,000	$4,357,000	$4,357,000	$4,357,000	$4,357,000
Purchase of Water - Variable	$5,275,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000
Purchased of Water - Water Loss	$586,000	$586,000	$586,000	$586,000	$586,000
Total Purchased Water Costs	**$10,218,000**	**$10,218,000**	**$10,218,000**	**$10,218,000**	**$10,218,000**
Operating Expenses (250)					
Administrative & General	$3,037,000	$3,116,000	$3,197,000	$3,280,000	$3,365,000
Water Pumping	$386,000	$403,000	$422,000	$441,000	$462,000
Water Transmission & Distribution	$2,071,000	$2,131,000	$2,193,000	$2,256,000	$2,322,000
Water Customer Accounts	$773,000	$795,000	$817,000	$839,000	$862,000
Recycled Water	$263,000	$275,000	$287,000	$299,000	$313,000
Total Operating Expenses (250)	**$6,530,000**	**$6,720,000**	**$6,916,000**	**$7,115,000**	**$7,324,000**
Total Operating Expenditures	**$16,748,000**	**$16,938,000**	**$17,134,000**	**$17,333,000**	**$17,542,000**
Revenue Offsets					
Sale Of Water Mtr-Taxabl	($28,000)	($28,000)	($28,000)	($28,000)	($28,000)
Misc Sales-Taxable	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)
Contract Recycled Revenue - Golf Course	($55,000)	($55,000)	($55,000)	($55,000)	($55,000)
Other Revenues	($94,000)	($77,000)	($78,000)	($78,000)	($78,000)
Total Revenue Offsets	**($182,000)**	**($165,000)**	**($166,000)**	**($166,000)**	**($166,000)**
Adjustments					
Reserve Funding	$1,995,000	$1,880,000	$1,871,000	$1,860,000	$1,841,000
Adjustment for Mid-Year Increase	$0	$92,000	$93,000	$94,000	$95,000
Total Adjustments	**$1,995,000**	**$1,972,000**	**$1,964,000**	**$1,954,000**	**$1,936,000**
Revenue Requirement from Rates	**$18,561,000**	**$18,745,000**	**$18,932,000**	**$19,121,000**	**$19,312,000**

Define Cost Components

The utility incurs costs to accommodate total water demand and peak demands that vary throughout the year, days, and hours. Therefore, to determine the most appropriate way to recover the utility's expenses, cost components are identified to allocate expenses based on how they are incurred. By reviewing the revenue requirements and understanding the utility system, it is appropriate and reasonable to utilize the base-extra capacity methodology outlined in the American Water Works Association M1 Manual. This methodology accounts for the utility's costs as a function of meeting both total volume and peak use demands. For example, if a utility's average use and peak use were equivalent, the utility system could be sized solely to accommodate the average demand on the system. However, customer water usage peaks at different times, such as in the morning when everyone wakes up, evenings when customers are home from work/school, and other times of the year as outdoor water needs fluctuate based on the weather. The cost components shown in Figure 12 reflect the cost components used for this study.

Figure 12: Cost Components



Zone 7 Fixed – Fixed monthly water supply costs incurred by the City from its water wholesaler, Zone 7.
Account Services – Fixed expenses that do not necessarily fluctuate based on usage and are not a function of meter size.
Meter Capacity – O&M expenses associated with meters, including a portion of capital and reserves.
Fire Flow Demand – Portion of Peaking costs to meet fire flow demand inherent to the water system.
Purchased Water – Water supply costs from the purchase of treated water from Zone 7.
Delivery – Operating and capital expenses of the water system associated with serving customers at a constant average use or average daily demand. These costs tend to vary with the total water used.
Peaking – Expenses incurred to meet customer peak demands in excess of average day usage.
Recycled Water – Direct expenses associated with treating recycled water.

The analysis herein establishes cost components for developing fixed charges and utilizes the base-extra capacity method for developing variable rates. Total volume and usage patterns of customers and tiers are analyzed to allocate expenses proportionately based on total usage and peak demands. Peak demand is a function of Max Day Demand (Max Day) and Max Hour Demand (Max Hour) placed on the system in comparison to Average Day Demand (Avg Day). The system is configured with distribution and transmission lines ranging in size from 2" diameter to 24" diameter. This system configuration provides fire flow demand inherent to a utility system and accounts for peak water demands generated by how customers use water above Avg Day. Max Day is the maximum amount of water used in a single day of a calendar year, and Max Hour reflects the peak hourly use on the system compared to Avg Day.

Allocate Expenses to Cost Components

When allocating expenses to the defined costs components, it is important to have a sound basis as to why an expense was allocated to a certain fixed cost component versus a variable cost component or split between both fixed and variable. The distribution of expenses to the cost components should be straight-forward to ensure the method of apportionment is **understandable** and easily **correlates to how expenses are incurred**. A description of each expense category is identified below.

Expense Categories:

Purchase of Water – Fixed: Fixed costs from Zone 7.

Purchase of Water – Variable: Costs incurred based on total AF purchased from Zone 7 to cover water usage from City customers.

Purchase of Water – Water Loss: Costs incurred based on total AF purchased from Zone 7 to cover system loss of 10%.

Administrative & General: Costs associated with the daily operations and management of the City's water utility, including, but not limited to, personnel, supplies, repairs, meter services, rent, contract services, central services support, inspections, and regulatory fees.

Water Pumping: Costs associated with repairs and maintenance, supplies, rent, ground maintenance, regulatory fees, and contract services related to pumping water.

Water Transmission & Distribution: Costs associated with the daily operational costs related to transmission and distribution including, but not limited to, employee salaries and benefits, supplies and materials, rent, and contract services.

Water Customer Accounts: Costs associated with salaries and benefits, supplies, overhead, billing, and contract services related to customer accounts.

Recycled Water: Costs associated with salaries and benefits of the staff dedicated to the recycled utility, portion of overhead, and tertiary treatment costs.

System peaking characteristics are used to allocate costs to Avg Day (Delivery) and Max Day / Max Hour (collectively, Peaking). Avg Day is assigned a factor of 1.0, signifying no peaking demands. The Max Day and Max Hour factors shown in Table 18 are from the City's Water Resource Division. A Max Day peaking factor of 2.07 means that the system delivers just over double the average daily demand during a peak day. A Max Hour peaking factor of 3.97 means that the system delivers almost 4 times the average daily demand during peak hour. To determine the percentage allocations for Avg Day, Max Day, and Max Hour, the following calculations are used:

Avg Day – 100% to Base (no peak)

Max Day – Max Day peak factor is 2.07. Therefore, the base factor of 1.0 makes up 48.3% of the Max Day (1.0 / 2.07 = 0.483) and Max Day is 51.7% of demand.

Max Hour – The Max Hour peak factor is 3.97. Therefore, the base factor of 1.0 makes up 25.2% of Max Hour (1.0 / 3.97 = 0.252), and the Max Day increment above Avg Day of 1.07 (2.07 - 1.0 = 1.07) makes up 27.0% of the Max Hour Demand (1.07 / 3.97 = 0.27). Therefore, the Max Hour increment equals the remainder of 47.9%.

These peaking factors are specific to the City of Livermore and reflect the peaking characteristics of the City's water system. The corresponding allocations between Delivery and Peaking provide a means to spread costs incurred as a function of serving Max Day and Max Hour proportionately. Table 18 summarizes the percentage between Delivery and Peaking using Avg Day, Max Day, and Max Hour.

Table 18: System Peaking Factors and Distribution Basis

System Peak	Factor	Base [A]	Max Day [B]	Max Hour [C]	Delivery [D] = A	Peaking [E] = B+C
Avg Day	1.00	100.0%	0.0%	0.0%	100.0%	0.0%
Max Day	2.07	48.3%	51.7%	0.0%	48.3%	51.7%
Max Hour	3.97	25.2%	27.0%	47.9%	25.2%	74.8%

In addition to Max Day and Max Hour demand, a water system is also configured to accommodate Fire Flow Demand (FFD) for fire suppression to meet Max Day and Max Hour demand. FFD can be incorporated into this analysis as a component of Max Day and Max Hour. Based on the City's system requirements, the maximum fire flow needs vary by land use from 1,500 gallons per minute (gpm) for single-family residential uses up to 3,500 gpm for non-residential uses. Fire flow requirements were weighted by the corresponding accounts to derive the typical fire flow requirement needed during a probable fire event within the City's service area. Table 19 derives the weighted fire flow requirement. Table 20 identifies the Max Day and Max Hour demand in gallons from the City's Master Plan (Table 5-1), converts them to gpm by dividing daily gallons by total minutes in a day (60 mins x 24 hours = 1,440 mins), and adds the fire flow requirement derived in Table 19. The FDD percentages of Max Day and Max Hour are determined assuming a fire event.

Table 19: Fire Flow Requirement within City's Service Area

FFD by Land Use	FFD (gpm) [A]	Accounts [B]	% Allocation [C] = B as %	Weighted FFD (gpm) [D] = A x C
Single-Family	1,500	8,579	92%	1,381
Multi-Family	2,500	151	2%	41
Non-Residential	3,500	586	6%	220
Total		9,316	100%	1,642

Table 20: Fire Flow Demand as Percentage of Max Day and Max Hour

Line #	System and FFD Demands	Gallons [A]	Max Day Demand (gpm) [B] = A ÷ 1,440 min	Gallons [C]	Max Hour Demand (gpm) [D] = C ÷ 1,440 min
1	System Demand	11,410,000	7,924 gpm	21,890,000	15,201 gpm
2	Fire Flow Demand		1,642 gpm		1,642 gpm
3	Total *(System Demand plus FFD)*		9,566 gpm		16,843 gpm
FDD % of MDD/MHD (Line #2 ÷ Line #3)			17.2%		9.7%

Table 21 summarizes the percent allocation of water supply costs to the applicable cost components. The City must purchase additional water from Zone 7 due to water loss in the system. The costs related to water loss are spread equally over all usage and customers and was allocated to Delivery. Table 22 reflects the dollars to each cost component based on the percent allocations in Table 21.

Table 21: Water Supply Expense Allocation to Cost Components (%)

Functionalized Expenses	Methodology / Allocation Basis	Zone 7 Fixed	Zone 7 Variable	Delivery	Total
Purchase of Water - Fixed	Specific	100.0%	0.0%	0.0%	100%
Purchase of Water - Variable	Specific	0.0%	100.0%	0.0%	100%
Purchased of Water - Water Loss	Specific	0.0%	0.0%	100.0%	100%

Table 22: Water Supply Expense Allocation to Cost Components ($)

Functionalized Expenses	Methodology / Allocation Basis	Zone 7 Fixed	Zone 7 Variable	Delivery	Total
Purchase of Water - Fixed	Specific	$4,357,000	$0	$0	$4,357,000
Purchase of Water - Variable	Specific	$0	$5,275,000	$0	$5,275,000
Purchased of Water - Water Loss	Specific	$0	$0	$586,000	$586,000
Total Allocation ($)		$4,357,000	$5,275,000	$586,000	$10,218,000

Table 23 summarizes the percent allocation of O&M Revenue Requirements to the cost components, and Table 24 uses the percent allocations in Table 23 to allocate expenses in dollars to each cost component. The amount of Administration & General allocated to Meter Capacity is based on identifying specific expense line items with City Staff that are fixed costs to operate the system and; therefore, assigned to Meters (contract services, GIS service charge, software, public outreach, administrative surcharge, IT, liability, use of City property, and regulatory fees).

Table 23: O&M Expense Allocation to Cost Components (%)

Functionalized Expenses	Methodology / Allocation Basis	Account Services	Meter Capacity	Fire Flow Demand	Delivery	Peaking	Revenue Offset	Recycled	Total
Administrative & General	Specific	0.0%	66.8%	0.0%	33.2%	0.0%	0.0%	0.0%	100.0%
Water Pumping	Max Day	0.0%	0.0%	0.0%	48.3%	51.7%	0.0%	0.0%	100.0%
Water Transmission & Distribution	MH plus Fire Flow	0.0%	0.0%	9.7%	22.7%	67.5%	0.0%	0.0%	100.0%
Water Customer Accounts	Specific	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%
Recycled Water	Specific	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Table 24: O&M Expense Allocation to Cost Components ($)

Functionalized Expenses	Methodology / Allocation Basis	Account Services	Meter Capacity	Fire Flow Demand	Delivery	Peaking	Revenue Offset	Recycled	Total
Administrative & General	Specific	$0	$2,028,672	$0	$1,008,328	$0	$0	$0	$3,037,000
Water Pumping	Max Day	$0	$0	$0	$186,473	$199,527	$0	$0	$386,000
Water Transmission & Distribution	MH plus Fire Flow	$0	$0	$201,896	$470,807	$1,398,297	$0	$0	$2,071,000
Water Customer Accounts	Specific	$773,000	$0	$0	$0	$0	$0	$0	$773,000
Recycled Water	Specific	$0	$0	$0	$0	$0	$0	$263,000	$263,000
Total Allocation ($)		$773,000	$2,028,672	$201,896	$1,665,609	$1,597,824	$0	$263,000	$6,530,000
O&M Allocation (%)		11.8%	31.1%	3.1%	25.5%	24.5%	0.0%	4.0%	100.0%

Other Funding includes contract recycled revenue that directly offsets Recycled, other operating and non-operating revenues, and Reserve Funding. Besides recycled contract revenue, other items are allocated based on O&M percentages derived in Table 24 to proportionately allocate revenue offsets and reserve funding to the cost components. Table 25 summarizes the percent allocation to the cost components, and Table 26 uses the percent allocations in Table 25 to allocate expenses in dollars to each cost component. Table 27 summarizes the revenue requirement derived in Table 17 by cost component.

Table 25: Other Funding to Cost Components (%)

Functionalized Expenses	Methodology / Allocation Basis	Account Services	Meter Capacity	Fire Flow Demand	Delivery	Peaking	Recycled	Total
Sale Of Water Mtr-Taxabl	O&M Allocation	11.8%	31.1%	3.1%	25.5%	24.5%	4.0%	100.0%
Misc Sales-Taxable	O&M Allocation	11.8%	31.1%	3.1%	25.5%	24.5%	4.0%	100.0%
Contract Recycled Revenue	Specific	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Other Revenues	O&M Allocation	11.8%	31.1%	3.1%	25.5%	24.5%	4.0%	100.0%
Reserve Funding	O&M Allocation	11.8%	31.1%	3.1%	25.5%	24.5%	4.0%	100.0%

Table 26: Other Funding Allocation to Cost Components ($)

Functionalized Expenses	Methodology / Allocation Basis	Account Services	Meter Capacity	Fire Flow Demand	Delivery	Peaking	Recycled	Total
Sale Of Water Mtr-Taxabl	O&M Allocation	($3,315)	($8,699)	($866)	($7,142)	($6,851)	($1,128)	($28,000)
Misc Sales-Taxable	O&M Allocation	($592)	($1,553)	($155)	($1,275)	($1,223)	($201)	($5,000)
Contract Recycled Revenue	Specific	$0	$0	$0	$0	$0	($55,000)	($55,000)
Other Revenues	O&M Allocation	($11,127)	($29,203)	($2,906)	($23,977)	($23,001)	($3,786)	($94,000)
Reserve Funding	O&M Allocation	$236,162	$619,786	$61,682	$508,865	$488,156	$80,350	$1,995,000
Total Allocation ($)		$221,128	$580,331	$57,755	$476,471	$457,080	$20,235	$1,813,000

Table 27: FY 2023 Cost-of-Service Requirements by Cost Component

	Fixed				Variable				
Revenue Requirement	Zone 7 Fixed	Account Services	Meter Capacity	Fire Flow Demand	Zone 7 Variable	Delivery	Peaking	Recycled	Total
Purchased Water Costs	$4,357,000	$0	$0	$0	$5,275,000	$586,000	$0	$0	$10,218,000
Operating	$0	$773,000	$2,028,672	$201,896	$0	$1,665,609	$1,597,824	$263,000	$6,530,000
Other Funding	$0	$221,128	$580,331	$57,755	$0	$476,471	$457,080	$20,235	$1,813,000
Total	$4,357,000	$994,128	$2,609,003	$259,651	$5,275,000	$2,728,080	$2,054,904	$283,235	$18,561,000

Rate Design

Develop Units of Service

Unit rates for each cost component are derived by spreading the corresponding revenue requirements over appropriate units of service (distribution basis). This approach provides a clear connection between costs incurred and the proportionate share attributable to each customer class, corresponding tier, and customer account. When designing rates, the most critical component is to connect costs to the proposed rates, resulting in a rate structure that is cost-based and in compliance with Proposition 218. The previous section summarized costs by expense category and then allocated to cost components based on how each cost is incurred. The next step in designing rates is to allocate each cost component to customers in relation to their use of the system and facilities. The method of apportionment considers each customer's share of system costs and is reflected by the units of service used to equitably distribute the cost components to each customer account.

The distribution basis varies by cost component and includes total accounts, Meter Equivalents (MEs), which reflects demand placed on the system based on meter size, total water sales, usage by tier, and usage weighted by peaking by customer class and tier. In Table 28, each meter size was assigned an equivalency factor based on the flow characteristics of a 5/8" meter based on the safe maximum operating flow capacity by meter type, as identified in the AWWA M1 Manual, 6th Edition, Table B-2.

The safe maximum operating flow capacity for each meter was divided by the base meters safe operating flow capacity of 20 gpm (5/8") to determine the equivalent meter ratio. The Capacity Ratios represent the potential flow through each meter size compared to the flow through a 5/8" meter to establish parity between meter sizes. Total MEs are determined by multiplying the number of meters by the Capacity Ratio and then multiplying the result by the billing periods in a year. Table 28 summarizes the units of service related to total Accounts and MEs for all accounts (Potable and Recycled combined) and Zone 7 accounts (Potable only).

Table 28: Accounts and Meter Equivalents

Meter Size	AWWA Capacity (gpm)	Capacity Ratio	Potable / Recycled Accounts	Zone 7 Potable Accounts	Potable / Recycled Meter Equivalents	Zone 7 Potable Meter Equivalents
	[A]	[B] = A ÷ 20	[C]	[D]	[E] = B x C	[F] = B x D
5/8"	20	1.00	4,239	4,232	4,239	4,232
3/4"	30	1.50	102	100	153	150
1" w/Fire	20	1.00	4,482	4,482	4,482	4,482
1"	50	2.50	420	365	1,050	913
1 1/2"	100	5.00	219	183	1,095	915
1 1/2" T	120	6.00	105	105	630	630
2"	160	8.00	273	233	2,184	1,864
2" T	190	9.50	80	80	760	760
3"	435	21.75	28	27	609	587
4"	750	37.50	7	7	263	263
6"	1,600	80.00	1	1	80	80
8"	2,800	140.00	0	0	0	0
10"	4,200	210.00	0	0	0	0
12"	5,300	265.00	1	0	265	0
Total			9,957	9,815	15,810	14,875
Annual Units (Total x 12 billing periods)			119,484	117,780	189,714	178,503

Total usage and peaking factors must be calculated for each customer class and tier to derive the units of service for allocating variable costs. Table 29 provides the projected usage for FY 2023 from Table 10, broken out by customer class, including the usage characteristics of each customer class. The peaking factors were determined using the most recently completed Fiscal Year of consumption (FY 2021). Based on the consumption analysis, peaking factors were derived by taking each customer class' usage per account during the max monthly summer billing period (July) divided by the average annual usage per account of each customer class.

Table 29: Usage and Peaking Factors by Customer Class

Customer Class	All Usage	Avg Usage Per Account	Max Usage Per Account	Peaking	Weighted Peak
	[A]	[B]	[C]	[D] = C ÷ B	[E] = A x D
Single-Family	1,287,829	13.80	20.84	1.51	1,944,808
Multi-Family	198,404	123.29	174.26	1.41	280,427
Non-Residential	446,669	68.99	84.01	1.22	543,915
Irrigation	627,599	122.35	203.19	1.66	1,042,271
Recycled	300,441	207.14	358.07	1.73	519,354
Variable Units	2,860,942				4,330,775

Table 30 provides the tiered usages characteristics for Single-Family Residential. The tiered usage characteristics will be used to further apportion the total variable costs allocated to Single-Family Residential to the corresponding tiers. Allocating variable costs to customer classes first, then to tiers, ensures each customer class is recovering its proportionate share of costs. For Single-Family Residential, the Tier 1 allotment is based on minimum winter usage (7 CCF) as a proxy for indoor usage as outdoor watering demand

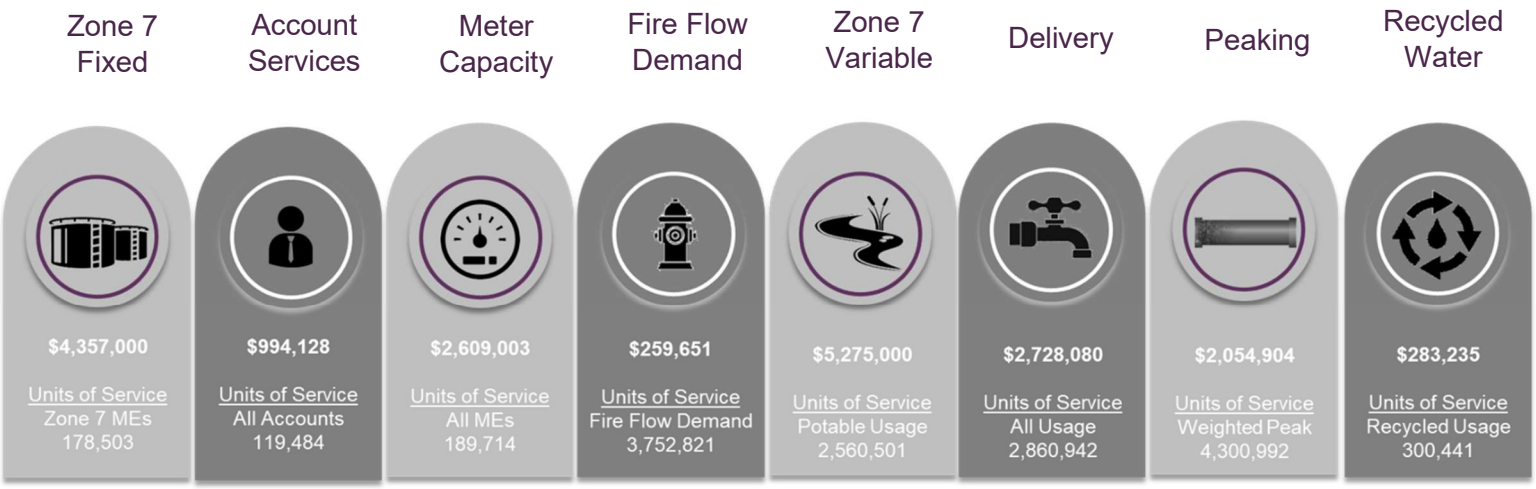
is minimal during the winter. The Single-Family Residential Tier 2 allotment captures any usage over Tier 1. Tier 1 is assigned a peak factor of 1.0 to reflect indoor usage for Single-Family Residential [4].

Table 30: Usage (CCF) and Peaking Factors for Tiers

Tier Usage Characteristics	Tier Allotments	Projected Usage [A]	Usage per Account [B]	Peaking Factor [C] = B ÷ 7	Weighted Peak [D] = A x C
Single-Family					
Tier 1	7	566,273	7.00	1.00	566,273
Tier 2	> 7	721,556	18.15	2.59	1,870,743
Total		1,287,829			2,437,016

With the units of service shown in Table 28, Table 29, and Table 30, the distribution basis can be identified for each cost component. Figure 13 identifies the total revenue requirements by cost component from Table 27 and the corresponding units of service.

Figure 13: Distribution Basis and Units of Service by Cost Component



Using the FY 2023 revenue requirements, the cost-of-service allocates expenses to customer classes, and corresponding tiers based on the service demands that each place on the system (cost causation). This approach ensures that each customer proportionately shares in the total annual revenue requirements of the utility. For the following unit rate computations for each cost component, unit rates were rounded up to the nearest penny.

[4] For Single-Family Residential Tier 1, the full allotment of 7 CCF is used for Column B as total indoor usage is considered no peak.

Fixed Cost Recovery

Zone 7 Fixed

Zone 7 Fixed costs are incurred by the City based on the percentage of total purchases using a 2-year historical rolling average. The Zone 7 fixed costs are then apportioned to City customers as a fixed charge based on meter size, which reflects the total potential water demand from potable customers (Zone 7 MEs; excludes recycled water MEs).

Table 31: Zone 7 Calendar Year 2022 Fixed Cost Monthly Unit Rate

Zone 7 Fixed Component Unit Rate	
Revenue Requirement	$4,357,000
÷ Zone 7 ME's	178,503
Monthly Unit Rate	$24.41

Account Services

Account Services costs are incurred by each customer regardless of the type of land use, meter size, or total amount of water used. These costs should be spread equally across all accounts. This is achieved by using the distribution basis of Total Bills. Total Bills are determined by multiplying the number of accounts by the number of billing periods over the fiscal year. Therefore, the revenue requirement for Account Services is apportioned based on the Total Bills to determine the monthly unit cost-of-service shown in Table 32.

Table 32: FY 2023 Account Services Monthly Unit Rate

Account Services Component Unit Rate	
Revenue Requirement	$994,128
÷ Total Bills	119,484
Monthly Unit Rate	$8.33

Meter Capacity

The Meter Capacity Component includes system-wide operations costs and a portion of capital and reserve funding. The revenue requirement for Meter Capacity is apportioned based on meter size. Larger sized meters can generate a greater demand on the system from the amount of potential water flow that may pass through the meter in gpm. The revenue requirement for Meter Capacity is apportioned to meter size as represented by All MEs.

Table 33: FY 2023 Meter Capacity Monthly Unit Rate

Meter Capacity Component Unit Rate	
Revenue Requirement	$2,609,003
÷ All ME's	189,714
Monthly Unit Rate	$13.76

Fire Flow Demand

System fire flow revenue requirements are allocated between hydrants and dedicated fire lines based on fire flow demand of all connections. All meters recover the portion associated with the fire flow demand of hydrants as a means to quantify the standby services rendered to all accounts for system fire flow capacity. Table 34 identifies all connections by size (in diameter inches) between dedicated fire lines and hydrants. The cross-sectional diameter of the line is multiplied by total connections of each size and the result is then raised to the 2.63 power, using the principals of the Hazen-Williams equation for the relative flow potential through pressure conduits which is a function of the diameter size. Table 35 takes the portion associated with fire flow demand of the water system's connected hydrants and spreads the cost to potable meters based on MEs. The portion related to dedicated fire lines is recovered proportionately based on the size of the connection (per diameter inch) derived in Table 36.

Table 34: FY 2023 Fire Flow Demand Allocations

Fire Lines	Connections [A]	Size of Line [B]	Diameter inches [C] = A x B	Fire Flow Demand [D] = C^2.63	% Allocation [E] = D as %	Revenue Requirment [F] = $259,651 x E
System Fire Flow						
Public Hydrants						
6"	1,687	6.00	10,122	187,782		
Subtotal Public Hydrants	**1,687**		**10,122**	**187,782**	**60.04%**	**$155,907**
Dedicated Fire Lines						
5/8"	0	0.63	0	-		
3/4"	0	0.75	0	-		
1"	6	1.00	6	6		
1 1/2"	0	1.50	0	-		
2"	84	2.00	168	520		
3"	16	3.00	48	288		
4"	86	4.00	344	3,295		
6"	140	6.00	840	15,584		
8"	174	8.00	1,392	41,274		
10"	150	10.00	1,500	63,987		
12"	0	12.00	0	-		
Subtotal Dedicated Fire Lines	**656**		**4,298**	**124,954**	**39.96%**	**$103,744**
Total Firelines	*2,343*		*14,420*	*312,735*	*100.00%*	*$259,651*

Table 35: FY 2023 Fire Flow Demand Monthly Unit Rate

Fire Flow Demand Component	
Revenue Requirement	$155,907
÷ All ME's	189,714
Monthly Unit Rate	$0.83

Table 36: FY 2023 Dedicated Fire Line Monthly Unit Rate per Diameter Inch

Dedicated Fire Line - Unit Rate	
Revenue Requirement	$103,744
÷ Annual Diameter inches	51,576
Monthly Unit Rate	$2.02

Variable Cost Recovery

The remaining cost components are recovered through the variable rates. The existing and proposed variable rate structure is similar to the current rate structure, except Multi-Family Residential variable rates were adjusted from a two-tiered rate structure to a uniform rate.

Water Supply

The City purchases treated water from Zone 7 to serve its potable customers. Therefore, the revenue requirement for Purchased Water is apportioned over potable usage identified in . Table 37 derives the unit rate for the Zone 7 Variable component, which is subject to adjustments using the pass-through provision, commencing on January 1, 2023. Recycled customers are not subject to Zone 7 water supply costs.

Table 37: Zone 7 Calendar Year 2022 Supply Cost Unit Rate per CCF

Zone 7 Variable Component - Unit Rate	
Revenue Requirement	$5,275,000
÷ Potable Usage	2,560,501
Unit Rate	$2.06

Delivery

Delivery costs are incurred based on the total volume of water produced and delivered to customers at a constant average demand throughout the year. Therefore, the revenue requirement for Delivery is apportioned based on projected total usage identified in Table 29 to determine the unit cost-of-service, irrespective of tier, as shown in Table 38.

Table 38: FY 2023 Delivery Cost Unit Rate per CCF

Delivery Component Unit Rate	
Revenue Requirement	$2,728,080
÷ All Usage	2,860,942
Unit Rate	$0.96

Peaking

Peaking costs are incurred based not only on the total volume of water produced and delivered but also as a function of the peaking characteristics of customer classes and tiers. Therefore, the revenue requirement for Peaking is first allocated to each customer class based on the Weighted Peaking derived in Table 29 and the results are identified in Table 39. The revenue requirement for Peaking from Table 27 ($2,054,904) is allocated to each customer class using the percentages of Weighted Peak (Table 39 – Column D). Table 40 takes the Peaking cost allocated to Single-Family Residential ($927,449) and further apportions the costs to the corresponding tiers utilizing the Weighted Peaking derived in Table 30.

Table 39: FY 2023 Peaking Allocation to Customer Classes

Customer Class	All Usage [A]	Peaking Factors [B]	Weighted Peak [C] = A x B	% Allocation [D] = C as %	Revenue Requirement [E] = $2,054,904 X D	Unit Rate per CCF [F] = E ÷ A
Single-Family	1,287,829	1.51	1,941,185	45.1%	$927,449	*further allocated*
Multi-Family	198,404	1.28	254,222	5.9%	$121,461	$0.62
Non-Residential	446,669	1.22	543,899	12.6%	$259,861	$0.59
Irrigation	627,599	1.66	1,042,315	24.2%	$497,992	$0.80
Recycled	300,441	1.73	519,370	12.1%	$248,142	$0.83
Total	2,860,942		4,300,992	100.0%	$2,054,904	

Table 40: FY 2023 Peaking Unit Rate by Tier

Tier Usage Characteristics	Tier Allotments	Projected Usage [A]	Usage per Account [B]	Peaking Factor [C] = B ÷7	Weighted Peak [D] = A x C	% Allocation [E] = D as %	Revenue Requirement [F] = $927,449 X E	Unit Rate per CCF [G] = F ÷ A
Single-Family								
Tier 1	7	566,273	7.00	1.00	566,273	23.2%	$215,505	$0.39
Tier 2	> 7	721,556	18.15	2.59	1,870,743	76.8%	$711,944	$0.99
Total		1,287,829			2,437,016	100.0%	$927,449	

Recycled Water

The City employs additional staffing to support the recycled utility and incurs additional O&M costs related to tertiary treatment. Since these costs are incurred specifically for the recycled customers, the costs have been allocated solely to recycled customers and spread equally over all recycled water usage. Table 41 derives the variable unit rate for the Recycled Water Component.

Table 41: FY 2023 Recycled Water Cost Unit Rate

Recycled Component Unit Rate	
Revenue Requirement	$283,235
÷ Recycled Usage	300,441
Unit Rate	$0.95

Cost-Based Rates Summary

Financial Plan Summary

The financial plan developed for the City identifies revenue adjustments through FY 2027. Based on the review of the City's current rate revenue and multi-year revenue requirements, rate revenue through the Financial Plan Period will generate approximately $1.5M in additional revenue, which reflects no increase in FY 2023 and a 1% increase in total rate revenue each year for FY 2024 through FY 2027. These recommended revenue adjustments will allow the City to generate positive net income of at least $1.8M each year, while drawing down capital replacement reserves for a majority of the City's capital spending. The financial plan should be updated annually to review actual revenue recovered, capture new accounts, update changes in water usage, and track capital expenses as estimates change. As the baseline assumptions change, the proposed revenue adjustments may also need to be revised to reflect updated conditions.

Cost-of-Service and Rate Summary

The City's proposed fixed charges are structured similarly to the existing rate structure, with fixed charges separated between the City and Zone 7. The variable rate structure is also similar to existing rates, except for Multi-Family Residential. The 2-tiered rate structure has been updated to a uniform rate to eliminate the need for the City to track the number of dwelling units at each complex and assignment of occupied dwelling units to each meter for complexes that have multiple meters. In addition, variable rates are separated between City variable rates and the Zone 7 variable rate.

The City also plans to continue to utilize the pass-through provisions of the Proposition 218 Omnibus Implementation Act (Government Code Section 53756) for any rate adjustments adopted by Zone 7 each January. There will be two separate pass-throughs, one for increases / decreases in fixed charges and the other for increases / decreases in variable rates.

The comprehensive cost-of-service analysis and rate development meet the requirements of Proposition 218, and identify the costs components that make up the proposed fixed charges and variable rates. Proposition 218 requires the following conditions:

1. An agency cannot collect revenue beyond what is necessary to provide service.

   The long-term financial plan identifies the City's revenue requirements including operating expense, capital improvement program, debt coverage, and reserves. Water utility reserves are healthy and the City plans to use replacement reserves to fund a majority of its capital, minimizing the need to increase rates higher than would otherwise be necessary.

2. Revenues derived by the charge shall not be used for any other purpose other than that for which the charge was imposed.

   The City's water fund is a separate business enterprise to track revenues and expenses. Costs from other departments, such as central services support, are identified within the budget, and the water fund only pays its proportionate share.

3. The amount of the fee may not exceed the proportional cost of service for the parcel.

   The comprehensive cost-of-service analysis and updated fixed charges and variable rates reflect each customer's proportionate share of cost. Through this update, each account is paying for the cost of providing water service to the parcel.

4. No charge may be imposed for a service unless that service is actually used or immediately available to the owner of a property.

   The proposed fixed charges and variable rates connect directly to the City's budget and projected future revenue requirements of the water enterprise and are recovered from all active accounts receiving service.

5. A written notice of the proposed charge shall be mailed to the record owner of each parcel at least 45 days prior to the public hearing.

   Notices were mailed to each affected parcel at least 45 days prior to the April 11, 2022, Public Hearing.

The proposed fixed charges and the proposed variable rates for FY 2023 are shown in the following section. If a majority protest does not exist at the April 11th Public Hearing, the City Council may adopt the rates with an effective date of January 1, 2023.

Proposed Monthly Fixed Charges

Table 42 reflects the combined charges of the City's fixed charge of Account Services, Meter Capacity, and Fire Flow Demand. Account Service is constant for all meter sizes. Meter Capacity and Fire Flow Demand are multiplied by the corresponding Capacity Ratios of each meter size to derive the City's fixed charge schedule. The proposed Zone 7 fixed charges for FY 2023 are shown in Table 43. The Zone 7 fixed charge per ME calculated in Table 31 is multiplied by the Capacity Ratio for each meter size to derive the Zone 7 fixed charge schedule. Lastly, Table 44 provides the proposed FY 2023 monthly dedicated fire line charges by connection size (diameter inch).

Table 42: FY 2023 City Service Charges by Meter Size

Meter Size	Account Services [A]	Capacity Ratios [B]	Meter Capacity [C] = $13.76 x B	Fire Flow Demand [D] = $0.83 x B	City Service Charges [E] = A + C + D
5/8"	$8.33	1.00	$13.76	$0.83	**$22.92**
3/4"	$8.33	1.50	$20.64	$1.25	**$30.22**
1" w/Fire	$8.33	1.00	$13.76	$0.83	**$22.92**
1"	$8.33	2.50	$34.40	$2.08	**$44.81**
1 1/2"	$8.33	5.00	$68.80	$4.15	**$81.28**
1 1/2" T	$8.33	6.00	$82.56	$4.98	**$95.87**
2"	$8.33	8.00	$110.08	$6.64	**$125.05**
2" T	$8.33	9.50	$130.72	$7.89	**$146.94**
3"	$8.33	21.75	$299.28	$18.06	**$325.67**
4"	$8.33	37.50	$516.00	$31.13	**$555.46**
6"	$8.33	80.00	$1,100.80	$66.40	**$1,175.53**
8"	$8.33	140.00	$1,926.40	$116.20	**$2,050.93**
10"	$8.33	210.00	$2,889.60	$174.30	**$3,072.23**
12"	$8.33	265.00	$3,646.40	$219.95	**$3,874.68**

Table 43: FY 2023 Zone 7 Fixed Charges [5]

Meter Size	Capacity Ratio [A]	Zone 7 Fixed Charges [B] = $24.41 x A
5/8"	1.00	$24.41
3/4"	1.50	$36.62
1" w/Fire	1.00	$24.41
1"	2.50	$61.03
1 1/2"	5.00	$122.05
1 1/2" T	6.00	$146.46
2"	8.00	$195.28
2" T	9.50	$231.90
3"	21.75	$530.92
4"	37.50	$915.38
6"	80.00	$1,952.80
8"	140.00	$3,417.40
10"	210.00	$5,126.10
12"	265.00	$6,468.65

Table 44 FY 2023 Dedicated Fire Line Monthly Fixed Charges

Conenction Size	Diameter Inch [A]	Dedicated Fire Line Charge [B] = $2.02 x A
5/8"	0.63	$1.27
3/4"	0.75	$1.52
1"	1.00	$2.02
1 1/2"	1.50	$3.03
2"	2.00	$4.04
3"	3.00	$6.06
4"	4.00	$8.08
6"	6.00	$12.12
8"	8.00	$16.16
10"	10.00	$20.20
12"	12.00	$24.24

[5] Subject to pass-through adjustments each January 1, commencing on January 1, 2023

Table 45 and Table 46 provide the five-year City fixed charge schedule through FY 2027 for all meters and dedicated file lines, respectively.

Table 45: City Monthly Service Charges – FY 2023 through FY 2027

Service Charges by Meter Size ($/Month)					
Meter Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$22.92	$23.40	$23.88	$24.37	$24.86
3/4"	$30.22	$30.89	$31.57	$32.26	$32.95
1" w/Fire	$22.92	$23.40	$23.88	$24.37	$24.86
1"	$44.81	$45.87	$46.94	$48.02	$49.12
1 1/2"	$81.28	$83.32	$85.38	$87.46	$89.56
1 1/2" T	$95.87	$98.30	$100.75	$103.23	$105.73
2"	$125.05	$128.26	$131.50	$134.77	$138.08
2" T	$146.94	$150.73	$154.56	$158.43	$162.34
3"	$325.67	$334.24	$342.90	$351.64	$360.47
4"	$555.46	$570.17	$585.03	$600.04	$615.20
6"	$1,175.53	$1,206.82	$1,238.42	$1,270.34	$1,302.58
8"	$2,050.93	$2,105.62	$2,160.86	$2,216.65	$2,273.00
10"	$3,072.23	$3,154.22	$3,237.03	$3,320.67	$3,405.14
12"	$3,874.68	$3,978.12	$4,082.59	$4,188.11	$4,294.68

Table 46: Monthly Dedicated Fire Line Fixed Charges – FY 2023 through FY 2027

Fire Line Charges ($/Month)					
Connection Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$1.27	$1.29	$1.31	$1.33	$1.35
3/4"	$1.52	$1.54	$1.56	$1.58	$1.60
1"	$2.02	$2.05	$2.08	$2.11	$2.14
1 1/2"	$3.03	$3.07	$3.11	$3.15	$3.19
2"	$4.04	$4.09	$4.14	$4.19	$4.24
3"	$6.06	$6.13	$6.20	$6.27	$6.34
4"	$8.08	$8.17	$8.26	$8.35	$8.44
6"	$12.12	$12.25	$12.38	$12.51	$12.64
8"	$16.16	$16.33	$16.50	$16.67	$16.84
10"	$20.20	$20.41	$20.62	$20.83	$21.04

Proposed Variable Rates

The proposed variable rates for FY 2023 are shown in Table 47 for each customer class and tier, reflecting the combined rate components of Purchased Water, Delivery, Peaking, and Recycled Water. Table 48Table 49 provides the five-year variable rate schedule through FY 2027 for the City portion of the variable rates (less Zone 7 Variable).

Table 47: FY 2023 Variable Rates by Customer Class and Tier

Customer Class	Tier Allotments (CCF)	Zone 7 Variable [A]	Delivery [B]	Peaking [C]	Recycled [D]	2023 Proposed Variable Rate [E] = A + B + C + D
Single-Family						
Tier 1	7	$2.06	$0.96	$0.39	$0.00	**$3.41**
Tier 2	> 7	$2.06	$0.96	$0.99	$0.00	**$4.01**
Multi-Family	(Uniform)	$2.06	$0.96	$0.62	$0.00	**$3.64**
Non-Residential	(Uniform)	$2.06	$0.96	$0.59	$0.00	**$3.61**
Irrigation	(Uniform)	$2.06	$0.96	$0.80	$0.00	**$3.82**
Recycled	(Uniform)	$0.00	$0.96	$0.83	$0.95	**$2.74**

Table 48: City Distribution Rates – FY 2023 through FY 2027 [6]

Distribution Rates ($/CCF)					
Customer Class	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Single-Family					
Tier 1	$1.35	$1.39	$1.43	$1.47	$1.51
Tier 2	$1.95	$2.00	$2.05	$2.10	$2.15
Multi-Family	$1.58	$1.62	$1.66	$1.70	$1.74
Non-Residential	$1.55	$1.59	$1.63	$1.67	$1.71
Irrigation	$1.76	$1.80	$1.84	$1.88	$1.92
Recycled	$2.74	$2.77	$2.80	$2.83	$2.86

[6] Potable customers are also subject to the Zone 7 Variable charge equal to $2.06, which are subject to pass-through adjustments each January 1, commencing on January 1, 2023

Appendix A – Conservation Surcharges

The City's Municipal Code (Municipal Code) includes a Water Conservation Contingency Plan (Chapter 13.26) with six different conservation stages reflecting reduced water usage. When conservation stages are enacted and the conservation measures realize reductions in water usage, revenues will also reduce causing the utility not to meet its revenue requirements. As such, the Municipal Code also includes the implementation of Conservation Water Rates (Conservation Surcharges) to recover projected lost revenues from each conservation stage. Stage 1 assumes a 10% reduction with each subsequent stage projecting an additional 10% reduction in water usage up to a 60% reduction in stage 6.

The City Council may enact Conservation Surcharges during water shortage events to recover the appropriate amount of revenue to fund water system operations from a reduced volume of water sold. Therefore, Conservation Surcharges are higher than the proposed variable rates identified in Table 48 and increase for each stage.

The proposed Conservation Surcharges are shown by stage for FY 2023 through FY 2027. Water use reductions were applied pro-rata to Residential - Tier 2 and Irrigation usage. The usage within these two classes has the highest potential for cuts and the greatest revenue loss to recover for developing Conservation Surcharges. At 60% reduction in Stage 6, all the Residential – Tier 2 and Irrigation usage is depleted. The additional usage reductions needed to meet the 60% reduction are taken pro-rata from Multi-Family and Non-Residential customers.

Table 49 identifies the total reduction in CCF needed to achieve each conservation stage, and Table 50 summarizes where the reductions are assumed to occur from customer classes and tiers.

Table 49: Total Usage Reductions by Conservation Stage

Baseline Usage (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
	10.0%	20.0%	30.0%	40.0%	50.0%	60.0%
2,560,501	256,050	512,100	768,150	1,024,200	1,280,251	1,536,301

Table 50: Usage Reductions by Customer Class and Tier

% Reduction

Customer Class	Baseline Usage (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Single-Family							
Tier 1	566,273	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Tier 2	721,556	19.0%	38.0%	56.9%	75.9%	94.9%	100.0%
Multi-Family	198,404	0.0%	0.0%	0.0%	0.0%	0.0%	29.0%
Non-Residential	446,669	0.0%	0.0%	0.0%	0.0%	0.0%	29.0%
Irrigation	627,599	19.0%	38.0%	56.9%	75.9%	94.9%	100.0%
	2,560,501						

Usage Reduction

Customer Class	Baseline Usage (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Single-Family							
Tier 1	566,273	-	-	-	-	-	-
Tier 2	721,556	136,941	273,882	410,823	547,764	684,704	721,556
Multi-Family	198,404	-	-	-	-	-	57,560
Non-Residential	446,669	-	-	-	-	-	129,585
Irrigation	627,599	119,109	238,218	357,328	476,437	595,546	627,599
Projected Usage Reduction		256,050	512,100	768,150	1,024,200	1,280,251	1,536,301

With reductions identified in Table 50, the remaining usage is summarized in Table 51 and the corresponding reduced revenue for FY 2023 is shown in Table 52 by taking the usage in Table 51 and multiplying it by the proposed FY 2023 City variable rates.

Table 51: Remaining Usage by Conservation Stage

Customer Class	Baseline Usage (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Single-Family							
Tier 1	566,273	566,273	566,273	566,273	566,273	566,273	566,273
Tier 2	721,556	584,615	447,674	310,733	173,792	36,852	0
Multi-Family	198,404	198,404	198,404	198,404	198,404	198,404	140,844
Non-Residential	446,669	446,669	446,669	446,669	446,669	446,669	317,084
Irrigation	627,599	508,490	389,381	270,271	151,162	32,053	0
Total Projected Water Sales (CCF)	2,560,501	2,304,451	2,048,401	1,792,351	1,536,301	1,280,251	1,024,200
% Reduction from Baseline		*10.0%*	*20.0%*	*30.0%*	*40.0%*	*50.0%*	*60.0%*

Table 52: Projected Revenue and Potential Revenue Loss

Commodity Rates ($/CCF)						FY 2023
Customer Class	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	Selected
Single-Family						
Tier 1	$1.35	$1.39	$1.43	$1.47	$1.51	**$1.35**
Tier 2	$1.95	$2.00	$2.05	$2.10	$2.15	**$1.95**
Multi-Family	$1.58	$1.62	$1.66	$1.70	$1.74	**$1.58**
Non-Residential	$1.55	$1.59	$1.63	$1.67	$1.71	**$1.55**
Irrigation	$1.76	$1.80	$1.84	$1.88	$1.92	**$1.76**

Projected Commodity Revenue			FY 2023					
Line #	Customer Class	Baseline [A]	Stage 1 [B]	Stage 2 [C]	Stage 3 [D]	Stage 4 [E]	Stage 5 [F]	Stage 6 [G]
1	Single-Family							
2	Tier 1	$764,468	$764,468	$764,468	$764,468	$764,468	$764,468	$764,468
3	Tier 2	$1,407,034	$1,140,000	$872,965	$605,930	$338,895	$71,861	$0
4	Multi-Family	$313,478	$313,478	$313,478	$313,478	$313,478	$313,478	$222,533
5	Non-Residential	$692,337	$692,337	$692,337	$692,337	$692,337	$692,337	$491,479
6	Irrigation	$1,104,574	$894,942	$685,310	$475,678	$266,045	$56,413	$0
7	Total Projected Commodity Revenue	**$4,281,892**	**$3,805,225**	**$3,328,558**	**$2,851,891**	**$2,375,225**	**$1,898,558**	**$1,478,481**
	Revenue Loss Calculation in Line 8		*B7 - A7*	*C7 - A7*	*D7 - A7*	*E7 - A7*	*F7 - A7*	*G7 - A7*
8	Projected Lost Revenue		**$476,667**	**$953,334**	**$1,430,001**	**$1,906,668**	**$2,383,335**	**$2,803,411**
	% Lost Revenue		*11%*	*22%*	*33%*	*45%*	*56%*	*65%*

In addition to revenue losses, the City will also see a reduction in water loss expenses (included within the City's Delivery component), generating cost savings. Table 53 calculates the cost savings from reduced water loss, and Table 54 reflects the FY 2023 net impact of revenue loss to be recovered from Conservation Surcharges for each stage.

Table 53: Water Loss Expense – Cost Savings

Variable Purchased Water Unit Cost	
Variable Purchased Water Costs	$586,000
÷ Baseline Usage (CCF)	2,560,501
Variable Purchased Water Unit Cost ($/CCF)	$0.23

Purchased Water Cost Savings	*Source*	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Reduction in usage (CCF)	*Table 50*	256,050	512,100	768,150	1,024,200	1,280,251	1,536,301
× Variable Purchased Water Unit Cost		$0.23	$0.23	$0.23	$0.23	$0.23	$0.23
Purchased Water Cost Savings		**$58,600**	**$117,200**	**$175,800**	**$234,400**	**$293,000**	**$351,600**

Table 54: FY 2023 Net Impact from Conservation Stages

Incremenal Impact from Conservation Stages	*Source*	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Lost Revenue	*Table 52*	$476,667	$953,334	$1,430,001	$1,906,668	$2,383,335	$2,803,411
Less Purchased Water Cost Savings	*Table 53*	($58,600)	($117,200)	($175,800)	($234,400)	($293,000)	($351,600)
Incremenal Impact from Conservation Stages ($)		**$418,067**	**$836,134**	**$1,254,201**	**$1,672,268**	**$2,090,335**	**$2,451,811**

Table 55 takes the net revenue loss in Table 54 and recovers it from the remaining usage from Table 51 to derive Conservation Surcharges for FY 2023, which would be applied to all City variable rates. Table 55

through Table 59 identify the Conservation Surcharges for FY 2024 through FY 2027, respectively, using the same approach shown for FY 2023.

Table 55: FY 2023 Conservation Surcharges

Drought Rate (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Incremenal Impact from Conservation Stages ($)	$418,067	$836,134	$1,254,201	$1,672,268	$2,090,335	$2,451,811
÷ Projected Water Sales (CCF)	2,304,451	2,048,401	1,792,351	1,536,301	1,280,251	1,024,200
Drought Rate (CCF)	**$0.19**	**$0.41**	**$0.70**	**$1.09**	**$1.64**	**$2.40**

Table 56: FY 2024 Conservation Surcharges

Drought Rate (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Incremenal Impact from Conservation Stages ($)	$429,678	$859,357	$1,289,035	$1,718,713	$2,148,392	$2,520,479
÷ Projected Water Sales (CCF)	2,304,451	2,048,401	1,792,351	1,536,301	1,280,251	1,024,200
Drought Rate (CCF)	**$0.19**	**$0.42**	**$0.72**	**$1.12**	**$1.68**	**$2.47**

Table 57: FY 2025 Conservation Surcharges

Drought Rate (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Incremenal Impact from Conservation Stages ($)	$441,290	$882,580	$1,323,869	$1,765,159	$2,206,449	$2,589,146
÷ Projected Water Sales (CCF)	2,304,451	2,048,401	1,792,351	1,536,301	1,280,251	1,024,200
Drought Rate (CCF)	**$0.20**	**$0.44**	**$0.74**	**$1.15**	**$1.73**	**$2.53**

Table 58: FY 2026 Conservation Surcharges

Drought Rate (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Incremenal Impact from Conservation Stages ($)	$452,901	$905,802	$1,358,704	$1,811,605	$2,264,506	$2,657,814
÷ Projected Water Sales (CCF)	2,304,451	2,048,401	1,792,351	1,536,301	1,280,251	1,024,200
Drought Rate (CCF)	**$0.20**	**$0.45**	**$0.76**	**$1.18**	**$1.77**	**$2.60**

Table 59: FY 2027 Conservation Surcharges

Drought Rate (CCF)	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Incremenal Impact from Conservation Stages ($)	$464,513	$929,025	$1,393,538	$1,858,050	$2,322,563	$2,726,481
÷ Projected Water Sales (CCF)	2,304,451	2,048,401	1,792,351	1,536,301	1,280,251	1,024,200
Drought Rate (CCF)	**$0.21**	**$0.46**	**$0.78**	**$1.21**	**$1.82**	**$2.67**

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.2**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Jeramy Young, Police Chief

SUBJECT: Hearing to **introduce an ordinance** adding section 2.36.200 to the Livermore Municipal Code in compliance with the requirements of Assembly Bill 481 (an act to add sections 7070 through 7075 to the Government Code, relating to military equipment).

RECOMMENDED ACTION

Staff recommends City Council:

1. Conduct a Public Hearing to receive input and comments on the proposed equipment policy.
2. Introduce an Ordinance adding Section 2.36.200 entitled, “Military Equipment Policy” to the Livermore Municipal Code in compliance with Assembly Bill 481.

SUMMARY

The Livermore Police Department regularly utilizes a wide range of equipment to provide effective public safety service to the community. This variety of equipment provides a multitude of options to help address and de-escalate situations that are often tense, uncertain, and rapidly evolving. Having the availability of different options minimizes the potential for harm to the public and police department staff.

A new state law (AB481) requires City Council to adopt, by ordinance, a policy pertaining to the funding, acquisition, and use of certain types of equipment utilized by the local police department. The law also mandates other considerations related to public engagement and annual reporting.

DISCUSSION

On September 30, 2021, Governor Newsom signed into law Assembly Bill 481, related to law enforcement’s funding, acquisition, and use of certain types of equipment, which the new law identifies as "military equipment". This designation of military equipment is not necessarily synonymous with items regularly utilized by the United States military or surplus items provided to law enforcement agencies through federal programs such as the 1033 program. None of the designated items possessed by the Livermore Police Department were obtained from the federal government through the 1033 program. Many of the items identified in this legislation have been in local use for years, while others have never been used by the Livermore Police Department. Many of the designated items, such as bean bag

launchers, are commonly used as alternatives to higher levels of force, while others are not directly related to the use of force (i.e., command post vehicle and non-weaponized robots/drones used for observation only).

AB 481 was codified in Government Code Sections 7070 through 7075. The bill requires law enforcement agencies to obtain City Council approval of an Equipment Policy via ordinance, consistent with the Requirements of AB 481, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of certain equipment identified in the Government Code. All California law enforcement agencies wishing to continue their use of this equipment are required to commence the authorization process by May 1, 2022.

Government Code 7070 designates certain equipment as “military equipment”. Included in that definition are the following items possessed and/or used by the Livermore Police Department within the normal scope of operations (please refer to Attachment 2 for specific quantities and additional information):

• Unmanned, remotely piloted, powered aerial or ground vehicles (note: these items are used for observation purposes only, and do not possess weapons capabilities)
• Armored personnel carriers
• Wheeled vehicles that have an attached breaching or entry apparatus
• Command and control vehicles built or modified to facilitate the operational control and direction of public safety units
• Battering rams, slugs, and breaching apparatuses that are explosive in nature (this does not include a handheld, one-person ram)
• Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue weapons
• Noise-flash diversionary devices and explosive breaching tools
• Munitions containing tear gas or OC (pepper spray), excluding standard, service-issued handheld pepper spray
• Kinetic energy weapons and munitions

Livermore Police Department policies and case law dictate when and how certain types of equipment may be used. Departmental equipment, especially any item that could be used as a force option, is expected to be used in a manner consistent with all applicable laws and policies. Department policies also require officers to utilize de-escalation and crisis intervention techniques, as well as other alternatives to force when feasible.

In addition to the equipment owned by the City of Livermore, use of allied agency equipment is also subject the requirements of this policy. The use of equipment from allied agencies augments the department's inventory for command and control, scene safety, intelligence gathering, lethal force applications, and less-lethal force applications to meet the vast array of potential circumstances that might require law enforcement action. Many of those allied agency options may never actually be needed but are important tools to have available when facing uncertain and uncommon circumstances.

Assembly Bill 481 allows the governing body of a city to approve the funding, acquisition, or use of such listed equipment, or other equipment as determined by the governing body to require additional oversight, within its jurisdiction only if it makes specified determinations, which include the following:

1. The equipment is necessary, because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
2. The equipment policy (Policy 709) will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. The equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. The policy is approved and adopted.

In addition to the initial requirements of the legislation, law enforcement agencies must also complete the following:

1. Designate a member of the department to act as the coordinator for the listed military equipment.
Compliance: The department has complied with this requirement by designating a Force Options Unit Lieutenant as the coordinator. Additional staff will support the Force Options Unit Lieutenant in meeting all requirements.

2. Identify department equipment that qualifies as military equipment (as defined by Government Code Section 7070) in the current possession of the Livermore Police Department, or the equipment the Livermore Police Department intends to acquire that requires approval by the governing body.
Compliance: The department has complied with this requirement by conducting a related inventory of current equipment (attached hereto and incorporated by reference) and by identifying future acquisitions as part of the budget process.

3. Conduct an inventory of all listed equipment at least annually.
Compliance: The department has completed the current inventory, and has identified the Force Options Unit Lieutenant, who will be responsible for future inventories and reporting.

4. Collaborate with any allied agency that may use listed equipment within the jurisdiction of the Livermore Police Department.
Compliance: The department has collaborated with allied agencies and included allied agency assets in the "Allied Agency Equipment" section of the attached equipment inventory. This collaboration includes the department's partnership with the Pleasanton Police Department to form a joint SWAT team, known as the East County Tactical Team. Additional forms of listed equipment should not be used in this jurisdiction, except in exigent circumstances with the approval of the Chief of Police or his/her designee. Any such exigent use shall be reported to the public on the department's website within 30 days of its use unless it is deemed to be confidential under the law. Applicable reporting shall include a description of the item used, the general reason for its use, and any reasonably known fiscal impact resulting from the equipment use.

5. Prepare for, schedule, and coordinate an annual community engagement meeting to include publicizing the details of the meeting and preparing for public questions regarding the department's funding, acquisition, and use of listed equipment.
Compliance: The Force Options Unit Lieutenant has been designated to complete this requirement, commencing this year.

6. Prepare an annual report for submission to the Chief of Police and ensure that the report is made available on the department website.
Compliance: The Force Options Unit Lieutenant and the Professional Standards Unit Sergeant have

been assigned to complete this task on an annual basis.

7. Establish a procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of equipment listed by Government Code section 7070 and how the department will respond in a timely manner.
Compliance: The Professional Standards Unit Sergeant has been assigned to meet this requirement by adding an applicable section and email link to the Livermore Police Department website.

Staff has worked diligently to comply with all requirements of this legislation. Additionally, staff plans to include future acquisition authorizations through the regular budget approval process. A draft of Livermore Police Department Policy 709 (attached) posted to the department's website on March 3, 2022.

FISCAL AND ADMINISTRATIVE IMPACTS

This legislation is not expected to have any significant fiscal or administrative impacts beyond the labor required to meet the annual inventory and transparency related requirements.

ATTACHMENTS

1. Livermore Police Department Policy 709 -Military Equipment
2. LPD Military Equipment Inventory- 2022
3. Equipment Inventory Summary
4. Ordinance

Prepared by: Jason Bogerg
Police Captain

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Military Equipment

709.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

709.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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709.2 POLICY

It is the policy of the Livermore Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

709.3 MILITARY EQUIPMENT COORDINATOR

The Force Options Unit Lieutenant shall act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

(a) Acting as liaison to the governing body for matters related to the requirements of this policy.

(b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.

(c) Conducting an inventory of all military equipment at least annually.

(d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Livermore Police Department (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.

(f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

(g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

The military equipment coordinator may delegate the above tasks as he/she deems appropriate, but will be responsible for ensuring the completion of all listed duties.

709.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

[Insert attachment here]

709.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The

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military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

(a) Requesting military equipment made available pursuant to 10 USC § 2576a.

(b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.

(g) Acquiring military equipment through any means not provided above.

709.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy. Approved equipment includes items used by the East County Tactical Team (ECTT), which is a combined SWAT and Crisis Negotiations Team operated by members of the Livermore and Pleasanton Police Departments. ECTT equipment, as well as known resources from other local entities, such as the Alameda County Sheriff's Office, is listed in the annual inventory as Allied Agency Equipment.

Under exigent circumstances, and with the approval of the Chief of Police or designee, additional types of military equipment may be deployed from other entities to promote the safety and security of the public and/or Livermore Police Department staff. In such cases, the military equipment coordinator shall report the use on the department's website within 30 days of the event unless such information is deemed to be confidential under the law. The report shall include the type of equipment used, the reason it was used, and any fiscal impact from its use.

709.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is

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available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

709.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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LPD Military Equipment (CA GC 7070)

Type	Armored vehicle: LPD White Armor
Description	Armored vehicle that seats 8-10 personnel with open floor plan that allows for rescue of downed personnel or other victims. It can stop various projectiles, which provides greater safety to citizens and officers beyond the protection level of shield and personal body armor.
Quantity	1
Capabilities	Armor rated to .50 cal.
Expected lifespan	10+ years (acquired in 2014)
Manufacturer's description	GMC C4500 (custom built) Duramax diesel engine-powered personnel carrier with ballistic glass and armor rated to .50 cal.
Purpose and authorized uses	To provide for the safe transport, security, and rescue of agency personnel and citizens in high-risk incidents.
Fiscal impact	Vehicle provided by LLNL. Initial outfitting cost $42,012. Annual maintenance cost $6,700.
Legal and procedural rules	It is the policy of the Department to utilize armored vehicles only for official law enforcement purposes, and pursuant to State and Federal law.
Required training	Agency authored course and annual refresher.
Compliance mechanisms	The use of armored vehicles shall only be authorized by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training -Policy 706.

Type	Patrol Rifle, Colt
Description	COLT 6933EPR is a semi-automatic, light weight, air-cooled, gas-operated, magazine-fed, shoulder fired weapon system. Chambered in .223 Rem/5.56NATO. Generally equiped with a light, electronic sight, and sling.
Quantity	105
Capabilities	Semi-automatic fire from close range to anything beyond practical handgun engagement distances.
Expected lifespan	10 years
Manufacturer's description	Built for the demanding use of those who protect our communities everyday, the Colt Enhanced Patrol Rifle (EPR) is the next evolution in the world's most dependable, thoroughly field-tested patrol rifle. Featuring an extended handguard that accepts modular rail segments for mounting a wide varietyof pro-grade optics, lighting, and ergonomics-enhancing accessories, as well as the highlydurable Magpul® MBUS® Pro Series front and rear back up sights and B5 Bravo buttstock. The Colt EPR reestablishes the Colt AR-15® as the finest tool for local, regional, and national law enforcement agencies.
Purpose and authorized uses	To project lethal force when reasonably necessary at a greater distance and with more accuracy than department issued handguns.
Fiscal impact	Approximately 10 rifles per year at $2000 per unit, fully equipped, and on-going maintenance cost of approx. $50 per rifle/year.
Legal and procedural rules	Use established under policy 300 and 311 for official law enforcement purposes and pursuant to State and Federal law regarding use of force.
Required training	POST certification and annual department qualification for authorized users
Compliance mechanisms	Policy 300, 311

Type	Semi Automatic Rifle, NEMO

Description	Semi-automatic, light weight, air-cooled, gas-operated, magazine-fed, shoulder fired weapon system. Chambered in .308 NATO. Generally equiped with a light, electronic or magnified optic, and sling.
Quantity	3
Capabilities	Semi-Automatic fire from close range to anything beyond practical handgun engagement distances.
Expected lifespan	10 years
Manufacturer's description	The XO 16-inch is compact and extremely maneuverable. The 16” Bartlein-blank barrel produces groups well into the sub-moa range with quality optics and ammunition. Accuracy is further enhanced with the addition of a Geissle Super Dynamic Enhanced (SD-E) two stage trigger and NEMO’s recoil reducing bolt carrier—an industry first.
Purpose and authorized uses	To project lethal force when reasonably necessary at a greater distance and with more accuracy than department issued handguns.
Fiscal impact	$5500 per unit, fully equipped plus annual maintenance cost of $100/year per rifle
Legal and procedural rules	Use established under policy 300 and 311 for official law enforcement purposes and pursuant to State and Federal law regarding use of force.
Required training	Post Certification and annual qualification for authorized users.
Compliance mechanisms	Policy 300
Type	**12 Gauge Less Lethal Launcher (Shotgun)**
Description	Remington 870 12 gauge less lethal launcher, generally brightly colored to distinguish from lethal weapons platforms. This platform launches 12 gauge drag-stabilized bean bag rounds and may be equiped with a side-saddle, light, sights, and orange-colored sling
Quantity	26
Capabilities	Operational range between 20 and 75 feet
Expected lifespan	10 years
Manufacturer's description	(From Remarms website): Remington 870 shotgun has a dependable action that makes it America's favorite, and our continual upgrades make it the most advanced, well-rounded family of pump shotguns around. Along with continually evolving designs, this shotgun’s superiority is a matter of rugged dependability, great pointing characteristics and versatility. In fact, the Model 870™ has been the standard for slide-action performance for more than 60 years.
Purpose and authorized uses	Asssit in deescalating conflict to compel an individual to cease thier actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	Unit cost of $1000 each, fully equipped, per 10 years.
Legal and procedural rules	Policy 300, 311, 307
Required training	Lecture, demonstration, practical application
Compliance mechanisms	Subject to appliacble policies (300, 307)
Type	**40mm Launcher**
Description	Single shot, 40mm launcher (may be from different vendors), with 14" barrel. Generally equipped with an electroinc sight, light and brightly colored (orange) sling.
Quantity	7
Capabilities	Capable of deploying exact impact 40mm sponge rounds including those with a chemical (OC or CS) payload or marking. Operational range between 5 and 120 feet.
Expected lifespan	10 years

Manufacturer's description	The 40mm Launcher can fire all Defense Technology® 37/40mm and 40mm rounds. It incorporates an aluminum rifled barrel that comes equipped with a top & bottom 12" Picatinny rail and front & rear pop-up adjustable sights. It will support the use of additional optics, sights and accessories with the 12" Picatinny rails and the folding stock allows for convenient carrying and storing of the launcher. A one-point sling w/ quick release is included. Additional rails may be purchased and mounted on the sides of the barrel.
Purpose and authorized uses	Asssit in deescalating conflict to compel an individual to cease thier actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$2200 per unit, fully equipped.
Legal and procedural rules	Policy 300, 307
Required training	Lecture, demonstration, practical application
Compliance mechanisms	Policy 300 and 307
Type	**40mm Multi-Launcher**
Description	A 40mm single-shot launcher inteded to deploy various less lethal munitions. Generally equipped with a brightly colored sling, electronic sight and light.
Quantity	1
Capabilities	Capable of deploying chemical payload in the form of OC (oleoresin capsicum) or CS (2-chlorobenzalmalononitrile) or foam projectiles from 5-120 feet.
Expected lifespan	15 years
Manufacturer's description	A tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems.
Purpose and authorized uses	Asssit in deescalating conflict to compel an individual to cease thier actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$2500 replacement cost plus ongoing maintenance
Legal and procedural rules	Policy 300, 307
Required training	Lecture, demonstration, practical application
Compliance mechanisms	Policy 300 and 307
Type	**FN303 launcher**
Description	A .68 caliber, Semi-Automatic, lightweight, compressed-air operated, magazine fed, shoulder fired less lethal launcher. Generally equipped with an electronic sight, light, and brightly colored sling.
Quantity	5
Capabilities	Capable of deploying .68 caliber polystyrene and bismuth projectiles including those with a chemical (OC powder) payload or marking. Operational range between 3 and 164 feet.
Expected lifespan	10 years
Manufacturer's description	The FN303 Less Lethal Launcher is constructed from durable lightweight polymer with comfortable ergonomics and an easy to operate safety. The FN303 Launcher is equipped with both flip-up iron sights and an integrated MIL-STD-1913 top mounting rail for optical or electronic sights or other accessories. The lightweight polymer magazine holds 15 projectiles and offers a clear rear cover to allow the operator to instantly verify both the payload type and the number of projectiles remaining.
Purpose and authorized uses	Asssit in deescalating conflict to compel an individual to cease thier actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$2700 per unit, fully equipped, plus ongoing maintenance, compressed air costs.
Legal and procedural rules	Policy 300, 307

Required training	Lecture, demonstration, practical application
Compliance mechanisms	Policy 300, 307
Type	**Ammunition: .223 Remington 62gr GDSP**
Description	.223 Speer Gold Dot 62gr GDSP 246 cases (at 500 rounds each)
Capabilities	Semi-automatic fire from close range to anything beyond practical handgun engagement distances.
Expected lifespan	10 years
Manufacturer's description	Speer® Gold Dot® ammunition's reliability has made it the No. 1 choice for law enforcement, and we offer the same performance for self-defense rifle applications. Gold Dot rifle is engineered to provide industry-leading performance in FBI protocol testing through barrels less than 16 inches long. Its bullets are built using Speer's exclusive Uni-Cor® method. The jacket is bonded to the core one atom at a time, virtually eliminating core-jacket separation and creating a projectile that's accurate, tough and consistent through all common barriers.
Purpose and authorized uses	Agency authorized ammunition for patrol rifle
Fiscal impact	Replace annual consumption at $290.00
Legal and procedural rules	311.3.6
Required training	Continued Professional Training, Post Certification for patrol rifle operators, annual qualification.
Compliance mechanisms	Policy 311
Type	**Ammunition: .223 Remington 55gr FMJ**
Description	.223 American Eagle (Federal) 55gr Gr. FMJ
Quantity	312 cases (at 500 rounds each)
Capabilities	Training ammunition for live-fire practice from close range to anything beyond practical handgun engagement distances
Expected lifespan	10 years
Manufacturer's description	Offering outstanding performance at an economical price, Federal American Eagle .223 Remington 55 gr FMJ rifle ammo is boxer primed, brass cased and available in both 20-round box and bulk-packed quantities
Purpose and authorized uses	Agency authroized training ammunition for patrol rifle
Fiscal impact	$190/case to replace annual consumption
Legal and procedural rules	Policy 311
Required training	Continued Professional Training, Post Certification for patrol rifle operators, annual qualification.
Compliance mechanisms	Policy 311
Type	**Ammunition: .223 Remington Frangible**
Description	.223 Remington 42 gr RHT ballistcilean cartridge
Quantity	142 cases (at 500 rounds each)
Capabilities	Training ammunition for use on steel targets
Expected lifespan	10 years
Manufacturer's description	This frangible ammunition makes an excellent training load for AR-15s and other .223/5.56 NATO rifles due to its non-toxic, non-ricocheting nature. Each .223 Remington cartridge fires a 42 grain compressed metal bullet that disintegrates into powder on contact with a target, leaving behind only non-toxic residue. Ideal for shooting steel targets
Purpose and authorized uses	Training ammunition for use on steel targets
Fiscal impact	$350/case to replace annual consumption
Legal and procedural rules	Policy 311
Required training	Continued Professional Training, Post Certification for patrol rifle operators, qualification.
Compliance mechanisms	Policy 311
Type	**Ammunition: .308 Winchester Black Hills 168gr. Amax**
Description	.308 Winchester Black Hills 168gr Amax
Quantity	2000 rounds
Capabilities	Ammunition for agency authorized Semi-automatic fire from close range to anything beyond practical handgun engagement distances.
Expected lifespan	10 years

Manufacturer's description	Versatile loads optimized for excellent performance.
Purpose and authorized uses	Agency authorized ammunition for NEMO rifle
Fiscal impact	No longer being purchased exhaust existing inventory.
Legal and procedural rules	Policy 311 and 408
Required training	Continued Professional Training, Post Certification for patrol rifle operators, annual qualification.
Compliance mechanisms	Policy 311 and 408
Type	**Ammunition: .308 Winchester Black Hills 180gr Accubond**
Description	Agency authorized ammunition for NEMO rifle
Quantity	3500 rounds
Capabilities	Ammunition for agency authorized Semi-automatic fire from close range to anything beyond practical handgun engagement distances.
Expected lifespan	10 years
Manufacturer's description	This ammunition is new production and non-corrosive in boxer-primed, reloadable brass cases
Purpose and authorized uses	Agency authorized ammunition for NEMO rifle
Fiscal impact	$168/100 to replace annual consumption
Legal and procedural rules	Policy 311 and 408
Required training	Continued Professional Training, Post Certification for patrol rifle operators, qualification.
Compliance mechanisms	Agency authorized ammunition for NEMO rifle
Type	**Ammunition: .308 Winchester Black Hills 168gr. ELD-M**
Description	Agency authorized ammunition for NEMO rifle
Quantity	7300 rounds
Capabilities	Ammunition for agency authorized Semi-automatic fire from close range to anything beyond practical handgun engagement distances.
Expected lifespan	10 years
Manufacturer's description	This ammunition is new production and non-corrosive in boxer-primed, reloadable brass cases
Purpose and authorized uses	Agency authorized ammunition for NEMO rifle
Fiscal impact	$158.50/100 to replace annual consumption
Legal and procedural rules	Policy 311 and 408
Required training	Continued Professional Training, Post Certification for patrol rifle operators, qualification.
Compliance mechanisms	Policy 311 and 408
Type	**Projectile: 40mm Exact Impact**
Description	40mm, foam-tipped kinetic energy projectile fired from an agency-authorized 40mm launcher.
Quantity	343
Capabilities	Operational range 5-120 ft.
Expected lifespan	5 yrs.
Manufacturer's description	a lightweight, high-speed projectile consisting of a plastic body and a foam (sponge) nose that is spin stabilized via the incorporated rifling collar and the 40 mm launcher's rifled barrel.
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	Approximately 40 per year at $25 per round
Legal and procedural rules	Refer to policies 300, 307
Required training	Department training including qualification
Compliance mechanisms	Use is subject to the applicable policies (300, 307)
Type	**Projectile: 40mm Direct Impact OC**
Description	40mm, foam-tipped kinetic energy projectile fired from an agency-authorized 40mm launcher and carrying an OC payload
Quantity	189 rounds
Capabilities	Operational range from 5-120 feet
Expected lifespan	5 years

Manufacturer's description	The 40 mm Direct Impact® Round consists of a plastic body and a crushable foam nose that contains a powder payload. This payload area can hold inert, marking, OC or CS powder. The crushable foam nose dissipates energy upon impact while releasing the powder payload.
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option, and to deliver a chemical (OC) payload where appropriate. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$35 per round
Legal and procedural rules	Refer to policies 300, 307
Required training	Department training including qualification
Compliance mechanisms	Use is subject to the applicable policies (300, 307)
Type	**Projectile: 40mm Direct Impact Marking**
Description	40mm, foam-tipped kinetic energy projectile fired from an agency-authorized 40mm launcher and carrying a marking paint payload
Quantity	99 rounds
Capabilities	Operational range from 5-120 feet
Expected lifespan	5 years
Manufacturer's description	The 40 mm Direct Impact® Round consists of a plastic body and a crushable foam nose that contains a powder payload. This payload area can hold inert, marking, OC or CS powder. The crushable foam nose dissipates energy upon impact while releasing the powder payload.
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option, and to deliver a marking paint payload where appropriate. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$35 per round
Legal and procedural rules	Refer to policies 300, 307
Required training	Department training including qualification;
Compliance mechanisms	Use is subject to the applicable policies (300, 307)
Type	**Projectile: 40mm Ferret Round**
Description	40mm Barrier penetrator
Quantity	44
Capabilities	Barrier pentration to deliver OC or CS payload into a structure from 50-200 yards. Velocity 450fps.
Expected lifespan	5 years
Manufacturer's description	The Ferret® 40mm Round is a frangible projectile filled with chemical agent. It is designed to deliver chemical agents in barricade situations from a 40mm launcher. Spin stabilization from fins and barrel rifling affords maximum stand-off distance and accuracy for safety.
Purpose and authorized uses	The Ferret® 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows and hollow core doors. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle.
Fiscal impact	$23 per round. Approximately $2500 per year for training and operational readiness.
Legal and procedural rules	Policy 300, 307, and 408
Required training	Department training including qualification;
Compliance mechanisms	Policy 300, 307, and 408
Type	**Projectile: 12ga drag-stabilized bean bag round**
Description	12 Gauge drag stabilized bean bag round
Quantity	415 rounds
Capabilities	Operational range from 20-75 feet
Expected lifespan	5 years
Manufacturer's description	The 12-Gauge Drag Stabilized™ Round is comprised of a translucent 12-Gauge shell loaded with a 40 gram, tear shaped bag made from a cotton and ballistic material blend and filled with #9 shot. This design utilizes four (4) stabilizing tails. The 12-Gauge Drag Stabilized™ Round utilizes smokeless powder as the propellant.

Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$6.27 per round
Legal and procedural rules	Refer to policies 300, 307
Required training	Department training including qualification
Compliance mechanisms	Use is subject to the applicable policies (300, 307)
Type	**Projectile: .68 caliber PAVA/OC Powder**
Description	8.5gram fin-stabilized polystyrene body and non-toxic bismuth forward payload.
Quantity	16 cases of 160 rounds
Capabilities	Operational range from 3 to 164 feet
Expected lifespan	3 years
Manufacturer's description	This projectile is intended as an irritant for individual suspects, point-specific targets or small area denial. The active ingredient is 0.5% PAVA/OC in a powder form for ease of storage, deployment and clean-up.
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option, and to deliver a chemical (OC) payload where appropriate. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$500 per case
Legal and procedural rules	Policy 300, 307
Required training	Department training including qualification;
Compliance mechanisms	Policy 300, 307
Type	**Projectile: .68 caliber Indelible Paint**
Description	8.5gram fin-stabilized polystyrene body and non-toxic bismuth forward payload and a secondary payload of indelible paint.
Quantity	12 cases of 150 rounds
Capabilities	Operational range from 3 to 164 feet
Expected lifespan	3 years
Manufacturer's description	This projectile is intended for marking suspects and objects with an indelible colorant for later identification, arrest or questioning
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option, and to deliver a marking paint payload where appropriate. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	$500 per case
Legal and procedural rules	Policy 300, 307
Required training	Department training including qualification;
Compliance mechanisms	Policy 300, 307
Type	**Projectile: .68 caliber Inert Powder**
Description	8.5gram fin-stabilized polystyrene body and non-toxic bismuth forward payload along with a secondary payload of simulated irritant powder.
Quantity	10 cases of 150 rounds
Capabilities	Operational range from 3 to 164 feet
Expected lifespan	3 years
Manufacturer's description	This projectile is intended for training and contains a simulated irritant powder
Purpose and authorized uses	Training projectile for accuracy and scenario training of authorized personnel
Fiscal impact	$500 per case
Legal and procedural rules	Policy 300, 307
Required training	Department training including qualification;
Compliance mechanisms	Policy 300, 307
Type	**Kinetic Breaching Tool (KBT)**

Description	A 36" mechanical breaching device designed to be used in any space. This tool employs the best of physics in the form of a self-contained, jack-hammer style impact ram driven by a powder-actuated cartridge. This allows a large amount of energy to be precisely directed into locking mechanisms, hinges, or braces while minimizing the chances of collateral projectiles. This device can be used by officers of all sizes. There is no swinging motion required and can significantly reduce injuries of properly trained officers.
Quantity	1 (1 sought)
Capabilities	8 shots capable of breaching steel security doors.
Expected lifespan	10+ years
Manufacturer's description	A mechanical breaching tool that bridges the gap between traditional mechanical breaching, shotgun breaching, and explosive entry. The KBT utilizes a proprietary .45 Caliber handgun blank to deliver up to 850 ft/lb of force through a hardened steel ram. Unlike explosive or shotgun breaching, however, all of the force is mechanically driven through a ram. This means that no projectile or explosive energy leaves the device except for the force of the ram which is permanently captured in the device. The ramming surface is narrow enough to focus on a single hinge, yet powerful enough to breach steel security doors.
Purpose and authorized uses	To provide immediate entry into secure structures to protect life, property, or evidence as necessary and authorized by law.
Fiscal impact	$10,628 initial cost; $800 annually for training and operational ammunition.
Legal and procedural rules	It is the policy of LPD to utilize the KBT only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 321.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**GasRam™**
Description	The GasRam™ is a 35-pound metal device with similar characteristics to a breaching ram (weighted device with handles used to swing the GasRam™ in a pendulum motion). The obvious difference present is a canister and probe designed to deploy gas into specific areas of a structure with minimal risk of starting a fire.
Quantity	2 (1 maintained by LPD and 1 maintained by PPD)
Capabilities	Deliver 1 canister of irritant into a specific area of a structure.
Expected lifespan	10 years
Manufacturer's description	The GasRam™ is a multi use tool that can be utilized for forced entry as a door ram or be deployed as a pyrotechnic non-Lethal chemical agent delivery system. One or two man delivery teams can use the GasRam™. Pyrotechnic non-lethal chemical agent can be dispensed through walls, doors, sheet metal siding and into vehicles.
Purpose and authorized uses	Used to deploy non-lethal chemical agents into a structure in order to successfully resolve a barricade situation. This is a de-escalation tactic used prior to potentially forcing conflict inside the structure and placing officers at risk.
Fiscal impact	$3,100 initial cost; no expected annual maintenance costs.
Legal and procedural rules	It is the policy of LPD to utilize the Burn Safe only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 300, 307, 321, and 408.
Required training	Agency-authored orientation course; annual refresher.

Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**BurnSafe™**
Description	The BurnSafe™ is designed to deploy gas into a structure with minimal risk of starting a fire. The BurnSafe™ is a double walled container constructed of aluminum, which will contain the flames inside the inner chamber thereby reducing the probability of starting a fire.
Quantity	2 (1 maintained by LPD and 1 maintained by PPD)
Capabilities	Deliver 1 canister of irritant into a specific area of a structure.
Expected lifespan	10 years
Manufacturer's description	The BurnSafe™ is a double walled container constructed of aluminum. It is designed to contain the flames inside the inner chamber thereby reducing the probability of starting a fire. The BurnSafe™ allows the introduction of significant amounts of pyrotechnic non-lethal chemical agent into the target, which increases the probability of a successful resolution. The use of pyrotechnic agents has been proven to be a more effective non-lethal method of penetrating a fortified structure. The use of the BurnSafe™ will increase your team's effectiveness and provide you with an alternative delivery system.
Purpose and authorized uses	Used to deploy non-lethal chemical agents into a structure in order to successfully resolve a barricade situation. This is a de-escalation tactic used prior to potentially forcing conflict inside the structure and placing officers at risk.
Fiscal impact	$2,700 initial cost; no expected annual maintenance costs.
Legal and procedural rules	It is the policy of LPD to utilize the BurnSafe™ only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 300, 307, 321, and 408.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Community Outreach Vehicle (COV)**
Description	A mobile office that provides shelter, access to Police Department computer systems, and restroom facilities on extended events.
Quantity	1
Capabilities	The COV can also be utilized for SWAT/CNT and other critical incidents, preplanned large events, searching for missing persons, natural disasters, and community events.
Expected lifespan	The COV, 20-year lifespan on chassis and vehicle structure. Upgrades were made in 2018 to maintain IT systems.
Manufacturer's description	Freightliner Chassis (custom built) vehicle.
Purpose and authorized uses	To be used based on the specific circumstances of a given critical incident, large event, natural disaster or community event that is taking place. The COV shall be used by officers trained in their deployment and in a manner consistent with Department policy and training. Furthermore, only officers who have completed the California Class B Commercial driving school and properly licensed will be allowed to drive the COV.
Fiscal impact	$996,000 initial cost. Annual maintenance is approximately $4,466.
Legal and procedural rules	It is the policy of the Department to use the COV only for official law enforcement purposes, and in accordance with California State law regarding the operation of motor vehicles.

Required training	The driver/operator shall receive training in the safe handling of the vehicle on a closed training course. Once the operator has shown competence in vehicle handling, the driver/operator will drive the vehicle throughout the city with an experienced driver. Driver/operators shall also undergo California Department of Motor Vehicles commercial vehicle testing.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident or other law enforcement purpose (policy 706).

Type	**Breaching Round: Royal Arms TESAR 1**
Description	Orange Cap 2-3/4" 275 Grain Compressed Copper Frangible 12 Ga Shotgun Slug
Quantity	132
Capabilities	Defeats Solid Wood Doors, Locks & Hinges
Expected lifespan	5 years
Manufacturer's description	Orange Cap 2-3/4" 275 Grain Compressed Copper Frangible 12 Ga Shotgun Slug
Purpose and authorized uses	To provide immediate entry into secure structures to protect life, property, or evidence as necessary and authorized by law. The round is fired from a breaching shotgun and is used to destroy wood doors; both solid & hollow.
Fiscal impact	$4.50 per round
Legal and procedural rules	It is the policy of LPD to utilize breaching rounds only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 321 and 408.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.

Type	**Breaching Round: Royal Arms TESAR 2**
Description	Black Cap 2-3/4" 425 Grain Compressed Copper Frangible 12 Ga Shotgun Slug
Quantity	36
Capabilities	Defeats Heavy Locks, Dead-bolts and Hinges (Solid Oak – Steel Doors)
Expected lifespan	5 years
Manufacturer's description	Black Cap 2-3/4" 425 Grain Compressed Copper Frangible 12 Ga Shotgun Slug
Purpose and authorized uses	To provide immediate entry into secure structures to protect life, property, or evidence as necessary and authorized by law. The round is fired from a breaching shotgun and is used to destroy deadbolts, locks and hinges.
Fiscal impact	$4.50 per round
Legal and procedural rules	It is the policy of LPD to utilize breaching rounds only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 321 and 408.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.

Type	**Breaching Round: Royal Arms TESCR 3**
Description	Green Cap 2-3/4" 375 Grain Clayvon® Frangible 12 Ga Shotgun Slug
Quantity	36
Capabilities	Defeats all locks, cross-bolts and hinges. (Hollow Core Doors – Light Steel doors)
Expected lifespan	5 years
Manufacturer's description	Green Cap 2-3/4" 375 Grain Clayvon® Frangible 12 Ga Shotgun Slug

Purpose and authorized uses	To provide immediate entry into secure structures to protect life, property, or evidence as necessary and authorized by law. The round is fired from a breaching shotgun and is used to destroy deadbolts, locks and hinges.
Fiscal impact	$4.50 per round
Legal and procedural rules	It is the policy of LPD to utilize breaching rounds only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 321 and 408.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Breaching Round: Royal Arms TESAR 4**
Description	Yellow Cap 2-3/4” 750 Grain Copper/S-70 Steel Frangible 12 Ga Shotgun Slug
Quantity	48
Capabilities	Defeats class 3 doors, locks & hinges
Expected lifespan	5 years
Manufacturer's description	Yellow Cap 2-3/4” 750 Grain Copper/S-70 Steel Frangible 12 Ga Shotgun Slug
Purpose and authorized uses	To provide immediate entry into secure structures to protect life, property, or evidence as necessary and authorized by law. The round is fired from a breaching shotgun and is used to destroy deadbolts, locks, and hinges.
Fiscal impact	$5.00 per round
Legal and procedural rules	It is the policy of LPD to utilize breaching rounds only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 321 and 408.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Breaching Round: Royal Arms HP CUTTER**
Description	Silver Cap 2-3/4” 450 Grain Hardened Steel Slug NON-Frangible 12 Ga Shotgun Slug
Quantity	36
Capabilities	Cuts re-bar, penetrates security glass, car doors, punches into engine blocks
Expected lifespan	5 years
Manufacturer's description	Silver Cap 2-3/4” 450 Grain Hardened Steel Slug NON-Frangible 12 Ga Shotgun Slug
Purpose and authorized uses	To provide immediate entry into secure structures to protect life, property, or evidence as necessary and authorized by law. The round is fired from a breaching shotgun and is used to cut rebar, penetrate security glass, car doors, and can penetrate engine blocks.
Fiscal impact	$5.00 per round
Legal and procedural rules	It is the policy of LPD to utilize breaching rounds only for official law enforcement purposes pursuant to State and Federal law. Refer to policies 321 and 408.
Required training	Agency-authored orientation course; annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Riot CS or OC Smoke**
Description	An approximately 2.6"x 6.2" irritant and smoke pyrotechnic device.
Quantity	46
Capabilities	This launchable device delivers approximately 65.3 grams of active agent in approximately 20-40 seconds.

Expected lifespan	5 years
Manufacturer's description	Large diameter burning grenade that discharges a high volume of smoke and chemical agent through multiple emission ports. Specifically for outdoor use and should not be deployed on rooftops, in crawl spaces or indoors due to potential fire hazard. Can be hand thrown or launched. Discharge duration can reach up to 40 seconds.
Purpose and authorized uses	This device can be used to conceal tactical movement or to route a crowd.
Fiscal impact	$35 per canister.
Legal and procedural rules	It is the policy of the Department to utilize chemical agent devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300 and 307.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Spede-Heat™ CS or OC Smoke**
Description	An approximately 2.62"x 6.12" irritant and smoke pyrotechnic device.
Quantity	50 (additional devices maintained by PPD)
Capabilities	This launchable device delivers approximately 81.2 grams of active agent in approximately 20-40 seconds.
Expected lifespan	5 years
Manufacturer's description	The Spede-Heat™ CS Grenade is a high volume, continuous burn it expels its payload in approximately 20-40 seconds. The payload is discharged through four gas ports on top of the can-ister, three on the side and one on the bottom. This launchable grenade is 6.12 in. by 2.62 in. and holds approximately 2.9 oz. of active agent.
Purpose and authorized uses	The device is designed primarily for tactical situations to detect and/or dislodge a barricaded subject. It is used as a de-escalation tool to encourage surrender and minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects.
Fiscal impact	$35 per canister. Approximately $1200 per year for training and operational readiness.
Legal and procedural rules	It is the policy of the Department to utilize chemical agent devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300, 307, and 408.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Flameless Expulsion CS or OC Smoke**
Description	An approximately 1.65"x 7.5" irritant and smoke pyrotechnic device.
Quantity	28 (additional devices maintained by PPD)
Capabilities	Delivers approximately 4.5 grams of active agent during its 3 second discharge time.
Expected lifespan	5 years
Manufacturer's description	The CS Flameless Expulsion Grenade is a compact, non-pyrotechnic, chemical agent device that provides safe expul-sion without risk of fire. It is safe to use inside of a residence. Unlike pyrotechnical grenades, this device's contents are ex-pelled upon actuation of a CO2 cartridge that will affect a con-fined area of approximately 1500 square feet. This grenade is 7.5 in. by 1.65 in. and delivers approximately .16 oz. of active agent during its 3-second discharge time.

Purpose and authorized uses	The device is designed primarily for tactical situations to detect and/or dislodge a barricaded subject. It is used as a de-escalation tool to encourage surrender and minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects.
Fiscal impact	$48 per canister. Approximately $1000 for trainining and operational readiness.
Legal and procedural rules	It is the policy of the Department to utilize chemical agent devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300, 307, and 408.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Baffled CS or OC Smoke**
Description	An approximately 2.6"x 6.2" irritant and smoke pyrotechnic device.
Quantity	0 (50 sought)
Capabilities	Delivers approximately 23.5 grams of active agent during its 3 second discharge time.
Expected lifespan	5 years
Manufacturer's description	Pyrotechnic grenade designed for indoor use delivering a maximum amount of irritant smoke throughout multiple rooms with minimal risk of fire.
Purpose and authorized uses	The device is designed primarily for tactical situations to detect and/or dislodge a barricaded subject. It is used as a de-escalation tool to encourage surrender and minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects.
Fiscal impact	$48 per canister. Initial inventory cost $2400. Approximately $1000 for trainining and operational readiness.
Legal and procedural rules	It is the policy of the Department to utilize chemical agent devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300, 307, and 408.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**SAF Smoke™**
Description	An approximately 2.35"x 6" smoke pyrotechnic device.
Quantity	0 (50 sought)
Capabilities	Produces white smoke for 20-40 seconds.
Expected lifespan	5 years
Manufacturer's description	The Saf-Smoke™ Grenade was designed for training, but may also be used in operations. The Saf-Smoke Grenade offers the same approximate burn times as the Spede-Heat™ Grenade in CN or CS and the Riot Control Grenade in CN or CS. The similar burn times may make it the appropriate choice for training or simulation deployment of chemical agent canisters. The Saf-Smoke formulation is considered to be less toxic than Hexachloroethane (HC) smoke. The Saf-Smoke Grenade emits a very white smoke.
Purpose and authorized uses	The device is designed primarily for tactical situations to conceal officer movements.
Fiscal impact	$30 per canister
Legal and procedural rules	It is the policy of the Department to use smoke only for official law enforcement purposes.

Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Distraction Device: CTS Model 7290**
Description	A non-bursting, non-fragmenting distraction device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.
Quantity	40 (additional devices maintained by PPD)
Capabilities	Produces 175db output and 6-8 million candela of light.
Expected lifespan	Until used.
Manufacturer's description	The CTS 7290 is the standard for diversionary flash-bang devices. The 7290 produces an 175db and 6-8 million candela of light output. The patented design of the 7290, incorporates a porting system that eliminates movement of the body at detonation even if the top or bottom of the device should be in contact with a hard surface. In addition, internal adjustments have greatly reduced smoke output.
Purpose and authorized uses	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Fiscal impact	$44 per device. Approximately $900 annually for training and operational readiness.
Legal and procedural rules	It is the policy of the Department to utilize distraction devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Distraction Device: CTS Model 7290M**
Description	A non-bursting, non-fragmenting distraction device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.
Quantity	80 (additional devices maintained by PPD)
Capabilities	Produces 175db output and 6-8 million candela of light.
Expected lifespan	Until used.
Manufacturer's description	The CTS 7290M Mini Flash-Bang is the newest generation in the evolution of the Flash-Bang. Our Model 7290M Flash-Bang exhibits all of the same attributes of its larger counterpart but in a smaller and lighter package. The patented design of the 7290M, incorporates a porting system that eliminates movement of the body at detonation even if the top or bottom of the device should be in contact with a hard surface. In addition, internal adjustments have greatly reduced smoke output.
Purpose and authorized uses	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Fiscal impact	$43 per device. Approximately $900 annually for training and operational readiness.
Legal and procedural rules	It is the policy of the Department to utilize distraction devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.

Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Distraction Device: CTS Model 7290-9**
Description	A non-bursting, non-fragmenting multi-bang distraction device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.
Quantity	40 (additional devices maintained by PPD)
Capabilities	Produces 9 individual but consecutive bangs contained within one device.
Expected lifespan	Until used.
Manufacturer's description	The patented multi-bangs feature top and bottom non-fragmenting, minimal movement devices that perform with high reliability incorporating CTS Superior fuze components with the patented and US Army adopted Confidence Clip and pin shroud.
Purpose and authorized uses	To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.
Fiscal impact	$153 per device. Approximately $1200 annually for training and operational readiness.
Legal and procedural rules	It is the policy of the Department to utilize distraction devices only for official law enforcement purposes, and pursuant to State and Federal law. Refer to policy 300.
Required training	POST Basic SWAT Operator course or equivlant; annual department refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Type	**Recon Robotics Throwbot®**
Description	Compact throwable robotic device that provides real time video and audio to the operator.
Quantity	1
Capabilities	The unit can be directed to move through a structure and transmit realtime video and audio.
Expected lifespan	10+ years
Manufacturer's description	The Throwbot® robot is a throwable micro-robot platform that enables operators to obtain instantaneous video and audio reconnaissance within indoor or outdoor environments. Designed to withstand repeated drops of up to 30 feet (9 m) onto concrete, the Throwbot® robot can be thrown into hazardous situations in order to allow operators to quickly make informed decisions when seconds count. This micro-robot is designed to be able to crawl over a variety of terrain, clearing obstacles up to 2” (5 cm) tall.
Purpose and authorized uses	This robot can locate and identify subjects, confirm presence of hostages and reveal the room layout. The unit can function as a pole camera facilitating the inspection of attics, rooftops and crawl spaces. This information crucial for planning and determining the best course of action.
Fiscal impact	$16,538 for the initial purchase. No ongoing costs exepected.
Legal and procedural rules	It is the policy of LPD to utilize this device only for official law enforcement purposes pursuant to State and Federal law.
Required training	Agency authored course and annual refresher.
Compliance mechanisms	To be used by officers who have been trained in the proper use as directed by a watch commander, SWAT commander, or appropriate supervisor, based on the specific circumstances of a given critical incident.
Allied Agency Equipment -Type	**Use Category (note: no fiscal imact or other impacts expected)**
Armored Vehicle(s)	Use conistent with LPD policies related to simlar equipment
Chemical Agents (CS, CN, OC)	Use conistent with LPD policies related to simlar equipment

Flash Bangs	Use conistent with LPD policies related to simlar equipment
UAV's (drones)	Used for locating and/or surveilling suspects, missing persons, etc. Also used for checking locations prior to deploying personnel.
Robots	Used for locating and/or surveilling suspects. Also used for checking locations prior to deploying personnel to avoid encountering armed/dangerous subjects.
.50 Cal Rifle	Used to penetrate barriers and to incapacitate vehicles that may otherwise be difficult to stop (example: armored vehicles)
Explosive Breaching- Detonation	Used to defeat breach various entry points
Battering Ram (attached to vehicle)	Used to defeat breach various entry points
Gas Ram/Pole (attached to vehicle)	Used to defeat breach various entry points and deploy chemical agents where appropriate
Less Lethal Launchers/Munitions	Use conistent with LPD policies related to simlar equipment
Armored Tractor(s)	Used to access areas when unsafe to do so by other means
Expected Acquisitions (FY 21-22 / FY 22-23)	**Use Category**
Additional purchases of current inventory items	re-supply and additions to most authorized categories in order to maintain operational readiness. See individual items above for intended use, fiscal impacts, and additional information

AB 481 Identified Equipment	**Used by Livermore PD**	**Used by Allied Agencies (*may be shared with Livemore PD*)**
1. Weaponized aircraft, vessels, or vehicles of any kind	**No**	**No**
2. TASER shockwave, microwave weapons, water cannons, and LRADs	**No**	**No**
3. Any firearm or accessory designed to launch explosive projectiles	**No**	**No**
4. Tracked armored vehicles	**No**	Yes
5. Firearms of .50 caliber or greater	**No**	Yes
6. Battering rams, slugs, and breaching apparatuses that are explosive in nature	**No**	Yes
7. Vehicle with breaching apparatus	**No**	Yes
8. Firearms identified as assault weapons	Yes	Yes
9. Noise-flash diversionary devices and explosive breaching tools	Yes (noise-flash only)	Yes (noise-flash and explosive breaching tools)
10. Munitions containing tear gas/OC (pepper spray)	Yes	Yes
11. Kinetic energy weapons/munitions	Yes	Yes
12. MRAP or armored vehicle	Yes (armored only)	Yes (armored only)
13. Command Vehicle	Yes	Yes
14. Unmanned aerial or ground vehicles	Yes (ground only)	Yes

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE ADDING SECTION 2.36.200 *MILITARY EQUIPMENT POLICY* TO THE LIVERMORE MUNICIPAL CODE IN COMPLIANCE WITH ASSEMBLY BILL 481

On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (creating Government Code section 7070, et seq.), relating to the use of military equipment by California law enforcement agencies.

AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used by local police departments.

The Livermore Police Department is in possession of certain items of equipment that qualify as "military equipment" under AB 481.

AB 481 requires that a law enforcement agency possessing and using such qualifying equipment must prepare a publicly released, written, Military Equipment Policy covering the inventory, description, purpose, use, acquisition, maintenance, fiscal impacts, procedures, training, oversight, and complaint process, applicable to the Department's use of such equipment.

The Military Equipment Policy and supporting information must be approved by the governing body by ordinance, and reviewed annually; and

The City Council of the City of Livermore, having received the information required under AB 481 regarding the Livermore Police Department's use of military equipment as defined in said law, deems it to be in the best interest of the City to approve the Military Equipment Policy as set forth herein.

NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF LIVERMORE AS FOLLOWS:

Section 1. *Addition to the Code.* That a new Section 2.36.200 is added to Chapter 2.36 *Police Department and Police Reserve* of Title 2 *Administration and Personnel* in the Livermore Municipal Code to read as follows:

2.36.200 Military Equipment Policy.

(a) The City Council has made the following determinations:

(1) The military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;

(2) The proposed military equipment policy ("Policy") will safeguard the public's welfare, safety, civil rights, and civil liberties;

(3) The equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety (if any);

(4) Prior military equipment use complied with the applicable equipment use policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(b) The Police Department has submitted a proposed Policy to the City Council and has made those documents available on the Police Department's website for at least 30 days prior to the public hearing concerning the military equipment at issue.

(c) The Policy was considered by the City Council as an agenda item in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act, at which public comment was permitted.

(d) The Policy shall be made publicly available on the Police Department's website for as long as the military equipment is available for use.

(e) The Police Department shall submit an annual military equipment report to the City Council, containing the information required in Government Code section 7072, and the City Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in (a)(1)-(4) above.

(f) The City Council shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting, in accordance with Government Code section 7071(e)(2).

(g) The City Council approves the Policy and its use and finds that it satisfies the requirements of Government Code Section 7070(d).

Section 2. *Environmental.* The passage of this ordinance is not a project according to the definition in the California Environmental Quality Act and, therefore, is not subject to the provisions requiring environmental review.

Section 3. *Severability*. If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.

Section 4. *Publication.* This ordinance shall be published once in a newspaper of general circulation of the city of Livermore within fifteen days after its adoption.

Section 5. *Effective date.* This ordinance shall take effect 30 days after its adoption.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The foregoing ordinance was adopted at the meeting of the City Council of the City of Livermore held _____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR, CITY OF LIVERMORE

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kelly J. Trujillo
Kelly J. Trujillo
Assistant City Attorney

Attachments to staff report incorporated by reference:
1. Lexipol Policy 709 “Military Equipment”
2. Inventory of Military Equipment as of January 1, 2022

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.3**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Hearing to consider a proposal to amend the Downtown Specific Plan regarding outdoor dining, outdoor dining guidelines, and amend the Livermore Municipal Code, adding Chapter 5.6, *Outdoor Dining Permit*, to establish an Outdoor Dining Ordinance, including a permitting process.

RECOMMENDED ACTION

The Planning Commission and staff recommend the City Council:

1. Adopt resolutions finding that the project is exempt under the California Environmental Quality Act and that the project is consistent with the 2009 Subsequent Environmental Impact Report for the Downtown;
2. Adopt a resolution approving Specific Plan Amendment (SPPA) 22-002 for changes to outdoor dining standards in the Downtown Specific Plan; and
3. **Introduce an Ordinance** amending Title 5, adding Chapter 5.60 Outdoor Dining Permit, of the Livermore Municipal Code

SUMMARY

In 2004 the City Council adopted the Downtown Specific Plan (Specific Plan). The Specific Plan guides the community vision for downtown growth, development, and economic revitalization. The Specific Plan strategies rely on blending public actions and private activities to continue transforming the downtown into Livermore's center for the arts, entertainment, and commerce. The Specific Plan dually serves as a policy and implementation document, providing a strategy for change and a regulatory framework to guide and govern future development within the downtown.

Chapter 5 (Development Standards – Core) and Chapter 6 (Design Standards and Guidelines – Outdoor Dining/ Seating) of the Specific Plan address rules and regulation for Outdoor Dining and Chapter 10 covers Implementation Standards. The intent of outdoor dining is to provide a unique dining experience for visitors and encourage a culturally and economically vibrant downtown core district.

The provisions for outdoor dining have not changed since adoption of the Specific Plan in 2004. The

proposed Amendment would update these provisions to reflect an expansion of outdoor dining areas and simplify the permitting process.

Through the COVID-19 pandemic, the City allowed businesses to temporarily expand dining and other business activities outdoors into private parking lots, sidewalks, public parks, and public parking spaces. Recognizing the urgency and hardship placed on businesses due to the prohibition and subsequent limitations placed on indoor dining, the City doubled the number of parking spaces available for outdoor dining. The expansion up to 56 spaces from 28 pre-pandemic spaces was based primarily upon requests from restaurants. The formal consent of a neighboring property owner was not required for spaces fronting neighboring businesses, and design standards were relaxed to allow for a rapid expansion of outdoor dining. Other landscaped areas were also made available for businesses with minimal or no adjacent public parking spaces to increase their dining area and preserve the economic health of downtown.

Over two years have passed since the date the initial emergency order went into effect. Downtown businesses and community members continue to express support for balancing the expansion of outdoor dining with the provision of convenient public parking. The proposed amendments are the result of collaboration between downtown businesses, Livermore Downtown, Inc., and key staff across the City organization, and evaluation of outdoor dining programs in other jurisdictions, including Mountain View, Pleasanton, San Mateo, and Walnut Creek. Adoption of the Specific Plan Amendment and implementing ordinance will establish the framework for outdoor dining to continue contributing to a vibrant and active Downtown Core.

DISCUSSION

PROJECT DESCRIPTION

The proposal will expand the area permitted for outdoor dining by adding J, K, and McLeod Streets (between First and Second). The percentage of spaces available for outdoor dining will remain 25 percent of total parking spaces. However, the increase in the size of the overall dining district will provide a larger number of flex zone dining spaces. The 42 resulting spaces available for outdoor dining is midway between the pre-pandemic count of 28 spaces and the maximum usage during the pandemic of 56 spaces.

The project will establish two districts located east and west of Livermore Avenue. Each district will allow up to 25 percent of available parking spaces for outdoor dining use within that district. The districts are listed below:

- District 1: First Street from M Street to Livermore Avenue and segments of J and K Streets from First to Second Street;
- District 2: First Street from Livermore Avenue to Maple Street and a segment of McLeod Street from First to Second Street.

Restaurants are also proposing to use other landscape areas for outdoor dining, including the flagpole plaza, and other smaller landscape areas in several locations. Staff is working with a consulting landscape architect to evaluate design alternatives that would allow outdoor dining in these areas to remain longer term. Restaurants that are currently utilizing these landscape areas for outdoor dining will be permitted to continue until a long term plan is developed and the areas are improved during the offseason. The proposed ordinance would apply to use of the public right-of-way for outdoor dining in

public parking stalls, plazas, and sidewalks.

Staff is also evaluating the issue of appropriate noise standards for live music in the downtown and plans to both monitor music levels associated with existing operations and conduct additional noise tests in the downtown. A staff recommendation on noise standards will return to Council for consideration at a future meeting.

Specific Plan Amendment

The Specific Plan Amendment will update the Downtown Specific Plan to include the proposed expansion of the flex zone. The proposed amendments aim to address concerns and harness the positive aspects of the outdoor dining program. Staff from throughout the organization (Building, Engineering, City Attorney's Office, Planning and Public Works) worked together to ensure the amendments would be practical to implement and allow for proper maintenance. The proposed amendments modify the following Specific Plan chapters in redline, each summarized below:

- Chapter 5 – Development Standards - Core (see Exhibit B to Resolution - Project Approval)
- Chapter 6 – Design Standards and Guidelines - Outdoor Dining/ Seating (see Exhibit C to Resolution - Project Approval)
- Chapter 10 – Implementation (see Exhibit D to Resolution - Project Approval)

Chapter 5 – Development Standards – Core

Chapter 5 provides development standards for the Downtown Specific Plan's land use plan areas. Development standards include permitted and conditionally permitted uses, density, setbacks, height, and open space provisions. The primary intent of the Downtown Core is to promote the continued development and revitalization of the City's pedestrian-oriented downtown district that serves as the center of the Livermore community, a unique shopping district, and as a neighborhood hub for the residences surrounding it.

The proposed revisions to this chapter (see Exhibit B to Resolution - Project Approval) include an increase in the number of parking spaces available for outdoor dining by adding sections of J, K and McLeod Streets between First and Second Street. The number of parking spaces available for outdoor dining would remain at 25 percent of all parking spaces in each of two districts. One district is on First Street from Livermore Avenue to M Street, including J, and K Streets between First and Second Streets (District 1). The second district is on First Street from Livermore Avenue to Maple Street, including McLeod Street between First and Second Streets (District 2). Outdoor dining would also be permitted in the public right-of-way, including sidewalks, designated plaza areas and other landscape areas.

Chapter 6 – Design Standards and Guidelines – Outdoor Dining/ Seating

Chapter 6 provides design standards for outdoor dining including allocation of dining areas, fixtures and furniture, and signs (see Exhibit C to Resolution - Project Approval). Outdoor dining areas located within on-street parking areas must be directly in front of the restaurant that is requesting use of the area. Currently the Specific Plan allows up to a maximum of one or two parking spaces depending upon linear frontage of the restaurant use. The proposed policy would allow the Community Development Director to allocate one additional space on one side of the business' extended property lines. Expanding beyond the business' extended property lines would also require written consent from the neighboring property owner, to the extent practicable, and neighboring tenant. The minimum width of sidewalk corridors between outdoor dining fencing and outdoor fixtures (trellises, planter pots, benches, etc.) will continue to comply with the Americans with Disabilities Act (ADA) standards but be decreased from six feet to five

feet. Additionally, outdoor dining areas will be required to comply with the Design Guidelines for table coverings, umbrellas, waste disposal, lighting, tables and chairs.

The proposed revisions to this chapter amend the allocation of the flex zone to add J, K, and McLeod Streets in the downtown core but continue the prohibition of flex zone dining on L Street and Livermore Avenue. L Street and Livermore Avenue are excluded from the outdoor dining program due to the lack of diagonal parking, higher vehicular speeds, and their roles as major north-south connector streets.

Chapter 10 – Implementation

Chapter 10 provides guidelines for implementing the Outdoor Dining Permit (see Exhibit D to Resolution - Project Approval). The Outdoor Dining Permit section is revised to reference the application procedures set forth in the proposed Outdoor Dining Permit Ordinance, Chapter 5.60 of the Livermore Municipal Code (see Exhibit B to the Ordinance). An application for an encroachment permit will not be required. However, the applicant will be required to enter into an Outdoor Dining Maintenance and Removal Agreement with the City as part of the application. The duration of the annual permit will be from March to October. The applicability section will also be revised to include J, K, and McLeod Streets.

Municipal Code Amendment

The ordinance will implement the Specific Plan and establish rules and regulations in conjunction with the regulations set forth in the Downtown Specific Plan and the Outdoor Dining Guidelines. Specifically, the Municipal Code Amendment (MUNI 22-001) will add Chapter 5.60 - Outdoor Dining Permit to the Livermore Municipal Code (see Exhibit B to the Ordinance). The purpose of the Ordinance is to codify an Outdoor Dining Permit and authorize the City to implement the outdoor dining policy through administrative guidelines. The Ordinance will simplify the application process by eliminating the need for a separate encroachment permit and consolidating application fees. It will also facilitate enforcement through administrative due process.

Outdoor Dining Permit Fee

The permit fees for Outdoor Dining Permits were waived during the pandemic. The City's fee schedule currently identifies several fees for use of the right-of-way such as sidewalks, plazas, parking stalls, and landscaped areas (see Figure 1 below).

Figure 1.

Outdoor Dining Permit Processing Fee	$500.00
Electrical Service Charge	$40.00
Annual Maintenance Charge	$0.15 per square foot
One-time Maintenance/ Damage Deposit	$279.00

Staff is proposing to simplify the fee structure and start collecting the fees shown below in figure 2 for the next season in 2023.

Figure 2.

Annual Maintenance/ Damage Deposit	$400.00
Use of Right-of-Way	$1.00 per square foot

The proposed fee structure would remove the processing fee and electrical service charge from the

previous fee structure but would increase the annual Maintenance/Damage deposit to $400. The use of the right-of-way would be assessed at a rate of $1.00 per square foot. One parking stall measures approximately 187 square feet and would be assessed at approximately $1,500 for the eight month outdoor dining season. The annual Maintenance/Damage deposit is refundable following inspection and confirmation by the Public Works Department that there are no damages to public improvements. The Outdoor Dining Permit fee would not fully recover costs, but will contribute toward the costs for installation and maintenance of the planter pots, landscape irrigation, removal, and parking enforcement.

The proposed Downtown Specific Plan Amendment and Ordinance will facilitate the continued revitalization of the Downtown Area as envisioned in the Downtown Specific Plan, thus furthering the goals, revitalization strategy, objectives, and land use and development policies of the 2003 General Plan and Downtown Specific Plan. Therefore, the Planning Commission and staff recommend the City Council approve the proposed Downtown Specific Plan Amendments and introduce an Ordinance for an outdoor dining permit.

ENVIRONMENTAL DETERMINATION

The proposed project is exempt from review under the California Environmental Quality Act (CEQA), each as a separate and independent basis, per CEQA Guidelines Section 15301 (Existing Facilities), Section 15304 (Minor Alterations to Land), and 15601 (b)(3) (Common Sense Exemption). Minor alterations to existing streets, such as outdoor dining, that do not create additional automobile lanes are exempt under Section 15301 (Existing Facilities). Minor or temporary use of land having no permanent effect on the environment, such as outdoor dining, is exempt under Section 15304 (Minor Alterations to Land). Section 15061(b)(3) of the CEQA Guidelines allows a commonsense exemption based on CEQA applying only to projects which have the potential for causing a significant effect on the environment. The proposed Specific Plan Amendment includes changes to development and design standards for outdoor dining in the Downtown Core Area but does not increase the overall density of development or intensification of use in the Downtown Area.

On February 9, 2004, the City of Livermore certified the Program Environmental Impact Report for the Livermore Draft General Plan and Downtown Specific Plan (State Clearing House No. 2003032038) and adopted Findings and Statements of Overriding Consideration concerning significant and unavoidable cumulative adverse impacts associated with traffic, air quality, and noise. On March 30, 2009, the City certified the Subsequent Environmental Impact Report for the Downtown Specific Plan Amendments (State Clearing House No. 2008092085). The project is consistent with the 2009 Subsequent Environmental Impact Report for the Downtown Specific Plan Amendments. The proposed amendments for outdoor dining are consistent with and do not exceed the development assumptions evaluated in the Previous EIR and would not result in substantially more severe environmental impacts than those analyzed in the Previous EIR. Since adoption of the Previous EIR, there has been no substantial changes nor has any significant new information become available which would require changes in the Previous EIR.

FISCAL AND ADMINISTRATIVE IMPACTS

The proposed amendments will expand outdoor dining opportunities in the Downtown Core compared to before the pandemic. The expanded dining opportunities will support the vitality of downtown by attracting additional patrons while preserving adequate on-street parking. Increased business activity will potentially increase the amount of sales tax revenue collected by the City. The amendments also include

new permit requirements. These changes require staff time to review and approve new permits and then process annual renewals.

Since the original adoption of the Downtown Specific Plan in 2004, the City has provided significant subsidies to support outdoor dining as a part of the revitalization strategy for the area. Fees related to outdoor dining have only recovered a small portion of the total costs to administer and maintain the program. The proposed fees will roughly double the current fees in order to ensure that flex zone areas continue to be efficiently allocated between parking and dining uses. The proposed permit fees, to be collected in 2023 and after, will offset approximately half of the staff time and costs associated with processing applications, maintenance of the outdoor dining area and an increase in parking enforcement.

ATTACHMENTS

1. Resolution - CEQA Exemption
2. Exhibit A - Planning Commission Resolution No. 06-22
3. Resolution - CEQA - Prior EIR
4. Exhibit A - Planning Commission Resolution No. 05-22
5. Resolution - Project Approval - SPPA22-002
6. Exhibit A - Planning Commission Resolution No. 07-22
7. Exhibit B - Chapter 5 Development Standards Downtown Core
8. Exhibit C - Chapter 6 Design Standards and Guidelines - Outdoor Dining and Seating
9. Exhibit D - Chapter 10 Implementation
10. Ordinance
11. Exhibit A - Planning Commission Resolution No. 08-22
12. Exhibit B - Outdoor Dining Ordinance

Prepared by: Kam Purewal
Assistant Planner

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION FINDING THAT THE SPECIFIC PLAN AMENDMENT AND THE MUNICIPAL CODE AMENDMENT ARE EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

SPECIFIC PLAN AMENDMENT (SPPA) 22-002; MUNICIPAL CODE AMENDMENT (MUNI) 22-001

The City initiated applications for Specific Plan Amendment (SPPA) 22-002 and Municipal Code Amendment (MUNI) 22-001, to amend the Downtown Specific Plan provisions listed in Chapters 5, 6, and 10 for outdoor dining within the Downtown Specific Plan and amend the Livermore Municipal Code to establish an Outdoor Dining Ordinance, including a permitting process ("Project"). The proposed changes will expand the outdoor dining area by adding J, K, and McLeod Streets, reduce the duration of the Outdoor Dining Season from March to October, and include minor changes to the design standards and allocation method for outdoor dining.

On April 5, 2022, at a duly noticed public hearing, the Planning Commission considered the Project, made the necessary findings, and adopted Planning Commission Resolution No. 06-22 recommending the City Council find the Project exempt from the provisions of the California Environmental Quality Act ("CEQA").

On April 11, 2022, the City Council held a duly noticed public hearing to consider the Planning Commission and staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that prior to taking action on the projects, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore, has considered the findings made in Planning Commission Resolution No. 06-22 attached hereto as Exhibit A, and the City Council hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution. Based upon the City Council's own independent review of the Record Evidence and considerations, the City Council hereby finds that the Project is categorically exempt from CEQA in accordance with CEQA Guidelines Sections: 15301, Class 1, Existing Facilities, and Section 15304, Class 4, Minor Alterations to Land.

Section 15301, Class 1, allows permitting, leasing, and licensing or minor alterations of existing streets, sidewalks, and similar alterations to existing facilities that do not create additional automobile lanes.

Section 15304, Class 4, allows for minor alterations to public or private land and minor temporary use of land having negligible or no permanent effects on the environment. Outdoor Dining is a seasonal activity beginning in March and ending in October and will consist of minor alterations to parking spaces.

Exceptions - Section 15300.2

None of the exceptions to the categorical exemption listed in CEQA Guidelines Section 15300.2 apply, as described below.

1. Location. The project area is within the Downtown Core District would be consistent with the General Plan and Downtown Specific Plan. The project site is not located within an otherwise environmentally sensitive area. The existing downtown core area is the surrounding urban developed land.

2. Cumulative Impact. The project is a minor expansion of use with negligible effects on the environment. The project would not result in any significant impacts, and its contribution to regional growth is not cumulatively considerable. Therefore, the Project will not result in any cumulative impacts.

3. Significant Effects. There is no reasonable possibility that the Project will have a significant effect on the environment due to unusual circumstances. There is no evidence that any unusual circumstances exist.

4. Scenic Highways. The project is not affected by State Scenic Highway policies. The project site is not located along any of the scenic routes identified as a Scenic Highway by the California Department of Transportation. No damage to State identified scenic resources will occur.

5. Hazardous Waste Sites. The public areas for outdoor dining include sidewalks, parking spaces, and plazas that are not on the list of hazardous waste facilities compiled pursuant to California Government Code section 65962.5, which comprises the following five parts: the list of Hazardous Waste and Substances sites from the Department of Toxic Substances Control (DTSC) EnviroStor database; the list of Leaking Underground Storage Tank (LUST) sites from the State Water Resource Control Board (SWRCB) Geotracker database; the list of solid waste disposal sites identified by the SWRCB with waste constituents above hazardous waste levels outside the waste management list; the list of active Cease and Desist Orders or Cleanup and Abatement Orders that concern the discharge of wastes that are hazardous materials; or the list of hazardous waste facilities subject to corrective action pursuant to section 25187.5 of the Health and Safety Code, identified by DTSC.

6. Historical Resources. No substantial adverse change will occur to the significance of any historical resource. The project site will use public spaces such as sidewalks, parking spaces, and plazas for outdoor dining.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the findings made in Planning Commission Resolution No. 06-22, attached hereto as Exhibit A, and the City Council hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution. Based upon the City Council's own independent review of the Record Evidence and considerations, the City Council hereby finds that the Project is exempt under CEQA Guidelines Section 15061(b)(3) (common sense exemption) in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

1. Findings. (SPPA) 22-002 and (MUNI) 22-001 will allow the City to convert public spaces into outdoor dining areas for a period of eight months and establish rules and regulations for the Outdoor Dining permit. The Project does not have the potential for causing a significant effect on the environment and does not propose any new development that would require additional environmental analysis.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Exemption with the Alameda County Clerk, if the project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore, California. This resolution shall be effective upon adoption by the City Council.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

Exhibit A – Planning Commission Resolution No. 06-22

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE STATE OF CALIFORNIA

A RESOLUTION FINDING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Specific Plan Amendment (SPPA) 22-002, and Municipal Code Amendment (MUNI) 22-001

Request to consider a proposal to amend the Downtown Specific Plan regarding outdoor dining and amend the Livermore Municipal Code to establish an Outdoor Dining Ordinance.

Downtown Core Area

The City initiated an application for Specific Plan Amendment 22-002 and Municipal Code Amendment 22-001;

A public hearing notice for the Planning Commission meeting was duly mailed to neighboring property owners and published in a newspaper of general circulation; and

The Planning Commission held a meeting on April 5, 2022, considered the staff recommendations for approval, and heard public testimony.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Livermore, based on staff recommendations, public testimony, and its own independent review and considerations, finds that the Project is categorically exempt under the California Environmental Quality Act ("CEQA"), pursuant to Section 15301, (Existing Facilities), Section 15304 (Minor Alterations to Land) and 15061(b)(3) (Common Sense Exemption), each as a separate and independent basis, and none of the exceptions to the categorical exemptions in the CEQA Guidelines apply to the project.

Section 15301, Class 1, allows permitting, leasing, and licensing or minor alterations of existing streets, sidewalks, and similar alterations to existing facilities that do not create additional automobile lanes. Section 15304, Class 4, allows for minor alterations to public or private land and minor temporary use of land having negligible or no permanent effects on the environment. Outdoor dining is a seasonal activity beginning in March and ending in October and will consist of minor alterations. Section 15061(b)(3), common sense exemption, applies to projects that have no significant impact on the environment. Outdoor dining, as proposed, will not have a significant impact on the environment and therefore is not subject to CEQA.

None of the exceptions listed in CEQA Guidelines Section 15300.2 apply, as described below. Therefore, the proposed exemptions apply to the Project.

1. Location. The project area is within the Downtown Core District would be consistent with the General Plan and Downtown Specific Plan. The project site is not located within an otherwise environmentally sensitive area. The existing downtown core area is surrounded by urban developed land.

2. Cumulative Impact. The project is a minor expansion of use with negligible effects on the environment. The project would not result in any significant impacts, and its contribution to regional growth is not cumulatively considerable. Therefore, the project will not result in any cumulative impacts.

3. Significant Effects Resulting from Unusual Circumstances. There is no reasonable possibility that the Project will have a significant effect on the environment due to unusual circumstances. There is no evidence that any unusual circumstances exist.

4. Scenic Highways. The project is not affected by State Scenic Highway policies. The project site is not located along any of the scenic routes identified as a Scenic Highway by the California Department of Transportation. No damage to State identified scenic resources will occur.

5. Hazardous Waste Sites. The public areas for outdoor dining include sidewalks, parking spaces, and plazas that are not on the list of hazardous waste facilities compiled pursuant to California Government Code Section 65962.5, which comprises the following five parts: the list of Hazardous Waste and Substances sites from the Department of Toxic Substances Control (DTSC) EnviroStor database; the list of Leaking Underground Storage Tank (LUST) sites from the State Water Resource Control Board (SWRCB) Geotracker database; the list of solid waste disposal sites identified by the SWRCB with waste constituents above hazardous waste levels outside the waste management list; the list of active Cease and Desist Orders or Cleanup and Abatement Orders that concern the discharge of wastes that are hazardous materials; or the list of hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, identified by DTSC.

6. Historical Resources. No substantial adverse change will occur to the significance of any historical resource. The project site will use public spaces such as sidewalks, parking spaces, and plazas for outdoor dining.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends that the City Council directs staff to file a Notice of Exemption with the Alameda County Clerk, if the project is approved.

The documents that constitute the record of proceedings upon which the decision is based can be found in the Community Development Department, 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Branning, seconded by Commissioner Stein, the foregoing Resolution was adopted at the Planning Commission meeting of April 5, 2022, by the following vote:

AYES: BRANNING, DUNBAR, LEARY, STEIN.
NOES: NONE.
ABSENT: ANDERSON.

Steven Dunbar, Chairperson

by Steve Stewart, Planning Manager
Secretary to the Planning Commission

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION FINDING THE ENVIRONMENTAL IMPACTS OF SPECIFIC PLAN AMENDMENT (SPPA) 22-002 AND MUNCIPAL CODE AMENDMENT (MUNI) 22-001 ARE WITHIN THE SCOPE OF THE 2003 GENERAL PLAN AND DOWNTOWN SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARING HOUSE NO. 2003032038) AND THE 2009 FINAL SUBSEQUENT ENVIRONMETAL IMPACT REPORT (STATE CLEARING HOUSE NO. 2008092085)

In 2004, the City of Livermore certified the Environmental Impact Report for the General Plan and Downtown Specific Plan (State Clearing House No. 2003032038). In, 2009, the City certified the Final Subsequent Environmental Impact Report (State Clearing House No. 2008092085).

City applied for Specific Plan Amendment (SPPA) 22-002 and Municipal Code Amendment (MUNI) 22-001 to amend the Downtown Specific Plan provisions listed in Chapters 5, 6, and 10 for outdoor dining within the Downtown Specific Plan and amend the Livermore Municipal Code to establish an Outdoor Dining Ordinance, including a permitting process ("Project"). The proposed changes will expand the outdoor dining area by adding J, K, and McLeod Streets, reduce the duration of the Outdoor Dining Season from March to October, and include minor changes to the design standards and allocation method for outdoor dining.

On April 5, 2022, the Planning Commission held a duly noticed public hearing to consider the Project and staff recommendation, heard public testimony, made the necessary findings, and adopted Planning Commission Resolution No. 05-22 recommending the City Council find the environmental impacts of (SPPA) 22-002 and (MUNI) 22-001 were within the scope of the Environmental Impact Report for the General Plan and Downtown Specific Plan (State Clearing House No. 2003032038) and the 2009 Final Subsequent Environmental Impact Report (State Clearing House No. 2008092085).

On April 11, 2022, the City Council held a duly noticed public hearing to consider the Project, Planning Commission and staff recommendations, and all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore, has considered the findings made in Planning Commission Resolution No. 05-22, attached

hereto as Exhibit A, and hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution. Based upon the City Council's own independent review of the Record Evidence and considerations, the City Council finds the environmental impacts of (SPPA) 22-002 and (MUNI) 22-001 are within the scope of the Environmental Impact Report for the General Plan and Downtown Specific Plan (State Clearing House No. 2003032038) and the 2009 Final Subsequent Environmental Impact Report (State Clearing House No. 2008092085) in accordance with the California Environmental Quality Act ("CEQA").

1. Findings. The application for (SPPA) 22-002 and (MUNI)22-001 do not exceed the development assumptions evaluated in the Previous EIR and would not result in substantially more severe environmental impacts than those analyzed in the Previous EIR. Since adoption of the Previous EIR, there have been no substantial changes to Outdoor Dining nor has any significant new information become available which would require changes in the Previous EIR.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Determination with the Alameda County Clerk, if the project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore, California. This resolution shall be effective upon adoption by the City Council.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED AS TO FORM:

_____ */s/ Kimberly D. Cilley*

Marie Weber
City Clerk

Kimberly D. Cilley
Senior Assistant City Attorney

Exhibit A – Planning Commission Resolution No. 05-22

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE STATE OF CALIFORNIA

A RESOLUTION FINDING THAT THE ENVIRONMENTAL IMPACTS OF SPECIFIC PLAN AMENDMENT (SPPA) 22-002 AND MUNICIPAL CODE AMENDMENT (MUNI) 22-001 ARE WITHIN THE SCOPE OF THE 2003 GENERAL PLAN AND DOWNTOWN SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARING HOUSE NO. 2003032038) AND THE 2009 FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2008092085)

Specific Plan Amendment (SPPA) 22-002, and Municipal Code Amendment (MUNI) 22-001

Request to consider a proposal to amend the Downtown Specific Plan regarding outdoor dining and amend the Livermore Municipal Code to establish an Outdoor Dining Ordinance.

Downtown Core Area

In 2004, the City of Livermore certified the General Plan (GP) and Downtown Specific Plan (DSP) – 2003 Environmental Impact Report (State Clearing House No. 2003032038);

In 2009, the City of Livermore certified the Final Subsequent Environmental Impact Report (State Clearing House No. 2008092085).

In 2022, the City initiated an application for a Specific Plan Amendment 22-002 and Municipal Code Amendment 22-001 for Outdoor Dining Permits;

A public hearing notice for the Planning Commission meeting was duly mailed to neighboring property owners and published in a newspaper of general circulation; and

The Planning Commission held a meeting on April 5, 2022, considered the staff recommendations for approval, and heard public testimony.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Livermore, based on staff recommendations, public testimony and its own independent review and considerations, finds the environmental impacts of the project are within the scope of the previous environmental documents including the 2004 Program EIR (State Clearing House No. 2003032038) and the 2009 Final Subsequent Environmental Impact Report (State Clearing House No. 2008092085) and therefore no additional CEQA review is required. Specific Plan Amendment 22-002 and Municipal Code Amendment 22-001 will allow the City to convert public spaces into outdoor dining areas for a period of eight months and establish rules and regulations for Outdoor Dining Permits.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct staff to file a Notice of Determination with the Alameda County Clerk, if the project is approved.

The documents that constitute the record of proceedings upon which the decision is based can be found in the Community Development Department, 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Branning, seconded by Commissioner Stein, the foregoing Resolution was adopted at the Planning Commission meeting of April 5, 2022, by the following vote:

AYES: BRANNING, DUNBAR, LEARY, STEIN.
NOES: NONE.
ABSENT: ANDERSON.

Steven Dunbar, Chairperson



by Steve Stewart, Planning Manager
Secretary to the Planning Commission

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT (SPPA) 22-002

The City initiated application (SPPA) 22-002 to amend the Downtown Specific Plan provisions listed in Chapters 5, 6, and 10 for outdoor dining within the Downtown Core ("Project").

On April 5, 2022, at a duly noticed public hearing, the Planning Commission considered the Project and staff recommendation, heard public testimony, made the necessary findings, and adopted Planning Commission Resolution No. 07-22, attached hereto as Exhibit A, containing the Planning Commission's actions and/or recommendations thereon.

On April 11, 2022, the City Council held a duly noticed public hearing to consider the Project, Planning Commission and staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the Record Evidence and adopted a resolution finding that Specific Plan Amendment (SPPA) 22-002 and Municipal Code Amendment (MUNI) 22-001 are within the scope of the 2003 General Plan and Downtown Specific Plan Environmental Impact Report and the 2009 Subsequent Environmental Impact Report and finding that they are also exempt from the provisions of the California Environmental Quality Act.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the Record Evidence and findings made in Planning Commission Resolution No. 07-22, attached hereto as Exhibit A, and the City Council hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution. Based upon the City Council's own independent review of the Record Evidence and considerations, the City Council hereby approves (SPPA) 22-002, the text of which is attached hereto as Exhibits B, C & D.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Determination and a Notice of Exemption with the Alameda County Clerk.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore California.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

Exhibit A – Planning Commission Resolution No. 07-22
Exhibit B – Chapter 5 Development Standards Downtown Core
Exhibit C – Chapter 6 Design Standards and Guidelines – Outdoor Dining and Seating
Exhibit D – Chapter 10 Implementation

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE STATE OF CALIFORNIA

A RESOLUTION RECOMMENDING APPROVAL OF

Specific Plan Amendment (SPPA) 22-002

The City initiated an application for Specific Plan Amendment 22-002 to consider a Downtown Specific Plan Amendment ("the Amendment"). The Amendment will expand the outdoor dining area, adding J Street, K Street, and McLeod Street (between First and Second Streets). The Amendment will be consistent with limiting outdoor dining usage to 25 percent of the total parking spaces as specified in the Downtown Specific Plan approved by City Council in 2004.

A Public Hearing Notice was duly mailed to neighboring property owners and published in a newspaper of local circulation.

The Planning Commission held a meeting on April 5, 2022, considered the staff recommendation for approval, and heard public testimony.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Livermore finds that:

1. Consistency with the General Plan and Specific Plan

The proposed projects are consistent with the General Plan and the Downtown Specific Plan. The General Plan Land Use Designation for the Downtown Core is Downtown Area. The Downtown Area designation is a general designation that applies to the area traditionally known as Downtown Livermore. This designation seeks to provide a unique, locally oriented, pedestrian-friendly shopping environment. Higher-intensity residential development of a density that will support the predominantly commercial environment is integral to the economic viability of this district.

The purpose of the Downtown Core is to revitalize the City's historic core area as the center of the City of Livermore. The primary intent of this Plan Area is to promote the continued development and revitalization of the City's pedestrian-oriented Downtown district that serves as the center of the Livermore Community, its most unique shopping district, and as a neighborhood hub for the residences within and surrounding it.

The Specific Plan Amendments would expand the outdoor dining opportunities in the Downtown Core and establishes rules, regulations, and enforcement standards for Outdoor Dining Permits. Consistent with the purpose of the

Downtown Core, expanding the outdoor dining opportunities will increase activity that will continue contributing to revitalization.

BE IT FURTHER RESOLVED that, based on staff recommendation, public testimony, and the above findings, the Planning Commission of the City of Livermore recommends the City Council adopt a resolution approving Specific Plan Amendment 22-002.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Livermore that the Amendment, the text of which is shown in the attached Exhibit A, Exhibit B, and Exhibit C, is hereby recommended to the City Council for approval.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department, 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Branning, seconded by Commissioner Stein, the foregoing Resolution was adopted at the Planning Commission meeting of April 5, 2022, by the following vote:

AYES: BRANNING, DUNBAR, LEARY STEIN.
NOES: NONE.
ABSENT: ANDERSON.

Exhibit A – Downtown Specific Plan – Chapter 5 – Development Standards – Core
Exhibit B – Downtown Specific Plan – Chapter 6 - Design Standards and Guidelines – Outdoor Dining/ Seating
Exhibit C – Downtown Specific Plan – Chapter 10 - Implementation

Steven Dunbar, Chairperson

by Steve Stewart, Planning Manager
Secretary to the Planning Commission

Chapter 5 – Development Standards - Core

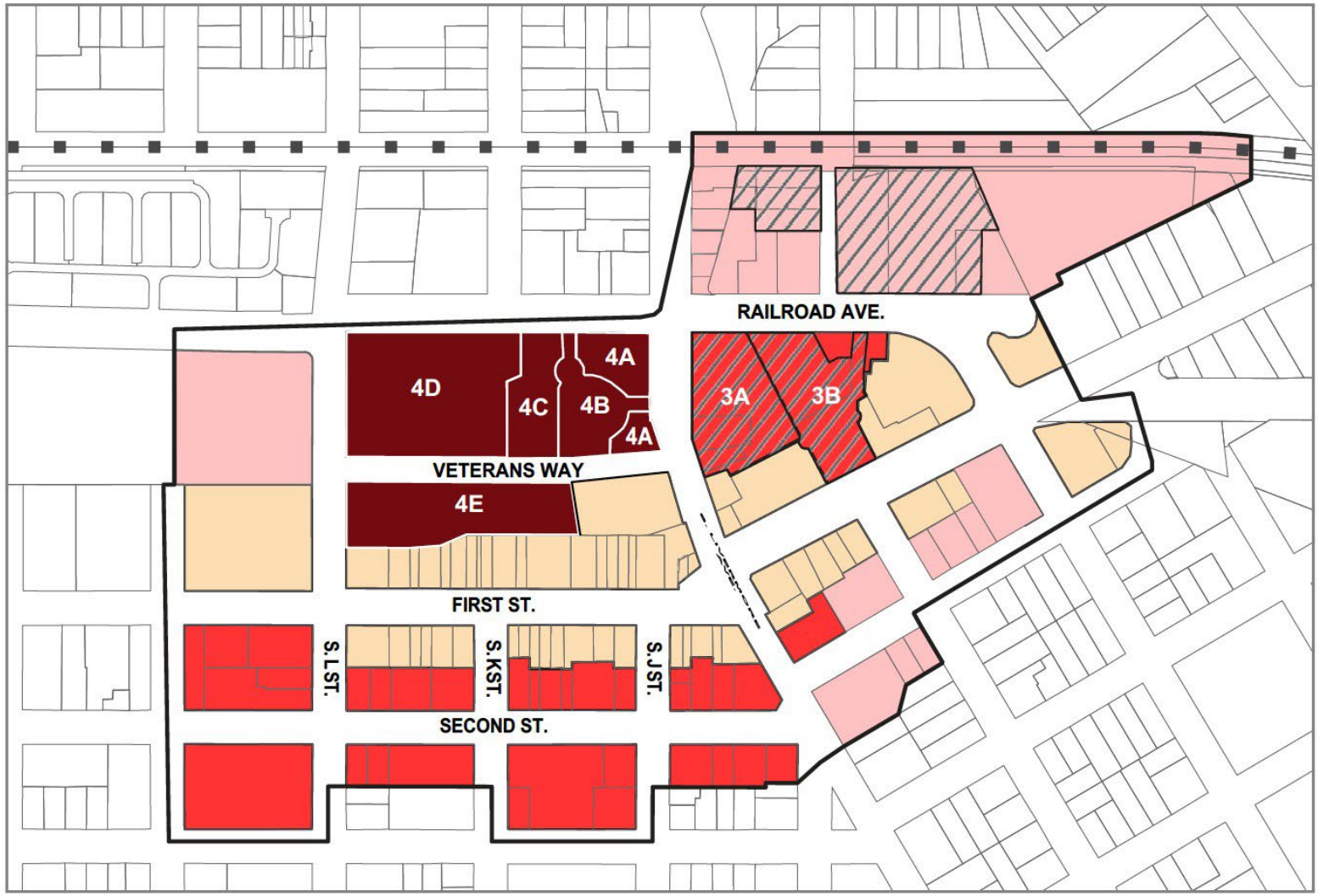


FIGURE 5-1: LAND USE PLAN AREA: THE DOWNTOWN CORE

Development Standards: Downtown Core Plan Area

1. Purpose

The purpose of the Downtown Core is to revitalize the City's historic core area as the center of the City of Livermore. The primary intent of this Plan Area is to promote the continued development and revitalization of the City's pedestrian-oriented Downtown district that serves as the center of the Livermore Community, its most unique shopping district, and as a neighborhood hub for the residences within and surrounding it. Its shopping areas will provide high quality specialty sales and services that are in keeping with the distinctive character of Downtown; discount stores are not intended for this district. Development Standards for the Downtown Core are targeted towards re-establishing Downtown's identity as a compelling place for shoppers, investors, residents and visitors, requiring development that is in line with Downtown's traditions and preserves its historic heritage. They require a mix of stores intended to draw people downtown during the day, evenings, and on weekends, an improved streetscape to provide downtown visitors with a pleasant pedestrian experience, and a series of public spaces to provide places for citizens to come together downtown.

2. Permitted Uses

All uses permitted in the Downtown Core shall contribute to the vibrancy of the Plan Area. Restaurants, services and retail uses shall help promote the Core as a "specialty" retail and activity center, providing high-end, unique yet quality goods and services. As a "specialty" retail and activity center, the Core is not appropriate for discount retail uses.

In order to ensure that Downtown is the most densely developed part of the City, and in order to sustain a high level of pedestrian and retail activity, mixed-use buildings are required for all parcels fronting First Street, and encouraged throughout the Downtown Core. All uses permitted in the Downtown Core shall be required to comply with the City's Right to Downtown Operations Ordinance (Chapter 10 – Implementation and Livermore Municipal Code Chapter 8.19). In addition, all noise generating uses shall be required to comply with the noise level standards, and all new residential uses shall be required to utilize construction methods necessary to comply with the interior noise thresholds, established for the Downtown in Section 7 of this Chapter.

New single-story buildings shall not be allowed, except within Subarea 4 – Special Condition Sub-district – A, where new buildings may be one story to maintain the scale of the adjacent Blacksmith Square development at 21-29 South Livermore Avenue.

2.1 Subarea 1

2.1.1 Permitted Ground Floor Uses

Mixed Use Buildings are required on First Street: All buildings fronting First Street in Downtown Core are required to be “mixed-use” (except as provided for in sections 2.1.D, 2.2 and 2.3 below), defined for this Plan Area as the vertical combining of ground-floor retail sales and service uses or eating and drinking establishments, with permitted upper floor uses such as residential or office in the same building.

A. Retail Sales and Services including the following:
   1. Specialty Food Retail, including the following and similar specialty foods: Groceries/Specialty Market/Market Hall (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market)/Drug Stores; Chocolate/candy; General gourmet; Ice cream; Pastry/desserts; Yogurt/dairy; Doughnuts/bakery; Wine Shops and wine tasting; and similar specialty foods.
   2. Specialty Goods Retail, including the following and similar specialty goods uses: Cooking supplies/culinary; General house wares; Decorator/arts and design centers (including tile, floor and wall coverings); Specialty hardware; Antique stores selling high-quality used goods (this category excludes thrift and second-hand stores); Party supplies; Lamps/lighting; Household accessories; Books/magazines/stationery; Music/instruments.
   3. Quality Goods Retail, including the following, and similar uses: Small crafts; Specialty furniture; Clothing (including consignment stores that sell both gently used and new clothing and accessories)/shoe stores; Stereo/video or computers; Cameras/photography; Sporting goods; Bicycle shops; Outdoor/sports clothing and supplies; Toys/games; Cards/gifts; Jewelry; Watches/clocks; Beauty/cosmetics; Plants/flowers. Thrift stores, donation centers, and similar retail uses are not permitted.
   4. Business Services, excluding sales and storage of heavy equipment - businesses that generate a significant amount of foot traffic, such as Computer and Office Supply, Photocopy Shops, Photo Finishers, and Print Shops.
   5. State Licensed Banks and Financial Institutions, excluding check cashing stores.
   6. Permitted and fully-conforming retail uses that occupy a ground-floor retail storefront may have an outdoor display area within the public right-of-way (sidewalk area only) and upon outdoor private property between a storefront and the public right-of-way consistent with the Master Design Program and Outdoor Display Permit application procedures specific to outdoor merchant display uses contained within Chapters 6 and 10 of the Downtown Specific Plan.

B. Eating and Drinking Establishments including the following uses:
   1. Restaurants, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
   2. Establishments serving wine and/or beer and providing ancillary food service are permitted. Ancillary entertainment is also permitted with this type of use.
   3. Drive-up or drive-in restaurants are not permitted.
   4. Outdoor dining uses may be permitted within the public right-of-way (sidewalk and/or flexible zone areas) consistent with the Master Design Program and Outdoor Dining Permit application procedures specific to outdoor dining uses contained within Chapter 6 and 10 of the Downtown Specific Plan; however, the number of parking spaces converted to outdoor dining use shall be limited to 25 percent of all parking spaces on First Street between M Street and Maple Street including J Street, K Street, and McLeod Street between First Street and Second Street. However, parking spaces on L Street and Livermore Avenue shall not be converted to outdoor dining use due to the lack of diagonal parking and higher vehicular speeds. In addition, the City reserves the right to limit the number of parking spaces that may be converted to outdoor dining use based on the cumulative effect of the loss of parking spaces on a block by block basis.

C. Publicly Owned Parking Facilities.
D. Performing Arts, Civic & Cultural Facilities, including libraries, public recreation facilities, museums, art galleries, movie theaters and auditoriums (these uses are exempt from the mixed-use requirement for newly constructed buildings on First Street).
E. Accessory Uses and Structures: Including signage, parking facilities, trash and utility enclosures, and enclosed storage.
F. Public and quasi-public uses and public utilities are permitted within the block bounded by First Street, Second Street, McLeod Street and South Livermore Avenue.
G. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.1.2 Subarea 1 - Permitted Upper Floor Uses

Upper floor uses are encouraged to provide more residential and small office uses.

A. Multi-Family and Attached Single Family Residential.
B. Retail Sales and Service uses (as defined in Section 2.1.A above) are permitted on upper-floors if internally connected to and operated in conjunction with the ground-floor use.

C. Eating and Drinking Establishments, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
D. Business, Professional, and Government Offices.
E. Medical and Dental Offices.
F. Health and Exercise Clubs.
G. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.
H. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
I. Publicly Owned Parking Facilities.
J. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa, and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
K. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
L. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.1.3 Subarea 1 – Conditionally Permitted Uses

Findings for Conditional Uses along First Street must document the potential for the use to contribute to pedestrian activity and to provide interesting displays or views into the business. Conditional Uses must also be appropriate to the area and compatible with nearby uses.

The following uses are permitted on the ground level, upon granting of a Conditional Use Permit:

A. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages (other than beer and wine) not clearly ancillary to food service.
B. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
C. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on upper stories, upon granting of a Conditional Use Permit:

D. Stand-alone Retail Sales and Service Uses (as defined in 2.1.A above), that are not associated with and connected to a ground floor use.
E. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
F. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
G. Additional Uses Permitted with a Conditional Use Permit: Other and similar compatible uses deemed by the Planning Commission to meet purpose and intent of the Downtown Specific Plan.

2.2 Subarea 2

2.2.1 Permitted Ground Floor and Upper Floor Uses

The following uses are permitted on all floors:

A. Multi-Family and Attached Single Family Residential.
B. Live-Work – residential living spaces may include an integrated work space, provided the work space has a ground-floor storefront expression and upper-floor workspaces are internally connected to and operated in conjunction with the ground-floor, principally used by one or more of the residents. Work activity is limited to business (primarily office), the making of arts and crafts, including painting, graphic production, photography, print, ceramics, and sculpture, and other activities compatible with residential use. Activities that require hazardous assembly, including fabrication, manufacturing, repair or processing operations such as welding and woodworking (with more than three fixed pieces of equipment) shall not be permitted. The maximum number of employees not including the owner/occupant is limited to two. Permitted work activities shall be classified as a business and shall be subject to all applicable City, County, and State Regulations.
C. Business, Professional, and Government Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
D. Medical and Dental Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
E. Health and Exercise Clubs.
F. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.
G. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
H. Publicly Owned Parking Facilities.
I. Public Utilities, Performing Arts, Civic and Cultural Facilities.

J. Groceries, Specialty Market, Market Halls (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market) and Drug Stores are permitted on the ground-floor, and are permitted on upper- floors if internally connected to and operated in conjunction with the ground-floor use.
K. Neighborhood Serving Uses – small shops that serve the convenience needs of nearby residential, limited to full service deli, dry cleaner, laundromat, tailoring, watch repair and postal annex are permitted on the ground- floor only (Liquor stores, Cigarette stores, and similar uses are prohibited).
L. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
M. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
N. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.2.2 Subarea 2 – Conditionally Permitted Ground Floor and Upper Floor Uses

Findings for Conditional Uses must document the potential for the use to contribute to pedestrian activity and to provide interesting displays or views into the business. Conditional Uses must also be appropriate to the area and compatible with nearby uses.

The following uses are permitted upon granting of a Conditional Use Permit:

A. Public and quasi-public buildings, including uses of an educational, religious, or public service nature (i.e. schools, adult training facilities, churches, public and non-profit organizations).
B. Day and Child Care Centers, Day Care Homes, and Residential Care Homes.
C. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.2.3 Subarea 2 – Special Condition Sub-district (North I Street)

(Area encompassing five vacant parcels at the northwest end of North I Street and including the existing parking structure to the east.)

Following uses are permitted on the ground and upper floor levels:

A. Publicly accessible parking facilities including structured parking.
B. Public and quasi-public buildings including uses of a public service nature such as transportation related facilities including bus and train stations.
C. Open space, pedestrian paths, multi-use trails, plazas, and public recreation facilities.
D. Accessory uses and structures.
E. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3 Subarea 3

2.3.1 Permitted Ground Floor Uses

A. Retail Sales and Services including the following:
   1. Specialty Food Retail, including the following and similar specialty foods: Groceries/Specialty Market/Market Hall (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market)/Drug Stores; Chocolate/candy; General gourmet; Ice cream; Pastry/desserts; Yogurt/dairy; Doughnuts/bakery; Wine Shops and wine tasting; and similar specialty foods.
   2. Specialty Goods Retail, including the following and similar specialty goods uses: Cooking supplies/culinary; General house wares; Decorator/arts and design centers (including tile, floor and wall coverings); Specialty Hardware; Antique stores selling high-quality used goods (this category excludes thrift and second-hand stores); Party supplies; Lamps/lighting; Household accessories; Books/magazines/stationery; Music/instruments.
   3. Quality Goods Retail, including the following, and similar uses: Small crafts; Specialty furniture; Clothing (including consignment stores that sell both gently used and new clothing and accessories)/shoe stores; Stereo/video or computers; Cameras/photography; Sporting goods; Bicycle Shops; Outdoor/sports clothing and supplies; Toys/games; Cards/gifts; Jewelry; Watches/clocks; Beauty/cosmetics; Plants/flowers. Thrift stores, donation centers, and other similar uses are not permitted.
   4. Business Services, excluding sales and storage of heavy equipment - businesses that generate a significant amount of foot traffic, such as Computer and Office Supply, Photocopy Shops, Photo Finishers, and Print Shops.
   5. Permitted and fully-conforming retail uses that occupy a ground-floor retail storefront may have outdoor

displays within the public right-of-way (sidewalk area only) and upon outdoor private property between a storefront and the public right-of-way consistent with the Master Design Program and Outdoor Display Permit application procedures specific to outdoor merchant display uses contained within Chapters 6 and 10 of the Downtown Specific Plan.

B. Eating and Drinking Establishments including the following uses:
   1. Restaurants, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
   2. Drive-up or drive-in restaurants are not permitted.
   3. Outdoor dining uses may be permitted within the public right-of-way (sidewalk area only) consistent with the Master Design Program and Outdoor Dining Permit application procedures specific to outdoor dining uses contained within Chapter 6 and 10 of the Downtown Specific Plan.
C. Publicly Owned Parking Facilities.
D. Cultural Facilities including performing arts theaters, museums and art galleries.
E. Multi-Family and Attached Single Family Residential.
F. Live-Work – residential living spaces may include an integrated work space, provided the work space has a ground-floor storefront expression, principally used by one or more of the residents. Work activity is limited to business (primarily office), the making of arts and crafts, including painting, graphic production, photography, print, ceramics, and sculpture, and other activities compatible with residential use. Activities that require hazardous assembly, including fabrication, manufacturing, repair or processing operations such as welding and woodworking (with more than three fixed pieces of equipment) shall not be permitted. The maximum number of employees not including the owner/occupant is limited to two. Permitted work activities shall be classified as a business and shall be subject to all applicable City, County, and State Regulations.
G. Business, Professional, and Government Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
H. Medical and Dental Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
I. Health and Exercise Clubs.
J. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.
K. State licensed Banks and Financial Institutions are permitted on Second Street only.
L. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.

M. Neighborhood Serving Uses – small shops that serve the convenience needs of nearby residential, limited to full service deli, dry cleaner, laundromat, tailoring, watch repair and postal annex (Liquor stores, Cigarette stores, and similar uses are prohibited).
N. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa, and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
O. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
P. Accessory Uses and Structures: Including signage, parking facilities, trash and utility enclosures, and enclosed storage.
Q. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3.2 Subarea 3 - Permitted Upper Floor Uses

A. Multi-Family and Attached Single Family Residential.
B. Live-Work – residential living spaces may include an integrated work space, provided the work space has a ground-floor storefront expression and upper-floor workspaces are internally connected to and operated in conjunction with the ground-floor, principally used by one or more of the residents. Work activity is limited to business (primarily office), the making of arts and crafts, including painting, graphic production, photography, print, ceramics, and sculpture, and other activities compatible with residential use. Activities that require hazardous assembly, including fabrication, manufacturing, repair or processing operations such as welding and woodworking (with more than three fixed pieces of equipment) shall not be permitted. The maximum number of employees not including the owner/occupant is limited to two. Permitted work activities shall be classified as a business and shall be subject to all applicable City, County, and State Regulations.
C. Retail Sales and Service uses (as defined in Section 2.6.A above) are permitted on upper-floors if internally connected to and operated in conjunction with the ground-floor use.
D. Eating and Drinking Establishments, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
E. Business, Professional, and Government Offices.
F. Medical and Dental Offices.
G. Health and Exercise Clubs.
H. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals,

and temporary housing facilities.

I. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
J. Publicly Owned Parking Facilities.
K. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa, and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
L. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
M. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3.3 Subarea 3 – Conditionally Permitted Uses

Findings for Conditional Uses must document the potential for the use to contribute to pedestrian activity and to provide interesting displays or views into the business. Conditional Uses must also be appropriate to the area and compatible with nearby uses.

The following uses are permitted on the ground level, upon granting of a Conditional Use Permit:

A. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
B. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
C. Public and quasi-public buildings, including uses of an educational, religious, or public service nature (i.e. schools, adult training facilities, churches, public and non-profit organizations).
D. Day and Child Care Centers, Day Care Homes, and Residential Care Homes.
E. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on upper stories, upon granting of a Conditional Use Permit:

A. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
B. Stand-alone Retail Sales and Service Uses (as defined in 2.6.A above), that are not associated with and connected to a ground floor use.

C. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
D. Day and Child Care Centers, Day Care Homes, and Residential Care Homes.
E. Additional Uses Permitted With a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3.4 Subarea 3 – **Special Condition Sub-district – A** (Southeast corner of Railroad and South Livermore Avenue and generally bounded by the Bankhead Theater and plaza to the east and commercial development along First Street to the south):

The following uses are permitted on ground and upper levels:
A. Public owned parking facilities.
B. Cultural facilities including performing arts theaters
C. Open space, pedestrian paths, plazas, and public recreation facilities.
D. Boutique hotel, which may include accessory uses such as a spa, restaurant, bar, meeting facilities, and limited retail and personal service uses to serve the needs of guests.
E. Conference and meeting facilities
F. Accessory uses and structures
G. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on ground and upper levels, upon granting of a Conditional Use Permit:
A. Public halls and community recreation centers.
B. Additional uses permitted. Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3.5 Subarea 3 – Special Condition Sub-district – B (South side of Railroad Avenue including Performing Arts Theatre and Plaza)

The following uses are permitted on ground and upper levels:
A. Cultural facilities including performing arts theaters.
B. Open space, pedestrian paths, plazas, and public recreation facilities.
C. Accessory uses and structures.

~~C.~~ D. Outdoor dining uses may be permitted within the public right-of-way (plazas) consistent with the Master Design Program and Outdoor Dining Permit application procedures specific to outdoor dining uses

contained within Chapter 6 and 10 of the Downtown Specific Plan

~~D.~~ E. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on ground and upper levels, upon granting of a Conditional Use Permit:

A. Public halls and community recreation centers;
B. Conference and meeting facilities.
C. Additional uses permitted. Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3 Subarea 4

2.3.1 Subarea 4 – Special Condition Sub-district – A (Commercial and Cultural Sub-District) Permitted Uses.

District) Permitted Uses. The following uses are permitted:

A. Retail Sales and Services including the following:
   1. Specialty Food Retail, including the following and similar specialty foods: Groceries/Specialty Market/Market Hall (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market)/Drug Stores; Chocolate/candy; General gourmet; Ice cream; Pastry/desserts; Yogurt/dairy; Doughnuts/bakery; Wine Shops and wine tasting; and similar specialty foods.
   2. Specialty Goods Retail, including the following and similar specialty goods uses: Cooking supplies/culinary; General house wares; Decorator/arts and design centers (including tile, floor and wall coverings); Specialty Hardware; Antique stores selling high-quality used goods (this category excludes thrift and second-hand stores); Party supplies; Lamps/lighting; Household accessories; Books/magazines/stationery; Music/instruments.
   3. Quality Goods Retail, including the following, and similar uses: Small crafts; Specialty furniture; Clothing (including consignment stores that sell both gently used and new clothing and accessories)/shoe stores; Stereo/video or computers; Cameras/photography; Sporting goods;

Bicycle Shops; Outdoor/sports clothing and supplies; Toys/games; Cards/gifts; Jewelry; Watches/clocks; Beauty/cosmetics; Plants/flowers. Thrift stores, donation centers, and other similar uses are not permitted.

4. Permitted and fully-conforming retail uses that occupy a ground-floor retail storefront may have outdoor displays within the public right-of-way (sidewalk area only) and upon outdoor private property between a storefront and the public right-of-way consistent with the Master Design Program and Outdoor Display Permit application procedures specific to outdoor merchant display uses contained within Chapters 6 and 10 of the Downtown Specific Plan.

B. Eating and Drinking Establishments including the following uses:
   1. Restaurants, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
   2. Drive-up or drive-in restaurants are not permitted.
   3. Outdoor dining uses may be permitted within the public right-of-way (sidewalk area only) consistent with the Master Design Program and Outdoor Dining Permit application procedures specific to outdoor dining uses contained within Chapter 6 and 10 of the Downtown Specific Plan.
C. Accessory Uses and Structures: Including signage, parking facilities, trash and utility enclosures, and enclosed storage.
D. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan

Conditional Uses. The following uses are permitted, upon granting of a Conditional Use Permit:

A. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
B. Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3.2 Subarea 4 – Special Condition Sub-district – B (Public Park)

The following uses are permitted:

A. Public Park, open space, pedestrian paths, plazas, and public recreation facilities.
B. Accessory uses and structures that support the operation of the park and adjoining commercial and cultural uses.
C. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3.3 Subarea 4 – Special Condition Sub-district – C (Science and Society Center, Black Box Theater)

The following uses are permitted:

A. Cultural facilities including museums, art galleries, and theaters with a maximum interior seating capacity of 200 seats.
B. Open space, pedestrian paths, plazas, and public recreation facilities.
C. Accessory uses and structures.
D. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan

2.3.4 Subarea 4 – Special Condition Sub-district – D (Multi-Family Residential)

The following uses are permitted:

A. Multi-family residential limited to housing affordable to a variety of household income levels not to exceed 120 percent of area median income (AMI) for Alameda County (Oakland-Fremont Metro Region). AMI shall be as determined by California Department of Housing and Community Development (HCD) for Alameda County using income limits published by the U.S. Department of Housing and Urban Development for the Section 8 Program for Alameda Court (Oakland-Fremont Metro Region).
B. Accessory uses and structures
C. Public Park, open space, pedestrian paths, plazas, and public recreation facilities.
D. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3.5 Subarea 4 – Special Condition Sub-district – E (Public Parking Garage and Public Surface Parking)

The following uses are permitted:

A. Publicly Owned Parking Facilities
B. Publicly accessible parking facilities including structured parking.
C. Accessory uses and structures, including waste collection facilities.
D. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

3. Development Intensity

In order to ensure that Downtown is the most urban, densely developed part of the City, development shall be allowed to the highest intensities.

3.1 Residential Density.

A. Minimum density of 30 dwelling units per acre and a maximum density of 55 units per acre. Density shall be calculated on a project-wide basis.
B. Mixed-use developments shall have no minimum density required for residential uses located above the first floor where non-residential uses are located on the ground floor.
C. Where unique site constraints prevent this density, and in locations where the Planning Commission finds that providing residential at a higher density would be incompatible with the scale and character of existing historic buildings or residential uses, residential development may occur at a minimum density of 15 dwelling units per acre, subject to the granting of a Conditional Use Permit.

4. Height

Height requirements are intended to ensure that the heights of new buildings are compatible with the character of the Plan Area.

4.1 Height, as measured from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge of gable, hip, or gambrel roofs.

A. Buildings in Subarea 4 – Special Condition Sub-district – A, may range in height from one (1) to two (2)

floors to a maximum height of forty-five (45) feet; and at adjoining property lines, may not be more than twice the height of the closest building on the adjoining property. However, portions of the building façade may exceed twice the height of adjoining buildings if they are set back from the adjoining property line a minimum of twenty (20) feet.

B. Outside Subarea 4 – Special Condition Sub-district – A, and subject to the exceptions established in section 4.1.D, buildings must maintain a minimum height of two (2) floors and twenty (20) feet. Buildings may not exceed a total maximum height of three (3) floors and forty-five (45) feet; and at adjoining property lines, may not be more than twice the height of the closest building on the adjoining property. However, portions of the building façade may exceed twice the height of adjoining buildings if they are set back from the adjoining property line a minimum of twenty (20) feet. The applicant may reduce or eliminate this additional setback requirement through a Major Conditional Use Permit.

C. Accessory buildings, including non-dwelling units such as freestanding garages for individual residential units, service structures and tool sheds, may be a maximum of fifteen (15) feet.

D. Exceptions:

1. Podium or partially submerged parking levels may project beyond the sidewalk or average finished grade for an average of four (4) feet. On lots that slope, the tallest part of the podium level may not exceed five (5) feet. Podium and partially submerged parking levels shall not count as a floor.
2. Special Architectural Features, such as uninhabited towers (clock, bell, observation) or entry volumes may exceed the maximum height by no more than ten (10) feet, where proportionate and consistent with building design, if approved by the City. Towers or other volumes should not extend for more than twenty (20) feet in any horizontal direction.
3. Rooftop Structures, such as elevator and mechanical equipment enclosures or roof deck trellises and gazebos, may exceed the height limit by ten (10) feet, provided they are set back a minimum of ten (10) feet from building walls and are screened on all sides by a parapet or sloping roof that is architecturally integrated with the building design.
4. Projects proposing height exceptions taller than three (3) floors/forty-five (45) feet are subject to Planning Commission and City Council review in addition to the normally required review process as established in Chapter 10 “Implementation”, under Design and Site Plan Review.
5. The following projects/sites may exceed the maximum height established in 4.1.B above up to the maximum heights indicated subject to Planning Commission and City Council review in addition to the normally required review process as established in Chapter 10 “Implementation”, under Design and Site Plan Review:
   a) Local Performing Arts Theater proposed generally south of Railroad Avenue and east of South Livermore Avenue in the Livermore Valley Center (LVC) – may have a maximum height up to seventy- five (75) feet.

b) Two proposed LVC Retail/Office/Restaurant Developments (Retail East and Retail West) proposed along the north side of First Street east of South Livermore and west of Railroad Avenue/Maple Street may have a maximum height up to three (3) floors/fifty (50) feet.
c) The boutique hotel, located in Subarea 3, Sub-district A, may have a maximum height up to four (4) floors/fifty-five (55) feet. In addition, special Architectural Features, such as uninhabited towers (clock, bell, observation), architecturally integrated mechanical equipment screens, or entry volumes may exceed the maximum height by no more than ten (10) feet if approved by the City. Towers or other volumes that exceed the building height limit shall not extend for more than fifty-five (55) feet in any horizontal direction.
d) SBC Building on the northwest corner of McLeod and Second Streets (2388 Second Street) – may have a maximum height up to seventy-five (75) feet.
e) Residential development on the Downtown Specific Plan Catalyst Project Site (former Lucky's site) located south of Railroad Avenue between L Street and South Livermore Avenue – may have a maximum height up to four (4) floors/fifty- five (55) feet, provided the fourth floor does not extend for more than 60% of the site frontage along L Street, Railroad Avenue and South Livermore Avenue.
f) The public parking structure in Subarea 4 – Special Condition Sub-district – E may have a height of five (5) parking levels, including ground and roof levels, with a maximum height of forty-five (45) feet. Towers and architectural features may have a maximum height of sixty-five (65) feet.
g) The maximum height standard shall not apply to rooftop finials on the parking structure. f) LVC Cinema Complex proposed for the northwest corner of First Street and Railroad Avenue/Maple Street – architectural features of the proposed project may have a maximum height up to fifty (50) feet.
h) Groth catalyst site located at the northwest corner of First Street and South L Street – may have a maximum height up to four (4) floors/fifty-five (55) feet, provided the fourth floor does not extend for more than 60 percent of the site frontage along L Street, M Street and Railroad Avenue, and adjacent to First Street the maximum height shall be limited to three
(3) floors/forty-five (45) feet. In addition, special Architectural Features, such as uninhabited towers (clock, bell, and observation) or entry volumes may exceed the maximum height by no more than ten (10) feet if approved by the City. Towers or other volumes shall not extend for more than twenty (20) feet in any horizontal direction.

5. Setbacks

In order to bring storefront activity and window displays up to the public right-of-way, the majority of all building frontages (except residential) are required to be built to the property line.

5.1 Street Frontage Setbacks (excluding alleys)

A. For all uses except residential, a minimum of seventy (70) percent of the building frontage must be built to the property line. A maximum of thirty (30) percent of the building frontage may be recessed to provide for entryways, street-facing courtyards, and similar features.
B. For residential uses, there is no minimum setback (i.e. uses may be built to the property line); maximum setback is twenty (20) feet.
C. At corner parcels, setback/built-to requirements apply to both street frontages.
D. Special Condition: Building Overhangs - Trellises, canopies and awnings may extend horizontally into the public right-of-way, up to six (6) feet. These overhangs must provide a minimum of eight feet (8') clear height above sidewalk grade.
E. Exemptions:
    1. Performing Arts and Civic and Cultural facilities are exempt from the street frontage setback requirements.
    2. Buildings with frontage on Veterans Way are exempt from the street frontage setback requirements.

5.2 Side Setbacks

A. For all uses, minimum side setback is zero, and maximum setback is ten (10) feet (except for driveways and pedestrian pathways).
B. Exemptions: Performing Arts, and Civic and Cultural Facilities are exempt from the side setback requirements.

5.3 Rear setback

A. There are no rear setback requirements in the Downtown Core District

5.4 Setbacks for Parking Lots and Structures

A. At grade parking lots shall be set back a minimum of five (5) feet from all property lines, and landscaped as described in Landscaping & Screening, below.
B. Freestanding parking structures may be built to the property line.

5.5 Setbacks from Railroad Tracks

A. For habitable buildings located within 100-feet from the centerline of railroad tracks, developments shall provide a study demonstrating that ground borne vibration issues associated with rail operations have

been adequately addressed (i.e. by building siting or by construction technique).

6. Site Development

All new development must relate to the existing City structure of streets and blocks. New streets shall conform to the direction and orientation of existing streets.

6.1 Block Pattern

A. New streets shall conform to a pattern of generally rectilinear blocks, with new streets and access drives linking orthogonally to surrounding City streets.
B. For sites having more than 200 feet of street frontage, all new development shall match the typical block increment of three hundred (300) feet in length by two hundred (200) feet in depth, and shall not exceed a block size of four hundred (400) feet in length by three hundred (300) feet in depth, where feasible. Where achievement of this block size is not feasible, blocks should be subdivided with alley streets or pedestrian pathways.

6.2 Driveway Access

A. Driveway access must be from alleys, rear parking areas and streets other than First Street. Curb cuts are not allowed on First Street between M Street and Maple Avenue.
B. The maximum number of curb cuts associated with a single building is one (1) two-way curb cut or two (2) one-way curb cuts. Otherwise, the maximum number of curb cuts is one (1) two-way curb cut or two (2) one-way curb cuts per one hundred fifty (150) feet of street frontage.
C. The minimum width of driveways/ curb cuts is ten (10) feet; the maximum width of driveways/curb cuts is twelve (12) feet for one-way and twenty-four (24) feet for two-way driveways.
D. Driveway setbacks must be a minimum of five (5) feet from adjoining private properties, and a minimum of three (3) feet from adjacent buildings.
E. Service access must be from alleys and rear parking areas wherever possible. Where only curbside service is possible, such service must be located along streets other than First Street.
F. Adequate access for garbage, recycling, food waste collection vehicles, and emergency vehicles must be provided.

6.3 Open Space

Commercial and office developments are required to provide publicly accessible open space in the form of parks, greens, squares, plazas or widened sidewalks for public use. Residential uses are required to provide publicly accessible common outdoor space for the development, as well as private open space (e.g. balconies or patios accessible only to the dwelling/dwellings served) for all residential units.

A. Commercial and Office Development: Developments of greater than 50,000 square feet shall provide a minimum of one hundred (100) square feet of usable publicly accessible open space for every 2,000 square feet of ground floor commercial space constructed, and a minimum of one hundred (100) square feet of usable open space for every 1,000 square feet of office space constructed. Open space may be constructed on-site, or off-site if located within the Downtown Core Plan Area, or through payment of an in- lieu fee.
   1. Special Condition: Ground-floor retail establishments located on First Street shall be exempt from this open space requirement.

B. Residential and Mixed Use Developments: Outdoor space shall be provided at a minimum of one hundred fifty (150) square feet of publicly accessible open space and sixty (60) square feet of private open space per residential unit. Private open space shall be provided on-site. Publicly accessible open space shall be provided as described below:
   1. Residential Project Site 0.5 Acre or Less: Shall provide required open space on-site, off-site, through payment of an in-lieu fee, or any combination of the above.
   2. Residential Project Site Greater Than 0.5 Acre: Shall provide 10 percent of required public open space on-site for every 4,500 square feet of site area (or portion thereof) over 0.5 acre. Remaining required public open space shall be provided on-site, off site, through the payment of an in-lieu fee, or any combination of the above.
   3. Mixed-Use Project Site 1 Acre or Less: Shall provide required public open space on-site, off-site, through the payment of an in-lieu fee, or any combination of the above.
   4. Mixed-Use Project Site Greater Than 1 Acre: Shall provide 10 percent of required public open space on-site for every 4,500 square feet of site area (or portion thereof) over 1 acre. Remaining required public open space shall be provided on-site, off-site, through the payment of an in-lieu fee, or any combination of the above.
   5. Projects at densities higher than 40 du/acre may construct required publicly accessible open space through the payment of an in-lieu fee or off-site, if located within 500 feet of the project.

C. For Mixed-Use Developments, commercial/office and residential open space requirements shall be calculated separately (based on the requirements of sections 6.3.A and 6.3.B above) and then added

together to reach the total square footage of public open space required.

D. Iron Horse Trail: All new developments located on parcels backing onto the Southern Union Pacific right- of-way shall be required to provide a 20-foot dedication south of the existing right-of-way, to be reserved for the Iron Horse Multi-Use Trail. Developments shall be required to provide improvements to the trail. This dedication may count as park dedication credits (if approved by LARPD), or towards the provision of public open space, but not both.

E. For all open spaces, usable open space is defined as an area that is not encumbered with any substantial structure, and is not devoted to use as a street, parking area, sidewalk or waste disposal field. Open space provision shall not include required setback areas. (Please refer to the Design Standards and Guidelines for Site Improvements, Furnishings, Landscape and Lighting for design of open space).
   1. Minimum dimension for usable publicly accessible open space in any single direction is twelve (12)feet.
   2. For private open space within multi-family structures, open space may be provided through porches, balconies, decks, yard, terraces, and patios. Minimum dimension for private open space in any single direction is six (6) feet if provided as part of a porch or balcony; and eight (8) feet if provided as a deck, yard, terrace or patio.
   3. Unless otherwise noted, any open space provided off-site shall be located within the same plan area as
   4. the project site (Downtown Core, Downtown Boulevard Gateway, etc.) or within 500 feet of the project site.
   5. Any open space provided off-site must be a minimum of 1,000 square feet in size.
   6. For projects opting to pay an in-lieu fee to meet all or a portion of their open space requirements, the fees shall be subject to the provisions of the Downtown Specific Plan Open Space Program.

F. All public open spaces provided as part of the minimum requirement shall be publicly accessible during daylight hours, and shall be designed to connect with public rights-of-way and adjacent public open spaces in the vicinity.

G. For any public open space provided on- or off-site, the site plan layout shall provide appropriate paths, landscaping, and other amenities (i.e. benches, tables, fountains, shade structures, etc.) for the recreation and enjoyment of on-site users and the public.

H. For all developments, the developer shall prepare binding agreements (“CC&R’s”) addressing issues of common interest in terms of maintenance of public accessibility to open space, tree planter areas, planting strips, and walks.

6.4 Landscaping & Screening

A. At Service and Parking Areas, where commercial development is sited adjacent to residential buildings, attractive screen fencing or walls must be provided along the property line(s). A five (5) foot planting area must be established adjacent to the screening fence or wall with trees at a maximum spacing of twenty (20) feet on center.

B. Utility, Trash, Recycling, Food Waste and Service Equipment, including satellite receiving dishes, must be located away from streets and enclosed or screened by landscaping, fencing or other architectural means.

C. Rooftop equipment must be screened on all sides and must be integrated architecturally in the building design. Trash facilities and recycling containers must always be within structural enclosures.

6.5 Utility Easement

A. All public utility easements must be provided under or immediately adjacent to new public rights-of-way or within other public easement areas acceptable to the City Engineer.

7. Noise

7.1 Exterior Noise Levels

A. For those permitted land uses in the Downtown generating noise, Exterior Noise Levels may not exceed a maximum exterior decibel rating of 75 dBA from 7:00a.m. to 12:00a.m.

B. For those permitted land uses in the Downtown generating noise, Exterior Noise Levels may not exceed a maximum exterior decibel rating of 65 dBA from 12:00a.m. to 7:00 a.m.

C. Exception: Emergency equipment and emergency generators used for public uses and public utilities may exceed this requirement during testing and emergency operation.

7.2 Interior Noise Levels

A. All Residential – All residential building spaces must be improved or constructed in such a manner that noise levels do not exceed a maximum decibel rating of 45 dBA with windows closed, assuming 85 dBA on the first floor and an exterior noise level of 75 dBA. If noise analysis assumes closed windows 100% of the time, a fresh air ventilation system must be utilized.

8. Historic Structures

8.1 Conversions of Existing Historic Structures

To encourage appropriate rehabilitation of historical resources, the Livermore Development Code allows for deviations from certain development standards like setbacks and coverage. In accordance with Specific Plan policy, all historical resources within the Specific Plan area may utilize the Historic Preservation Incentives identified in Chapter 9.02 of the Livermore Development Code, or as amended.

Master Design Program- Outdoor Dining

The intent of the flexible zone is to provide for curbside parking. Alternatively, the flexible zone, along with the adjacent sidewalk area, may be used for outdoor dining uses, subject to City approval. An individual application may be made for the use of a portion of the flexible zone and/or sidewalk area for outdoor dining use by an individual fronting ground floor restaurant use subject to the provisions of the Downtown Specific Plan . Approval of an application for outdoor dining use shall be granted to the applicant only and shall not be transferable. Beyond the requirements for approval of an individual application, the number of parking spaces converted to outdoor dining use shall be limited to 25 percent of all parking spaces on First Street between M Street and Maple Street including J Street, K Street, and McLeod Street between First and Second Street. However, parking spaces on L Street and on Livermore Avenue shall not be converted to outdoor dining use due to the lack of diagonal parking and higher vehicular speeds. In addition, the City reserves the right to limit the number of parking spaces that may be converted to outdoor dining use based on the cumulative effect of the loss of parking spaces on a block by block basis.

Allocation of the Flexible Zone: Allocation of the flexible zone for outdoor dining use shall be based on frontage between the extended property lines of the building in which the associated fronting ground floor storefront restaurant use is an occupant. Where more than one-half of the total square footage of a parking space is located between the extended property lines, an application for allocation of that parking space may be made by the owner or tenant of such use. Where one-half or less of the total square footage of a parking space is located between the extended property lines, an application for allocation of that parking space may be made by the owner or tenant of such use, but shall require the written agreement of the affected underlying neighboring property owner, to the extent practicable, and neighboring tenant, at no compensation, and shall be conditionally allocated until such time the affected adjacent ground floor storefront restaurant use requests and is approved for allocation of the flexible zone fronting their use. In such circumstance, the extended property line will become the dividing mechanism between the two allocated uses, and 15 days notice shall be given to vacate any previous conditional allocation that is outside a uses property line extensions.

Allocation of the Sidewalk Area: Allocation of the sidewalk area for outdoor dining uses shall be based on frontage between extended property lines (on corner lots this applies to both frontages), and shall meet the following standards:

Outdoor dining uses shall be limited to an area beginning at the building wall or sidewalk steps and extending into the sidewalk area, provided that a minimum five~~six~~ foot sidewalk corridor is maintained.

If the fronting ground floor storefront at the southeast corner of First Street and J Street is occupied by a restaurant, use of the paved area that surrounds the specimen tree at the southwest corner of the Plaza may be requested. Outdoor dining uses shall not be permitted directly adjacent to the semi-circular steps providing access from the sidewalk to the turf area of the Plaza.

Where directly adjacent (not separated by structures or landscape features) to a City park or plaza (other than the plaza located at the southwest corner of First Street and Livermore Avenue), outdoor dining uses may request the use of paved areas within the park or plaza that are part of or connected to a sidewalk or pedestrian pathway, provided that a minimum five~~six~~ foot sidewalk/pathway corridor is maintained.

General Standards:

Outdoor dining uses may request to use the sidewalk area, flexible zone, or both. Outdoor dining uses within the flexible zone shall use the entire area between the lowest face of ~~the bottom riser of the two step~~ curb and the back edge of the valley gutter. In the flexible zone, outdoor dining use operators may propose to use a parking space located completely outside of their extended property lines and in front of an adjacent business with the written agreement of the underlying property owner and adjacent business owner, at no compensation. In the sidewalk area, outdoor dining uses may propose to extend in front of an adjacent business outside of their extended property lines with the written agreement of the underlying property owner and adjacent business owner, at no compensation. In no case, shall such extension be permitted to block the display windows or signage of the adjacent business. In the flexible zone, only one additional parking space may be requested from one~~each~~ side of an applicant's extended property lines. The maximum number of parking spaces that may be converted to outdoor dining is two per restaurant use. An outdoor dining use may be located directly adjacent to another outdoor dining use, where the extended property line will become the dividing mechanism between the two allocated uses.

All outdoor dining uses shall meet ADA requirements.

All outdoor dining uses shall maintain ingress/egress and pedestrian circulation pursuant to Uniform Building Code and Uniform Fire Code; and shall comply with the following minimum requirements (the City reserves the right to require larger clearance, ingress/egress, and pedestrian corridors depending upon the circumstances pertaining to the use area):

- Maintain a minimum five foot wide access in a direct and straight path to the building entrance clear and unimpeded for ingress and egress.

- Maintain a minimum five~~six~~ foot wide sidewalk corridor for general pedestrian circulation adjacent to the use.

- Maintain a minimum 15-foot radius from street corner intersections, measured from the back of curb.

- Within the sidewalk and flexible zone areas, the City may require a minimum five~~six~~-foot clearance adjacent to City street trees and furnishings, to allow for use of trash containers and benches by the general public, and to allow access for maintenance of planters, trellis structures, street lights and other street furnishings by City maintenance crews. City staff will review each applicant's site plan to determine if additional access or clearance is required.

Within the flexible zone, planters constructed of sturdy, durable, and attractive materials consistent with this Program shall be placed within the flexible zone adjacent to the valley gutter and along the sides of the use area to define the use area and protect users from vehicular traffic. Planters shall be provided, put in place, planted, maintained, and removed by the City.

Permanent changes to the flexible zone or sidewalk area shall not be permitted. Fencing and furnishings shall not be affixed to the sidewalk, flexible zone or any City street furnishing or improvement. No decking or stages are permitted. Any flexible zone, sidewalk, or City improvements, furnishings, and utilities damaged or destroyed by the outdoor dining use shall be replaced to City standards with the cost borne by the use operator.

Furnishings and decorations shall not encroach beyond the permitted use area or overhang pedestrian or vehicular circulation paths.

Outdoor dining uses shall comply with all rules and regulations set forth in the Outdoor Dining Guidelines.

Outdoor dining uses within the sidewalk area shall be required to operate for a minimum of 4 hours per day, and outdoor dining uses within the flexible zone shall be required to operate for a minimum of 8 hours per day, 6 days a week as weather permits.

All outdoor dining area furnishings shall be maintained in a safe and clean condition. All sidewalk use furnishings shall be stored indoors nightly. Flexible zone use furnishings may be secured within the flexible zone use area, or stored indoors nightly. Furnishings shall not be stacked outside at any time.

All outdoor dining use areas shall be maintained in an attractive, clean (free from spills, stains, litter and other debris) and safe manner.

Signage shall be subject to the provisions of this Program.

~~Tablecloths are permitted to be cloth only. Vinyl tablecloths are not permitted. Tablecloths shall be brought indoors nightly and shall be clean when placed outside each day.~~

~~To minimize litter and debris, where table wait service is provided, or food is served to the customer on a tray to be taken and eaten on site in the outdoor dining area, plates, glasses, cups, and silverware made of permanent (non- disposable) materials such as glass, ceramic, and metal, and cloth napkins shall be required. The use of . disposable food containers, utensils, and napkins is permitted only where food is served to the customer "to go" only.~~ Table linens and tableware shall comply with the Outdoor Dining Guidelines.

Trash receptacles, consistent with this Program, shall be required for all outdoor dining use areas where food is served "to go" with disposable containers, utensils and napkins. The applicant shall be responsible for maintaining the use area and trash receptacles in a clean and tidy manner, including emptying the receptacle daily, or more

frequently if needed in high use areas, into the primary restaurant trash receptacle serving the business for proper disposal.

If an outdoor dining use offers alcoholic beverage service, such use operator shall be duly licensed by the State Department of Alcoholic Beverage Control and shall conform to the requirements of such license.

Outdoor dining uses shall comply with all applicable laws and regulations regarding the sale and service of food and beverages to the public.

Outdoor dining use area fencing and furnishings shall be removed immediately upon the permanent closure of the associated business.

Furnishing Standards:

All outdoor dining furnishings shall be of commercial grade and designed for outdoor use. All furnishings shall be properly maintained and cleaned regularly. All furnishings shall meet the following standards:

Tables and Chairs for Outdoor Dining

Tables and chairs shall be of the same or a similar and compatible design. Plastic or resin tables and chairs are prohibited.

Materials- Permitted:

Table and Chair Framework: Wrought iron, fabricated steel, cast aluminum, cane or teak.

Chair Seat: Wrought iron, fabricated steel, cast aluminum, cane, teak or rattan.

Table Top: Solid tops of slate, marble, granite, faux stone, wrought iron, embossed aluminum, teak,

tempered glass, and mesh tops of wrought iron and aluminum are permitted. Plastic, resin, and plain metal table tops are not permitted.

Sizes- Permitted:

Table Dimensions: Smaller tables allow for greater layout flexibility and maximize the number of tables that can be placed in the use area. Maximum permitted table sizes are:

Square: 28"
Rectangular: 36" x 24"
Round: 30"

Table Height: Standard cafe' height (up to 30") tables are permitted. Bar height tables (over 30") are not permitted.

All tables and chairs within a use area shall be of the same or compatible color. Bright, reflective, and fluorescent colors are prohibited.

Umbrellas and Umbrella Stands

Table center and freestanding umbrellas are permitted.

Materials - Permitted:

Umbrellas: Canvas only. Vinyl or plastic umbrellas are prohibited.

Stands: Cast aluminum, wrought iron, fabricated steel, or wood.

All umbrella panels shall be of the same solid color. A complementary solid color may be used for trim (such as piping). Patterns (floral, stripes, etc.) and fluorescent colors are prohibited.

Lighting

Under umbrella lighting (directional or tube) and table top lighting (candles or other low level light sources) are permitted.

Lighting shall create a soft glow directed at the tabletop or cart surface. Lighting shall not create glare or fall outside of the use area. To provide for a warm glow, lighting sources shall be of warm white light (2700 to 3200 degrees Kelvin). Cool white lighting can create a harsh glare and is prohibited. Bare bulb neon, backlit signage, colored lights, blinking or "chasing" lights are prohibited. Lighting not approved by the City shall be removed immediately.

Portable Heaters

Standing portable propane heaters are permitted, subject to review and approval by the Fire Department. Electric or fuel heaters other than propane are prohibited.

Trash Receptacles

Trash receptacles shall be of an appropriate size in relation to the use area and of materials and design compatible with other use furnishings.

Planters

Planters are required as a buffer between outdoor dining uses within the flexible zone area. Planters are to be provided and placed by the City of Livermore, however must be shown on the submitted site plan based on the following dimensions:

Rectangular planters are 24" wide x 36" long.

Round planters are 24" in diameter (to be used at corners and in-between rectangular planters).

Where adjacent to a parking space divider that does not contain a tree or trellis, planter placement shall observe a 1 foot setback from the dividing line between parking spaces. Planters adjacent to a parking space divider that contains a tree or trellis may be placed in-line with such tree or trellis. Planters shall be spaced approximately 6" to 12" apart along the street frontage and sides of the use area.

City maintenance staff shall plant and maintain (including water) the planters provided by the City for outdoor dining uses within the flexible zone.

Fencing

Fencing shall be designed of wrought iron or cast aluminum and shall not exceed 36" in height. If alcoholic beverages are to be served, fencing shall meet the requirements of the use associated license issued by the State Department of Alcoholic Beverage Control.

Other Decorative Items

Padded fabric chair pads are permitted, shall be brought indoors nightly, and shall be clean when placed outside each day.

Tabletop flower arrangements, centerpieces, and candles are permitted and shall be brought in nightly.

Streamers, balloons, banners, and other decorative items not specifically permitted herein are prohibited.

Signage Standards:

Permitted signage for outdoor dining uses shall not count toward the businesses'- aggregate signage under the provisions of Chapter 6 of the Downtown Specific Plan; however, shall be consistent with the design standards contained therein. All signage shall apply to the associated business only; no generic advertising, such as applying to and/or provided by, for example, beer, soft drink, ice cream or other third party vendor sponsors shall be permitted.

Signage for outdoor dining uses is limited to umbrella signs and menu boards as defined below.

Umbrella Signs: Each umbrella may display the name of the business twice on opposite panels, or may display the name of the business once and the business logo once, each on opposite panels. Lettering shall not exceed 6 inches in height and logos shall not exceed one square foot. Total signage on each umbrella shall not exceed 10 percent of the area of the umbrella.

Menu Boards: Menu boards are limited to no more than 2' by 2' in size. Paper menus shall be mounted behind clear plastic covers. Chalk boards are also permitted. Menu boards may be mounted to the building fac;:ade, or may be placed on a portable support with an overall height not to exceed 4 feet. The design of menu board supports or frames shall utilize decorative metal or other high quality materials that relate to the design of other furnishings within the use area.

Banner signs, electrical signs, illuminated signs, and other signage not specifically permitted herein are prohibited.

10. Implementation

Having defined the type of development desired in the Downtown and the fundamental urban structure that will condition the shape and form of that development, the community planning process subsequently "worked backwards" from this future vision of Downtown to define the steps necessary to best achieve this vision. This chapter lists the actions that should be taken to attain the Downtown vision, and prioritizes those actions in the sequence in which they should be implemented. It describes the public improvements associated with those actions to be made by the City, especially those that are integral to Downtown's envisioned revitalization. Whenever possible, it coordinates both private and public sector actions so that efforts are complementary and occur simultaneously. It sets forth the Downtown areas that should be given priority, key steps needed to implement the Specific Plan, and how the Plan will be administered once it is adopted.

It should be noted that the following implementation sequence is structured to direct short term efforts, over the next three years. At the end of this short-term phase, the City should review and update the implementation sequence to follow, with subsequent actions given priority according to Downtown conditions at that time.

Priorities

The Implementation Plan provides strategic steps for the near term. In order to prioritize these steps, it is important to establish the key areas where efforts should begin, and where supporting efforts should follow. The Downtown Specific Plan classifies areas into several Strategic Action zones, as are noted below. However, it is important to note that the Specific Plan is a working document, a dynamic tool that should evolve with the Downtown as it revitalizes over the coming years. Therefore, priorities should be allowed to shift, and areas of importance may be refocused, as the Plan is implemented.

Revitalization Zone: The Revitalization Zone demarcates those areas which are the highest priority for Downtown revitalization. It consists of those areas fronting First Street in the Downtown Core. The sites within this zone take priority over other areas in the Downtown, concurrently with the implementation of Catalyst Projects in the Catalyst Zone, described below.

- Implement Capital Improvements immediately to stimulate investment and re-use.

- Develop Incentive Programs to encourage infill and redevelopment in the Core.
- Target recruitment and relocation efforts to bring new, vibrant establishments to the Downtown and retain existing thriving businesses.

Catalyst Zone: The Catalyst Zone contains sites which have been designated as locations for immediate investment. These areas are also short-term priorities, and in several instances overlap with the Revitalization Zone above. Redevelopment on these sites will be targeted to meet community objectives, stimulate Downtown targeted redevelopment, and demonstrate to investors the possibilities of Downtown. Specific projects are further defined in Catalyst Projects, below.

- Create public/private partnerships for immediate redevelopment ventures desired by the community, such as a downtown cinema.
- Identify candidate areas for facilities such as new housing, or artist residences and workshops.

Large-Scale Redevelopment Zone: The parcels identified as part of the Redevelopment Zone are intended to provide sites for large-scale redevelopment. Areas are currently underutilized or vacant, and offer potential to be obtained and assembled in the near term, for future redevelopment.

- Make efforts to obtain developer interest in large-scale projects, particularly housing redevelopment.
- Acquire and assemble parcels where possible, and further facilitate redevelopment through other assistance if city resources allow.

Medium-Scale Infill Zone: The parcels designated for this zone make up most of the commercial area fronting First Street west of Downtown. These sites provide additional area for any of the uses that support the revitalization of the Downtown Core, but do not compete with it, such as housing, office or support commercial development.

- Focus Capital Improvements at frontage to stimulate new investment.
- Retain/enhance medium-scale commercial that complements downtown core Retail.

Neighborhood Enhancement Zone: Treatment of development at these infill parcels will be key to maintaining and strengthening the character that already exists in the surrounding existing neighborhoods.

- Promote sensitive infill, rehabilitation and re-use, with appropriate redevelopment such as housing, office, and lodging.
- Follow parameters set in design guidelines to ensure a compatible intermixing of residential, office, and/or lodging uses.
- Capital Improvements.

Capital Improvements -Catalyst Projects

Catalyst Projects are those designed to stimulate near-term private investment by providing a high quality example of successful redevelopment within the Project Area. These Catalyst Projects are directed towards currently underutilized properties, and their redevelopment will act as "armatures of revitalization" that can expand outward and transform the surrounding district. As a result, these catalyst projects will act as vehicles for achieving the goals identified in the community workshop process by strategically focusing investment of public funds and creating immediate and highly visible change. These key projects will serve as an on-the-ground example of Downtown's possibilities, providing a dramatic visual demonstration of possible ways to achieve the goals set forth in the Plan.

In order to make the most of the latent potential of Downtown properties, the first priority is placed on achieving significant transformation in the Downtown Core. Once the revitalization of the Core area is visibly underway, the perceived value and attraction of nearby properties will increase dramatically. To set the stage for the first wave of new investment in the Downtown, the City of Livermore should be an early investor in its own revitalization effort, by participating in key projects or opportunity sites that will make a difference in Downtown. Specifically, these projects include the development of one or several major housing projects in Downtown, in order to demonstrate the possibilities of housing downtown; and the development of a major retail and entertainment anchor, to showcase Downtown's retail potential. Actions to be taken by the City include:

1. Initiate the development of the Livermore Valley Center. As the center of the City, Downtown should provide cultural and entertainment destinations at both the local and regional level. The Livermore Valley Center-

planned to include a parking structure, a performing arts facility, a local theater, a boutique-style hotel, restaurants and retail centered around a park plaza- can act as a grand centerpiece for Livermore's performing arts. The local Performing Arts Theater and adjacent plaza, combined with the Science and Society and Center and Black Box Theater on the former “Lucky’s” site, will serve as local cultural anchors and as attractions for the region at large, bringing more people into the Downtown and more dollars to its businesses.

2. Initiate a high quality mixed-use project on the former "Lucky's" site, in the heart of Downtown. This development should have several components: a retail component to activate the eastern edge of the site; a cultural component that includes a Science and Society Center and a Black Box Theater; a vibrant residential component that provides multifamily workforce housing with substantial public open space; a public green that anchors the development and services the broader community; and a parking structure to serve Downtown retail development. The scale and location of the site enable a mix of uses that are integrated with and connected to the First Street retail area. Residential densities should be appropriate to the site's location in the Core, the City's most intense area. Stockmen’s Park and the adjoining linear open space provide the framework around which private development will occur.

3. Assist in the creation of a vibrant entertainment facility to act as a catalyst for Downtown redevelopment. Entertainment facilities such as a movie theater would bring more evening activity into the Downtown, and would meet the community's desire for entertainment facilities.

Provision of Public Open Space

In order to create an Open Space strategy that is based on the existing assets of Downtown, the Plan must begin by taking into consideration the character and location of the existing primary public places. The identity of the City of Livermore is strongly tied to its open landscape, its ranging hillsides, its vineyards and its agricultural fields. Downtown should maintain a sense of this connection, even in its most urban areas. Lizzie Fountain and the historic Carnegie library and park are the most identifiable public places in Downtown. Other existing public places include the public streets_ primarily First Street and its seating areas that were created as a part of its redesign. The Specific Plan requires that these spaces be maintained and enhanced so as to better serve the public. It uses them as building blocks for public space network in the Downtown. The City will make several major contributions to this network, and take actions to create the following spaces:

Stockmen's Park. The redevelopment plan for the former "Luckys" site identifies a new public park that connects seamlessly to adjacent residential open space and provides a shaded pedestrian connection between South Livermore Avenue and South L Street. Stockmen's Park will be approximately 1.5 acres in size and includes walkways, plazas, organizing green spaces, and a relatively flat, half an acre of open grassy area bordered with trees. Overall, the Downtown Core redevelopment plan will provide over 3.5 acres of public open space, including a large linear green space running from South Livermore Avenue to South L Street, creating a safe and comfortable place for events, passive respite, and strolling between downtown destinations.

The Intersection Plaza. Historically, the intersection of First Street and Livermore Avenue has been the center of the City. The alignment of the streets meeting at this intersection created an outdoor space at the front of the Masonic Building, which served as a major meeting place for many of the City's early public and civic gatherings. However, as development dispersed to the periphery of the City, the Civic Center moved from Downtown as well. As a result, the special civic connotations once carried by this space were lost.

A primary feature of the Specific Plan is the restoration of this civic gathering place at First Street and Livermore Avenue. The new design for the restored intersection plaza will include two primary elements: an activity-generating kiosk, and a major water feature or civic fountain. The activity-generating element will house a commercial activity such as a coffee stand or other vendor stall. It will be centrally and prominently located in order to encourage movement within the space. The fountain will provide a recreational focal point for the plaza, bringing both a visual and auditory amenity to the urban setting. The plaza will be subdivided into smaller spaces, utilizing a combination of landscape materials. It should alternate between paving and grass in order to create smaller "rooms" to be inhabited by users of the space. It will provide shade and places to sit and its design elements will be carefully chosen to maintain the character of Downtown Livermore while bringing a touch of the City's natural areas to the more urbanized center of Downtown.

First Street as a primary public open space. Through the addition of new public places, new street furnishings and improved materials, First Street will be transformed from its current condition as Downtown's throughway to its centerpiece and focal destination place. Improvements to First Street will establish it as a place for people _a public room where residents meet up with their neighbors, where friends congregate for a bite to eat, and where visitors window-shop on a sunny afternoon. Wide sidewalks, landscape amenities, and a pedestrian scale will shift the

character of the right-of-way, creating walkable spine for the pedestrian-oriented Downtown Core development.

Open Spaces- Places for the Community. Open spaces for gathering and for recreation should be increased and improved throughout the Downtown. The Downtown Core will feature a number of small public spaces distributed along the length of First Street. These will support commercial activities with space in the "flexible zone" for outdoor cafes and outdoor vendors and create pocket plazas to provide casual meeting places. These open spaces will offer both visitors and residents the opportunity to gather and linger throughout Downtown.

Pedestrian Realm. The pedestrian realm throughout the study area will be enhanced through street improvements along existing streets, the creation of dedicated pedestrian zones along new ones, and a series of paths and greenways that provide connections between major public spaces in the Downtown. As stated in Chapter 7: Circulation and Transportation, First Street will be recreated as a public thoroughfare with sidewalks ranging from twelve to seventeen feet in width, an expanded pedestrian realm within the "flexible zone", and new site furniture and additional pedestrian scale lighting installed along the public right-of-way, to create a broad public right-of-way that provides a generous pedestrian environment in Downtown's most public areas. Public sidewalks are required along all new streets, providing a minimum walkway width of five (5) feet. New blocks will be required to adhere to a maximum block size (see Development Standards for the appropriate Plan Area) ensuring a fine-grained pedestrian network throughout the Downtown. The overall framework of these pedestrian connections is shown on the Open Space and Access map, page 4-14, provided in Chapter 4: Land Use and Development Policy.

Bicycle Routes. Bicycle lanes will be provided throughout the Downtown where possible. As described in Chapter 7: Circulation and Transportation, striped lanes are recommended for Third, Chestnut, and P Streets, consistent with the 2001 Bikeways and Trails Master Plan (no bicycle lane would be provided along First Street). In addition, route signs to clearly mark to the overall bike network are recommended for First Street, L Street and Railroad Avenue. The Iron Horse Trail, a multi-use trail, will be constructed along the Southern Pacific Railroad right-of-way, from Murrieta Blvd. east to North Livermore Avenue to the ACE station along the southside of the tracks. Bike and pedestrian bridges will be constructed at the crossings of Murrieta Blvd., P Street and North Livermore Avenue, and potentially at the crossing at L Street. Eventually this trail will connect with an existing system that runs between Walnut Creek and Dublin.

Implementation of the Specific Plan

This section shows the approximate sequence of the key implementing steps that should be followed by the City to effectively execute this Specific Plan. This list of steps is preceded by a summary of actions, divided into two parts: those actions completed during the adoption of the Downtown Specific Plan, and those actions that remain will be implemented after Specific Plan adoption. Implementation Actions Completed as Part of the Specific Plan Adoption.

- Certify the City of Livermore General Plan Amendment and Downtown Specific Plan Environmental Impact Report.
- Adopt findings, mitigation measures, and monitoring program as required by the California Environmental Quality Act.
- Adopt the General Plan Amendment to allow for the establishment of the Downtown Specific Plan and adopt the Downtown Specific Plan concurrently.
- Revise the City's Growth Management System to create a Downtown Growth Management Plan to accommodate Downtown Specific Plan development.

Implementation Actions to Be Completed After Specific Plan adoption:

- Adopt Zoning Code amendment to allow for the Downtown Specific Plan to be implemented in conformance with the General Plan Amendment.
- Set up specific financing plans based upon the general financing options in the Specific Plan for major capital
- Improvements required to support development in the Downtown planning area.
- Specific Plan Administration, which includes review and approval of projects in accordance with the intent and provision of the Downtown Specific Plan, as described in the section which follows.

EIR Certification

To meet the requirements of the California Environmental Quality Act (CEQA) , a Program Environmental Impact Report (EIR), as authorized by Section 15168 of the CEQA guidelines, was prepared to assess and address the environmental impacts of the General Plan and Downtown Livermore Specific Plan.

The City certified the Final EIR for the General Plan and Specific Plan on February 9, 2004. The City's action to certify the Final EIR did not constitute approval of the Specific Plan. Rather, it indicates that the EIR has been completed in compliance with CEQA and that the EIR was presented to and reviewed by the City's decision-makers and the public prior to Specific Plan approval.

Mitigation Monitoring Program and CEQA Findings

Public Resources Code Section 21081.6 requires that a "reporting or monitoring program shall be designed to ensure compliance during project implementation." The adopted program shall apply to changes made to the project or conditions of project approval in order to mitigate or avoid significant effect on the environment. The monitoring program provides a brief summary of the required mitigation for impacts attributable to the project, identifies the party responsible for monitoring that the project complies with the mitigation measure, and identifies at what point in time or phase of the project the measure is to be completed. The City has prepared a mitigation monitoring program in conjunction with the preparation of the Final EIR.

The EIR identified several environmental impacts that remained significant after mitigation or significant impacts for which feasible mitigation is not available. The City prepared Findings and a Statement of Overriding Conditions, as required by Sections 15091 and 15093 of the CEQA Guidelines. The Findings explain how the City has addressed each significant adverse environmental impact and the project alternatives presented in the Final EIR. The Statement of Overriding Considerations identifies the specific reasons for approving a project for which all significant adverse environmental impacts have not been at least substantially mitigated.

General Plan Amendment and Specific Plan Approval

The General Plan was amended concurrently with the adoption of the Downtown Specific Plan to ensure the Specific Plan was consistent with the City's General Plan. The General Plan text and land use map were amended to: (1) allow for the establishment and implementation of the Downtown Specific Plan; and (2) accommodate the types and densities of development envisioned in the Downtown Specific Plan land use designations. After consideration of the benefits associated with the proposed Specific Plan and its conformance with the long-term goals of the City, the City Council adopted the General Plan Amendment and the Downtown Specific Plan.

Downtown Growth Management Plan

The Downtown Specific Plan includes its own unique growth management plan separate from the City's established growth management system used for the remainder of the City (the Growth Management Policies of the 2003 General Plan have been previously described in Chapter 4: Land Use and Development Policy). The Downtown Growth Management Plan allows the flexibility for the Downtown to grow commensurate with market conditions while adhering to the goals and objectives of the Specific Plan and within the framework and the City's overall.

Zoning Code Amendment

To achieve the Downtown Specific Plan objectives, a Zoning Code amendment will be adopted to allow Specific Plan standards and provisions to be the governing zoning for area. In other words, projects will be consistent with the Zoning Code if they are consistent with the Specific Plan. This zoning will also ensure adequate City review, as required in the Specific Plan, and provide necessary flexibility to achieve Specific Plan objectives.

Financing Plans

Set up specific financing plans based upon the general financing options in the Specific Plan for major capital improvements required to support development in the Downtown planning area. Major project responsibilities and possible methods of funding are described in Chapter 11: Financing Strategy (TBD). Detailed financial plans shall be prepared and be made a part of any project approval. The Financing Plans shall identify the necessary capital improvements including public facilities, streets and utilities and assure their timely financing through, for example, assessment districts, impact fees, private financing, bonds, etc. Implementation of the Financing Plans can be assured by inclusion of provisions in development approval that require adherence to the plan.

How to Obtain Project Approval

The Livermore Downtown Specific Plan will be used to fully evaluate future development projects or improvement plans within the Specific Plan area. Given the extended timeframe for development and the probability that multiple

developers will be involved in the development of the Downtown, the following responsibilities, mechanisms and procedures will be necessary to administer the Specific Plan. Implementation of the Downtown Specific Plan will be a joint effort of the City of Livermore and any applicant who is proposing to develop in or make improvements in the Specific Plan area.

Development Review Process

The intent of this section is to summarize the typical procedural steps needed to review and approve projects in the Specific Plan area to ensure land uses consistent with the Plan objectives and high-quality design that creates a distinctive and cohesive image for Downtown Livermore consistent with the community's goals.

Within the Downtown Specific Plan Project Area, the City shall review proposed development projects for compliance with the Specific Plan, CEQA requirements and shall approve projects only after one or more of the following findings are made:

- The project is in conformance with the Specific Plan's standards and guidelines; or
- Project-specific mitigation measures or conditions of approval have been incorporated into the project. (Note: the above paragraph/policy needs to be included per LSA as mitigation for EIR impacts).

As outlined below, the Specific Plan allows for administrative Zoning Clearance, Outdoor Dining Permit, Outdoor Display Permit, Zoning Use Permit and Design Review processes for projects that meet the Specific Plan's purpose and intent and development provisions. In other words, the Specific Plan allows staff to make a final consistency determination on many development or improvement projects in order to streamline and simplify the approval process. This approach is designed to encourage the permitted and conditionally permitted uses to stay in or move into Downtown, as well as high-quality and innovative design that will enhance the residential neighborhoods and commercial core. Similar to the Development Code, the Specific Plan identifies permitted uses, development standards, design guidelines and other supporting regulatory provisions. More detailed information on how a proposed project can be processed should be obtained from the Livermore Planning Division.

Land Use Consistency- Zoning Clearance

Applicability: As a means for determining compliance with the provisions of the Downtown Specific Plan, the Community Development Director (hereafter "Director") may require an application for a Zoning Clearance if it is unclear that the proposed land use or development is consistent with the provisions of Downtown Specific Plan, or where unique circumstances exist.

Application: An application for a Zoning Clearance shall be accompanied by a written description of the proposed use, a plot plan showing lot lines, dimensions and locations of buildings and improvements, street right-of-way lines, building setback lines, yards, and any other information necessary to demonstrate consistency with the Downtown Specific Plan.

Action - Director.

A. Time Limit. The Director shall act upon an application for a Zoning Clearance within 17 calendar days following the date of filing of the application.

B. Variety of Action. The Director may approve an application and issue the clearance, or disapprove an application.

Effect of Action:

A. Effective Date. Date of approval.

B. Notification of Applicant. The Director shall notify the applicant in writing of the action taken.

Appeal Process: An appeal of the Director's determination may be made to the Planning Commission, consistent with the provisions of Chapter 9 of the Livermore Development Code.

Outdoor Dining Permit

Applicability: Chapter 5, under "Development Standards: Downtown Core Plan Area", outdoor dining uses are permitted within Subarea 1 and 3 within the public right-of-way (sidewalk or flexible zone areas), consistent with the Master Design Program for Outdoor Dining Uses (Downtown Specific Plan Chapter 6 and the Outdoor

Dining Guidelines), and with the ~~following~~ application procedures set forth in Chapter 5.60 of the Livermore Municipal Code.

~~*Permit Required:* No person shall place tables and chairs for outdoor dining within the public right-of way without first obtaining a City of Livermore Outdoor Dining Permit pursuant to the provisions of this Chapter. An application for Outdoor Dining Permits shall be accompanied by an application for an encroachment permit.~~

~~*Application:* An application for an Outdoor Dining Permit shall include the following:~~

~~1. Completed general planning and encroachment permit application forms; associated property and business owner signatures are required.~~

~~2. Appropriate application fees and deposits.~~

~~3. A dimensional site plan that demonstrates:~~

~~A. The underlying right-of way (and parking spaces if requesting to use the flexible zone) and the location of adjacent City street trees and furnishings, including but not limited to planters, light poles, trellis structures, benches, trash containers, kiosks, etc.~~

~~B. An outline of the area proposed for outdoor dining use and the location of any existing and adjacent outdoor dining uses.~~

~~C. The proposed layout of all use furnishings including but not limited to tables, chairs, umbrellas, heaters, planters, fencing, signage, etc.~~

~~D. The proposed electrical connections to serve the use if electrical service is requested (electrical service is permitted for lighting only);~~

~~E. The proposed circulation to and from the outdoor dining use and the associated business, general~~

pedestrian circulation, and building ingress/egress.

4. If an outdoor dining use is requesting to expand in front of an adjacent business, a letter of agreement signed by the underlying property owner and adjacent business owner is required. The applicant must demonstrate that the proposed use will not block the display windows or signage of the adjacent business.

5. Specifications for the design, colors, and materials of all proposed furnishings including but not limited to tables, chairs, umbrellas, heaters, planters, fencing, trash receptacles, etc., demonstrating that all furnishings are of commercial grade and designed for outdoor use.

6. Specifications for all proposed signage.

7. A lighting plan, including under umbrella, table lighting, and any other lighting proposed, showing fixture and lamp type and locations.

8. An operational schedule including hours, days, and months (Outdoor dining uses within the sidewalk area shall be required to operate for a minimum of 4 hours per day, and outdoor dining uses within the flexible zone shall be required to operate for a minimum of 8 hours per day, 6 days a week as weather permits).

9. Evidence of comprehensive liability insurance, evidence of Workers Compensation Insurance, and a signed copy of the Outdoor Dining Maintenance and Removal Agreement, that includes a Hold Harmless and Indemnification statement (that indemnifies and holds harmless the City of Livermore, its officials, employees, agents and volunteers, and the underlying property owner), in a form approved by the City's Risk Manager, as approved by City Council Resolution.

10. A copy of the applicant's City of Livermore business license.

Action - Director. The Director shall have the authority to approve or deny an application for an Outdoor Dining Permit, and shall provide written notification of the action taken to the applicant. The Director may refer the application to the Planning Commission for review and recommendation if the proposed application is inconsistent with the Downtown Specific Plan, or where unique circumstances exist.

Findings: The Director shall only approve or conditionally approve an application for an Outdoor Dining Permit if the following findings can be made:

1. That the design, location, and layout of the proposed outdoor dining use are consistent with the requirements for use, development, design and permitting contained within Downtown Specific Plan Chapters 5, 6 and 10, and all other applicable laws and regulations.

2. That the proposed outdoor dining use will promote the continued development and revitalization of the City's pedestrian-oriented Downtown by assisting in the creation of a lively and inviting streetscape.

3. That the outdoor dining use will not pose a danger to the public health, safety, or welfare, and/or any violations of these standards or the conditions of a previous permit have been abated or corrected prior to the issuance of a subsequent permit.

Subsequent Permits: Permits for subsequent years will be issued on a first come basis, except that the holders of a permit for the prior year will be given priority over new applicants.

Appeal Process: An appeal of the Director's determination may be made to the Planning Commission, consistent with the provisions of Chapter 9 of the Livermore Development Code.

Annual Permit: An Outdoor Dining Permit shall be valid for a period of one year, beginning on January 1st and ending on December 31st. However, during the year for which the permit is issued, flexible zone use is limited to a period of eight months, beginning March 15th and ending in November 15th.

Annual Permit Required: Each year, the applicant shall submit a complete application for an Outdoor Dining Permit as defined above, including application, service and maintenance charges and deposits. The Director shall approve or deny the permit request, and shall provide written notification of the action taken to the applicant.

Outdoor Dining Permit Not Transferable: Outdoor Dining Permits are not transferable.

Interruption of Use: An Outdoor Dining Permit is an interruptible privilege. The City may interrupt the operation of an outdoor dining use at any time due to anticipated or actual conflicts. Such conflicts may arise from, but are not

~~limited to, scheduled festivals and similar events, parades or marches, repairs to the public right of way, or demonstrations or emergencies occurring in the area. Outdoor dining uses shall be permitted to continue during special events unless the City of Livermore specifically requests that the use temporarily discontinue for the duration of the event. Such request may include the removal of all use furnishings.~~

~~*Violations, Suspension, Enforcement:* It shall be unlawful for any person to use or maintain any outdoor dining or seating except as permitted by this Chapter. The violation of any term or condition of, or applicable to, any Outdoor Dining Permit shall constitute a violation of the provisions of this Chapter. The Director may order the immediate suspension of an Outdoor Dining Permit upon a determination that there has been a violation of a provision of this Chapter, until such time as the violation is abated. Each day a violation of this Chapter continues shall constitute a separate offense. The continuing violation of any provision of this Chapter shall constitute a public nuisance which may be redressed by civil or criminal action, abated by mandatory or prohibitory process of a court of competent jurisdiction or pursuant to Chapter 1.20 or 1.24 of the Livermore Municipal Code.~~

Outdoor Display Permit

Applicability: Chapter 5, under "Development Standards: Downtown Core Plan Area," outdoor merchant display uses are permitted in Subareas 1 and 3 within the public right-of-way (sidewalk area only) and upon outdoor private property between a storefront and the public right-of-way, consistent with the Master Design Program for Outdoor Merchant Display Uses (Downtown Specific Plan Chapter 6), and with the following specific Outdoor Display Permit application procedures:

Permit Required: No person shall display merchandise within the public right-of way or upon outdoor private property between a storefront and the public right-of-way without first obtaining a City of Livermore Outdoor Display Permit.

Application: An application for an Outdoor Display Permit shall be accompanied by an application for an encroachment permit and shall include the following (as applicable):

1. Completed general planning and Encroachment Permit Application forms; associated property and business owner signatures are required.

2. Appropriate application fees and deposits.

3. A dimensional site plan that demonstrates:

   A. The related private property, the right-of-way, and the location of adjacent City street trees and furnishings, including but not limited to planters, light poles, trellis structures, benches, trash containers, kiosks, etc.

   B. An outline of the area proposed for outdoor merchant display use and the location of any existing and adjacent outdoor dining or merchant display uses.

   C. The proposed layout of all display use furnishings and merchandise.

   D. The proposed circulation to and from the outdoor merchant display use and the associated business, general pedestrian circulation, and building ingress/egress.

5. Specifications for the design, colors, and materials of all proposed display furnishings, demonstrating that all display furnishings are of commercial grade.

6. A written description and photographs of the types of merchandise proposed to be displayed.

7. Evidence of comprehensive liability insurance, evidence of Workers Compensation Insurance, and a signed Hold Harmless and Indemnification statement (that indemnifies and holds harmless the City of Livermore, its officials, employees, agents and volunteers, and the underlying property owner), in a form approved by the City's Risk Manager, as approved by City Council Resolution.

8. A copy of the applicant's City of Livermore Business License.

Action - Director. The Director shall have the authority to approve or deny an application for an Outdoor Display Permit and shall provide written notification of the action taken to the applicant. The Director may refer the application to the Planning Commission for review and recommendation if the proposed application is inconsistent with the Downtown Specific Plan, when the applicant has requested items larger than permitted by the Master Design Program, where violations under previous permits warrant additional review, or where unique circumstances exist.

Findings: The Director shall only approve or conditionally approve an application for an Outdoor Display Permit for outdoor merchant display use if the following findings can be made:

1. That the design, location, layout, furnishings, and merchandise of the proposed outdoor merchant display use are consistent with the requirements for use, development, design, appearance, quality, character, and permitting contained within Downtown Specific Plan Chapters 5, 6 and 10, and all other applicable laws and regulations.

2. That the proposed outdoor merchant display use will promote the continued development and revitalization of the City's pedestrian-oriented Downtown by assisting in the creation of a lively and inviting streetscape.

3. That the proposed outdoor merchant display use will not pose a danger to the public health, safety, or welfare, and/or any violations of these standards or the conditions of a previous permit have been abated or corrected prior to the issuance of a subsequent permit.

Appeal Process: An appeal of the Director's determination may be made to the Planning Commission, consistent with the provisions of Chapter 9 of the Livermore Development Code.

Annual Permit: An Outdoor Display Permit shall be valid for a period of one year, beginning on January 1 and ending on December 31.

Annual Permit Required: Each year, the applicant shall submit a complete application for an Outdoor Display Permit as defined above. The Director shall approve or deny the permit request, and shall provide written notification of the action taken to the applicant.

Outdoor Display Permit Not Transferable: Outdoor Display Permits are not transferable.

Interruption of Use: An Outdoor Display Permit is an interruptible privilege. The City may interrupt the operation of an outdoor merchant display use at any time due to anticipated or actual conflicts. Such conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades or marches, repairs to the public right-of-way, or demonstrations or emergencies occurring in the area. Outdoor merchant display uses shall be permitted to continue during special events unless the City of Livermore specifically requests that the use temporarily discontinue for the duration of the event. Such request may include the removal of all use furnishings.

Violations, Suspension, Enforcement: It shall be unlawful for any person to use or maintain any outdoor display except as permitted by this Chapter. The violation of any term or condition of, or applicable to, any Outdoor Display Permit shall constitute a violation of the provisions of this Chapter. The Director may order the immediate suspension of an Outdoor Display Permit upon a determination that there has been a violation of a provision of this Chapter, until such time as the violation is abated. Each day a violation of this Chapter continues shall constitute a separate offense. The continuing violation of any provision of this Chapter shall constitute a public nuisance which may be redressed by civil or criminal action, abated by mandatory or prohibitory process of a court of competent jurisdiction or pursuant to Chapter 1.20 or 1.24 of the Livermore Municipal Code.

Design and Site Plan Review (Design Review) for Non-Historic Structures

Applicability. Any actions proposing physical changes to any parcel of land or existing structure, or the proposed construction of new structures, shall be subject to Design and Site Plan Review (hereinafter "Design Review") and shall be reviewed for consistency with all applicable Downtown Specific Plan and General Plan provisions, and applicable City ordinances and standards. A final Design Review determination shall be made prior to issuance of any building, grading or development permit, final map approval, or other ministerial approval.

Design Review Process: Design Review will be accomplished in one of the following ways:

1. Minor Design Review: Site improvements that are small in magnitude (e.g., minor landscape, hardscape, streetscape, signage, lighting, painting, and fencing improvements, etc.) that are not associated with exterior building modifications, new structures, or additions to existing structures, shall require Minor Design Review and shall be reviewed and approved by staff. Once deemed complete, a no-fee application for Minor Design Review typically requires a processing time of one to two weekdays. Staff may refer a Minor Design Review application to the Planning Commission if staff finds the proposed project is inconsistent with the Downtown Specific Plan, or where unique circumstances or policy implications deem it necessary to do so.

2. Administrative Design Review: Exterior building modifications (including awnings, windows, and similar modifications), Master Sign Programs, additions to existing structures, new commercial, retail or office structures of less than 30,000 square feet, new residential projects providing less than 40 units, and major site improvements shall require an application for Administrative Design Review and shall be approved by staff. Once deemed complete, an application for Administrative Design Review typically requires a processing time of two to four weeks. Staff may refer an Administrative Design Review application to the Planning Commission if staff finds the proposed project is inconsistent with the Downtown Specific Plan, or where unique circumstances or policy implications deem it necessary to do so.

3. Planning Commission Design Review: New commercial, retail or office structures of 30,000 square feet or more, new residential projects providing 40 or more new residential units, and projects associated with another discretionary application (e.g. a Development Agreement, Conditional Use Permit, Tentative Subdivision Map, or Development Disposition Agreement). These projects will be reviewed by the Planning Commission and City Council as required by the City's Development Code. Once deemed complete, an application for Planning Commission Design Review typically requires a processing time of eight to twelve weeks.

If the proposed project entails new commercial, retail or office structures of 30,000 square feet or more, new

residential projects providing 40 or more new residential units, or is associated with another discretionary application, e.g., Conditional Use Permit or Tentative Map, Design Review shall take place concurrently with the processing of the discretionary application and shall be subject to review and approval by the decision making body reviewing the associated application. A review of the regulatory process for Design and Site Plan Review will be held 1 year after adoption of the Downtown Specific Plan.

Projects/sites with height exceptions taller than three (3) floors/forty-five (45) feet (as listed in Section 4..1.C, Height Exceptions, of each Plan area in Chapter 5, Development Standards) are subject to Planning Commission and City Council review in addition to the normally required review process as established above.

Design Review Application Submittal Requirements: Applications for Minor Design Review shall include an Application Form and an Environmental Assessment Form, completed, signed and dated, and shall be accompanied by information defined below as deemed pertinent by staff in order to conduct a thorough and comprehensive review of the project and determine project consistency with the Downtown Specific Plan, City of Livermore General Plan, and all applicable City ordinances and standards.

Applications for Administrative or Planning Commission Design Review shall include at a minimum, but not be limited to, the following information:

1. Application Form -completed, signed and dated.
2. Environmental Assessment Form - completed, signed and dated.
3. Application Fee.
4. Project Proposal - a written detail of the proposal that identifies existing conditions and proposed changes, the purpose of the request and the benefit that will be provided.
5. Site Photographs.
6. 16 copies of the complete plan set, including, but not limited to:
   A. Site Plans -showing property lines, dimensions, setbacks, all existing and proposed structures, adjacent structures on neighboring parcels, parking (detail requirement compliance), lighting, utilities (HVAC, transformers, meters, etc.) and landscape and hardscape areas.
   B. Floor Plans - all levels/stories.

C. Roof Plan and Cross Sections - demonstrating how roof mounted equipment will be shielded from view.
D. Elevations_ showing all sides; a perspective elevation is recommended.
E. Signage- including dimensions and overall measurements in compliance with the Downtown Specific Plan.
F. Color and Material Samples for proposed structures and improvements.
G. Landscape and Irrigation Plans and Water Conservation Concept Statement- documenting compliance with the Water Efficient Landscape Ordinance.
H. One 8.5" x 11" reduction of all submittal plans and documents.

Staff may request additional materials and information upon submittal and throughout the Design Review process in order to allow staff to conduct a thorough and comprehensive review of the project and determine project consistency with the Downtown Specific Plan, City of Livermore General Plan, and all applicable City ordinances and standards.

Right to Downtown Operations Ordinance and Deed Notification Requirement

Consistent with the Downtown Specific Plan, a new Right to Downtown Operations Chapter (Chapter 8.19) has been added to Title 8, Health and Safety, of the Livermore Municipal Code. The Right to Downtown Operations Ordinance will apply to all land uses operating within the Downtown Specific Plan area. The Ordinance specifies that, as a condition of approval of any discretionary development permit (including, but not limited to, tentative subdivision and parcel maps, conditional use permits and zoning use permits) relating to property within the Downtown Specific Plan area, a Notice of Right to Downtown Operations will be required to be included in all subsequent deeds and leases. This Notice will advise property owners, tenants, and users of property within the Downtown Specific Plan area of the inherent impacts and inconveniences associated with the purchase, tenancy, or use of property in the Downtown Specific Plan area. This notice will help to protect the City and all other property owners and tenants who operate businesses or conduct activities consistent with applicable codes and requirements.

Residential uses are typically the most sensitive uses to noise, light, and other impacts, especially during evening hours. Commercial and office uses may also be sensitive to noise impacts, as well as to downtown activities and events. With an increase in sensitive uses and a range of mixed uses anticipated to occur in the Downtown Specific Plan area, the notification is intended to advise both current and future uses they are located in a vibrant

Downtown area and that their expectations concerning noise and other impacts should be consistent with the Downtown location. Notification of potential impacts is provided to reduce complaints about activities the City will undertake, both related to infrastructure improvements and special events, as well as uses the City would support downtown, such as movie theaters, performing arts uses, coffee shops with live music, and other similar types of vibrant nighttime activities.

Where new upper-floor uses are permitted in the Downtown Core of the Downtown Specific Plan area, as a condition of approval of any related discretionary development permit, the first paragraph of the Notice of Right to Downtown Operations shall be revised to read:

> The City of Livermore permits the operation of a variety of residential, business, cultural, civic and other activities within the downtown specific plan area. Certain uses and activities, including retail, restaurants, bars, nightclubs, grocery/drug stores, professional, business and medical offices, instructional facilities, personal services, exercise clubs, public halls, lodges, meeting rooms, day care facilities, community recreational centers and similar uses and activities, may be permitted or conditionally permitted on both lower and upper floors within the downtown core plan area. It is possible that such uses and activities may be directly adjacent to (above, below, or to the side of) a residential or office use within the same or a neighboring building. These uses are included within the range of mixed uses anticipated to occur, and in the inherent impacts and inconveniences associated with the purchase, tenancy, or use of property, in the downtown specific plan area.

Environmental Review

The certified Program EIR for the General Plan Amendment and Specific Plan evaluates and addresses environmental impacts anticipated from Specific Plan implementation in increments over a number of years. The Program EIR for the Specific Plan area would reduce the need for project-specific environmental review in those areas analyzed by the Program EIR subject to findings that there are no substantial changes in conditions.

However, it is possible that additional specific environmental review, on a project-by-project basis, may be necessary. This could include focused studies on one or more identified environmental concerns. The City will make these determinations, and environmental review may be incorporated into the development approval process.

For projects or actions proposing changes to historic resources, City staff will conduct a California Environmental Quality Act (CEQA) review of the proposed project for compliance with the Secretary of the Interior's Standards for

the Treatment of Historic Properties with Guidelines for the Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Secretary's Standards). Projects that are in compliance (class 1 or 2) are considered mitigated to a less than significant impact by CEQA. Proposed projects that are not in compliance will be offered the opportunity to comply with the Secretary's Standards. If after revisions are made, the proposed project remains noncompliant, City staff will determine the appropriate level of environmental review.

Specific Plan Amendment

The City Council may permit minor deviations from the Specific Plan provisions as part of its approval of a particular development application without requiring an amendment to the Specific Plan, provided that the project is consistent with the stated intent of the Specific Plan and the City's General Plan.

More substantive amendments to Specific Plan provisions may be requested by an applicant or property owner or may be initiated by the City. Major Specific Plan amendments shall be processed in accordance with City ordinances, and all such amendments will be presented for City Council review at a public hearing. Generally, the process for amending the Specific Plan is similar to that for amending the City's General Plan, with the significant difference being that there is no limitation on the number of Specific Plan Amendments that can be approved in any one year. Proposals to exceed existing Specific Plan height regulations in any Plan Area will be considered by the City Council and processed as a Specific Plan amendment as described above.

All Specific Plan changes (both minor deviations and major amendments) must be found consistent with the Livermore General Plan, or a General Plan Amendment and Zoning Code revision may be required. If any regulation, condition or portion of this Specific Plan is held invalid by a California or Federal court these portions shall be deemed separate, distinct and independent provisions. The invalidity of these provisions shall not affect the validity of the remaining parts of the Specific Plan. Proposals to exceed existing Specific Plan height regulations in any Plan area will be considered by the City Council and processed as a Specific Plan amendment as described above.

Other Discretionary Applications

Any Conditional Use Permits, Site Plan Approvals, Zoning Use Permits and other discretionary applications shall be approved in conformance with the Specific Plan. They will be processed in accordance with established City

procedures unless otherwise directed in the Specific Plan.

A Planned Development District would allow deviation from adopted standards to permit more imaginative and flexible designs or to address geologic, topographical or environmental factors. However, it is anticipated that Planned Development permits will not be necessary or encouraged, because the Specific Plan is detailed and flexible enough to provide an adequate regulatory framework to meet the community's objectives. In addition, multiple deviations from Specific Plan standards may diminish the Plan's effectiveness and stated purpose and intent.

Tentative and Final Subdivision Maps

All Tentative and Final Maps shall be approved in conformance with the Specific Plan provisions. The Subdivision Map Act and City Subdivision Ordinance will govern the subdivision process. When all conditions of the Tentative Map are met or bonded for and improvement plans are approved, a Final Map will be approved by the City, in keeping with City standards and procedures, and the Subdivision Map Act. Final Recordation of Final Maps is required prior to the sale of individual lots created by the subdivision process.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE ADDING LIVERMORE MUNICIPAL CODE TITLE 5 BUSINESS REGULATIONS CHAPTER 5.60 OUTDOOR DINING PERMIT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES ORDAIN AS FOLLOWS:

Section 1. *Findings*. Municipal Code Amendment (MUNI) 22-001 establishes rules, regulations, and enforcement standards for Outdoor Dining Permits for businesses that seek to provide outdoor dining in the public right-of-way in accordance with the Downtown Specific Plan.

Section 2. *Recommendation*. The Planning Commission held a duly noticed public hearing on April 5, 2022, to consider the proposed ordinance and recommended that the City Council approve the proposed ordinance in Planning Commission Resolution No. 08-22, attached hereto as Exhibit A.

Section 3. *Public Hearing*. Prior to taking action on the ordinance, and at a properly noticed public hearing, the City Council of the City of Livermore reviewed written and oral staff reports, conducted a public hearing on the Ordinance and took testimony, and received into the record all pertinent documents related to the ("collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this ordinance by reference.

Section 4. *Environmental*. The environmental impacts of the ordinance are within the scope of the 2003 General Plan and Downtown Specific Plan Environmental Impact Report (State Clearing House No. 2003032038) and the 2009 Final Subsequent Environmental Impact Report (State Clearing House No. 2008092085) in accordance with the California Environmental Quality Act ("CEQA").] The ordinance is also exempt from CEQA pursuant to CEQA Guidelines Section 15301, Class 1, Existing Facilities, Section 15304, Class 4, Minor Alterations to Land, and Section 15061(b)(3) Common Sense Exemption.

Section 5. *Adoption.* The City Council of the City of Livermore has considered the findings made in Planning Commission Resolution No. 08-22, attached hereto as Exhibit A, and hereby adopts the same findings by this reference and incorporates them herein, and based upon the City Council's own independent review of the Record Evidence and considerations, Chapter 5.60 Outdoor Dining Permit to Title 5 Business Regulations of the Livermore Municipal Code is hereby added as set forth in Exhibit B.

Section 6. *Consistency.* The ordinance is consistent with the Livermore General Plan, the Downtown Specific Plan, and the Livermore Municipal Code.

Section 7. *Publication and Effective Date.* This ordinance or a comprehensive summary thereof shall be published once in a newspaper of general circulation of the city

of Livermore within 15 days after its adoption and shall take effect and be in force 30 days from and after its adoption.

Section 8. *Filing.* The Planning Manager is directed to file a Notice of Determination and Notice of Exemption with the Alameda County Clerk.

Section 9. *Documents.* The documents that constitute the record of proceedings upon which this decision is based on can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 10. *Severability.* If any part of this ordinance is declared unconstitutional or invalid by a court, such unconstitutionality or invalidity shall not affect any remaining parts.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on _____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

Exhibit A - Planning Commission Resolution No. 08-22
Exhibit B - Outdoor Dining Permit Ordinance

IN THE PLANNING COMMISSION
OF THE CITY OF LIVERMORE
STATE OF CALIFORNIA

A RESOLUTION RECOMMENDING APPROVAL

Municipal Code Amendment (MUNI) 22-001

Outdoor Dining Permit Ordinance

The City initiated an application for Municipal Code Amendment 22-001 to add Chapter 5.60, Outdoor Dining Permit, to the Livermore Municipal Code. The Ordinance establishes rules, regulations, and enforcement standards for an Outdoor Dining Permit for establishments that seek to provide outdoor dining in the public right-of-way.

A Public Hearing Notice was duly mailed to neighboring property owners and published in a newspaper of local circulation.

The Planning Commission held a public hearing on April 5, 2022, considered the staff recommendation for approval, and heard public testimony.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Livermore finds that:

1. Consistency with the General Plan and Specific Plan

   The proposed projects are consistent with the General Plan and the Downtown Specific Plan. The General Plan Land Use Designation for the Downtown Core is Downtown Area. The Downtown Area designation is a general designation that applies to the area traditionally known as Downtown Livermore. This designation seeks to provide a unique, locally oriented, pedestrian-friendly shopping environment. Higher-intensity residential development of a density that will support the predominantly commercial environment is integral to the economic viability of this district.

   The purpose of the Downtown Core is to revitalize the City's historic core area as the center of the City of Livermore. The primary intent of this Plan Area is to promote the continued development and revitalization of the City's pedestrian-oriented Downtown district that serves as the center of the Livermore Community, its most unique shopping district, and as a neighborhood hub for the residences within and surrounding it.

   The proposed ordinance is intended to assist with the permitting and enforcement associated with outdoor dining and will not be detrimental to the public interest, health safety, convenience, or welfare of the City. Consistent with the purpose of the Downtown Core, expanding the outdoor dining opportunities will increase activity that will continue contributing to revitalization.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Livermore that, based on staff recommendation, public testimony and the above findings, Municipal Code Amendment 22-001, attached hereto as Exhibit A, is recommended to the City Council for approval.

On the motion by Commissioner Branning, seconded by Commissioner Stein, the foregoing Resolution was adopted at the Planning Commission meeting of April 5, 2022, by the following vote:

AYES: BRANNING, DUNBAR, LEARY, STEIN.
NOES: NONE.
ABSENT: ANDERSON.

Exhibit A – Chapter 5.60 - Outdoor Dining Permit Ordinance

Steven Dunbar, Chairperson

by Steve Stewart, Planning Manager
Secretary to the Planning Commission

EXHIBIT B

CHAPTER 5.60

OUTDOOR DINING PERMIT

Sections:

5.60.010 Purpose
5.60.020 Applicability
5.60.030 Administration by Director
5.60.040 Permit Required
5.60.050 Nature of the Permit
5.60.060 Application
5.60.070 Grounds for Approval
5.60.080 Permit Requirements
5.60.090 General Permit Conditions
5.60.100 Alcohol Related Conditions
5.60.110 Special Permit Conditions
5.60.120 Subsequent Conditions
5.60.130 Change in Permit Information
5.60.140 Permit Modification, Suspension, Revocation
5.60.150 Interruption of Use
5.60.160 Notice
5.60.170 Appeals
5.60.180 Enforcement
5.60.190 Administrative Fines

5.60.010 Purpose.

A. The purpose of this chapter is to establish uniform regulations for allowing outdoor dining within the Downtown Core and the public right-of-way. The City's intent in adopting this chapter is to establish reasonable restrictions on the ability for restaurants to engage in the use of the public rights-of-way to promote the public welfare while still protecting public health and safety.

B. The regulations set forth in this chapter must be used in conjunction with the regulations set forth in the Downtown Specific Plan and the Outdoor Dining Administrative Guidelines for all outdoor dining activities. Nothing in this chapter is intended to supersede the Downtown Specific Plan. The Downtown Specific Plan prevails over any conflicting part of this chapter.

5.60.020 Applicability.

This chapter applies to dining establishments in the downtown core seeking to provide outdoor dining in the public right of way.

5.60.030 Administration by Director.

The Community Development Director ("Director") or his or her designee will receive applications, issue and revoke permits, and implement this chapter according to the procedures set forth herein.

5.60.040 Permit required.

A. No person shall allow, cause, or engage in outdoor dining in the public right of way without a valid Outdoor Dining Permit issued pursuant to this chapter.

B. Possessing a valid Outdoor Dining Permit does not excuse any failure to otherwise comply with this code or other applicable law.

5.60.050 Nature of the Permit.

Outdoor Dining Permits issued pursuant to this chapter are subject to the following limitations:

A. Permits are personal to the applicant, and to the premises upon which outdoor dining is conducted. No other individual may conduct outdoor dining under the authority of a permit issued to another. For purposes of this chapter, a permit is not deemed transferred or assigned if the permittee is a corporation or partnership which remains under the control of the same individual or individuals who controlled it at the time the permit was approved.

B. Permits shall not be transferred or assigned.

C. No property rights are conferred to the applicant/permittee.

D. There is no right of renewal; and

E. Permits are specific to the location identified on the permit application. A new permit shall be required if the permitted outdoor dining use is relocated, or a major alteration is made to the outdoor dining use identified on the permit.

5.60.060 Application.

Any individual seeking to provide outdoor dining in the public right of way shall submit the following:

A. A completed general planning application form with the property and

business owner signatures.

B. Appropriate application fees and deposits.

C. A dimensional site plan that demonstrates:

1. The underlying right-of-way (and parking spaces if requesting to use the flexible zone) and the location of adjacent City Street trees and furnishings, including but not limited to planters, light poles, trellis structures, benches, trash containers, kiosks, etc.

2. An outline of the area proposed for outdoor dining use and the location of any existing and adjacent outdoor dining uses.

3. The proposed layout of all use furnishings including but not limited to tables, chairs, umbrellas, heaters, planters, fencing, signage, etc.

4. The proposed electrical connections to serve the use of electrical service is requested. (Electrical service is permitted for lighting only).

5. The proposed circulation to and from the outdoor dining use and the associated business, general pedestrian circulation, and building ingress/ egress.

D. A diagram showing the proposed location of the outdoor dining use with all seating and signage.

E. If an outdoor dining use is requesting to expand in front of an adjacent business, the applicant shall provide a letter of agreement signed by the underlying adjacent property owner, if reasonably practicable, and the adjacent business owner. The applicant must demonstrate that the proposed use will not block the display windows or signage of the adjacent business.

F. Specifications for the design, colors, and materials of all proposed furnishings including but not limited to tables, chairs, umbrellas, heaters, planters, fencing, trash receptacles, etc., demonstrating that all furnishings are of commercial grade and designed for outdoor use.

G. Specifications for all proposed signage.

H. A lighting plan, including under umbrella, table lighting, and any other lighting proposed, including fixture and lamp type and locations.

I. An operational schedule including hours, days, and months (Outdoor dining uses within the sidewalk area shall be required to operate for a minimum of 4 hours per day, and outdoor dining uses within the flexible zone shall be required to operate for a minimum of 8 hours per day, 6 days a week as weather permits).

J. A signed copy of the Outdoor Dining Maintenance and Removal Agreement.

K. A copy of the applicant's City of Livermore business license.

5.60.070 Ground for Approval.

The Director shall only approve or conditionally approve an application for an Outdoor Dining Permit if the following findings can be made:

A. That the design, location, and layout of the proposed outdoor dining use are consistent with the requirements for use, development, design and permitting contained within Downtown Specific Plan Chapters 5, 6 and 10, the Outdoor Dining Administrative Guidelines, and all other applicable laws and regulations.

B. That the proposed outdoor dining use will promote the continued development and revitalization of the City's pedestrian-oriented Downtown by assisting in the creation of a lively and inviting streetscape.

C. That the outdoor dining use will not pose a danger to the public health, safety, or welfare, and/or any violations of these standards or the conditions of a previous permit have been abated or corrected prior to the issuance of a subsequent permit.

5.60.080 Permit Requirements.

Outdoor dining uses shall be subject to all of the following:

A. Outdoor dining uses shall comply with Chapters 5, 6, and 10 of the Downtown Specific Plan, the Outdoor Dining Administrative Guidelines, and this chapter.

B. During the year for which the permit is issued, flexible zone use is limited to a period of eight months, beginning in March, and ending in October.

C. Each year, the applicant shall submit a complete application for an Outdoor Dining Permit as defined above, including application, service and maintenance charges and deposits. The Director shall approve or deny the permit request and provide written notification of the action taken to the

applicant.

D. Outdoor dining uses shall provide for adequate pedestrian circulation. Outdoor dining uses in the public right of way shall maintain a minimum of five feet of clearance between dining furnishings and any curb line or street furniture.

E. Outdoor dining uses shall comply with the Americans with Disabilities Act (ADA).

F. The City may charge a rental fee for use of public property.

5.60.090 General Permit Conditions.

A. Term. Unless suspended or revoked, permits issued pursuant to this chapter shall be valid from March to October. Should a permit expire, the permittee shall comply with this chapter to obtain a new permit.

B. Insurance. Permittees shall obtain liability insurance in the form and amount set by the City's Risk Manager.

C. Agreement. The permittee shall enter into an Outdoor Dining Maintenance and Removal Agreement with the City, in a form approved by the City Attorney.

D. Responsible person. Responsible person is defined as the permittee, owner, manager or other person exercising control over the operation of an outdoor dining use, whether or not that person is a named permittee. A responsible person shall be present during all hours that the outdoor dining use is being operated.

E. Access. Responsible persons shall allow authorized law enforcement officers to enter onto establishments to ensure compliance with this chapter during business hours.

5.60.100 Alcohol Related Conditions.

Outdoor dining uses that serve alcoholic beverages shall comply with the following:

A. The applicant for an outdoor dining use shall obtain and maintain all licenses required by the Alcohol Beverage Control Act (Business & Professions Code §§ 23300, *et seq*.).

B. If complaints are received regarding excessive noise, lighting, building

access, or other disturbances associated with alcohol service at the restaurant, the Director may, in his or her discretion, take action to review the outdoor dining permit including, without limitation, adding conditions or suspending or revoking the permit.

5.60.110 Special Permit Conditions.

A. Grounds for Special Permit Conditions. The Director may condition a permit with reasonable requirements to protect public health, safety, and welfare. These conditions may include, without limitation, the following:

1. Accommodating pedestrian and vehicular traffic

2. Obtaining any and all business licenses required by this code for the sale of food, beverages, or other goods or services

B. An applicant for a permit may request, and the Director may approve, extended operating hours that will be applicable to the permitted establishment. The extended operating hours approved by the Director, and any conditions relating thereto, must be specifically stated in the permit.

5.60.120 Subsequent Conditions.

The Director may condition previously issued permits upon learning or discovering facts not previously disclosed.

5.60.130 Change in Permit Information.

A. Whenever any change occurs in the information contained in the permit, the permittee shall give the Director written notice of the change within 30 days of the date that the change becomes effective.

B. If a permittee fails to give the Director timely written notice of a change in the information contained in the application, the Director may charge the permittee an additional administrative fee.

5.60.140 Permit Modification, Suspension, Revocation.

The Director may modify, suspend, or revoke a permit if any of the following apply:

A. Upon learning or discovering facts requiring permit denial not previously disclosed by the applicant.

B. When the permittee violates the permit's terms and conditions, or when permittee violates applicable laws or regulations; provided, however, that the Director will not revoke a permit without warning the permittee and allowing him/her to correct the violation(s) within 15 days from the date of the notice of the violation.

C. Three violations of any provisions of this chapter, the Downtown Specific Plan, or the Outdoor Dining Administrative Guidelines, or any combination thereof, within one calendar year.

5.60.150 Interruption of Use.

A. The Director or his or her designee may order immediate suspension of a permit whenever there is an emergency that requires such action to protect public safety.

B. An outdoor dining permit is an interruptible privilege. The City may interrupt the operation of an outdoor dining use at any time due to anticipated or actual conflicts. Such conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades or marches, repairs to the public right of way, or demonstrations or emergencies occurring in the area. Outdoor dining uses shall be permitted to continue during special events unless the City of Livermore specifically requests that the use temporarily discontinue for the duration of the event. Such request may include the removal of all use furnishings.

5.60.160 Notice.

A. Where the provisions of this chapter require that an applicant/permittee be served with notice, such notice may be provided by one of the following methods: personally delivered to the applicant or permittee, mailed via first class U.S. mail to the applicant/permittee's last known address, or emailed to the applicant/permittee's email address indicated on his or her application.

5.60.170 Appeals.

An applicant or permittee may appeal any Director decision made pursuant to this chapter in accordance with the provisions set forth in Chapter 1.22 of the LMC.

5.60.180 Enforcement.

A violation of this chapter constitutes an infraction. Any violation of this chapter may also be abated as a public nuisance. The remedies provided by this chapter are cumulative and in addition to any other criminal or civil remedies available under the law.

5.60.190 Administrative Fines.

A. In addition to any other enforcement remedy, administrative citations may be issued to any Responsible person for violations of this chapter.

B. An administrative citation issued for a violation of this chapter may be appealed in accordance with Chapter 1.20 LMC.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.1**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution approving the 2022 revised Meeting Rules of Procedure for the City of Livermore Advisory Bodies

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution approving the revised Meeting Rules of Procedure for eleven of the City's advisory bodies to conform them to the City Council Meeting Rules of Procedure, add clarification, streamline administrative processes, extend the term for the Community Asset Management Program Outreach Committee and Climate Action Plan Advisory Committee, and confirm prior direction related to advisory body meetings.

SUMMARY

As instructed by the City Council, the City Clerk has revised the Meeting Rules of Procedure for the City's advisory bodies to conform them to the City Council Meeting Rules of Procedure. The current advisory body Rules of Procedure provided information specific to each advisory body with the intention that each body would refer back to the City Council Rules of Procedure for information that was not provided in their individual documents. This has created some confusion among the advisory bodies. Expanding each body's Rules of Procedure will provide clarity and consistency.

DISCUSSION

Background

The Livermore Municipal section 2.40.100 requires each advisory body to maintain rules of procedure approved by the City Council. In addition, the City Council Meeting Rules of Procedure directs each advisory body to conform their respective rules of procedure to the City Council's rules with appropriate modifications to account for their individual structure including the number of members for the advisory body and the titles for their presiding officer and members, as instructed by City Council Meeting Rule 16.2.1.

Livermore's City Council Meeting Rules of Procedure were developed for the orderly, consistent, and fair

conduct of its meetings consistent with applicable law. The rules have developed over time and reflect the City's accepted practices consistent with applicable law. The City's advisory bodies each conform their individual Rules of Procedure to the City Council document. The City Clerk's Office maintains the Rules of Procedure and prepares updates for review by the City Council, as needed.

In 2020, consistent with the Governor's Executive Orders issued in response to the COVID-19 emergency (N-25-20, and N-29-20), portions of the City Council Meeting Rules of Procedure for teleconferenced meetings and public comment were suspended temporarily by Resolution No. 2020-061 and 2021-139 to ensure the City's continuity of government during the shelter-in-place orders. During this time staff continued to recruit for advisory body members and hold meetings.

As the State of Emergency comes to an end, and the City Council has requested a return to in-person meetings, staff has revisited the advisory body rules of procedure and notified members of the plan to resume in-person meetings. Also, the termination of the resolution of the temporary suspension of the Meeting Rules is the subject of a separate item on your agenda.

Proposed Updates

The current advisory body Rules of Procedure provide information specific to each advisory body, such as duties and responsibilities, term of office, and members, with the intention that each advisory body would refer back to the City Council Rules of Procedure for additional information not provided in their individual documents. This has led to confusion among advisory bodies. Expanding the Rules of Procedure will provide clarity and ensure meetings are being held in a uniform manner across all bodies.

Staff liaisons and the City Clerk worked together to review the Rules of Procedure and identify areas that need additional information or clarification. As advisory body members were informed of a return to in-person meetings following the pandemic there were many questions and concerns communicated to staff. The proposed updates address some of the policy questions received based on the City Council's existing direction. Advisory Body members have been notified and provided a draft copy of the proposed Rules of Procedure. Modifications to the Livermore Area Youth Advisory Commission and the Housing Authority are limited as those bodies maintain a partnership with other agencies and have different needs.

Information pertaining to topics such as meeting types, the order of business, citizen's rights, motions, and appeals is consistent with the City Council Rules of Procedure and the Livermore Municipal Code. Changes to the Rules of Procedure that are new practices, or existing practices that staff requests confirmation on, include the following:

- **Meeting times and locations:** Staff proposes that meeting locations for all advisory bodies be moved to the Mendenhall Room with the exception of Housing Authority, Planning Commission, and Youth Advisory Commission. This will provide added transparency and consistency for the public and ensure meetings occur at times that residents can attend. The Youth Commission will continue to meet at the Robert Livermore Community Center, the Housing Authority will continue to meet at the Housing Authority building and the Planning Commission will meet in the Council Chamber.
- **Commission Term Extension:** In November 2019 the City Council authorized the Community Asset Management Program (CAMP) Outreach Committee to serve as a limited-duration committee in support of the City's asset management program. The existing Rules of Procedure authorizes members to serve through December 2022. To meet the current needs of the asset

management outreach program and allow for the continuation and expansion of the Committee's public outreach efforts, the term limit needs to be adjusted. Specifically, section 3 of the Committee's Rules of Procedure requires a revision to amend the Committee's term length from ending December 2022 to December 2023.

- **Commission Term Extension:** In February 2020 the City Council authorized the Climate Action Plan Committee (CAPAC) to serve as a limited-duration committee until the City Council adopted its Climate Action Plan Update. The existing Rules of Procedure authorize members to serve through 2021. To meet the current needs for the Climate Action Plan Update, the term limit needs to be adjusted. Specifically, section 3 of the Committee's Rules of Procedure requires a revision to amend the Committee's term length from ending 2021 to 2022.
- **Format of Meeting Minutes:** Advisory Body meeting minutes currently conform with the City Council Rules of Procedure (action minutes). This provides a significant cost savings to the city in staff resources while providing an accurate reflection of key outcomes for each meeting. Staff has identified that the Planning Commission should return to summary minutes to provide the City Council a reference document as projects move from the Planning Commission to the City Council's decision-making authority. Staff recommends all other advisory bodies continue to develop action minutes. In addition to action minutes, an audio recording of each advisory body meeting is also captured and will be retained in accordance with the City's Records Retention Policy.
- **Teleconferencing Practices:** Council's existing direction, prior to the COVID-19 emergency, states that members may not participate remotely, via teleconference or videoconference. Staff does not recommend a change to this practice.
- **Member Attendance:** The City Council's existing direction requires the board or commission to vote and send an item to the City Council requesting the removal of a member when excessive absences occur. City staff identified that this puts a burden on the advisory body as they must vote and continue to hold meetings with the individual in question until the item is heard by the City Council and a decision is made. Staff recommends that each liaison track attendance and alert the City Clerk if absences exceed the allowable limit. The City Clerk would then provide a memo to the City Council and the Mayor could direct staff to add an item to the City Council agenda if appropriate.
- **Self-initiated Projects:** Existing City Council direction states that when an advisory body would like to start a self-initiated project requiring more than 8 hours of staff time, they must first obtain City Council approval. Staff proposes no changes to this area.
- **Appeals:** Staff proposes that references to the Livermore Municipal Code and applicable Resolutions be added to assist liaisons with the administration of appeals.

FISCAL AND ADMINISTRATIVE IMPACTS

There are no fiscal or administrative impacts associated with updating the Rules of Procedure.

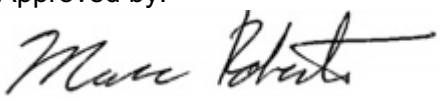
ATTACHMENTS

1. Airport Commission - Redline Rules of Procedure
2. Beautification Committee - Redline Rules of Procedure
3. Climate Action Plan - Redline Rules of Procedure
4. Community Asset Management Program - Redline Rules of Procedure
5. Commission for the Arts - Redline Rules of Procedure

6. General Plan Advisory Committee - Redline Rules of Procedure
7. Historic Preservation Commission - Redline Rules of Procedure
8. Human Services Commission - Redline Rules of Procedure
9. Library Board of Trustees - Redline Rules of Procedure
10. Livermore Housing Authority - Redline Rules of Procedure
11. Planning Commission - Redline Rules of Procedure
12. Resolution - 2022 Revised Meeting Rules of Procedures

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LIVERMORE
CALIFORNIA

CITY OF LIVERMORE
AIRPORT COMMISSION
RULES OF PROCEDURE

Prepared by the City Clerk's Office
~~February 2013~~April 2022

LIVERMORE
CALIFORNIA

AIRPORT COMMISSION
RULES OF PROCEDURE

1. Duties and Responsibilities:

The City Council declares that the individuals appointed to the office of Airport Commissioner are intended to represent and further the interest of the aviation industry and that such representation and furtherance will ultimately serve the public interest. Accordingly, the City Council finds that for purposes of persons who hold such office, the aviation industry is tantamount to and constitutes the public generally within the meaning of Section 87103 of the Government Code.

The Airport Commission shall have the following duties and responsibilities:

1. The Commission is advisory to the City Council on:

   a. Determinations of demand in support of future Airport development pursuant to section 1 of Resolution 2010-058;
   b. Rendering a determination whether redevelopment of existing facilities may occur based upon need for significant rehabilitation, improvement or replacement; and
   c. Other Airport matters initiated and referred to the Commission by the City Council.

2. The Commission is advisory to the Planning Commission on:

   a. Proposed development within the City's Airport Protection Area (APA) including proposed changes to the APA or the zoning at the Airport,

3. The Commission supports the goals and priorities adopted by the City Council relative to the Airport's operations.

4. The Commission promotes the Airport as an economic development tool and disaster recovery facility that benefits Livermore residents and the Tri-Valley.

5. The Commission promotes public interest in the Airport and promotes public participation in its use and operation.

6. The Commission has a regulatory responsibility to:

a. Make a commercial aeronautical activity appeal determination pursuant to Livermore Municipal Code section 11.08.160;
b. Amend and approve the large hangar waiting list policy pursuant to Livermore Municipal Code section 11.08.180; and
c. Conduct appeal hearings pursuant to Livermore Municipal Code section 11.08.190.

7. The Commission is advisory to staff on:

a. Airport safety and security matters;
b. Operational policies and regulations pertaining to tenants and users of the Airport;
c. The Airport noise monitoring and reduction program;
d. Planning for public and private development on the Airport, consistent with adopted City General Plan policies, the adopted Community Development Code (Zoning Code), and the adopted 20 Year Capital Improvement Program Budget;
e. The draft 20-Year Capital Improvement Program Budget; and
f. Other matters related to the Airport that are initiated and referred by staff to the Commission.

2. Members – The Airport Commission shall consist of five members, all of whom must be residents of the City of Livermore. At least three of the members must be certificated pilots, but no more than two members shall be tenants or subtenants of the Livermore Airport.

3. Term of Office – Airport Commission members shall serve no more than two consecutive four-year terms or a total of eight years unless the member was selected to complete an unexpired term or unless otherwise noted. However, members may be appointed back to the Airport Commission after a break in service of two years.

Time served in an unexpired term shall not count against the eight-year maximum limit. Commission members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term.

4. Attendance Policy – Airport Commission members may miss three meetings per calendar year. A member who misses more than three meetings per year may be subject to removal from the Commission. The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to

speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Commission rests solely with the City Council. ~~The Commission may request that the City Council remove from the Commission any members who miss more than three meetings per year. The final decision to remove a member from the Commission rests solely with the City Council.~~

5. Elections and Officers – The Airport Commission shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Commission. The role of the officers shall be as follows:

   a~~A~~. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   b~~B~~. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

   c~~C~~. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Airport Commission shall meet on the first~~second~~ Monday of each month at ~~noon~~6:30 p.m., unless otherwise specified by posted notice.~~, excepting March, July and November, when it shall meet on the third Monday of the month at 6:30 p.m.~~ The Commission shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. Meetings shall be held at the ~~Livermore Airport Dan Lee Terminal~~William H. Mendenhall Community Room at ~~636 Terminal Circle~~1016 S. Livermore Avenue, Livermore, CA. All meetings shall be open to the public. The Commission may not meet in closed session. Commission members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Airport Commission meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

   a. Regular Meetings

   Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

   b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Commission Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956]. ~~Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.~~

8. Minutes of Proceedings – An account of all final actions or recommendations ~~-~~of the Airport Commission shall be prepared by the staff liaison and approved by the Commission. ~~-~~The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

9. Quorum – Three members constitute a quorum of the Airport Commission. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Commission or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum, or if staff determines that there is not current business pending before the Airport Commission. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

   a~~A~~. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Airport Commission.

   b~~B~~. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act Rosenberg's Rules of Order, Revised 2011~~, Robert's Rules of Order~~, Airport Commission Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

   c~~C~~. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011 ~~Robert's Rules of Order~~ and

Parliamentary Procedures. The Airport Commission shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order, and the Commission Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Commission Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Airport Commission or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Airport Commission later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Airport Commission and announce the result of the vote and identify the no votes and any Commission Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record, and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Airport Commission on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Commission. The Chairperson may establish time limits per individual speaker. The Commission shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Commission, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Commission agenda.

12. Subcommittees

The Airport Commission may create standing subcommittees (those with ongoing subject matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support and Responsibilities

The head of the department that is responsible for supporting the Airport Commission shall designate the Airport Manager or another employee to serve as staff liaison to the Commission.

The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson, and generally assist the Commission in performing its duties. The Staff Liaison shall have no voting authority.

Staff shall be responsible for recommending to Council approval of Airport rates and charges, operating expenditure and revenue budgets, and operating and replacement reserves.

Commissioners must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body andthat do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Airport Commission shall meet in the William H. Mendenhall Community Room for all regular Commission meetings. The regular meetings shall begin on the first Monday of each month at 6:30 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Airport Commission shall meet at a date and time designated by the Commission.

15.2 Special Meetings

Special meetings may be called by the Commission Chair, the Commission liaison or by a majority of Commissioners. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Airport Commission may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Airport Commission may meet informally in special meetings designated as workshops that are called by the Chairperson, the Commission liaison, or by a majority of Commission Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Airport Commission may provide direction, but unlike other special meetings the Airport Commission may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Airport Commission may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Commission liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Airport Commission's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Airport Commission shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Commission Members and staff may briefly respond to statements made or questions posed by the Airport Commission or by members of the public addressing the Airport Commission. Commission Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Commission Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Commission Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Airport Commission has concluded and the item was returned to the Airport Commission for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Airport Commission. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Commissioners present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Commission Member.

18.2 No New Items Considered after 11:00 p.m.

Generally, the Airport Commission will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Airport Commission may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Airport Commission votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Commission Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Commission Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Commission Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Commission Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Airport Commission's meeting, such as the inability to hear testimony because of disruption.

A Commission Member may ask for a point of personal privilege when the integrity, character, or motives of the Commission Member are called into question by a speaker; or where the welfare of the Airport Commission is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Airport Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

20.1 Approval

The minutes for an Airport Commission meeting shall be reviewed and approved as set forth in this section.

a. The Airport Commission shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. An Airport Commissioner may not approve the minutes for any meeting that the Commissioner did not attend.

Also, an Airport Commissioner may not approve the minutes for a meeting that they were not eligible to attend as a commissioner.

c. If no Commissioners are eligible to approve the minutes for an Airport Commission meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Airport Commission liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Airport Commission meetings shall be action minutes that capture the action taken by the Airport Commission and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Airport Commission on any item of interest to the public that is within the Airport Commission's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Airport Commission when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Airport Commission discussion. Examples of items for the consent calendar include the approval of minutes. Any Airport Commissioner may pull an item for separate discussion. Members of the public may address the Airport Commission on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Airport Commission by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Commission Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Airport Commission action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Airport Commission's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Airport Commission for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Airport Commission questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Airport Commission.

e. Make an oral report, unless waived by the Airport Commission.

21.4.3 Airport Commission Questions or Comments

Following the staff presentation, the Commission Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Commission Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Commission. After the Chair determines that no other participating parties wish to address the Airport Commission on the hearing item, the Chairperson will then invite Commission Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Airport Commission following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Airport Commission concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Airport Commission on the item. Public speakers shall address the Airport Commission following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Airport Commission on the hearing item, the Chairperson will formally close the public comment period and return the item to the Airport Commission for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Airport Commission for deliberation, the Chairperson will invite the Commission Members to discuss the item to develop concurrence for a motion. Commission Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Airport Commission Action

After Airport Commission deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Airport Commission may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Airport Commission has discretion to decide not to hear further comment if they choose. Public speakers shall address the Airport Commission following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Airport Commission shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Airport Commission shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Airport Commission to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Commissioner attended at the City's expense [53232.2(d)].

b. The City staff to provide information of community interest to the Airport Commission and to seek direction from the Airport Commission concerning items to be included on future agendas.

c. The Airport Commission to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Airport Commission to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Commission action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Airport Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Airport Commission meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Airport Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Airport Commission.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Airport Commission on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Airport Commission following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Airport Commission on any item of interest to the public that is within the Airport Commission's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Airport Commission may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

An Airport Commission meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Airport Commission and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Airport Commission on any item of interest to the public that is within the Airport Commission's subject matter jurisdiction. Members of the public also have the right to address the Airport Commission before the Airport Commission considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Airport Commission Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Airport Commission concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Airport Commission are as follows:

23.1 Addressing the Airport Commission

Members of the public that want to address the Airport Commission during citizens forum or before the Airport Commission considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Airport Commission will be described at each meeting. The staff liaison will prominently display the methods to address the Airport Commission in the William H. Mendenhall Community Room.

Before an item is considered by the Airport Commission, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Airport Commission

begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Airport Commission's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Airport Commissioner's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Airport Commission

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Airport Commission. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Airport Commission when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Airport Commission. A speaker is not required to provide his or her name or address to address the Airport Commission. However, to the extent such information is relevant to the issues being considered by the Airport Commission, the absence of such information may bear on the speaker's credibility and the weight the Airport Commission affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Airport Commission as a body and not to a particular member.

23.3.4 Members of the public may only address the Airport Commission from the lectern. No member of the public, other than the speaker at the lectern, may address the Airport Commission, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Commission Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Commission Member, except through the Chairperson. Commission Members,

the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Airport Commission's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Airport Commission has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Airport Commission in a non-disruptive manner, provided those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Airport Commisison on any item of interest to the public within the Airport Commission's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Airport Commission. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Airport Commission

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Airport Commission, except that the participating parties shall each have up to a maximum of 10 minutes to address the Airport Commission. The Chairperson may set and announce the time limit for each active participant to address the Airport Commission based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Airport Commission, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting an Airport Commission meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Airport Commission, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Airport Commission to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Airport Commission through the Airport Commission Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Airport Commission Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Airport Commission using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Airport Commission immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Airport Commission in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Airport Office before 12:00 p.m. noon on the day of the Airport Commission meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Airport Commission meeting, any member of the public that desires to submit materials to the Airport Commission for consideration at that meeting is hereby instructed to present 8 copies of the materials to the staff liaison for distribution to the Airport Commission at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Airport Commission

Once a meeting is called to order, no member of the public shall enter the area between the Commission and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Commission Members and City staff.

24. Airport Commission Deliberation

Airport Commission deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Commission Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Commission Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Commission Member wishes to make the motion, subject to another Commission Member's second.

25.2 Categories of Motions

There are four categories of motions that the Airport Commission may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the

second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Commission Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Airport Commission. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Commission's Attorney.

25.3 Simultaneous Motions

The Airport Commission may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Airport Commission have been resolved. When two or three motions are before the Airport Commission, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Airport Commission should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be on the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Commission Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Commission Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2. Debate on a motion should continue as long as Commission Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Commission's deliberations and, upon receipt of a second, should be voted on immediately. The Commission's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Airport Commission to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Airport Commission to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Airport Commission to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain, set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Airport Commission at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Commission Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Airport Commission at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Airport Commission deliberation, debate, and discussion on an item. It can be stated

as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Airport as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Airport Commission may be made as follows: (1) The motion must be made by a Commission Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Commission Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Commission Member Appeal

Any Commission Member may appeal any ruling by the Chairperson. If a Commission Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, “Shall the decision of the Chair be sustained?”

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Airport Commission’s actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Commission Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Commission Member may, before the “Nays” are called for, demand that a roll call vote be taken on the motion before the Commission. The Chairperson’s name shall be called last with other Commission Members’ names called in alphabetical order by the staff liaison. Commission Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a

motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Commission Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Commission Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Commission Member absence, and the absent Commission Member does not have a conflict of interest related to the item being voted on, the Airport Commission may continue the item to a subsequent meeting when the absent Commission Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Airport Commission and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Airport Commission's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of five and may diminish accountability of Commission Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Commission Member's right to choose not to speak or vote on an item.

If any Commission Member wishes to abstain from voting on a motion, the Commission Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Commission Member abstained from the vote.

If the Commission Member does not announce an abstention when the item of business is first called for consideration, or the Commission Member participates in the consideration of the item, and the Commission Member's abstains during the vote, then that Commission Member's vote shall be tabulated in favor of the motion.

Silence of any Commission Member shall be tabulated along with the majority of the votes cast by the Commission Members present and voting on the motion since the silent Commission Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order-, Revised 2011 for counting votes with regard to abstentions and silence by a Commission Member.

26.4 Protests

Any Commission Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

27. Appeals ~~to the Airport Commission~~

A person found in violation of the rules and regulations contained in Chapter 11.08.190 of the Livermore Municipal Code, Airport Rules and Regulations, or any order or directive of the airport manager related thereto, including a 30-day notice of termination of tenancy, may appeal such finding, order or directive by submitting a written request for appeal to the Airport Commission. A three-day notice to pay rent, cure default or quit is final and not subject to appeal.

CITY OF LIVERMORE
BEAUTIFICATION COMMITTEE
RULES OF PROCEDURE

Prepared by the City Clerk's Office
AprilSeptember 202211

CITY OF LIVERMORE
BEAUTIFICATION COMMITTEE
RULES OF PROCEDURE

1. Duties and Responsibilities – The Beautification Committee shall have the following duties and responsibilities:

   A. Designate and plan specific sites and extended areas, primarily under governmental ownership or control, for the beautification of major roadway systems, median islands, and entranceways throughout the city.

   B. Review the designs for establishment of small parks or rest areas at street intersections.

   C. In cooperation with the City Neighborhood Preservation Division, analyze and recommend property rehabilitation of singular or group areas under private ownership within the City.

   D. Recommend revisions of the street tree ordinance, specifying tree types, installation standards, spacing dimensions, and other related matters for the implantation of decorative trees in all areas to be developed within the city in both residential and commercial areas.

   E. Recommend an annual program by the city for the placement of street trees in all areas deficient in such improvements.

   F. Recommend landscaping standards for publicly controlled landscaping associated with commercial and industrial development.

   G. Recommend replacement landscaping, planting and maintenance standards for all of the landscape maintenance districts within the City of Livermore.

   H. Review and comment upon proposals for the installation of street furnishing and accessories, lights, ornamental fixtures, monuments, fountains, or other forms of furnishing of an aesthetic nature as to location, design, and cost.

I. Analyze and recommend the application for and utilization of programs wherein financial grants or personal services may be applicable and available to support the beautification effort of the City.

J. As requested by Council, propose, and recommend a master plan for Livermore beautification with detailed standards for aspects of city beautification.

K. Organize, publicize, and participate in annual city-wide activities and events, such as Earth Day, Make A Difference Day, and Arbor Day, and present beautification awards to enhance city aesthetics.

L. Support the goals and priorities adopted by the City Council.

2. Members – The Beautification Committee shall consist of 7 members, all of whom must be residents of the City of Livermore.

3. Term limits – Beautification Committee members shall serve no more than two consecutive four-year terms or a total of eight years unless the member was selected to complete an unexpired term or unless otherwise noted. However, members may be appointed back to the Beautification Committee after a break in service of two years.

   Time served in an unexpired term shall not count against the eight-year maximum limit. Committee members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term.

4. Attendance Policy – Beautification Committee members may miss four meetings per calendar year. A member who misses more than four meetings per year may be subject to removal from the Committee. The staff liaison will document all absences and report to the City Clerk when a member of the Committee has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Committee is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. ~~The Committee may request that the City Council remove from the Committee any members who miss more than four meetings per year. The member may appeal the request for the removal to the City Council.~~ The final decision to remove a member from the Committee rests solely with the City Council.

5. Elections and Officers – The Beautification Committee shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Committee. The role of the officers shall be as follows:

aA. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

bB. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

cC. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Beautification Committee shall meet on the first Wednesday of each month at 6:00 p.m. at the Maintenance Service CenterWilliam H. Mendenhall Community Room at 3500 Robertson Park Road 1016 S. Livermore Avenue, Livermore, CA. Meetings shall begin promptly as noticed pursuant to this provision. The Committee shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. All meetings shall be open to the public. The Committee may not meet in closed session. Committee members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Beautification Committee meeting in the kiosk in front of City Hall, the kiosk in front of the Civic Center Meeting Hall, and on the City's website.

a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Committee Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956].Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.

8. Minutes of Proceedings – An account of all proceedings of the Beautification Committee shall be prepared by the staff liaison and approved by the Committee.

The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

9. Quorum – Four members constitute a quorum of the Beautification Committee. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Committee or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

a~~A~~. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Committee.

b~~B~~. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~, Beautification Committee Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c~~C~~. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011 ~~Robert's Rules of Order~~ and Parliamentary Procedures. The Beautification Committee shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Committee Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Committee Members, staff, and/or citizens, but shall not prohibit criticisms of the

policies, procedures, programs, or services of the City, or of the acts or omissions of the Beautification Committee or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Beautification Committee later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Beautification Committee and announce the result of the vote and identify the no votes and any Committee Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Beautification Committee on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Committee. The Chairperson may establish time limits per individual speaker. The Committee shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Committee, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Committee agenda.

12. Subcommittees

The Beautification Committee may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department that is responsible for supporting the Beautification Committee shall designate one or more employees to serve as staff liaison to the Committee. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee,

and generally assist the Committee in performing its duties. The Staff Liaison shall have no voting authority.

Committee Members must work with their assigned staff liaison and the liaison's Department Head toobtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body andthat do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Beautification Committee shall meet in the William H. Mendenhall Community Room for all regular Committee meetings. The regular meetings shall begin on the first Wednesday of each month at 6:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Beautification Committee shall meet at a date and time designated by the Committee.

15.2 Special Meetings

Special meetings may be called by the Committee Chair, the Committee liaison or by a majority of Committee Members. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Beautification Committee may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Beautification Committee may meet informally in special meetings designated as workshops that are called by the Chairperson, the Committee liaison, or by a majority of Committee Members. Workshops are special meetings

intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Beautification Committee may provide direction, but unlike other special meetings the Beautification Committee may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Beautification Committee may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Committee liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Beautification Committee's annual calendar. [54955]

16 Actions Limited to Posted Agendas

The Beautification Committees shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Committee Members and staff may briefly respond to statements made or questions posed by the Beautification Committee or by members of the public addressing the Beautification Committee. Committee Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Committee Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Committee Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Beautification Committee has concluded and the item was returned to the Beautification Committee for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Beautification Committee. [54955].

18 Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Committee Members present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Committee Member.

18.2. No New Items Considered after 11:00 p.m.

Generally, the Beautification Committee will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Beautification Committee may commence consideration of an item after 11:00 under the following circumstances:

a. An item is subject to a legal deadline, or,

b. The Beautification Committee votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Committee Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Committee Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Committee Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Committee Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Beautification Committee's meeting, such as the inability to hear testimony because of disruption.

A Committee Member may ask for a point of personal privilege when the integrity, character, or motives of the Committee Member are called into question by a speaker; or where the welfare of the Beautification Committee is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Beautification Committee shall be prepared by the staff liaison and approved by the Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes.

20.1 Approval

The minutes for a Beautification Committee meeting shall be reviewed and approved as set forth in this section.

a. The Beautification Committee shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Beautification Committee Member may not approve the minutes for any meeting that the Committee Member did not attend.

Also, Beautification Committee Members may not approve the minutes for a meeting that they were not eligible to attend as a Committee Member.

c. If no Committee Members are eligible to approve the minutes for a Beautification Committee meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Beautification Committee liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Beautification Committee meetings shall be action minutes that

capture the action taken by the Beautification Committee and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Beautification Committee on any item of interest to the public that is within the Beautification Committee's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Beautification Committee when that item is called for consideration.

Citizens forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Beautification Committee discussion. Examples of items for the consent calendar include the approval of minutes. Any Beautification Committee Member may pull an item for separate discussion. Members of the public may address the Beautification Committee on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Beautification Committee by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Committee Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Beautification Committee action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Beautification Committee's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Beautification Committee for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Beautification Committee's questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Beautification Committee.

e. Make an oral report, unless waived by the Committee.

21.4.3 Beautification Committee Questions or Comments

Following the staff presentation, the Committee Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Committee Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Committee. After the Chair determines that no other participating parties wish

to address the Beautification Committee on the item, the Chairperson will then invite Committee Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Beautification Committee following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Beautification Committee concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Beautification Committee on the item. Public speakers shall address the Beautification Committee following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Beautification Committee on the hearing item, the Chairperson will formally close the public comment period and return the item to the Beautification Committee for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Beautification Committee for deliberation, the Chairperson will invite the Committee Members to discuss the item to develop concurrence for a motion. Committee Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Beautification Committee Action

After Beautification Committee deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Beautification Committee may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Beautification Committee has discretion to decide not to hear further comment if they choose. Public speakers shall address the Beautification Committee following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Beautification Committee shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Beautification Committee shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Beautification Committee to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Committee Member attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Beautification Committee and to seek direction from the Beautification Committee concerning items to be included on future agendas.

c. The Beautification Committee to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Beautification Committee to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Committee action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Beautification Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Beautification Committee meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Beautification Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Beautification Committee.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Beautification Committee on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Beautification Committee following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Beautification Committee on any item of interest to the public that is within the Committee's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Beautification Committee may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A Beautification Committee meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Beautification Committee and to attend its meetings. During the citizens forum portion of a regular meeting

agenda, members of the public have a right to address the Beautification Committee on any item of interest to the public that is within the Beautification Committee's subject matter jurisdiction. Members of the public also have the right to address the Beautification Committee before the Beautification Committee considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Beautification Committee Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Beautification Committee concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Beautification Committee are as follows:

23.1 Addressing the Beautification Committee

Members of the public that want to address the Beautification Committee during citizens forum or before the Beautification Committee considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Beautification Committee will be described at each meeting. The staff liaison will prominently display the methods to address the Beautification Committee in the William H. Mendenhall Community Room.

Before an item is considered by the Beautification Committee, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Beautification Committee begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Beautification Committee's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Beautification Committee's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to

specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Beautification Committee

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Beautification Committee. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Beautification Committee when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Beautification Committee. A speaker is not required to provide his or her name or address to address the Beautification Committee. However, to the extent such information is relevant to the issues being considered by the Beautification Committee, the absence of such information may bear on the speaker's credibility and the weight the Beautification Committee affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Beautification Committee as a body and not to a particular member.

23.3.4 Members of the public may only address the Beautification Committee from the lectern. No member of the public, other than the speaker at the lectern, may address the Beautification Committee, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Committee Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Committee Member, except through the Chairperson. Committee Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Beautification Committee's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Beautification Committee has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise

present information to the Beautification Committee in a non-disruptive manner, provided those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Beautification Committee on any item of interest to the public within the Beautification Committee's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Beautification Committee. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Beautification Committee

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Beautification Committee, except that the participating parties shall each have up to a maximum of 10 minutes to address the Beautification Committee. The Chairperson may set and announce the time limit for each active participant to address the Beautification Committee based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Beautification Committee, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Beautification Committee meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Beautification Committee, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Beautification Committee to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Beautification Committee through the Beautification Committee Liaison. All written comments and materials must be submitted between by noon on the day before agenda publication (3 days prior to the meeting). The Beautification Committee Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Beautification Committee using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Beautification Committee immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Beautification Committee in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Beautification Committee liaison before 12:00 p.m. noon on the day of the Beautification Committee meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Beautification Committee meeting, any member of the public that desires to submit materials to the Beautification Committee for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the Beautification Committee at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Beautification Committee

Once a meeting is called to order, no member of the public shall enter the area between the Committee and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Committee Members and City staff.

24. Beautification Committee Deliberation

Beautification Committee deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Committee Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Committee Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Committee Member wishes to make the motion, subject to another Committee Member's second.

25.2 Categories of Motions

There are four categories of motions that the Beautification Committee may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Committee Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Beautification Committee. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Committee's Attorney.

25.3 Simultaneous Motions

The Beautification Committee may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Beautification Committee have been resolved. When two or three motions are before the Beautification Committee, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Beautification Committee should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Committee Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Committee Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Committee Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.3 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Committee's deliberations and, upon receipt of a second, should be voted on immediately. The Committee's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Beautification Committee to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Beautification Committee to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Beautification Committee to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Beautification Committee at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Committee Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Beautification Committee at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Beautification Committee deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Beautification Committee as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Beautification Committee may be made as follows: (1) The motion must be made by a Committee Member that voted along with majority that voted for the original motion that passed, although

the motion for reconsideration may be seconded by any Committee Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Committee Member Appeal

Any Committee Member may appeal any ruling by the Chairperson. If a Committee Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, "Shall the decision of the Chair be sustained?"

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Beautification Committee's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Committee Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Committee Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Committee. The Chairperson's name shall be called last with other Committee Members' names called in alphabetical order by the staff liaison. Committee Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Committee Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Committee Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Committee Member absence, and the absent Committee Member does not have a conflict of interest related to the item being voted on, the Beautification Committee may continue the item to a subsequent meeting when the absent Committee Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Beautification Committee's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of seven and may diminish accountability of Committee Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Committee Member's right to choose not to speak or vote on an item.

If any Committee Member wishes to abstain from voting on a motion, the Committee Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Committee Member abstained from the vote.

If the Committee Member does not announce an abstention when the item of business is first called for consideration, or the Committee Member participates in the consideration of the item, and the Committee Member's abstains during the vote, then that Committee Member's vote shall be tabulated in favor of the motion.

Silence of any Committee Member shall be tabulated along with the majority of the votes cast by the Committee Members present and voting on the motion since the silent Committee Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011, for counting votes with regard to abstentions and silence by a Committee Member.

26.4 Protests

Any Committee Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

27. Appeals ~~to the Beautification Committee~~

In accordance with Livermore Municipal Code section 12.20.250 ~~A~~appeals of the director's decision related to~~for~~ tree permit applications processed through the Public Works Department shall be made to the Beautification Committee. Appeals of the Beautification Committee's determination shall be made to the City Council. The appeal shall be filed with the Public Works Department within 15 days following the actual date the decision was rendered.

Appeals from decisions of the Beautification Committee shall appear on the City Council agenda for discussion. Council has the options of affirming the action of the Committee, modifying the action of the Committee, referring the matter back to the Committee, or reversing the decision, unless otherwise required or provided by law.

CITY OF LIVERMORE
CLIMATE ACTION PLAN ADVISORY COMMITTEE RULES OF PROCEDURE

Prepared by the City Clerk's Office
April 2022

CITY OF LIVERMORE

20220 CLIMATE ACTION PLAN ADVISORY COMMITTEE (CAPAC)

RULES OF PROCEDURE

1. Duties and Responsibilities

   The City Council declares that the individuals appointed to the office of Climate Action Plan Committee Member are intended to represent and further the interest of climate preservation and that such representation and furtherance will ultimately serve the public interest.

   The Climate Action Plan Advisory Committee shall have the following duties and responsibilities:

   A. Provide input and feedback to City staff at specific intervals throughout the development of the Climate Action Plan;

   B. Provide feedback to City staff on existing Climate Action efforts and conditions;

   C. Provide feedback to City staff on proposed Climate Action Plan goals and objectives; and

2. Members

   The Climate Action Plan Advisory Committee, also known as CAPAC, shall consist of eleven (11) members, all of whom shall reside or work in Livermore. The eleven members could include representatives from all or a combination of the following groups:

   - Environmental advocacy
   - Civic advocacy
   - Business community
   - Residents
   - Underserved communities

- Youth
- National Laboratories
- Winegrowers

3. Term limits

   The Climate Action Plan Advisory Committee is a limited duration committee until the City Council adopts the Climate Action Plan Update. It is anticipated members may serve through 2022~~1~~.

4. Attendance Policy

   Attendance of committee members is mandatory at all meetings. Members who are unable to attend a meeting must notify the staff liaison of their absence prior to the meeting. A committee member may be subject for removal after three absences. The staff liaison will document all absences and report to the City Clerk when a member of the Committee has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Committee is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Committee rests solely with the City Council.~~The Committee may request that the City Council remove any members who miss more than three meetings per year. The member may appeal the request for the removal to the City Council. The final decision to remove a member from the Committee rests solely with the City Council.~~

5. Elections and Officers

   The Climate Action Plan Advisory Committee shall elect a Chairperson and a Vice Chairperson at the first meeting; and annually at the last meeting of the year thereafter. Election of the officers shall be by a majority vote of the Climate Action Plan Advisory Committee. The role of the officers shall be as follows:

   A. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   B. Vice Chairperson – The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

   C. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings

The Committee will convene beginning in Summer 2020. Meetings shall be held at 7:00pm on the third~~first~~ Wednesday of the month at the ~~Civic Center Meeting Hall~~William H. Mendenhall Community Room, at 1016 South Livermore Avenue., ~~or virtually if Covid-19 restrictions prohibit the ability for the public to attend~~ in-person.

Specific dates are to be determined. All meetings shall be open to the public. The Climate Action Plan Advisory Committee may not meet in closed session. Committee members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting - The staff liaison shall post the notices and agendas for each Climate Action Plan Advisory Committee meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

   a. Regular Meetings

   Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

   b. Special Meetings and Workshops

   Notice of the call for a special meeting must be delivered and received by each Committee Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956].

8. Minutes of Proceedings

   An account of all proceedings of the Climate Action Plan Advisory Committee shall be prepared by the staff liaison, agendized, and approved by the Climate Action Plan Advisory Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes.

9. Quorum

   Six members constitute a quorum of the Climate Action Plan Advisory Committee.

A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next scheduled meeting of the Climate Action Plan Advisory Committee if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

~~A.~~a. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Climate Action Plan Advisory Committee.

~~a.~~b. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, the City Council Rules of Procedure, Rosenberg's Rules of Order (see Appendix A), Climate Action Plan Advisory Committee Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order and Parliamentary Procedures. The Climate Action Plan Advisory Committee shall not take a sealed ballot vote.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Committee Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Committee Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Climate Action Plan Advisory Committee or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Climate Action Plan Advisory Committee later in the meeting. The

Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

~~B.~~g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Climate Action Plan Advisory Committee and announce the result of the vote and identify the no votes and any Committee Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Climate Action Plan Advisory Committee on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Climate Action Plan Advisory Committee. The Chairperson may establish time limits per individual speaker. The Climate Action Plan Advisory Committee shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Climate Action Plan Advisory Committee, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Climate Action Plan Advisory Committee agenda.

12. Subcommittees

The Climate Action Plan Advisory Committee shall not form standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings) without prior City Council approval. Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department responsible for supporting the Climate Action Plan Advisory Committee shall designate one or more employees to serve as staff liaison to the Climate Action Plan Advisory Committee. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the Climate Action Plan Advisory Committee in performing its duties. The Staff Liaison shall have no voting authority.

Committee Members must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Committee may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's

anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Committees. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Climate Action Plan Advisory Committee shall meet in the William H. Mendenhall Community Room for all regular Committee meetings. The regular meetings shall begin on the third Wednesday of the month at 7:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Climate Action Plan Advisory Committee shall meet at a date and time designated by the Committee.

15.2 Special Meetings

Special meetings may be called by the Committee Chair, the Committee liaison or by a majority of Committee Members. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Climate Action Plan Advisory Committee may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Climate Action Plan Advisory Committee may meet informally in special meetings designated as workshops that are called by the Chairperson, the Committee liaison, or by a majority of Committee Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Climate Action Plan Advisory Committee may provide direction, but unlike other special meetings the Climate Action Plan Advisory Committee may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Climate Action Plan Advisory Committee may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within

24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Committee liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Climate Action Plan Advisory Committee's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Climate Action Plan Advisory Committee shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Committee Members and staff may briefly respond to statements made or questions posed by the Climate Action Plan Advisory Committee or by members of the public addressing the Climate Action Plan Advisory Committee. Committee Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Committee Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Committee Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Climate Action Plan Advisory Committee has concluded and the item was returned to the Climate Action Plan Advisory Committee for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Climate Action Plan Advisory Committee. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Committee members present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Committee Member.

18.2 No New Items Considered after 11:00 p.m.

Generally, the Climate Action Plan Advisory Committee will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Climate Action Plan Advisory Committee may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Climate Action Plan Advisory Committee votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Committee Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Committee Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Committee Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Committee Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Climate Action Plan Advisory Committee's meeting, such as the inability to hear testimony because of disruption.

A Committee Member may ask for a point of personal privilege when the integrity, character, or motives of the Committee Member are called into question by a speaker; or where the welfare of the Climate Action Plan Advisory Committee is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Climate Action Plan Advisory Committee shall be prepared by the staff liaison and approved by the Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes

20.1 Approval

The minutes for a Climate Action Plan Advisory Committee meeting shall be reviewed and approved as set forth in this section.

a. The Climate Action Plan Advisory Committee shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Climate Action Plan Advisory Committee member may not approve the minutes for any meeting that the Committee member did not attend.

Also, a Climate Action Plan Advisory Committee member may not approve the minutes for a meeting that they were not eligible to attend as a committee member.

c. If no Committee members are eligible to approve the minutes for a Climate Action Plan Advisory Committee meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Climate Action Plan Advisory Committee liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Climate Action Plan Advisory Committee meetings shall be action minutes that capture the action taken by the Climate Action Plan Advisory Committee and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Climate Action Plan Advisory Committee on any item of interest to the public that is within the Climate Action Plan Advisory Committee's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Climate Action Plan Advisory Committee when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Climate Action Plan Advisory Committee discussion. Examples of items for the consent calendar include the approval of minutes. Any Climate Action Plan Advisory Committee member may pull an item for separate discussion. Members of the public may address the Climate Action Plan Advisory Committee on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Climate Action Plan Advisory Committee by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Committee Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Climate Action Plan Advisory Committee action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Climate Action Plan Advisory Committee's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Climate Action Plan Advisory Committee for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Climate Action Plan Advisory Committee questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Climate Action Plan Advisory Committee.

e. Make an oral report, unless waived by the Climate Action Plan Advisory Committee.

21.4.3 Climate Action Plan Advisory Committee Questions or Comments

Following the staff presentation, the Committee Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Committee Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Committee. After the Chair determines that no other participating parties wish to address the Climate Action Plan Advisory Committee on the hearing item, the Chairperson will then invite Committee Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Climate Action Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Climate Action Plan Advisory Committee concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Climate Action Plan Advisory Committee on the item. Public speakers shall address the Climate Action Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Climate Action Plan Advisory Committee on the hearing item, the Chairperson will formally close the public comment period and return the item to the Climate Action Plan Advisory Committee for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Climate Action Plan Advisory Committee for deliberation, the Chairperson will invite the Committee Members to discuss the item to develop concurrence for a motion. Committee Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Climate Action Plan Advisory Committee Action

After Climate Action Plan Advisory Committee deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Climate Action Plan Advisory Committee may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Climate Action Plan Advisory Committee has discretion to decide not to hear further comment if they choose. Public speakers shall address the Climate Action Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Climate Action Plan Advisory Committee shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Climate Action Plan Advisory Committee shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Climate Action Plan Advisory Committee to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Committee member attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Climate Action Plan Advisory Committee and to seek direction from the Climate Action Plan Advisory Committee concerning items to be included on future agendas.

c. The Climate Action Plan Advisory Committee to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Climate Action Plan Advisory Committee to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Committee action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Climate Action Plan Advisory Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Climate Action Plan Advisory Committee meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Climate Action Plan Advisory Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Climate Action Plan Advisory Committee.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Climate Action Plan Advisory Committee on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Climate Action Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Climate Action Plan Advisory Committee on any item of interest to the public that is within the Climate Action Plan Advisory Committee's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Climate Action Plan Advisory Committee may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A Climate Action Plan Advisory Committee meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Climate Action Plan Advisory Committee and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Climate Action Plan Advisory Committee on any item of interest to the public that is within the Climate Action Plan Advisory Committee's subject matter jurisdiction. Members of the public also have the right to address the Climate Action Plan Advisory Committee before the Climate Action Plan Advisory Committee considers or takes

action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Climate Action Plan Advisory Committee Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Climate Action Plan Advisory Committee concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Climate Action Plan Advisory Committee are as follows:

23.1 Addressing the Climate Action Plan Advisory Committee

Members of the public that want to address the Climate Action Plan Advisory Committee during citizens forum or before the Climate Action Plan Advisory Committee considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Climate Action Plan Advisory Committee will be described at each meeting. The staff liaison will prominently display the methods to address the Climate Action Plan Advisory Committee in the William H. Mendenhall Community Room.

Before an item is considered by the Climate Action Plan Advisory Committee, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Climate Action Plan Advisory Committee begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Climate Action Plan Advisory Committee's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Climate Action Plan Advisory Committee members successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Climate Action Plan Advisory Committee

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Climate Action Plan Advisory Committee. When calling a speaker to the lectern the next two speakers will also be identified so they are prepared to address the Climate Action Plan Advisory Committee when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Climate Action Plan Advisory Committee. A speaker is not required to provide his or her name or address to address the Climate Action Plan Advisory Committee. However, to the extent such information is relevant to the issues being considered by the Climate Action Plan Advisory Committee, the absence of such information may bear on the speaker's credibility and the weight the Climate Action Plan Advisory Committee affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Climate Action Plan Advisory Committee as a body and not to a particular member.

23.3.4 Members of the public may only address the Climate Action Plan Advisory Committee from the lectern. No member of the public, other than the speaker at the lectern, may address the Climate Action Plan Advisory Committee, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Committee Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Committee Member, except through the Chairperson. Committee Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Climate Action Plan Advisory Committee's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Climate Action Plan Advisory Committee has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Climate Action Plan Advisory Committee in a non-disruptive manner, provided those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Climate Action Plan Advisory Committee on any item of interest to the public within the Climate Action Plan Advisory Committee's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Climate Action Plan Advisory Committee. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Climate Action Plan Advisory Committee

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Climate Action Plan Advisory Committee, except that the participating parties shall each have up to a maximum of 10 minutes to address the Climate Action Plan Advisory Committee. The Chairperson may set and announce the time limit for each active participant to address the Climate Action Plan Advisory Committee based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Climate Action Plan Advisory Committee, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Climate Action Plan Advisory Committee meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Climate Action Plan Advisory Committee, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Climate Action Plan Advisory Committee to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Climate Action Plan Advisory Committee through the Climate Action Plan Advisory Committee Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Climate Action Plan Advisory Committee Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Climate Action Plan Advisory Committee using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Climate Action Plan Advisory Committee immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Climate Action Plan Advisory Committee in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Climate Action Plan Advisory Committee Liaison before 12:00 p.m. noon on the day of the Climate Action Plan Advisory Committee meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Climate Action Plan Advisory Committee meeting, any member of the public that desires to submit materials to the Climate Action Plan Advisory Committee for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the Climate Action Plan Advisory Committee at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Climate Action Plan Advisory Committee

Once a meeting is called to order, no member of the public shall enter the area between the Committee and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Committee Members and City staff.

24. Climate Action Plan Advisory Committee Deliberation

Climate Action Plan Advisory Committee deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Committee Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Committee Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Committee Member wishes to make the motion, subject to another Committee Member's second.

25.2 Categories of Motions

There are four categories of motions that the Climate Action Plan Advisory Committee may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Committee Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Climate Action Plan Advisory Committee. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Committee's Attorney.

25.3 Simultaneous Motions

The Climate Action Plan Advisory Committee may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Climate Action Plan Advisory Committee have been resolved. When two or three motions are before the Climate Action Plan Advisory Committee, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Climate Action Plan Advisory Committee should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be on the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Committee Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Committee Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2. Debate on a motion should continue as long as Committee Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Committee's deliberations and, upon receipt of a second, should be voted on immediately. The Committee's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Climate Action Plan Advisory Committee to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Climate Action Plan Advisory Committee to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Climate Action Plan Advisory Committee to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Climate Action Plan Advisory Committee at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Committee Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Climate Action Plan Advisory Committee at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Climate Action Plan Advisory Committee deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Climate Action Plan Advisory Committee as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Climate Action Plan Advisory Committee may be made as follows: (1) The motion must be made by a Committee Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Committee Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating

parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Committee Member Appeal

Any Committee Member may appeal any ruling by the Chairperson. If a Committee Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, "Shall the decision of the Chair be sustained?"

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Climate Action Plan Advisory Committee's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Committee Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Committee Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Committee. The Chairperson's name shall be called last with other Committee Members' names called in alphabetical order by the staff liaison. Committee Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Committee Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Committee Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Committee Member absence, and the absent Committee Member does not have a conflict of interest related to the item being voted on, the Climate Action Plan Advisory Committee may continue the item to a subsequent

meeting when the absent Committee Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Climate Action Plan Advisory Committee and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Climate Action Plan Advisory Committee's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of eleven and may diminish accountability of Committee Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Committee Member's right to choose not to speak or vote on an item.

If any Committee Member wishes to abstain from voting on a motion, the Committee Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Committee Member abstained from the vote.

If the Committee Member does not announce an abstention when the item of business is first called for consideration, or the Committee Member participates in the consideration of the item, and the Committee Member's abstains during the vote, then that Committee Member's vote shall be tabulated in favor of the motion.

Silence of any Committee Member shall be tabulated along with the majority of the votes cast by the Committee Members present and voting on the motion since the silent Committee Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011 for counting votes with regard to abstentions and silence by a Committee Member.

26.4 Protests

Any Committee Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

CITY OF LIVERMORE

COMMUNITY ASSET MANAGEMENT PROGRAM OUTREACH COMMITTEE (CAMP OUTREACH)

RULES OF PROCEDURE

Prepared by the City Clerk's Office
~~March 2021~~ April 2022

LIVERMORE CALIFORNIA

CITY OF LIVERMORE

COMMUNITY ASSET MANAGEMENT PROGRAM OUTREACH COMMITTEE (CAMP OUTREACH)

RULES OF PROCEDURE

1. Mission, Duties, and Responsibilities

The Community Asset Management Program Outreach Committee shall have the following mission, duties, and responsibilities:

Mission

The mission of the Community Asset Management Program Outreach Committee is to provide advice and direction on educating and engaging the community in decisions related to the long-term maintenance of the City's infrastructure CAMP members will provide input into the development of a communication and outreach campaign; provide input on discussions related to specific priorities and help extend the reach and effectiveness of the City's efforts. CAMP members serve in an advisory capacity, with their input serving as recommendations that inform strategy, approach and decision making.

Duties and Responsibilities

The Community Asset Management Program Outreach Committee shall have the following duties and responsibilities:

- Help the City understand community member opinions, priorities, and perceptions related to the importance and need for dedicated effort to maintain City infrastructure
- Participate in discussions and provide input into City efforts to identify, create, and/or revise policies to support maintenance of City assets
- Provide advice to City staff, consultants, elected officials, and other key stakeholders on educational efforts to explain how potential asset management decisions, policies, and strategies may impact the economy, environment, and overall quality of life in Livermore
- Serve as an ambassador for the outreach efforts and support and participate in outreach activities in person, through digital communications, or other activities

2. Members

The Community Asset Management Program Outreach Committee, also known as CAMP Outreach, shall consist of nine (9) members, all of whom shall reside or

own/operate/or represent a business or organization in Livermore. To encourage a wide array of perspectives and opinions, and to the extent that such individuals are interested and available, the Community Asset Management Program Outreach Committee could include representatives from the following categories:

Large and/or small business, nonprofit organization, communications expertise, education, public health, environmental, construction, utility, infrastructure, landlord, rental property group, low-income resident, resident under 30, retired resident, resident at large.

Some categories may be best served by having more than one representative and some individuals can represent more than one category. Overall, members shall represent the diversity of Livermore's demographics and be geographically distributed.

3. Term limits

The Community Asset Management Program Outreach Committee is a limited duration committee. It is anticipated that members will serve through December 2023~~2~~.

4. Attendance Policy

Attendance of committee members is mandatory at all meetings. Members who are unable to attend a meeting must notify the staff liaison of their absence prior to the meeting. A committee member may be subject for removal after two absences. The staff liaison will document all absences and report to the City Clerk when a member of the Committee has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Committee is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Committee rests solely with the City Council.

5. Elections and Officers

The Community Asset Management Program Outreach Committee shall elect a chairperson and a vice chairperson at its first meeting. Election of the officers shall be by majority vote of the Community Asset Management Program Outreach Committee.

The role of the officers shall be as follows:

a. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

b. Vice Chairperson – The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

c. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings -

The Community Asset Management Program Outreach Committee ~~will convene beginning in 2020. Meetings~~ shall meet~~be held~~ on the fourth Wednesday of the month~~s~~ at 6:00 pm at the William H. Mendenhall Community Room~~Civic Center Library~~, at ~~1188~~ 1016 South Livermore Avenue. Specific dates are to be determined. All meetings shall be open to the public. The Community Asset Management Program Outreach Committee may not meet in closed session. Committee members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting - The staff liaison shall post the notices and agendas for each Community Asset Management Program Outreach Committee meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Committee Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956].

8. Minutes of Proceedings

An account of all proceedings of the Community Asset Management Program Outreach Committee shall be prepared by the staff liaison, agendized, and approved by the Community Asset Management Program Outreach Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes.

9. Quorum

Five members constitute a quorum of the Community Asset Management Program Outreach Committee. A quorum of the members must be present to conduct any

business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next scheduled meeting of the Community Asset Management Program Outreach Committee if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

a. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code sections 54950 and following). Only items listed on the agenda may be considered by the Community Asset Management Program Outreach Committee.

b. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Rosenberg's Rules of Order (see Appendix A), Community Asset Management Program Outreach Committee Rules of Procedure, and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order. The Community Asset Management Program Outreach Committee shall not take a sealed ballot vote.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order, and the Committee Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Committee Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Community Asset Management Program Outreach Committee or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Community Asset Management Program Outreach Committee later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Community Asset Management Program Outreach Committee and announce the result of the vote and identify the no votes and any Committee

Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Community Asset Management Program Outreach Committee on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Community Asset Management Program Outreach Committee. The Chairperson may establish time limits per individual speaker. The Community Asset Management Program Outreach Committee shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Community Asset Management Program Outreach Committee, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Community Asset Management Program Outreach Committee agenda.

12. Subcommittees

The Community Asset Management Program Outreach Committee may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department responsible for supporting the Community Asset Management Program Outreach Committee shall designate one or more employees to serve as staff liaison to the Community Asset Management Program Outreach Committee. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson, and generally assist the Community Asset Management Program Outreach Committee in performing its duties. The Staff Liaison shall have no voting authority.

Committee Members must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Committee may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Committees. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Community Asset Management Program Outreach Committee shall meet in the William H. Mendenhall Community Room for all regular Committee meetings. The regular meetings shall begin on the fourth Wednesday of the month at 6:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Community Asset Management Program Outreach Committee shall meet at a date and time designated by the Committee.

15.2 Special Meetings

Special meetings may be called by the Committee Chair, the Committee liaison or by a majority of Committee members. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Community Asset Management Program Outreach Committee may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Community Asset Management Program Outreach Committee may meet informally in special meetings designated as workshops that are called by the Chairperson, the Committee liaison, or by a majority of Committee Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Community Asset Management Program Outreach Committee may provide direction, but unlike other special meetings the Community Asset Management Program Outreach Committee may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Community Asset Management Program Outreach Committee may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Committee liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Community Asset Management Program Outreach Committee's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Community Asset Management Program Outreach Committee shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Committee Members and staff may briefly respond to statements made or questions posed by the Community Asset Management Program Outreach Committee or by members of the public addressing the Community Asset Management Program Outreach Committee. Committee Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Committee Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Committee Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Community Asset Management Program Outreach Committee has concluded and the item was returned to the Community Asset Management Program Outreach Committee for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Community Asset Management Program Outreach Committee. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Committee members present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Committee Member.

18.2 No New Items Considered after 11:00 p.m.

Generally, the Community Asset Management Program Outreach Committee will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Community Asset Management Program Outreach Committee may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Community Asset Management Program Outreach Committee votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Committee Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Committee Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Committee Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Committee Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Community Asset Management Program Outreach Committee's meeting, such as the inability to hear testimony because of disruption.

A Committee Member may ask for a point of personal privilege when the integrity, character, or motives of the Committee Member are called into question by a speaker; or where the welfare of the Community Asset Management Program Outreach Committee is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Community Asset Management Program Outreach Committee shall be prepared by the staff liaison and approved by the Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes

20.1 Approval

The minutes for an Community Asset Management Program Outreach Committee meeting shall be reviewed and approved as set forth in this section.

a. The Community Asset Management Program Outreach Committee shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Community Asset Management Program Outreach Committee member may not approve the minutes for any meeting that the Committee members did not attend.

Also, a Community Asset Management Program Outreach Committee member may not approve the minutes for a meeting that they were not eligible to attend as Committee members.

c. If no Committee members are eligible to approve the minutes for a Community Asset Management Program Outreach Committee meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Community Asset Management Program Outreach Committee liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Community Asset Management Program Outreach Committee meetings shall be action minutes that capture the action taken by the Community Asset Management Program Outreach Committee and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Community Asset Management Program Outreach Committee on any item of interest to the public that is within the Community Asset Management Program Outreach Committee's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed

elsewhere on the agenda should be reserved and addressed to the Community Asset Management Program Outreach Committee when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Community Asset Management Program Outreach Committee discussion. Examples of items for the consent calendar include the approval of minutes. Any Community Asset Management Program Outreach Committee member may pull an item for separate discussion. Members of the public may address the Community Asset Management Program Outreach Committee on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Community Asset Management Program Outreach Committee by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Committee Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Community Asset Management Program Outreach Committee action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Community Asset Management

Program Outreach Committee's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Community Asset Management Program Outreach Committee for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Community Asset Management Program Outreach Committee questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Community Asset Management Program Outreach Committee.

e. Make an oral report, unless waived by the Community Asset Management Program Outreach Committee.

21.4.3 Community Asset Management Program Outreach Committee Questions or Comments

Following the staff presentation, the Committee Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Committee Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Committee. After the Chair determines that no other participating parties wish to address the Community Asset Management Program Outreach Committee on the hearing item, the Chairperson will then invite Committee Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Community Asset Management Program Outreach Committee following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Community Asset Management Program Outreach Committee concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Community Asset Management Program Outreach Committee on the item. Public speakers shall address the Community Asset Management Program Outreach Committee following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Community Asset Management Program Outreach Committee on the hearing item, the Chairperson will formally close the public comment period and return the item to the Community Asset Management Program Outreach Committee for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Community Asset Management Program Outreach Committee for deliberation, the Chairperson will invite the Committee Members to discuss the item to develop concurrence for a motion. Committee Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Community Asset Management Program Outreach Committee Action

After Community Asset Management Program Outreach Committee deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Community Asset Management Program Outreach Committee may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Community Asset Management Program Outreach Committee has discretion to decide not to hear further comment if they choose. Public speakers shall address the Community Asset Management Program Outreach Committee following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Community Asset Management Program Outreach Committee shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Community Asset Management Program Outreach Committee shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Community Asset Management Program Outreach Committee to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Committee members attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Community Asset Management Program Outreach Committee and to seek direction from

the Community Asset Management Program Outreach Committee concerning items to be included on future agendas.

c. The Community Asset Management Program Outreach Committee to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Community Asset Management Program Outreach Committee to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Committee action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Community Asset Management Program Outreach Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Community Asset Management Program Outreach Committee meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Community Asset Management Program Outreach Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Community Asset Management Program Outreach Committee.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Community Asset Management Program Outreach Committee on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Community Asset Management Program Outreach Committee following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizen's forum or opportunity for the public to address the Community Asset Management Program Outreach Committee on any item of interest to the public that is within the Community Asset Management Program Outreach Committee's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Community Asset Management Program Outreach Committee may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A Community Asset Management Program Outreach Committee meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Community Asset Management Program Outreach Committee and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Community Asset Management Program Outreach Committee on any item of interest to the public that is within the Community Asset Management Program Outreach Committee's subject matter jurisdiction. Members of the public also have the right to address the Community Asset Management Program Outreach Committee before the Community Asset Management Program Outreach Committee considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Community Asset Management Program Outreach Committee Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Community

Asset Management Program Outreach Committee concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Community Asset Management Program Outreach Committee are as follows:

23.1 Addressing the Community Asset Management Program Outreach Committee

Members of the public that want to address the Community Asset Management Program Outreach Committee during citizens forum or before the Community Asset Management Program Outreach Committee considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Community Asset Management Program Outreach Committee will be described at each meeting. The staff liaison will prominently display the methods to address the Community Asset Management Program Outreach Committee in the William H. Mendenhall Community Room.

Before an item is considered by the Community Asset Management Program Outreach Committee, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Community Asset Management Program Outreach Committee begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Community Asset Management Program Outreach Committee's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Community Asset Management Program Outreach Committee members successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Community Asset Management Program Outreach Committee

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Community Asset Management Program Outreach Committee. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Community Asset Management Program Outreach Committee when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Community Asset Management Program Outreach Committee. A speaker is not required to provide his or her name or address to address the Community Asset Management Program Outreach Committee. However, to the extent such information is relevant to the issues being considered by the Community Asset Management Program Outreach Committee, the absence of such information may bear on the speaker's credibility and the weight the Community Asset Management Program Outreach Committee affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Community Asset Management Program Outreach Committee as a body and not to a particular member.

23.3.4 Members of the public may only address the Community Asset Management Program Outreach Committee from the lectern. No member of the public, other than the speaker at the lectern, may address the Community Asset Management Program Outreach Committee, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Committee Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Committee Member, except through the Chairperson. Committee Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Community Asset Management Program Outreach Committee's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Community Asset Management Program Outreach Committee has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Community Asset Management Program Outreach Committee in a non-disruptive manner, provided those activities are completed

within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Community Asset Management Program Outreach Committee on any item of interest to the public within the Community Asset Management Program Outreach Committee's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Community Asset Management Program Outreach Committee. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Community Asset Management Program Outreach Committee

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Community Asset Management Program Outreach Committee, except that the participating parties shall each have up to a maximum of 10 minutes to address the Community Asset Management Program Outreach Committee. The Chairperson may set and announce the time limit for each active participant to address the Community Asset Management Program Outreach Committee based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Community Asset Management Program Outreach Committee, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Community Asset Management Program Outreach Committee meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Community Asset Management Program Outreach Committee, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Community Asset Management Program Outreach Committee to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Community Asset Management Program Outreach Committee through the Community Asset Management Program Outreach Committee Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Community Asset Management Program Outreach Committee Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Community Asset Management Program Outreach Committee using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Community Asset Management Program Outreach Committee immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Community Asset Management Program Outreach Committee in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Committee liaison before 12:00 p.m. noon on the day of the Community Asset Management Program Outreach Committee meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Community Asset Management Program Outreach Committee meeting, any member of the public that desires to submit materials to the Community Asset Management Program Outreach Committee for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the Community Asset Management Program Outreach Committee at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Community Asset Management Program Outreach Committee

Once a meeting is called to order, no member of the public shall enter the area between the Committee and public seating without an invitation from the

Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Committee Members and City staff.

24. Community Asset Management Program Outreach Committee Deliberation

Community Asset Management Program Outreach Committee deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Committee Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Committee Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Committee Member wishes to make the motion, subject to another Committee Member's second.

25.2 Categories of Motions

There are four categories of motions that the Community Asset Management Program Outreach Committee may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Committee Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Community Asset Management Program Outreach Committee. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial

basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Committee's Attorney.

25.3 Simultaneous Motions

The Community Asset Management Program Outreach Committee may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Community Asset Management Program Outreach Committee have been resolved. When two or three motions are before the Community Asset Management Program Outreach Committee, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Community Asset Management Program Outreach Committee should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Committee Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Committee Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2. Debate on a motion should continue as long as Committee Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Committee's deliberations and, upon receipt of a

second, should be voted on immediately. The Committee's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Community Asset Management Program Outreach Committee to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Community Asset Management Program Outreach Committee to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Community Asset Management Program Outreach Committee to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Community Asset Management Program Outreach Committee at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Committee Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Community Asset Management Program Outreach Committee at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Community Asset Management Program Outreach Committee deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Committee as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Community Asset Management Program Outreach Committee may be made as follows: (1) The motion must be made by a Committee Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be

seconded by any Committee Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Committee Member Appeal

Any Committee Member may appeal any ruling by the Chairperson. If a Committee Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, "Shall the decision of the Chair be sustained?"

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Community Asset Management Program Outreach Committee's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Committee Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Committee Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Committee. The Chairperson's name shall be called last with other Committee Members' names called in alphabetical order by the staff liaison. Committee Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Committee Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Committee Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Committee Member absence, and the absent Committee Member does not have a conflict of interest related to the item being voted on, the

Community Asset Management Program Outreach Committee may continue the item to a subsequent meeting when the absent Committee Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Community Asset Management Program Outreach Committee and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Community Asset Management Program Outreach Committee's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of nine and may diminish accountability of Committee Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Committee Member's right to choose not to speak or vote on an item.

If any Committee Member wishes to abstain from voting on a motion, the Committee Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Committee Member abstained from the vote.

If the Committee Member does not announce an abstention when the item of business is first called for consideration, or the Committee Member participates in the consideration of the item, and the Committee Member's abstains during the vote, then that Committee Member's vote shall be tabulated in favor of the motion.

Silence of any Committee Member shall be tabulated along with the majority of the votes cast by the Committee Members present and voting on the motion since the silent Committee Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011 for counting votes with regard to abstentions and silence by a Committee Member.

26.4 Protests

Any Committee Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

CITY OF LIVERMORE
COMMISSION FOR THE ARTS
RULES OF PROCEDURE

Prepared by the City Clerk's Office
~~January 2016~~April 2022

CITY OF LIVERMORE
COMMISSION FOR THE ARTS
RULES OF PROCEDURE

Revised: ~~January 2016~~April 2022

1. Duties and Responsibilities – The Commission for the Arts shall have the following powers and duties:

    a. Encourage programs for the cultural enrichment of the city.

    b. Make annual recommendations to the City Council establishing art priorities for the City.

    c. Receive input from the community on issues relevant to arts policies.

    d. Develop and recommend to the Council a five-to-ten-year cultural arts plan for the city, including goals, implementation strategies and financing methods. The Commission shall review the plan every five years and update it as necessary.

    e. Review and approve public art or make recommendations regarding public art, in accordance with established procedures.

    f. Review and approve Public Art Fund grant applications.

    g. Support the goals and priorities adopted by the City Council.

2. Members - The Commission for the Arts shall consist of nine members. Each member shall be appointed by the City Council and must be a Livermore resident. All Commission members shall have a demonstrated interest in and knowledge of the arts. In making appointments to the Commission, the Council shall also consider members with organizational, business or financial skills and members with an understanding of marketing techniques, as well as members who are representatives of local business or non-arts community groups. Members appointed after January 2016 shall not include persons that are board members or officers of nonprofit or professional organizations that are eligible to apply for public art funding or with a demonstrated conflict of interest.

3. Term limits – Members of the Commission for the Arts shall serve a maximum of two consecutive four-year terms, for a total of eight consecutive years. Time served in an unexpired term shall not count against the eight-year maximum limit. Commission for the Arts members who have already completed eight years of service are not eligible for reappointment to an unexpired term. However, members may be appointed back to the Commission for the Arts after a break in service of two years.

4. Attendance Policy – Commission for the Arts members may miss four meetings per calendar year. A member who misses more than four meetings per year may be subject to removal from the Commission for the Arts. The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Commission rests solely with the City Council.~~The Commission for the Arts may request that the City Council remove from the Commission for the Arts any members who miss more than four meetings per year. The member may appeal the request for the removal to the City Council. The final decision to remove a member from the Commission for the Arts rests solely with the City Council.~~

5. Elections and Officers – The Commission for the Arts shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Commission for the Arts. The role of the officers shall be as follows:

   a. Chairperson – The chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   b. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

   c. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Commission for the Arts shall meet on the fourth Tuesday of each month at 4:30 p.m. at the ~~Civic Center Library~~William H. Mendenhall Community Room at 1016 S. Livermore Avenue, Livermore, CA. Meetings shall begin promptly as noticed pursuant to this provision. The Commission shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. All meetings shall be open to the public. The Commission for the Arts may not meet in closed session. Commission for the Arts members may not participate in a meeting

remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Commission for the Arts meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

b . ~~b .~~ Special Meetings and Workshops

~~7.~~8. Notice of the call for a special meeting must be delivered and received by each Commission Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956]. ~~Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.~~

~~8.~~9. Minutes of Proceedings – An account of all proceedings of the Commission for the Arts shall be prepared by the staff liaison and approved by the Commission for the Arts.

~~9.~~10. Quorum – Five members constitute a quorum of the Commission for the Arts. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Commission for the Arts or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

~~10.~~11. Conduct at Meetings

a. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Commission for the Arts.

b. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Rosenberg's Rules of Order, Revised 2011, Commission for the Arts Rules

of Procedure, and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~ and Parliamentary Procedures. The Commission for the Arts shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order, and the Commission Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Commission Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Commission for the Arts or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Commission for the Arts later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Commission for the Arts and announce the result of the vote and identify the no votes and any Commission Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record, and report roll call votes. [54953(b)(2) and (c)(2)].

~~11.~~12. Citizens' Forum

Every agenda shall provide the opportunity for members of the public to address the Commission for the Arts on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Commission for the Arts. The Chairperson may establish time limits per individual speaker. The Commission for the Arts shall not discuss nor take action on subjects raised under Citizens' Forum but the Chairperson, with the concurrence of a majority of the Commission for the Arts, may direct staff to place subjects raised under Citizens' Forum on a future Commission for the Arts agenda.

~~12.~~13. Subcommittees

The Commission for the Arts may create standing subcommittees (those with ongoing subject~~-~~ matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

~~13.~~14. Staff Support

The head of the department that is responsible for supporting the Commission for the Arts shall designate one or more employees to serve as staff liaison to the Commission for the Arts. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee and generally assist the Commission for the Arts in performing its duties. The Staff Liaison shall have no voting authority.

Committee Members must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

~~14.~~15. Funding Priorities

At the beginning of each calendar year, the commission shall establish funding priorities for the Public Art Fund including the amount of funding to be made available under each funding category. These priorities shall be used to establish which projects and programs will be funded over the following year.

~~15.~~16. Funding Recommendations

The Commission for the arts shall review and recommend funding

applications for proposed projects and programs on no more than a quarterly basis. Funding recommendations shall be made based on the priorities established by the Commission for the Arts at the start of the year.

Program funding shall be broken down into the following categories:

a. Mini Grants - to be funded up to $1,000 per grant. Applications to be received on a quarterly basis. No council approval needed.

b. Program/Project Grants- to be funded from $1,001 to $10,000 per grant. Applications to be received and reviewed on a biannual basis and shall be brought to Council for final approval.

c. Special Projects Grants - over $10,001. Applications to be received and reviewed on an annual basis and shall be bought to Council for final approval.

Projects and programs may apply and receive funding no more than once each year. No single project or individual performance may receive multiple year funding.

16. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

17. Types of Meetings

17.1 Regular Meetings

The Commission for the Arts shall meet in the William H. Mendenhall Community Room for all regular Commission meetings. The regular meetings shall begin on the fourth Tuesday of each month at 4:30 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Commission for the Arts shall meet at a date and time designated by the Commission.

17.2 Special Meetings

Special meetings may be called by the Commission Chair, the Commission liaison or by a majority of Commissioners. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Commission for the Arts may take final action at a special meeting that is not a workshop.

17.3 Special Meeting Workshops

The Commission for the Arts may meet informally in special meetings designated as workshops that are called by the Chairperson, the Commission liaison, or by a majority of Commission Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Commission for the Arts may provide direction, but unlike other special meetings the Commission for the Arts may not take a final action at a workshop. [54956].

17.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Commission for the Arts may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Commission liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Commission for the Arts' annual calendar. [54955]

18. Actions Limited to Posted Agendas

The Commission for the Arts shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Commission Members and staff may briefly respond to statements made or questions posed by the Commission for the Arts or by members of the public addressing the Commission for the Arts. Commission Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

19. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

19.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

19.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Commission Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Commission Members present.

19.3 Public Comment for a Continued Item

If the opportunity for the public to address the Commission for the Arts has concluded and the item was returned to the Commission for the Arts for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Commission for the Arts. [54955].

20. Consideration of items after 11:00 p.m.

20.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Commissioners present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Commission Member.

20.2. No New Items Considered after 11:00 p.m.

Generally, the Commission for the Arts will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

20.3 Exceptions

The Commission for the Arts may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Commission for the Arts votes to allow consideration of the item after 11:00 p.m.

21. Points of Order, Privilege, and Personal Privilege

A Commission Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Commission Member considers inappropriate conduct for the meeting, such as the

failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Commission Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Commission Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Commission for the Arts' meeting, such as the inability to hear testimony because of disruption.

A Commission Member may ask for a point of personal privilege when the integrity, character, or motives of the Commission Member are called into question by a speaker; or where the welfare of the Commission for the Arts is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

22. Minutes - An account of all final actions or recommendations of the Commission for the Arts shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

22.1 Approval

The minutes for a~~n~~ Commission for the Arts meeting shall be reviewed and approved as set forth in this section.

a. The Commission for the Arts shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Commissioner may not approve the minutes for any meeting that the Commissioner did not attend.

Also, a Commission for the Arts Member may not approve the minutes for a meeting that they were not eligible to attend as a Commissioner.

c. If no Commissioners are eligible to approve the minutes for a Commission for the Arts meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

22.2 Preferred Method of Recordation and Minutes

Commission for the Arts liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Commission for the Arts meetings shall be action minutes that capture the

action taken by the Commission for the Arts and the outcome of each agenda item.

22.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

23. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

23.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

23.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Commission for the Arts on any item of interest to the public that is within the Commission for the Arts' subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Commission for the Arts when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

23.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Commission for the Arts discussion. Examples of items for the consent calendar include the approval of minutes. Any Commission for the Arts Member may pull an item for separate discussion. Members of the public may address the Commission for the Arts on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Commission for the Arts by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Commission Member interests.

23.4. Matters for Consideration

This portion of the agenda is for items of business that require Commission for the Arts action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

23.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

23.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Commission for the Arts' consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Commission for the Arts for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Commission for the Arts questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Commission for the Arts.

e. Make an oral report, unless waived by the Commission for the Arts.

23.4.3 Commission for the Arts Questions or Comments

Following the staff presentation, the Commission Members may ask questions of City staff and consultants or make comments on the item.

23.4.4 Participating Parties

Following Commission Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Commission. After the Chair determines that no other participating parties wish to address the Commission for the Arts on the item, the Chairperson will then invite Commission Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Commission for the Arts following the procedures set forth in Section 23 Citizens' Rights.

23.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Commission for the Arts concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Commission for the Arts on the item. Public speakers shall address the Commission for the Arts following the procedures set forth in Section

23.4.6 ~~—~~Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Commission for the Arts on the item, the Chairperson will formally close the public comment period and return the item to the Commission for the Arts for deliberation.

23.4.7 Deliberation

Once an item of business returns to the Commission for the Arts for deliberation, the Chairperson will invite the Commission Members to discuss the item to develop concurrence for a motion. Commission Members may ask questions of staff and the participating parties as part of their deliberations.

23.4.8. Commission for the Arts Action

After Commission for the Arts deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Commission for the Arts may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Commission for the Arts has discretion to decide not to hear further comment if they choose. Public speakers shall address the Commission for the Arts following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Commission for the Arts shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Commission for the Arts shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

23.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Commission for the Arts to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Commissioner attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Commission for the Arts and to seek direction from the Commission for the Arts concerning items to be included on future agendas.

c. The Commission for the Arts to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum;.

d. The Commission for the Arts to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Commission action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Commission for the Arts during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

23.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Commission for the Arts meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Commission for the Arts during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Commission for the Arts.

24. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

24.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

24.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Commission for the Arts on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Commission for the Arts following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizen's forum or opportunity for the public to address the Commission for the Arts on any item of interest to the public that is within the Commission for the Arts' subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

24.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Commission for the Arts may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

24.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

25. Citizens' Rights

A Commission for the Arts Meeting meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Commission for the Arts and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Commission for the Arts on any item of interest to the public that is within the Commission for the Arts' subject matter jurisdiction. Members of the public also have the right to address the Commission for the Arts before the Commission for the Arts considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Commission for the Arts Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Commission for the Arts concerning any

item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Commission for the Arts are as follows:

25.1 Addressing the Commission for the Arts

Members of the public that want to address the Commission for the Arts during citizens forum or before the Commission for the Arts considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Commission for the Arts will be described at each meeting. The staff liaison will prominently display the methods to address the Commission for the Arts in the William H. Mendenhall Community Room.

Before an item is considered by the Commission for the Arts, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Commission for the Arts begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Commission for the Arts' meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Commission for the Arts' successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

25.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

25.3 Members of the Public Addressing the Commission for the Arts

25.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Commission for the Arts. When calling a speaker to the lectern the next two speakers will also be identified so they are prepared to address the Commission for the Arts when called.

25.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Commission for the Arts. A speaker is not required to provide his or her name or address to address the Commission for the Arts. However, to the extent such information is relevant to the issues being considered by the Commission for the Arts, the absence of such information may bear on the speaker's credibility and the weight the Commission for the Arts affords the speaker's comments.

25.3.3 Speakers shall address their comments only to the Commission for the Arts as a body and not to a particular member.

25.3.4 Members of the public may only address the Commission for the Arts from the lectern. No member of the public, other than the speaker at the lectern, may address the Commission for the Arts, unless called upon by the Chairperson.

25.3.5 No question shall be asked of Commission Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Commission Member, except through the Chairperson. Commission Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

25.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Commission for the Arts' meeting.

25.3.7 Speakers are encouraged to avoid repetition.

25.3.8 Speakers are encouraged to avoid making personal attacks.

25.3.9 Each speaker shall relinquish the lectern when his or her time to address the Commission for the Arts has expired.

25.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Commission for the Arts in a non-disruptive manner, provided those activities are completed within the allotted time. The City will not provide the means for a speaker to play an electronic recording.

25.3.11 When called upon during citizen's forum, speakers may address the Commission for the Arts on any item of interest to the public within the Commission for the Arts' subject matter jurisdiction. [54954.3(a)].

25.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Commission for the Arts. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

25.4 Participating Parties Addressing the Commission for the Arts

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Commission for the Arts, except that the participating parties shall each have up to a maximum of 10 minutes to address the Commission for the Arts. The Chairperson may set and announce the time limit for each active participant to address the Commission for the Arts based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

25.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Commission for the Arts, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

25.6 Disruptive Speech and Conduct

Any person unduly disrupting a Commission for the Arts meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Commission for the Arts, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Commission for the Arts to complete its business.

25.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

25.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Commission for the Arts through the Commission for the Arts Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Commission for the Arts Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

25.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Commission for the Arts using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available

to the public and the Commission for the Arts immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Commission for the Arts in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Innovation and Economic Development Department before 12:00 p.m. noon on the day of the Commission for the Arts meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Commission for the Arts meeting, any member of the public that desires to submit materials to the Commission for the Arts for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the Commission for the Arts at its meeting when the item is considered.

25.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

25.8 Approaching the Commission for the Arts

Once a meeting is called to order, no member of the public shall enter the area between the Commission and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Commission Members and City staff.

26. Commission for the Arts Deliberation

Commission for the Arts deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

27. Motions

27.1 Making a Motion

A motion may be made by the Chairperson or a Commission Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Commission Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the

Commission Member wishes to make the motion, subject to another Commission Member's second.

27.2 Categories of Motions

There are four categories of motions that the Commission for the Arts may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Commission Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Commission for the Arts. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Commission's Attorney.

27.3 Simultaneous Motions

The Commission for the Arts may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Commission for the Arts have been resolved. When two or three motions are before the Commission for the Arts, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Commission for the Arts should focus on the last motion made. Once the vote on

the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be on the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

27.4 Debatable and Non-debatable Motions

Debatable motions are subject to Commission Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Commission Member comment and discussion and are to be voted on immediately.

27.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Commission Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

27.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Commission's deliberations and, upon receipt of a second, should be voted on immediately. The Commission's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Commission for the Arts to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Commission for the Arts to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Commission for the Arts to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Commission for the Arts at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Commission Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Commission for the Arts at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Commission for the Arts deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Commission for the Arts as provided for in Section 10(g) Motion to Be Stated.

27.5 Miscellaneous Motions and Appeals

27.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Commission for the Arts may be made as follows: (1) The motion must be made by a Commission Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Commission Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

27.5.2 Commission Member Appeal

Any Commission Member may appeal any ruling by the Chairperson. If a Commission Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, “Shall the decision of the Chair be sustained?”

28. Action and Direction

28.1 Votes, General Rules

Unless otherwise provided, the Commission for the Arts’ actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Commission Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Commission Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Commission. The Chairperson's name shall be called last with other Commission Members' names called in alphabetical order by the staff liaison. Commission Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Commission Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Commission Member's silence or abstention is tabulated.

28.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Commission Member absence, and the absent Commission Member does not have a conflict of interest related to the item being voted on, the Commission for the Arts may continue the item to a subsequent meeting when the absent Commission Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Commission for the Arts and an appeal could be submitted for final decision by the City Council.

28.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Commission for the Arts' actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of nine and may diminish accountability of Commission Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Commission Member's right to choose not to speak or vote on an item.

If any Commission Member wishes to abstain from voting on a motion, the Commission Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the

item, in which case the minutes will reflect that the Commission Member abstained from the vote.

If the Commission Member does not announce an abstention when the item of business is first called for consideration, or the Commission Member participates in the consideration of the item, and the Commission Member's abstains during the vote, then that Commission Member's vote shall be tabulated in favor of the motion.

Silence of any Commission Member shall be tabulated along with the majority of the votes cast by the Commission Members present and voting on the motion since the silent Commission Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order-, Revised 2011 for counting votes with regard to abstentions and silence by a Commission Member.

28.4 Protests

Any Commission Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

29. Appeals ~~to the Commission for the Arts~~

Applicants for Mini Grant awards may appeal a decision by the commission as described in Resolution No. 2016-007, A Resolution to Approve Updates to the Art in Public Places Program Policy and Procedures Manual. Applicants wishing to appeal the Commission's Mini Grant awards must submit their appeal in written form to the Innovation and Economic Development Department within one business week after notification of application denial has been sent.

A special appeals panel consisting of members of the Commission for the Arts will weigh eligible appeals. The appeals panel will report its findings to the Commission. If an applicant is dissatisfied with the Panel's resolution of its appeal, the applicant may address its appeal further to the Commission for the Arts.

An applicant who disagrees with the Commission's recommendation to not fund its Project and Program Grant application may attend the City Council meeting and provide input to the Council regarding the Commission's recommendation for that Project and Program Grant.

Appeals from decisions of the Commission for the Arts shall appear on the City Council agenda for discussion. Council has the options of affirming the action of the Commission, modifying the action of the Commission, referring the matter back to the Commission, or reversing the decision, unless otherwise required or provided by law.

CITY OF LIVERMORE
GENERAL PLAN ADVISORY COMMITTEE
RULES OF PROCEDURE

Prepared by the City Clerk's Office
April 2022

CITY OF LIVERMORE

GENERAL PLAN ADVISORY COMMITTEE

RULES OF PROCEDURE

1. Duties and Responsibilities

   The City Council declares that the individuals appointed to the General Plan Advisory Committee are intended to represent and further the interest of the community and long-term vision of the city and that such representation and furtherance will ultimately serve the public interest.

   The General Plan Advisory Committee shall have the following duties and responsibilities:

   a. Provide input and feedback to City staff at specific intervals throughout the development of the General Plan update; and

   b. Provide information to and serve as liaison to the community and respective groups;and

   c. Provide input and feedback to City staff on General Plan update efforts and conditions; and

   d. Provide feedback to City staff on proposed General Plan goals, policies, and objectives.

   City Staff will share feedback gathered from the Committee with the Planning Commission and City Council as part of those body's deliberations and decisions.

2. Members

   The General Plan Advisory Committee shall consist of nineteen (19) members, all of whom shall reside and/or work in Livermore. The Committee will be comprised of community members who represent a broad spectrum of individuals in the Livermore community.

3. Intentionally Deleted

4. Term Limits

   The General Plan Advisory Committee is a limited duration committee that will serve until the City Council adopts the General Plan Update.

5. Attendance Policy

Attendance of Committee members is mandatory at all meetings. Members who are unable to attend a meeting must notify the staff liaison of their absence prior to the meeting. A Committee member will be subject to removal after three absences. The staff liaison will document all absences and report to the City Clerk when a member of the Committee has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Committee is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Committee rests solely with the City Council.~~The Committee may request that the City Council remove any members who miss more than three meetings per year. The final decision to remove a member from the Committee rests solely with the City Council.~~

6. Elections and Officers

The General Plan Advisory Committee shall elect a Chairperson and a Vice Chairperson at the first meeting, and annually at the last meeting of the year thereafter. Election of the officers shall be by a majority vote of the General Plan Advisory Committee. The role of the officers shall be as follows:

a. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

b. Vice Chairperson – The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

c. Presiding Officer – In the absence of the Chairperson and Vice Chairperson, the members present shall select a Presiding Officer.

7. Meetings

The Committee will convene beginning in Fall 2021. Meetings shall be held at 7:00 pm on the second Wednesday of the month at the ~~Civic Center Meeting Hall, Mendenhall Room (unless otherwise posted), or virtually if Covid-19 restrictions prohibit the ability for the public to attend in person. Specific dates are to be determined.~~William Mendenhall Community Room, at 1016 South Livermore Avenue. All meetings shall be open to the public. The General Plan Advisory Committee may not meet in closed session. Committee members may not participate in a meeting remotely, via teleconference or videoconference.~~The Committee may cancel or convene special meetings subject to noticing and posting requirements, provided below.~~

8. Agenda Preparation and Posting - The staff liaison shall post the notices and agendas for each General Plan Advisory Committee meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

~~8.~~ a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]~~Agendas shall be prepared in accordance with the requirements of the Brown Act. Regular meeting agendas shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a meeting.~~

b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Committee Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956].~~Notice of the call for a special meeting must be provided to the media and posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting.~~

9. Minutes of Proceedings

An account of all proceedings ~~summary~~ of the General Plan Advisory Committee meetings shall be prepared by the staff liaison, agendized, and approved by the General Plan Advisory Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes.

10. Quorum

Ten members constitute a quorum of the General Action Plan Advisory Committee. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next scheduled meeting of the General Plan Advisory Committee if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

11. Conduct at Meetings

a. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the General Plan Advisory Committee.

b. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, the City Council Rules of Procedure, Rosenberg's Rules of Order (see Appendix A), General Plan Advisory Committee Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order and Parliamentary Procedures. The General Plan Advisory Committee shall not take a sealed ballot vote.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order, and the Committee Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Committee Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the General Plan Advisory Committee or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the General Plan Advisory Committee later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

~~c.~~g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the General Plan Advisory Committee and announce the result of the vote and identify the no votes and any Committee Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record, and report roll call votes. [54953(b)(2) and (c)(2)].

12. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the General Plan Advisory Committee on subjects which are and are not listed on the

agenda and are within the subject matter jurisdiction of the General Plan Advisory Committee. The Chairperson may establish time limits per individual speaker. The General Plan Advisory Committee shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the General Plan Advisory Committee, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future General Plan Advisory Committee agenda.

13. Subcommittees

The General Plan Advisory Committee shall not form standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings) without prior City Council approval. Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

14. Staff Support

The head of the department responsible for supporting the General Plan Advisory Committee shall designate one or more employees to serve as staff liaison to the General Plan Advisory Committee. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the General Plan Advisory Committee in performing its duties. The Staff Liaison shall have no voting authority.

Committee Members must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Committee may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Committees. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The General Plan Advisory Committee shall meet in the William H. Mendenhall Community Room for all regular Committee meetings. The regular meetings shall

begin on the second Wednesday of the month at 7:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the General Plan Advisory Committee shall meet at a date and time designated by the Committee.

15.2 Special Meetings

Special meetings may be called by the Committee Chair, the Committee liaison or by a majority of Committee members. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The General Plan Advisory Committee may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The General Plan Advisory Committee may meet informally in special meetings designated as workshops that are called by the Chairperson, the Committee liaison, or by a majority of Committee Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The General Plan Advisory Committee may provide direction, but unlike other special meetings the General Plan Advisory Committee may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the General Plan Advisory Committee may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Committee liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the General Plan Advisory Committee's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The General Plan Advisory Committee shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Committee Members and staff may briefly respond to statements made or questions posed by the General Plan Advisory Committee or by members of the

public addressing the General Plan Advisory Committee. Committee Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Committee Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Committee Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the General Plan Advisory Committee has concluded and the item was returned to the General Plan Advisory Committee for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the General Plan Advisory Committee. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Committee members present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Committee Member.

18.2 No New Items Considered after 11:00 p.m.

Generally, the General Plan Advisory Committee will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The General Plan Advisory Committee may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The General Plan Advisory Committee votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Committee Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Committee Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Committee Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Committee Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the General Plan Advisory Committee's meeting, such as the inability to hear testimony because of disruption.

A Committee Member may ask for a point of personal privilege when the integrity, character, or motives of the Committee Member are called into question by a speaker; or where the welfare of the General Plan Advisory Committee is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the General Plan Advisory Committee shall be prepared by the staff liaison and approved by the Committee. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Committee consideration and approval as action minutes

20.1 Approval

The minutes for a General Plan Advisory Committee meeting shall be reviewed and approved as set forth in this section.

a. The General Plan Advisory Committee shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A General Plan Advisory Committee member may not approve the minutes for any meeting that the Committee member did not attend.

Also, a General Plan Advisory Committee member may not approve the minutes for a meeting that they were not eligible to attend as a committee member.

c. If no Committee members are eligible to approve the minutes for a General Plan Advisory Committee meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

General Plan Advisory Committee liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of General Plan Advisory Committee meetings shall be action minutes that capture the action taken by the General Plan Advisory Committee and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the General Plan Advisory Committee on any item of interest to the public that is within the General Plan Advisory Committee's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the General Plan Advisory Committee when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require General Plan Advisory Committee discussion. Examples of items for the consent calendar include the approval of minutes. Any General Plan Advisory Committee member may pull an item for separate discussion. Members of the public may address the General Plan Advisory Committee on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the General Plan Advisory Committee by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Committee Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require General Plan Advisory Committee action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the General Plan Advisory Committee's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the General Plan Advisory Committee for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the General Plan Advisory Committee questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the General Plan Advisory Committee.

e. Make an oral report, unless waived by the General Plan Advisory Committee.

21.4.3 General Plan Advisory Committee Questions or Comments

Following the staff presentation, the Committee Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Committee Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Committee. After the Chair determines that no other participating parties wish to address the General Plan Advisory Committee on the hearing item, the Chairperson will then invite Committee Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the General Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the General Plan Advisory Committee concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the General Plan Advisory Committee on the item. Public speakers shall address the General Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the General Plan Advisory Committee on the hearing item, the Chairperson will formally close the public comment period and return the item to the General Plan Advisory Committee for deliberation.

21.4.6 Deliberation

Once an item of business returns to the General Plan Advisory Committee for deliberation, the Chairperson will invite the Committee Members to discuss the item to develop concurrence for a motion. Committee Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. General Plan Advisory Committee Action

After General Plan Advisory Committee deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the General Plan Advisory Committee may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to

comment on the motion; and the General Plan Advisory Committee has discretion to decide not to hear further comment if they choose. Public speakers shall address the General Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the General Plan Advisory Committee shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the General Plan Advisory Committee shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the General Plan Advisory Committee to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Committee member attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the General Plan Advisory Committee and to seek direction from the General Plan Advisory Committee concerning items to be included on future agendas.

c. The General Plan Advisory Committee to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The General Plan Advisory Committee to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Committee action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the General Plan Advisory Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the General Plan Advisory Committee meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the General Plan Advisory Committee during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the General Plan Advisory Committee.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the General Plan Advisory Committee on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the General Plan Advisory Committee following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the General Plan Advisory Committee on any item of interest to the public that is within the General Plan Advisory Committee's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The General Plan Advisory Committee may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A General Plan Advisory Committee meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the General Plan Advisory Committee and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the General Plan Advisory Committee on any item of interest to the public that is within the General Plan Advisory Committee's subject matter jurisdiction. Members of the public also have the right to address the General Plan Advisory Committee before the General Plan Advisory Committee considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, General Plan Advisory Committee Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the General Plan Advisory Committee concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the General Plan Advisory Committee are as follows:

23.1 Addressing the General Plan Advisory Committee

Members of the public that want to address the General Plan Advisory Committee during citizens forum or before the General Plan Advisory Committee considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the General Plan Advisory Committee will be described at each meeting. The staff liaison will prominently display the methods to address the General Plan Advisory Committee in the William H. Mendenhall Community Room.

Before an item is considered by the General Plan Advisory Committee, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the General Plan Advisory Committee begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the General Plan Advisory Committee's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another General Plan Advisory Committee members successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the General Plan Advisory Committee

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the General Plan Advisory Committee. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the General Plan Advisory Committee when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the General Plan Advisory Committee. A speaker is not required to provide his or her name or address to address the General Plan Advisory Committee. However, to the extent such information is relevant to the issues being considered by the General Plan Advisory Committee, the absence of such information may bear on the speaker's credibility and the weight the General Plan Advisory Committee affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the General Plan Advisory Committee as a body and not to a particular member.

23.3.4 Members of the public may only address the General Plan Advisory Committee from the lectern. No member of the public, other than the speaker at the lectern, may address the General Plan Advisory Committee, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Committee Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Committee Member, except through the Chairperson. Committee Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the General Plan Advisory Committee's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the General Plan Advisory Committee has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the General Plan Advisory Committee in a non-disruptive manner, provided those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the General Plan Advisory Committee on any item of interest to the public within the General Plan Advisory Committee's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the General Plan Advisory Committee. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the General Plan Advisory Committee

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the General Plan Advisory Committee, except that the participating parties shall each have up to a maximum of 10 minutes to address the General Plan Advisory Committee. The Chairperson may set and announce the time limit for each active participant to address the General Plan Advisory Committee based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the General Plan Advisory Committee, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a General Plan Advisory Committee meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the General Plan Advisory Committee, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the General Plan Advisory Committee to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the General Plan Advisory Committee through the General Plan Advisory Committee Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The General Plan Advisory Committee Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the General Plan Advisory Committee using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the General Plan Advisory Committee immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the General Plan Advisory Committee in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the General Plan Advisory Committee Liaison before 12:00 p.m. noon on the day of the General Plan Advisory Committee meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the General Plan Advisory Committee meeting, any member of the public that desires to submit materials to the General Plan Advisory Committee for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the General Plan Advisory Committee at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the General Plan Advisory Committee

Once a meeting is called to order, no member of the public shall enter the area between the Committee and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a

recess, for the purpose of interacting with the individual Committee Members and City staff.

24. General Plan Advisory Committee Deliberation

General Plan Advisory Committee deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Committee Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Committee Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Committee Member wishes to make the motion, subject to another Committee Member's second.

25.2 Categories of Motions

There are four categories of motions that the General Plan Advisory Committee may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Committee Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the General Plan Advisory Committee. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it

was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Committee's Attorney.

25.3 Simultaneous Motions

The General Plan Advisory Committee may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the General Plan Advisory Committee have been resolved. When two or three motions are before the General Plan Advisory Committee, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the General Plan Advisory Committee should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Committee Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Committee Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2. Debate on a motion should continue as long as Committee Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Committee's deliberations and, upon receipt of a second, should be voted on immediately. The Committee's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the General Plan Advisory Committee to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the General Plan Advisory Committee to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the General Plan Advisory Committee to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the General Plan Advisory Committee at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Committee Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the General Plan Advisory Committee at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further General Plan Advisory Committee deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Committee as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the General Plan Advisory Committee may be made as follows: (1) The motion must be made by a Committee Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Committee Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate

due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Committee Member Appeal

Any Committee Member may appeal any ruling by the Chairperson. If a Committee Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, "Shall the decision of the Chair be sustained?"

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the General Plan Advisory Committee's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Committee Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Committee Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Committee. The Chairperson's name shall be called last with other Committee Members' names called in alphabetical order by the staff liaison. Committee Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Committee Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Committee Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Committee Member absence, and the absent Committee Member does not have a conflict of interest related to the item being voted on, the General Plan Advisory Committee may continue the item to a subsequent meeting when the absent

Committee Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the General Plan Advisory Committee and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the General Plan Advisory Committee's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of nineteen and may diminish accountability of Committee Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Committee Member's right to choose not to speak or vote on an item.

If any Committee Member wishes to abstain from voting on a motion, the Committee Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Committee Member abstained from the vote.

If the Committee Member does not announce an abstention when the item of business is first called for consideration, or the Committee Member participates in the consideration of the item, and the Committee Member's abstains during the vote, then that Committee Member's vote shall be tabulated in favor of the motion.

Silence of any Committee Member shall be tabulated along with the majority of the votes cast by the Committee Members present and voting on the motion since the silent Committee Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011 for counting votes with regard to abstentions and silence by a Committee Member.

26.4 Protests

Any Committee Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

CITY OF LIVERMORE
HISTORIC PRESERVATION COMMISSION
RULES OF PROCEDURE

Prepared by the City Clerk's Office
April 2022~~28, 2014~~

LIVERMORE
CALIFORNIA

HISTORIC PRESERVATION COMMISSION
RULES OF PROCEDURE

1. Duties and Responsibilities – The Historic Preservation Commission shall have the following duties and responsibilities:

   A. Maintain a continuing survey of all heritage resources within the city;

   B. Recommend action for the preservation of buildings, structures, sites, natural features, works of art, or similar objects which have a significant historic, cultural, architectural, archaeological, community or aesthetic value;

   C. Maintain and publish a register of all designated landmarks;

   D. Encourage public awareness of involvement in the architectural and environmental heritage of the City thorough education and interpretive programs;

   E. Explore and recommend means for protection, retention and use of any designated or potential heritage resources through either governmental or private action;

   F. Coordinate activities with the Planning Commission in order to integrate heritage resource consideration into the planning process;

   G. Recommend and encourage the protection, appreciation and use of structures of historic, architectural or aesthetic value which have not been officially designated through private efforts;

   H. When requested by any heritage resource owner, provide advice and guidance for the preservation of such heritage resource;

   I. Encourage and participate in the development of a cultural heritage element in the general plan; and

   J. Cooperate with and encourage the formation of private cultural heritage groups in the city, county, state and federal government.

K. Conduct interviews and provide recommendation to the City Council for the appointment of City Historian (Resolution 2005-233).

L. Support the goals and priorities adopted by the City Council.

2. Members – The Historic Preservation Commission shall consist of five members, all of whom must be residents of the City of Livermore. Commission members shall be appointed from among professionals in the disciplines of architecture, history, planning, archaeology, or other historic preservation-related disciplines to the extent that such professionals are available in the community. Commission membership shall also include lay members who have demonstrated special interest, competence, experience or knowledge in historic preservation.

3. Term limits – Historic Preservation Commission members shall serve no more than two consecutive four-year terms or a total of eight years unless the member was selected to complete an unexpired term or unless otherwise noted.

   Time served in an unexpired term shall not count against the eight-year maximum limit. Commission members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term. However, members may be appointed back to the Historic Preservation Commission after a break in service of two years.

4. Attendance Policy – Historic Preservation Commission members may miss four meetings per calendar year. A member who misses more than four meetings per year may be subject to removal from the Commission. The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration.~~The Commission may request that the City Council remove from the Commission any members who miss more than four meetings per year. The member may appeal the request for the removal to the City Council.~~ The final decision to remove a member from the Commission rests solely with the City Council.

5. Elections and Officers – The Historic Preservation Commission shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Commission. The role of the officers shall be as follows:

   A. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

B. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

C. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Historic Preservation Commission shall meet on the first Thursday of each month at 7:00 pm in the ~~City Council Chambers~~William H. Mendenhall Community Room, ~~3575 Pacific Avenue~~1016 S. Livermore Avenue, Livermore, CA. The body shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. Meetings shall begin promptly as noticed pursuant to this provision. All meetings shall be open to the public. The Commission may not meet in closed session. Commission members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Historic Preservation Commission meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Commission Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956]. ~~Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.~~

8. Minutes of Proceedings – An account of all final actions or recommendations of the Historic Preservation Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the

preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.~~An account of all proceedings of the Historic Preservation Commission shall be prepared by the staff liaison and approved by the Commission~~.

9. Quorum – Three members constitute a quorum of the Historic Preservation Commission. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Commission or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

a~~A~~. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Historic Preservation Commission.

b~~B~~. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~, Historic Preservation Commission Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c~~C~~. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~ and Parliamentary Procedures. The Historic Preservation Commission shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Commission Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Commission

Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Historic Preservation Commission or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Historic Preservation Commission later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Historic Preservation Commission and announce the result of the vote and identify the no votes and any Commission Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Historic Preservation Commission on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Commission. The Chairperson may establish time limits per individual speaker. The Commission shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Commission, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Commission agenda.

12. Subcommittees

The Historic Preservation Commission may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. City Historian

The City Historian will assist and provide resources as needed by the Historic Preservation Commission as described in Resolution 2005-233. The City Historian shall have no voting authority on the Historic Preservation Commission.

14. Staff Support and Responsibilities

The head of the department that is responsible for supporting the Historic Preservation Commission shall designate one or more employees to serve as staff liaison to the Commission. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the Commission in performing its duties and provide oversight of the City Historian. The Staff Liaison shall have no voting authority.

Commissioners must work with their assigned staff liaison and the liaison's Department Head to –obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the City resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

15. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control

16. Types of Meetings

16.1 Regular Meetings

The Historic Preservation Commission shall meet in the William H. Mendenhall Community Room for all regular Commission meetings. The regular meetings shall begin on the first Thursday of each month at 7:00 p.m, unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Historic Preservation Commission shall meet at a date and time designated by the Commission.

16.2 Special Meetings

Special meetings may be called by the Commission Chair, the Commission liaison or by a majority of Commissioners. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Historic Preservation Commission may take final action at a special meeting that is not a workshop.

16.3 Special Meeting Workshops

The Historic Preservation Commission may meet informally in special meetings designated as workshops that are called by the Chairperson, the Commission liaison, or by a majority of Commission Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Historic Preservation Commission may provide direction, but unlike other special meetings the Historic Preservation Commission may not take a final action at a workshop. [54956].

16.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Historic Preservation Commission may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Commission liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Historic Preservation Commission's annual calendar. [54955]

17. Actions Limited to Posted Agendas

The Historic Preservation Commission shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Commission Members and staff may briefly respond to statements made or questions posed by the Historic Preservation Commission or by members of the public addressing the Historic Preservation Commission. Commission Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

18. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

18.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

18.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Commission Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Commission Members present.

18.3 Public Comment for a Continued Item

If the opportunity for the public to address the Historic Preservation Commission has concluded and the item was returned to the Historic Preservation Commission for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Historic Preservation Commission. [54955].

19. Consideration of items after 11:00 p.m.

19.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Commissioners present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Commission Member.

19.2. No New Items Considered after 11:00 p.m.

Generally, the Historic Preservation Commission will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

19.3 Exceptions

The Historic Preservation Commission may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Historic Preservation Commission votes to allow consideration of the item after 11:00 p.m.

20. Points of Order, Privilege, and Personal Privilege

A Commission Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Commission Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Commission Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Commission Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Historic Preservation Commission's meeting, such as the inability to hear testimony because of disruption.

A Commission Member may ask for a point of personal privilege when the integrity, character, or motives of the Commission Member are called into question by a speaker; or where the welfare of the Historic Preservation Commission is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

21. Minutes - The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

21.1 Approval

The minutes for an Historic Preservation Commission meeting shall be reviewed and approved as set forth in this section.

a. The Historic Preservation Commission shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. An Historic Preservation Commissioner may not approve the minutes for any meeting that the Commissioner did not attend.

Also, an Historic Preservation Commissioner may not approve the minutes for a meeting that they were not eligible to attend as a commissioner.

c. If no Commissioners are eligible to approve the minutes for an Historic Preservation Commission meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

21.2 Preferred Method of Recordation and Minutes

Historic Preservation Commission liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Historic Preservation Commission meetings shall be action minutes that capture the action taken by the Historic Preservation Commission and the outcome of each agenda item.

21.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

22. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

22.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

22.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Historic Preservation Commission on any item of interest to the public that is within the Historic Preservation Commission's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Historic Preservation Commission when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

22.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Historic Preservation Commission discussion. Examples of items for the consent calendar include the approval of minutes. Any Historic Preservation Commissioner may pull an item for separate discussion. Members of the public may address the Historic Preservation Commission on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Historic Preservation Commission by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Commission Member interests.

22.4. Matters for Consideration

This portion of the agenda is for items of business that require Historic Preservation Commission action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

22.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

22.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Historic Preservation Commission's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Historic Preservation Commission for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Historic Preservation Commission questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Historic Preservation Commission.

e. Make an oral report, unless waived by the Historic Preservation Commission.

22.4.3 Historic Preservation Commission Questions or Comments

Following the staff presentation, the Commission Members may ask questions of City staff and consultants or make comments on the item.

22.4.4 Participating Parties

Following Commission Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Commission. After the Chair determines that no other participating parties wish to address the Historic Preservation Commission on the hearing item, the Chairperson will then invite Commission Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Historic Preservation Commission following the procedures set forth in Section 23 Citizens' Rights.

22.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Historic Preservation Commission concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Historic Preservation Commission on the item. Public speakers shall address the Historic Preservation Commission following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Historic Preservation Commission on the hearing item, the Chairperson will formally close the public comment period and return the item to the Historic Preservation Commission for deliberation.

22.4.6 Deliberation

Once an item of business returns to the Historic Preservation Commission for deliberation, the Chairperson will invite the Commission Members to discuss the item to develop concurrence for a motion. Commission Members may ask questions of staff and the participating parties as part of their deliberations.

22.4.7. Historic Preservation Commission Action

After Historic Preservation Commission deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Historic Preservation Commission may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Historic Preservation Commission has discretion to decide not to hear further comment if they choose. Public speakers shall address the Historic Preservation Commission following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Historic Preservation Commission shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Historic Preservation Commission shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

22.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Historic Preservation Commission to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Commissioner attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Historic Preservation Commission and to seek direction from the Historic Preservation Commission concerning items to be included on future agendas.

c. The Historic Preservation Commission to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Historic Preservation Commission to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Commission action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Historic Preservation Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

22.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Historic Preservation Commission meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Historic Preservation Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Historic Preservation Commission.

23. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

23.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

23.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Historic Preservation Commission on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Historic Preservation Commission following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Historic Preservation Commission on any item of interest to the public that is within the Historic Preservation Commission's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

23.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Historic Preservation Commission may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

23.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

24. Citizens' Rights

An Historic Preservation Commission meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Historic Preservation Commission and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Historic Preservation Commission on any item of interest to the public that is within the Historic Preservation Commission's subject matter jurisdiction. Members of the public also have the right to address the Historic Preservation Commission before the Historic Preservation Commission considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Historic Preservation Commission Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Historic Preservation Commission concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Historic Preservation Commission are as follows:

24.1 Addressing the Historic Preservation Commission

Members of the public that want to address the Historic Preservation Commission during citizens forum or before the Historic Preservation Commission considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Historic Preservation Commission will be described at each meeting. The staff liaison will prominently display the methods to address the Historic Preservation Commission in the William H. Mendenhall Community Room.

Before an item is considered by the Historic Preservation Commission, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Historic Preservation Commission begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Historic Preservation Commission's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Historic Preservation Commissioner's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

24.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

24.3 Members of the Public Addressing the Historic Preservation Commission

24.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Historic Preservation Commission. When calling a speaker to the lectern the next two speakers will also be identified so they are prepared to address the Historic Preservation Commission when called.

24.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Historic Preservation Commission. A speaker is not required to provide his or her name or address to address the Historic Preservation Commission. However, to the extent such information is relevant to the issues being considered by the Historic Preservation Commission, the absence of such information may bear on the speaker's credibility and the weight the Historic Preservation Commission affords the speaker's comments.

24.3.3 Speakers shall address their comments only to the Historic Preservation Commission as a body and not to a particular member.

24.3.4 Members of the public may only address the Historic Preservation Commission from the lectern. No member of the public, other than the speaker at

the lectern, may address the Historic Preservation Commission, unless called upon by the Chairperson.

24.3.5 No question shall be asked of Commission Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Commission Member, except through the Chairperson. Commission Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

24.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Historic Preservation Commission's meeting.

24.3.7 Speakers are encouraged to avoid repetition.

24.3.8 Speakers are encouraged to avoid making personal attacks.

24.3.9 Each speaker shall relinquish the lectern when his or her time to address the Historic Preservation Commission has expired.

24.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Historic Preservation Commission in a non-disruptive manner, provided those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

24.3.11 When called upon during citizen's forum, speakers may address the Historic Preservation Commission on any item of interest to the public within the Historic Preservation Commission's subject matter jurisdiction. [54954.3(a)].

24.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Historic Preservation Commission. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

24.4 Participating Parties Addressing the Historic Preservation Commission

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Historic Preservation Commission, except that the participating parties shall each have up to a maximum of 10 minutes to address the Historic Preservation Commission. The Chairperson may set and announce the time limit for each active participant to address the Historic Preservation Commission based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

24.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Historic Preservation Commission, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

24.6 Disruptive Speech and Conduct

Any person unduly disrupting an Historic Preservation Commission meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Historic Preservation Commission, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Historic Preservation Commission to complete its business.

24.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

24.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Historic Preservation Commission through the Historic Preservation Commission Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Historic Preservation Commission Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

24.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Historic Preservation Commission using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Historic Preservation Commission immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the

meeting to the Historic Preservation Commission in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Historic Preservation Commission Liaison before 12:00 p.m. noon on the day of the Historic Preservation Commission meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Historic Preservation Commission meeting, any member of the public that desires to submit materials to the Historic Preservation Commission for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the Historic Preservation Commission at its meeting when the item is considered.

24.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

24.8 Approaching the Historic Preservation Commission

Once a meeting is called to order, no member of the public shall enter the area between the Commission and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Commission Members and City staff.

25. Historic Preservation Commission Deliberation

Historic Preservation Commission deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

26. Motions

26.1 Making a Motion

A motion may be made by the Chairperson or a Commission Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Commission Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if

the Commission Member wishes to make the motion, subject to another Commission Member's second.

26.2 Categories of Motions

There are four categories of motions that the Historic Preservation Commission may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Commission Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Historic Preservation Commission. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Commission's Attorney.

26.3 Simultaneous Motions

The Historic Preservation Commission may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Historic Preservation Commission have been resolved. When two or three motions are before the Historic Preservation Commission, after motions and seconds, the first vote will be on the last motion made. Generally, the

discussion when a motion is before the Historic Preservation Commission should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

26.4 Debatable and Non-debatable Motions

Debatable motions are subject to Commission Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Commission Member comment and discussion, and are to be voted on immediately.

26.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 26.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Commission Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

26.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Commission's deliberations and, upon receipt of a second, should be voted on immediately. The Commission's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Historic Preservation Commission to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Historic Preservation Commission to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Historic Preservation Commission to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Historic Preservation Commission at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Commission Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Historic Preservation Commission at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Historic Preservation Commission deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Commission as provided for in Section 10(g) Motion to Be Stated.

26.5 Miscellaneous Motions and Appeals

26.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Historic Preservation Commission may be made as follows: (1) The motion must be made by a Commission Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Commission Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

26.5.2 Commission Member Appeal

Any Commission Member may appeal any ruling by the Chairperson. If a Commission Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, “Shall the decision of the Chair be sustained?”

27. Action and Direction

27.1 Votes, General Rules

Unless otherwise provided, the Historic Preservation Commission's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Commission Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Commission Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Commission. The Chairperson's name shall be called last with other Commission Members' names called in alphabetical order by the staff liaison. Commission Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Commission Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Commission Member's silence or abstention is tabulated.

27.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Commission Member absence, and the absent Commission Member does not have a conflict of interest related to the item being voted on, the Historic Preservation Commission may continue the item to a subsequent meeting when the absent Commission Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Historic Preservation Commission and an appeal could be submitted for final decision by the City Council.

27.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Historic Preservation Commission's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of five and may diminish accountability of Commission Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Commission Member's right to choose not to speak or vote on an item.

If any Commission Member wishes to abstain from voting on a motion, the Commission Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Commission Member abstained from the vote.

If the Commission Member does not announce an abstention when the item of business is first called for consideration, or the Commission Member participates in the consideration of the item, and the Commission Member's abstains during the vote, then that Commission Member's vote shall be tabulated in favor of the motion.

Silence of any Commission Member shall be tabulated along with the majority of the votes cast by the Commission Members present and voting on the motion since the silent Commission Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order-, Revised 2011 for counting votes with regard to abstentions and silence by a Commission Member.

27.4 Protests

Any Commission Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

28. Appeals

Any decision of the Community Development Director, Department staff, and Historic Preservation Commission regarding eligibility of planning permit decisions may be appealed to the Planning Commission and then to the City Council, as outlined in Chapter 9.15 Appeals of the Livermore Development Code.~~.~~

CITY OF LIVERMORE
HUMAN SERVICES COMMISSION
RULES OF PROCEDURE

Prepared by the City Clerk's Office
April 2022~~September 2010~~

LIVERMORE
CALIFORNIA

HUMAN SERVICES COMMISSION
RULES OF PROCEDURE

1. Duties and Responsibilities – The Human Services Commission shall have the following duties and responsibilities:

   a. ~~A.~~ Provide advice to the City Council regarding community needs that the Multi-Service Center should address, the types of services the Multi-Service Center should or should not provide, and tenant agencies that might be allocated space in the Multi-Service Center.

   b. ~~B.~~ Advise the City Council and/or the director of the Multi-Service Center regarding building policies, including but not limited to priorities of needs to be served and activities to be instituted or terminated. Recommend to the City Council policies governing the Multi-Service Center consistent with City policies. Assist in informing the citizenry of the Multi-Service Center's existence and the services it provides.

   c. ~~C.~~ Assure compliance with the Citizen Participation requirements of the Housing and Community Development Act of 1974 and with Title II of the Cranston-Gonzales National Affordable Housing Act of 1990. This includes providing opportunities to the public to comment on all documentation relating to the implementation of these acts; informing the citizens of the amount of funds available for disbursement, eligible activities that may be financed by these acts, appropriate regulations under which funds can be disbursed, and procedures and criteria to apply for and potentially receive funding from the City; reviewing and commenting on activities funded under these acts; articulating the needs of the low income community; and acting as the vehicle for citizen input in the development of the application or any major amendments.

   d. ~~D.~~ Serve as the primary advisory body to the City Council on social conditions in the community, particularly for those residents who are of low and moderate income, communicating community reactions to proposed Council actions, making recommendations to the City Council on legislation perceived to affect human needs and social conditions and, to the degree possible, achieving consensus within the community regarding goals and priorities.

e. ~~E.~~ Promote and provide a forum for citizens to discuss social conditions and human needs within the community, including airing concerns, collecting pertinent information, evaluating appropriate action steps, and furnishing the City Council with appropriate reports and recommendations.

f. ~~F.~~ Support the City and non-profit agencies in their efforts to procure grants from public and private sources for meeting social needs in the community.

g. ~~G.~~ Advise the City Council of social needs within the community that will affect the delivery of human services and unaddressed needs.

h. ~~H.~~ Advise the City Council regarding expenditure of funding from the US Department of Housing and Community and Urban Development. This will include but is not limited to entitlements received within the Community Development Block Grant (CDBG) Program and the HOME Investment Partnership Program (HOME).

i. ~~I.~~ Support the goals and priorities adopted by the City Council.

2. Members – The Human Services Commission shall consist of nine members, all of whom shall be residents of the City of Livermore.

3. Term limits – Human Services Commission members shall serve no more than two consecutive four-year terms or a total of eight years, unless the member was selected to complete an unexpired term or unless otherwise noted.

   Time served in an unexpired term shall not count against the eight-year maximum limit. Advisory body members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term. However, members may be appointed back to the Human Services Commission after a break in service of two years.

4. Attendance Policy – Human Services Commission members may miss four meetings per calendar year. A member who misses more than four meetings per year may be subject to removal from the Commission. The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Commission rests solely with the City Council. ~~The Commission may request that the City Council remove from the Commission any members who miss more than four meetings~~

~~per year. The member may appeal the request for the removal to the City Council. The final decision to remove a member from the Commission rests solely with the City Council.~~

5. Elections and Officers – The Human Services Commission shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Commission. The role of the officers shall be as follows:

   a. ~~A.~~ Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   b. ~~B.~~ Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

   c. ~~C.~~ Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Human Services Commission shall meet on the second Tuesday of each month at 7:00 p.m. at the ~~Multi-Service Center~~William H. Mendenhall Community Room, ~~3311 Pacific Avenue~~1016 S. Livermore Avenue, Livermore, CA. The body shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. Meetings shall begin promptly as noticed pursuant to this provision. All meetings shall be open to the public. The Commission may not meet in closed session. Commission members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Human Services Commission meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

   a. Regular Meetings

   Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

   b. Special Meetings and Workshops

   Notice of the call for a special meeting must be delivered and received by each Commission Member and the media at least 24 hours before the special meeting

and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956]. ~~Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.~~

8. Minutes of Proceedings – An account of all proceedings of the Human Services Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

9. Quorum – Five members constitute a quorum of the Human Services Commission. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Commission or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

a. ~~A.~~ All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Human Services Commission.

b. ~~B.~~ General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~, Human Services Commission Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c. ~~C.~~ Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~ and Parliamentary Procedures. The Human Services Commission shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Commission Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Commission Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Human Services Commission or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Human Services Commission later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Human Services Commission and announce the result of the vote and identify the no votes and any Commission Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record, and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Human Services Commission on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Commission. The Chairperson may establish time limits per individual speaker. The Commission shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Commission, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Commission agenda.

12. Subcommittees

The Human Services Commission may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department that is responsible for supporting the Human Services Commission shall designate one or more employees to serve as staff liaison to the Commission. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the Commission in performing its duties. The Staff Liaison shall have no voting authority.

Commissioners must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body andthat do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Human Services Commission shall meet in the William H. Mendenhall Community Room for all regular Commission meetings. The regular meetings shall begin on the second Tuesday of each month at 7:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Human Services Commission shall meet at a date and time designated by the Commission.

15.2 Special Meetings

Special meetings may be called by the Commission Chair, the Commission liaison or by a majority of Commissioners. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Human Services Commission may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Human Services Commission may meet informally in special meetings designated as workshops that are called by the Chairperson, the Commission liaison, or by a majority of Commission Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Human Services Commission may provide direction, but unlike other special meetings the Human Services Commission may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Human Services Commission may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Commission liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Human Services Commission's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Human Services Commission shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Commission Members and staff may briefly respond to statements made or questions posed by the Human Services Commission or by members of the public addressing the Human Services Commission. Commission Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Commission Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Commission Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Human Services Commission has concluded and the item was returned to the Human Services Commission for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Human Services Commission. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Commissioners present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Commission Member.

18.2. No New Items Considered after 11:00 p.m.

Generally, the Human Services Commission will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Human Services Commission may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Human Services Commission votes to allow consideration of the item after 11:00 p.m.

19 Points of Order, Privilege, and Personal Privilege

A Commission Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Commission Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Commission Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Commission Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Human Services Commission's meeting, such as the inability to hear testimony because of disruption.

A Commission Member may ask for a point of personal privilege when the integrity, character, or motives of the Commission Member are called into question by a speaker; or where the welfare of the Human Services Commission is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Human Services Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as action minutes.

20.1 Approval

The minutes for a Human Services Commission meeting shall be reviewed and approved as set forth in this section.

a. The Human Services Commission shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Human Services Commissioner may not approve the minutes for any meeting that the Commissioner did not attend.

Also, a Human Services Commissioner may not approve the minutes for a meeting that they were not eligible to attend as a Commissioner.

c. If no Commissioners are eligible to approve the minutes for a Human Services Commission meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Human Services Commission liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Human Services Commission meetings shall be action minutes that capture the action taken by the Human Services Commission and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Human Services Commission on any item of interest to the public that is within the Human Services Commission's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Human Services Commission when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Human Services Commission discussion. Examples of items for the consent calendar include the approval of minutes. Any Human Services Commissioner may pull an item for separate discussion. Members of the public may address the Human Services Commission on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Human Services Commission by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Commission Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Human Services Commission action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Human Services Commission's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Human Services Commission for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Human Services Commission questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Human Services Commission.

e. Make an oral report, unless waived by the Human Services Commission.

21.4.3 Human Services Commission Questions or Comments

Following the staff presentation, the Commission Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Commission Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Commission. After the Chair determines that no other participating parties wish to address the Human Services Commission on the hearing item, the Chairperson will then invite Commission Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Human Services Commission following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Human Services Commission concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Human Services Commission on the item. Public speakers shall address the Human Services Commission following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Human Services Commission on the hearing item, the Chairperson will formally close the public comment period and return the item to the Human Services Commission for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Human Services Commission for deliberation, the Chairperson will invite the Commission Members to discuss the item to develop concurrence for a motion. Commission Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Human Services Commission Action

After Human Services Commission deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Human Services Commission may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Human Services Commission has discretion to decide not to hear further comment if they choose. Public speakers shall address the Human Services Commission following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Human Services Commission shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Human Services Commission shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Human Services Commission to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Commissioner attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Human Services Commission and to seek direction from the Human Services Commission concerning items to be included on future agendas.

c. The Human Services Commission to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Human Services Commission to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Commission action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Human Services Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Human Services Commission meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Human Services Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Human Services Commission.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Human Services Commission on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Human Services Commission following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Human Services Commission on any item of interest to the public that is within the Human Services Commission's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Human Services Commission may

take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

An Human Services Commission meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Human Services Commission and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Human Services Commission on any item of interest to the public that is within the Human Services Commission's subject matter jurisdiction. Members of the public also have the right to address the Human Services Commission before the Human Services Commission considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Human Services Commission Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Human Services Commission concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Human Services Commission are as follows:

23.1 Addressing the Human Services Commission

Members of the public that want to address the Human Services Commission during citizens forum or before the Human Services Commission considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Human Services Commission will be described at each meeting. The staff liaison will prominently display the methods to address the Human Services Commission in the William H. Mendenhall Community Room.

Before an item is considered by the Human Services Commission, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Human

Services Commission begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Human Services Commission's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Human Services Commissioner's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Human Services Commission

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Human Services Commission. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Human Services Commission when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Human Services Commission. A speaker is not required to provide his or her name or address to address the Human Services Commission. However, to the extent such information is relevant to the issues being considered by the Human Services Commission, the absence of such information may bear on the speaker's credibility and the weight the Human Services Commission affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Human Services Commission as a body and not to a particular member.

23.3.4 Members of the public may only address the Human Services Commission from the lectern. No member of the public, other than the speaker at the lectern, may address the Human Services Commission, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Commission Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a

Commission Member, except through the Chairperson. Commission Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Human Services Commission's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Human Services Commission has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Human Services Commission in a non-disruptive manner, provided those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Human Services Commission on any item of interest to the public within the Human Services Commission's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Human Services Commission. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Human Services Commission

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Human Services Commission, except that the participating parties shall each have up to a maximum of 10 minutes to address the Human Services Commission. The Chairperson may set and announce the time limit for each active participant to address the Human Services Commission based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Human Services Commission, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute

and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Human Services Commission meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Human Services Commission, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Human Services Commission to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Human Services Commission through the Human Services Commission Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Human Services Commission Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Human Services Commission using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Human Services Commission immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Human Services Commission in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Human Services Office before 12:00 p.m. noon on the day of the Human Services Commission meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Human Services

Commission meeting, any member of the public that desires to submit materials to the Human Services Commission for consideration at that meeting is hereby instructed to present 9 copies of the materials to the staff liaison for distribution to the Human Services Commission at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Human Services Commission

Once a meeting is called to order, no member of the public shall enter the area between the Commission and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Commission Members and City staff.

24. Human Services Commission Deliberation

Human Services Commission deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Commission Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Commission Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Commission Member wishes to make the motion, subject to another Commission Member's second.

25.2 Categories of Motions

There are four categories of motions that the Human Services Commission may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Commission Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Human Services Commission. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Commission's Attorney.

25.3 Simultaneous Motions

The Human Services Commission may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Human Services Commission have been resolved. When two or three motions are before the Human Services Commission, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Human Services Commission should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Commission Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Commission Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Commission Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Commission's deliberations and, upon receipt of a second, should be voted on immediately. The Commission's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Human Services Commission to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Human Services Commission to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Human Services Commission to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Human Services Commission at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Commission Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a

scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Human Services Commission at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Human Services Commission deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Human Services as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Human Services Commission may be made as follows: (1) The motion must be made by a Commission Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Commission Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Commission Member Appeal

Any Commission Member may appeal any ruling by the Chairperson. If a Commission Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, “Shall the decision of the Chair be sustained?”

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Human Services Commission’s actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Commission Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Commission Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Commission. The Chairperson's name shall be called last with other Commission Members' names called in alphabetical order by the staff liaison. Commission Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Commission Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Commission Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Commission Member absence, and the absent Commission Member does not have a conflict of interest related to the item being voted on, the Human Services Commission may continue the item to a subsequent meeting when the absent Commission Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Human Services Commission and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Human Services Commission's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of nine and may diminish accountability of Commission Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Commission Member's right to choose not to speak or vote on an item.

If any Commission Member wishes to abstain from voting on a motion, the Commission Member must announce the abstention when the item of business is

first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Commission Member abstained from the vote.

If the Commission Member does not announce an abstention when the item of business is first called for consideration, or the Commission Member participates in the consideration of the item, and the Commission Member's abstains during the vote, then that Commission Member's vote shall be tabulated in favor of the motion.

Silence of any Commission Member shall be tabulated along with the majority of the votes cast by the Commission Members present and voting on the motion since the silent Commission Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011 for counting votes with regard to abstentions and silence by a Commission Member.

26.4 Protests

Any Commission Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

CITY OF LIVERMORE
LIBRARY BOARD OF TRUSTEES
RULES OF PROCEDURE

Prepared by the City Clerk's Office
April 2022~~September 2010~~

LIVERMORE
CALIFORNIA

LIBRARY BOARD OF TRUSTEES
RULES OF PROCEDURE

1. Duties and Responsibilities – The Library Board of Trustees shall have the following duties and responsibilities:

   a. ~~A.~~ Carry out all duties, including preparation of an annual report, as required by the California Education Code.

   b. ~~B.~~ Serve as advocates for the library, within the community and the state.

   c. ~~C.~~ Know the programs and needs of the library in relation to the community and keep abreast of standards and library trends, assist the librarian in planning the library program, and support the librarian and staff in carrying out said programs.

   d. ~~D.~~ Assist in establishing financial support for library programs.

   e. ~~E.~~ Assist in the preparation of the annual budget.

   f. ~~F.~~ Know local and state laws and actively support library legislation in the state and nation.

   g. ~~G.~~ Assist in establishing library policies dealing with the library collection.

   h. ~~H.~~ Support the goals and priorities adopted by the City Council.

2. Members – The Library Board of Trustees shall consist of five members, all of whom shall be residents of the City of Livermore.

3. Term limits – Library Board of Trustees members shall serve no more than three consecutive three-year terms or a total of nine years unless the member was selected to complete an unexpired term or unless otherwise noted.

   Time served in an unexpired term shall not count against the nine-year maximum limit. Board members who have already completed nine years of service or other specified maximum terms are not eligible for appointment to an unexpired term. However, members may be appointed back to the Library Board after a break in service of two years.

4. Attendance Policy – Library Board of Trustees members may miss three meetings per calendar year. A member who misses more than three meetings per year may be subject to removal from the Board. The staff liaison will document all absences and report to the City Clerk when a member of the Board has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Board is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Board rests solely with the City Council.~~The Board may request that the City Council remove from the Board any members who miss more than three meetings per year. The member may appeal the request for the removal to the City Council. The final decision to remove a member from the Board rests solely with the City Council.~~

5. Elections and Officers – The Library Board of Trustees shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Board. The role of the officers shall be as follows:

   a. ~~A.~~ Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   b. ~~B.~~ Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

   c. ~~C.~~ Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Library Board of Trustees shall meet on the fourth Thursday of each month at 7:00 p.m. in the ~~Community Library~~William H. Mendenhall Community Room, ~~1188 South Livermore Avenue~~1016 S. Livermore Avenue, Livermore, CA. The body shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. Meetings shall begin promptly as noticed to this provision. All meetings shall be open to the public. The Board may not meet in closed session. Board members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Library Board meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Board member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956]. ~~Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.~~

8. Minutes of Proceedings – An account of all proceedings of the Library Board of Trustees shall be prepared by the staff liaison and approved by the Board. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Board consideration and approval as action minutes.

9. Quorum – Three members constitute a quorum of the Library Board of Trustees. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Board or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

a. ~~A.~~ All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Library Board of Trustees.

b. ~~B.~~ General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~, Library Board of Trustees Rules of Procedure and City policies. The

Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c. ~~C.~~ Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~ and Parliamentary Procedures. The Library Board of Trustees shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Board Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal,verbal attacks on Board Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Library Board or members of the City staff. The Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Library Board later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Library Board and announce the result of the vote and identify the no votes and any Board Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record, and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Library Board of Trustees on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Board. The Chairperson may establish time limits per individual speaker. The Board shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the

Chairperson, with the concurrence of a majority of the Board, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Board agenda.

12. Subcommittees

The Library Board of Trustees may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department that is responsible for supporting the Library Board of Trustees shall designate one or more employees to serve as staff liaison to the Board. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the Board in performing its duties. The Staff Liaison shall have no voting authority.

Board Members must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Board may pursue self-initiated projects that can be accomplished utilizing the city resources currently allocated to the particular advisory body and that do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Library Board shall meet in the William H. Mendenhall Community Room for all regular Board meetings. The regular meetings shall begin on the fourth Thursday of each month at 7:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Library Board shall meet at a date and time designated by the Board.

15.2 Special Meetings

Special meetings may be called by the Board Chair, the Board liaison or by a majority of Board members. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Library Board may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Library Board may meet informally in special meetings designated as workshops that are called by the Chairperson, the Board liaison, or by a majority of Board Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Library Board may provide direction, but unlike other special meetings the Library Board may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Library Board may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Board liaison, or majority of Board Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Library Board's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Library Board shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Board Members and staff may briefly respond to statements made or questions posed by the Library Board or by members of the public addressing the Library Board. Board Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Board Member, or a participating party as defined in Section 21.4.4 Participating Parties may request a continuance of the item. The item may only be continued following a majority vote of the Board Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Library Board has concluded and the item was returned to the Library Board for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Library Board. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Board Members present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Board Member.

18.2. No New Items Considered after 11:00 p.m.

Generally, the Library Board will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Library Board may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Library Board votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Board Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Board Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Board Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Board Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Library Board's meeting, such as the inability to hear testimony because of disruption.

A Board Member may ask for a point of personal privilege when the integrity, character, or motives of the Board Member are called into question by a speaker; or where the welfare of the Library Board is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Library Board shall be prepared by the staff liaison and approved by the Board. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Board consideration and approval as action minutes

20.1 Approval

The minutes for a Library Board meeting shall be reviewed and approved as set forth in this section.

a. The Library Board shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Library Board Member may not approve the minutes for any meeting that the Board Member did not attend.

Also, a Library Board Member may not approve the minutes for a meeting that they were not eligible to attend as a Board Member.

c. If no Board Members are eligible to approve the minutes for a Library Board meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Library Board liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Library Board meetings shall be action minutes that capture the action taken by the Library Board and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Library Board on any item of interest to the public that is within the Library Board's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Library Board when that item is called for consideration.

Citizen's forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Library Board discussion. Examples of items for the consent

calendar include the approval of minutes. Any Library Board Member may pull an item for separate discussion. Members of the public may address the Library Board on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Library Board by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Board Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Library Board action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Library Board's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Library Board for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Library Board questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Library Board.

e. Make an oral report, unless waived by the Library Board.

21.4.3 Library Board Questions or Comments

Following the staff presentation, the Board Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Board Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Board. After the Chair determines that no other participating parties wish to address the Library Board on the hearing item, the Chairperson will then invite Board Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Library Board following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Library Board concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Library Board on the item. Public speakers shall address the Library Board following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Library Board on the hearing item, the Chairperson will formally close the public comment period and return the item to the Library Board for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Library Board for deliberation, the Chairperson will invite the Board Members to discuss the item to develop concurrence for a motion. Board Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Library Board Action

After Library Board deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Library Board may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Library Board has discretion to decide not to hear further comment if they choose. Public speakers shall address the Library Board following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Library Board shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Library Board shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Library Board to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Board Member attended at the City's expense [53232.2(d)].

b. The city staff to provide information of community interest to the Library Board and to seek direction from the Library Board concerning items to be included on future agendas.

c. The Library Board to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum.

d. The Library Board to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Board action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Library Board during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Library Board meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Library Board during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Library Board.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Library Board on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Library Board following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Library Board on any item of interest to the public that is within the Library Board's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Library Board may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A Library Board meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Library Board and to attend its meetings. During the

citizens forum portion of a regular meeting agenda, members of the public have a right to address the Library Board on any item of interest to the public that is within the Library Board's subject matter jurisdiction. Members of the public also have the right to address the Library Board before the Library Board considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Library Board Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Library Board concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Library Board are as follows:

23.1 Addressing the Library Board

Members of the public that want to address the Library Board during citizens forum or before the Library Board considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Library Board will be described at each meeting. The staff liaison will prominently display the methods to address the Library Board in the William H. Mendenhall Community Room.

Before an item is considered by the Library Board, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Library Board begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Library Board's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Library Board Member's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to

specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Library Board

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Library Board. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Library Board when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Library Board. A speaker is not required to provide his or her name or address to address the Library Board. However, to the extent such information is relevant to the issues being considered by the Library Board, the absence of such information may bear on the speaker's credibility and the weight the Library Board affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Library Board as a body and not to a particular member.

23.3.4 Members of the public may only address the Library Board from the lectern. No member of the public, other than the speaker at the lectern, may address the Library Board, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Board Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Board Member, except through the Chairperson. Board Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Library Board's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Library Board has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Library Board in a non-disruptive manner, provided

those activities are completed within the allotted time. The city will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Library Board on any item of interest to the public within the Library Board's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Library Board. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Library Board

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Library Board, except that the participating parties shall each have up to a maximum of 10 minutes to address the Library Board. The Chairperson may set and announce the time limit for each active participant to address the Library Board based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Library Board, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Library Board meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Library Board, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Library Board to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Library Board through the Library Board Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Library Board Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Library Board using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Library Board immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Library Board in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Library Board before 12:00 p.m. noon on the day of the Library Board meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Library Board meeting, any member of the public that desires to submit materials to the Library Board for consideration at that meeting is hereby instructed to present 8 copies of the materials to the staff liaison for distribution to the Library Board at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Library Board

Once a meeting is called to order, no member of the public shall enter the area between the Board and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Board Members and City staff.

24. Library Board Deliberation

Library Board deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Board Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Board Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Board Member wishes to make the motion, subject to another Board Member's second.

25.2 Categories of Motions

There are four categories of motions that the Library Board may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Board Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Library Board. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic

motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Board's Attorney.

25.3 Simultaneous Motions

The Library Board may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Library Board have been resolved. When two or three motions are before the Library Board, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Library Board should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Board Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Board Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Board Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Board's deliberations and, upon receipt of a second, should be voted on immediately. The Board's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Library Board to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Library Board to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Library Board to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Library Board at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Board Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Library Board at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Library Board deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Library Board as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Library Board may be made as follows: (1) The motion must be made by a Board Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Board Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Board Member Appeal

Any Board Member may appeal any ruling by the Chairperson. If a Board Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, "Shall the decision of the Chair be sustained?"

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Library Board's actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Board Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Board Member may, before the "Nays" are called for, demand that a roll call vote be taken on the motion before the Board. The Chairperson's name shall be called last with other Board Members' names called in alphabetical order by the staff liaison. Board Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Board Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Board Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Board Member absence, and the absent Board Member does not have a conflict of interest related to the item being voted on, the Library Board may continue the item to a subsequent meeting when the absent Board Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the

agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Library Board and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Library Board's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of five and may diminish accountability of Board Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Board Member's right to choose not to speak or vote on an item.

If any Board Member wishes to abstain from voting on a motion, the Board Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the item, in which case the minutes will reflect that the Board Member abstained from the vote.

If the Board Member does not announce an abstention when the item of business is first called for consideration, or the Board Member participates in the consideration of the item, and the Board Member's abstains during the vote, then that Board Member's vote shall be tabulated in favor of the motion.

Silence of any Board Member shall be tabulated along with the majority of the votes cast by the Board Members present and voting on the motion since the silent Board Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order, Revised 2011 for counting votes with regard to abstentions and silence by a Board Member.

26.4 Protests

Any Board Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

CITY OF LIVERMORE
LIVERMORE HOUSING AUTHORITY
RULES OF PROCEDURE

Prepared by the City Clerk's Office
April 2022~~September 2010~~

LIVERMORE
CALIFORNIA

LIVERMORE HOUSING AUTHORITY
RULES OF PROCEDURE

1. Duties and Responsibilities – The Livermore Housing Authority shall have the following duties and responsibilities:

   A. The Livermore Housing Authority administers and oversees the low-income housing units at Leahy Square. Additionally, the Authority oversees the Section Eight Voucher Program for subsidized housing. The Authority may also contract with the City of Livermore and other governmental agencies to oversee transitional housing or affordable housing programs.

   B. Support the goals and priorities adopted by the City Council.

2. Members – The Livermore Housing Authority shall consist of seven members, all of whom must be residents of the City of Livermore. Two of the members must be current Housing Authority tenants. (Health & Safety Code 34270)

3. Term limits – Members shall serve no more than two consecutive four-year terms or a total of eight years, unless the member was selected to complete an unexpired term or unless otherwise noted.

   Time served in an unexpired term shall not count against the eight-year maximum limit. Authority members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term. However, members may be appointed back to the Housing Authority after a break in service of two years.

4. Attendance Policy – Livermore Housing Authority members may miss three meetings per calendar year. A member who misses more than three meetings per year may be subject to removal from the Authority. The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Commission rests solely with the City Council. ~~The Authority may request that the City Council~~

~~remove from the Authority any members who miss more than three meetings per year. The member may appeal the request for the removal to the City Council. The final decision to remove a member from the Authority rests solely with the City Council.~~

5. Elections and Officers – The Livermore Housing Authority shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Authority. The role of the officers shall be as follows:

   A. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   B. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

   C. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

   D. Secretary – the Secretary shall be the Executive Director of the Livermore Housing Authority and, as Executive Director, shall have general supervision over the administration of its business and affairs, subject to the direction of the Authority. The Secretary shall be charged with the management of the housing projects of the Authority.

      The Secretary shall keep the records of the Livermore Housing Authority, shall act as secretary of the meetings of the Authority and record all votes, keep a record of the proceedings of the Authority, and perform all duties incident to the office. The Secretary shall keep in a safe custody the seal of the Authority and shall have power to affix such seal to all contracts and instruments authorized to be executed by the Authority.

      The Secretary shall have the care and custody of all funds of the Authority and shall deposit the same in the name of the Authority in such bank or banks as the Authority may select. The Secretary shall normally sign all orders and checks for the payment of money and shall pay out and disburse such money under the direction of the Authority. The Secretary shall keep regular books of accounts showing receipts and expenditures and shall render to the Authority, at each regular meeting (or oftener when requested), an account of his/her transactions and also of the financial condition of the Authority. The Secretary shall give such bond for the faithful performance of his/her duties as the Authority may determine.

      The compensation of the Secretary shall be determined by the Authority, provided that a temporary appointee selected from among the members of

the Authority shall serve without compensation (other than the payment of necessary expenses).

6. Meetings – The Livermore Housing Authority shall meet on the second Wednesday of each month at 5:30 p.m. at 3203 Leahy Way, Livermore, CA. Meetings shall begin promptly as noticed pursuant to this provision. All meetings shall be open to the public.

7. Agenda Preparation and Posting – Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.

8. Minutes of Proceedings – An account of all proceedings of the Livermore Housing Authority shall be prepared by the staff liaison and approved by the Authority.

9. Quorum – Four members constitute a quorum of the Livermore Housing Authority. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Authority or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

    A. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Livermore Housing Authority.

    B. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act, Robert's Rules of Order, Livermore Housing Authority Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to legal counsel and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

C. Voting on Items – Voting on items shall be in accordance with Robert's Rules of Order and Parliamentary Procedures. The Livermore Housing Authority shall not take a sealed ballot vote in open session.

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Livermore Housing Authority on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Authority. The Chairperson may establish time limits per individual speaker. The Authority shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments but the Chairperson, with the concurrence of a majority of the Authority, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Authority agenda.

12. Subcommittees

The Chairperson may establish an Executive Committee composed of the Chairperson, Vice Chairperson and one other Commissioner and an alternate. The Executive Committee may take action for the Livermore Housing Authority between regular meetings if such action cannot await action of the full Authority. However, such actions must be submitted for approval to the full Authority at its next regular business meeting. The Executive Committee may also review business items prior to any meeting for recommendations to the full Authority.

The Chairperson shall appoint a Finance Committee which shall make budget and investment recommendations to the full Authority and shall review Authority financial transactions on a quarterly basis.

13. Staff Support

The Secretary shall be appointed by the Livermore Housing Authority. Any person appointed to fill the office of Secretary, or any vacancy therein, shall have such term as the Authority fixes, but no member of the Authority shall be eligible to this office except as a temporary appointee.

The Authority may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the Housing Authorities Law, as amended, of California and all other laws of the State of California applicable thereto. The selection and compensation of such personnel (including the Secretary) shall be determined by the Authority subject to the laws of the State of California.

CITY OF LIVERMORE
PLANNING COMMISSION
RULES OF PROCEDURE

Prepared by the City Clerk's Office

CITY OF LIVERMORE
PLANNING COMMISSION
RULES OF PROCEDURE

1. Duties and Responsibilities – The Planning Commission shall have the following duties and responsibilities:

   The Planning Commission shall have the powers imposed upon city planning commissions by Government Code section 65000 et. seq., incorporated by reference. In addition, the Planning Commission shall have the following duties and responsibilities:

   A. Advise the City Council in the adoption and maintenance of a comprehensive General Plan for the physical growth and development of the city. Such plan shall reflect the future goals of the City and, after its adoption by the City Council, shall represent the City's policy on matters of physical growth. It shall also serve to guide the general location of future public facilities and improvements and to aid in the encouragement and regulation of private development;

   B. Serve as an advisory body to the City Council on matters related to City growth and development and on such matters as may be requested by the Council;

   C. Promote public interest in planning and encourage citizen participation in the formulation of land use policies;

   D. Engage in a program of acquainting the public with the problems and alternate solutions relating to the local physical environment:

   E. Make recommendations to the City Council on final legislative decisions such as amendments to the General Plan, Development Code or Zoning Map;

   F. Make recommendations and take final actions on development projects regarding conformance with codes, land use compatibility and design review;

   G. Interpret and implement the City's Development Code;

H. Interpret and implement the City's Design Standards and Guidelines, and

I. Support the goals and priorities adopted by the City Council.

2. Members – The Planning Commission shall consist of five members, all of whom shall be residents of the City of Livermore.

3. Term limits – Planning Commission members shall serve no more than two consecutive four-year terms or a total of eight years unless the member was selected to complete an unexpired term or unless otherwise noted.

   Time served in an unexpired term shall not count against the eight-year maximum limit. Commission members who have already completed eight years of service or other specified maximum terms are not eligible for appointment to an unexpired term. However, members may be appointed back to an advisory body after a break in service from that body of two years.

4. Attendance Policy – Planning Commission members may miss six meetings per calendar year. A member who misses more than six meetings per year may be subject to removal from the Commission. ~~The Commission may request that the City Council remove from the Commission any members who miss more than six meetings per year. The member may appeal the request for the removal to the City Council.~~ The staff liaison will document all absences and report to the City Clerk when a member of the Commission has exceeded the allowed number of absences. The City Clerk will notify the City Council with a memo explaining the circumstances of the absences and the City Council will determine if an agenda item is needed to consider whether removal from the Commission is appropriate. The member will have the opportunity to speak at a City Council meeting when removal is under consideration. The final decision to remove a member from the Commission rests solely with the City Council.

5. Elections and Officers – The Planning Commission shall elect a chairperson and a vice chairperson at the first meeting held after January 1st of each year. Election of the officers shall be by majority vote of the Commission. The role of the officers shall be as follows:

   a~~A~~. Chairperson – The Chairperson shall preside at all regular meetings and may call special meetings. The Chairperson shall decide upon all points of order and procedure during the meeting.

   b~~B~~. Vice Chairperson - The Vice Chairperson shall assume all duties of the Chairperson in the absence or disability of the Chairperson.

c~~C~~. Presiding Officer – In the absence of the Chairperson or Vice Chairperson, the members present shall select a Presiding Officer.

6. Meetings – The Planning Commission shall meet on the first and third Tuesday of each month at 7:00 p.m. at the ~~City Council Chambers~~Civic Center Meeting Hall at~~,~~ ~~3575 Pacific Avenue~~1016 S. Livermore Avenue, Livermore, California and occasional special meetings as required to fulfill the Commission's duties and responsibilities. The body shall adopt an annual meeting calendar listing all regular meetings for the calendar year. The calendar shall be published on the City's website. ~~-~~Meetings shall begin promptly as noticed pursuant to this provision. All meetings shall be open to the public. The Commission may not meet in closed session. The Commission members may not participate in a meeting remotely, via teleconference or videoconference.

7. Agenda Preparation and Posting – The staff liaison shall post the notices and agendas for each Planning Commission meeting in the kiosk in front of City Hall, the Kiosk in front of the Civic Center Meeting Hall, and on the City's website.

a. Regular Meetings

Agendas shall be prepared in accordance with the requirements of the Brown Act and shall be posted in a location that is freely accessible to members of the public at least 72 hours in advance of a regular meeting. The agenda shall specify the time and location of the meeting and contain a brief description of each item of business to be transacted or discussed at the meeting. [54954.2]

b. Special Meetings and Workshops

Notice of the call for a special meeting must be delivered and received by each Commission Member and the media at least 24 hours before the special meeting and must be posted at least 24 hours before the special meeting date. The agenda shall specify the time and location of the meeting, contain a brief description of each item of business to be transacted or discussed at the meeting, and state who called the special meeting. [54956]. ~~Agendas for special meetings shall be prepared and posted in accordance with the requirements of the Brown Act.~~

8. Minutes of Proceedings – An account of all final actions or recommendations of the Planning Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as summary minutes.~~An account of all proceedings of the Planning Commission shall be prepared by the staff liaison and approved by the Commission~~.

9. Quorum – Three members constitute a quorum of the Planning Commission. A quorum of the members must be present to conduct any business. In the absence of a quorum at a meeting, the meeting must be adjourned. The matters listed on the agenda shall be taken up at the next regularly scheduled meeting of the Commission or scheduled for a special meeting if deemed necessary. A meeting may also be declared adjourned in advance, if absence notifications received by staff create a lack of a quorum. Cancellations of meetings must comply with the requirements of the Brown Act.

10. Conduct at Meetings

a~~A~~. All meetings shall be held in accordance with City policies and the Brown Act Open Meeting Laws (Government Code, Sections 54950 and following). Only items listed on the agenda may be considered by the Planning Commission.

b~~B~~. General Conduct of Meetings – Points of order shall be settled by the Chairperson. Points of order shall comply with the Brown Act Rosenberg's Rules of Order, Revised 2011~~, Robert's Rules of Order~~, Planning Commission Rules of Procedure and City policies. The Chairperson will consult with staff as necessary. Unresolved issues shall be referred to the City Attorney and continued to a future meeting. Any member desiring to speak must first be recognized by the Chairperson and shall confine any remarks to the subject under consideration.

c~~C~~. Voting on Items – Voting on items shall be in accordance with Rosenberg's Rules of Order, Revised 2011~~Robert's Rules of Order~~ and Parliamentary Procedures. The Planning Commission shall not take a sealed ballot vote in open session.

d. Call to Order - The Chairperson shall call the meeting to order at the appointed time. If both the Chairperson and the Vice Chairperson are absent, then the staff liaison shall call the meeting to order and the Commission Members present shall then select a presiding officer for that meeting.

e. Preservation of Order - The Chairperson shall preserve strict order and decorum, and shall discourage personal, verbal attacks on Commission Members, staff, and/or citizens, but shall not prohibit criticisms of the policies, procedures, programs, or services of the City, or of the acts or omissions of the Planning Commission or members of the City staff. The

Chairperson shall confine debate to the item under discussion. [36813, 38638, 54954.3, 54957.9].

f. Reordering of Agenda - The Chairperson may reorder the items on the agenda for a noticed meeting to accommodate members of the public who wish to speak on an agenda item that would otherwise be considered by the Planning Commission later in the meeting. The Chairperson shall announce the reorder prior to calling members of the public to speak during citizens forum.

g. Motion to be Stated - The Chairperson shall state all motions submitted for a vote by the Planning Commission and announce the result of the vote and identify the no votes and any Commission Members that abstained or recused themselves from the vote. No action shall be taken by secret ballot, but electronic tabulation may be used to record and report roll call votes. [54953(b)(2) and (c)(2)].

11. Citizens' Forum/Public Comments

Every agenda shall provide the opportunity for members of the public to address the Planning Commission on subjects which are not listed on the agenda and are within the subject matter jurisdiction of the Commission. The Chairperson may establish time limits per individual speaker. The Commission shall not discuss nor take action on subjects raised under Citizens' Forum/Public Comments; but the Chairperson, with the concurrence of a majority of the Commission, may direct staff to place subjects raised under Citizens' Forum/Public Comments on a future Commission agenda.

12. Subcommittees

The Planning Commission may create standing subcommittees (those with ongoing subject-matter jurisdiction and regularly scheduled meetings). Such subcommittees shall be subject to all City policies and the requirements of the Brown Act.

13. Staff Support

The head of the department that is responsible for supporting the Planning Commission shall designate one or more employees to serve as staff liaison to the Commission. The Staff Liaison shall prepare and post the agenda, take and maintain meeting minutes, prepare other documents as directed by the Chairperson in accordance with City Council Goals and Priorities or in accordance with direction from the City Manager or City Manager's designee, and generally assist the Commission in performing its duties. The Staff Liaison shall have no voting authority.

Commissioners must work with their assigned staff liaison and the liaison's Department Head to obtain the City Council's approval before beginning any self-initiated project that will require more than 8 hours of staff time to complete that year. However, the Commission may pursue self-initiated projects that can be accomplished utilizing the City resources currently allocated to the particular advisory body andthat do not take resources away from that advisory body's anticipated work to fulfill its duties and responsibilities to the City Council.

14. Rules of Parliamentary Procedure

The City Council has adopted Rosenberg's Rules of Order, Revised 2011, as its rules of parliamentary procedure for the City Council and all Boards and Commissions. In the event of a conflict between Rosenberg's Rules of Order and these rules of procedure, these rules of procedure shall control.

15. Types of Meetings

15.1 Regular Meetings

The Planning Commission shall meet in the Civic Center Meeting Hall for all regular Commission meetings. The regular meetings shall begin on the first and third Tuesdays of each month at 7:00 p.m., unless otherwise specified by posted notice. If the meeting date falls on a legal holiday, the Planning Commission shall meet at a date and time designated by the Commission.

15.2 Special Meetings

Special meetings may be called by the Commission Chair, the Commission liaison or by a majority of Commissioners. The call and notice for a special meeting must specify the items to be considered and the date, time, and location for the meeting. [36807, 54956(a)].

The Planning Commission may take final action at a special meeting that is not a workshop.

15.3 Special Meeting Workshops

The Planning Commission may meet informally in special meetings designated as workshops that are called by the Chairperson, the Commission liaison, or by a majority of Commission Members. Workshops are special meetings intended for training purposes such as ethics training, sexual harassment prevention and education, and specific technical subjects.

Workshops are open to the public and are meetings for purposes of the Brown Act. The Planning Commission may provide direction, but unlike other special meetings the Planning Commission may not take a final action at a workshop. [54956].

15.4 Adjourned Meetings, and Adjourned Regular Meetings

Any meeting of the Planning Commission may be adjourned to a later date, time, and location, and the notice of adjournment shall be posted within 24 hours on or near the door of the place where the adjourned meeting was held. However, if the adjourned meeting is to reconvene less than 24 hours after adjournment, then a copy of the order or notice of the continuance shall be posted immediately following the meeting. [36809, 54955].

The Chairperson, Commission liaison, or majority of Members may call for an adjourned regular meeting in consultation with the City Attorney to conduct a regular meeting on a date other than on a regular meeting date on the Planning Commission's annual calendar. [54955]

16. Actions Limited to Posted Agendas

The Planning Commission shall not discuss or take action on any item not appearing on the posted notice or agenda for that meeting. However, as permitted by the Brown Act, Commission Members and staff may briefly respond to statements made or questions posed by the Planning Commission or by members of the public addressing the Planning Commission. Commission Members may ask a question of City staff or a speaker for clarification, make a brief announcement, or make a brief report on their own activities.

17. Continuance of Agenda Items

Items listed on a posted agenda should not be continued or postponed absent good cause.

17.1 Discovery of Good Cause Before an Item is Considered

If good cause to continue an item is discovered by City staff after a notice or agenda is posted but before the meeting commences, then after calling the meeting to order the Chair shall identify the item and announce that is has been continued.

17.2 Good Cause to Continue During Consideration

Once an item has been taken up for consideration, City staff, a Commission Member, or a participating party as defined in Section 21.4.4 Participating Parties

may request a continuance of the item. The item may only be continued following a majority vote of the Commission Members present.

17.3 Public Comment for a Continued Item

If the opportunity for the public to address the Planning Commission has concluded and the item was returned to the Planning Commission for deliberation before it was continued, then the opportunity for public comment on the item will not be reopened absent a motion by the Planning Commission. [54955].

18. Consideration of items after 11:00 p.m.

18.1 Canvass and Reorder

At 10:30 p.m., or as soon thereafter as practical, the Chairperson shall canvass staff and Commissioners present to identify the remaining agenda items for consideration. The Chairperson will then identify what items will be considered or continued, and in what order. Once the Chairperson outlines the balance of the agenda, it may not be amended absent an appeal by a Commission Member.

18.2. No New Items Considered after 11:00 p.m.

Generally, the Planning Commission will not begin consideration of any items on an agenda after 11:00 p.m., but may complete their consideration of an item that was commenced prior to 11:00 p.m.

18.3 Exceptions

The Planning Commission may commence consideration of an item after 11:00 p.m. under the following circumstances:

a. An item is subject to a legal deadline, such as a project application subject to the Permit Streamlining Act; or,

b. The Planning Commission votes to allow consideration of the item after 11:00 p.m.

19. Points of Order, Privilege, and Personal Privilege

A Commission Member may ask for a point of order, at which time the Chairperson will ask for an explanation. Appropriate points of order relate to matters that a Commission Member considers inappropriate conduct for the meeting, such as the failure to observe these Rules of Procedure or the rules of parliamentary procedure.

A Commission Member may seek a point of privilege. If so, the Chairperson shall ask for an explanation of the Commission Member's point. Points of privilege generally relate to matters that interfere with a normal flow or comfort of the Planning Commission's meeting, such as the inability to hear testimony because of disruption.

A Commission Member may ask for a point of personal privilege when the integrity, character, or motives of the Commission Member are called into question by a speaker; or where the welfare of the Planning Commission is concerned.

If a speaker is interrupted by a point of order, privilege, or personal privilege, the remainder of a speaker's time will be preserved by the staff liaison until the point is resolved.

20. Minutes - An account of all final actions or recommendations of the Planning Commission shall be prepared by the staff liaison and approved by the Commission. The staff liaison with input from the City Clerk, and consistent with the uniform format provided by the City Clerk, shall determine the preferred software/recording device used to capture the minutes for their advisory body meetings. Minutes shall be provided for Commission consideration and approval as summary minutes

20.1 Approval

The minutes for a Planning Commission meeting shall be reviewed and approved as set forth in this section.

a. The Planning Commission shall approve minutes for a regular meeting, special meeting, and special meeting workshops.

b. A Planning Commissioner may not approve the minutes for any meeting that the Commissioner did not attend.

Also, a Planning Commissioner may not approve the minutes for a meeting that they were not eligible to attend as a commissioner.

c. If no Commissioners are eligible to approve the minutes for a Planning Commission meeting, then the staff liaison shall attest to the accuracy of the meeting minutes and enter them into official minute books.

20.2 Preferred Method of Recordation and Minutes

Planning Commission liaisons shall take an audio recording of each meeting and keep them in accordance with the City's Records Retention Schedule. Minutes of Planning Commission meetings shall be summary minutes that capture the action taken by the Planning Commission and the outcome of each agenda item.

20.3 Staff Attendance & Development of Agenda - Staff attendance and agenda development will be determined by the staff liaison for the advisory body.

21. Order of Business – Regular Meetings

The usual order of business for regular meetings shall be as follows:

21.1. Call to Order

This portion of the agenda is for roll call and the pledge of allegiance.

21.2. Citizens Forum

This portion of the agenda is for any member of the public to address the Planning Commission on any item of interest to the public that is within the Planning Commission's subject matter jurisdiction. However, to prepare and preserve a proper administrative record, public comments concerning an item listed elsewhere on the agenda should be reserved and addressed to the Planning Commission when that item is called for consideration.

Citizens forum shall be limited to 30 minutes, usually before the consent calendar. If there are additional members of the public who wish to speak at the conclusion of the 30-minute time period, then the Chair shall reconvene the citizens forum at the conclusion of the matters for consideration portion of the agenda unless the Chair announces that citizens forum is reordered to a different place on the agenda.

The procedures for public comments during the citizens forum are set forth in Section 23 Citizens' Rights.

21.3. Consent Calendar

The consent calendar portion of the agenda is for routine items that are not expected to require Planning Commission discussion. Examples of items for the consent calendar include the approval of minutes. Any Planning Commissioner may pull an item for separate discussion. Members of the public may address the Planning Commission on consent calendar items by following the procedures set forth in Section 23 Citizens' Rights.

The items on the consent calendar are generally approved by the Planning Commission by a single motion, but separate motions may be appropriate to accommodate a conflict of interest, an absence, or other Commission Member interests.

21.4. Matters for Consideration

This portion of the agenda is for items of business that require Planning Commission action, direction, or receipt of reports that do not also require a public hearing. The procedures for this portion of the agenda follow the following procedure:

21.4.1 Introduction

The Chairperson shall call each item for hearing and consideration. If there are public hearing items, the Chairperson has the discretion to concurrently call the items for hearing and consideration.

21.4.2 Staff Presentation

A member of City staff will then:

a. Introduce themselves and the item by identifying the report and other written material included in the agenda packet for the Planning Commission's consideration, as well as any written comments received from the public.

b. Identify any supplemental written materials that have been provided to the Planning Commission for consideration, which were received or prepared for the item after the meeting agenda was published.

c. Identify any other staff members or consultants that will be part of the staff presentation or are otherwise present and available for the Planning Commission questions.

d. State whether the applicant is present and whether the applicant intends to make a presentation to the Planning Commission.

e. Make an oral report, unless waived by the Planning Commission.

21.4.3 Planning Commission Questions or Comments

Following the staff presentation, the Commission Members may ask questions of City staff and consultants or make comments on the item.

21.4.4 Participating Parties

Following Commission Member questions and comments after the staff presentation, the applicant, appellant, and other named participant in the item that is party to an agenda item (collectively "participating parties") may address the Commission. After the Chair determines that no other participating parties wish to address the Planning Commission on the hearing item, the Chairperson will then invite Commission Member questions or comments of the participating parties and staff concerning the item. Participating parties shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

21.4.5 Opportunity for Public Comment

The purpose of the public hearing is to provide members of the public with an opportunity to address the Planning Commission concerning the item, as well as to express their support or opposition of the item. The Chairperson will formally announce the opening of the public comment period and invite members of the public to address the Planning Commission on the item. Public speakers shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

After the Chairperson determines that no other member of the public wishes to address the Planning Commission on the hearing item, the Chairperson will formally close the public comment period and return the item to the Planning Commission for deliberation.

21.4.6 Deliberation

Once an item of business returns to the Planning Commission for deliberation, the Chairperson will invite the Commission Members to discuss the item to develop concurrence for a motion. Commission Members may ask questions of staff and the participating parties as part of their deliberations.

21.4.7. Planning Commission Action

After Planning Commission deliberation, the Chairperson shall call for a motion and a second as set forth in Section 25 Motions, and the Planning Commission may make such motions as set forth in that section.

If the motion seconded for consideration is substantially different than the recommended action in the published staff report, the Chairperson may invite public comments on the motion. Each speaker will be limited to one minute to comment on the motion; and the Planning Commission has discretion to decide not to hear further comment if they choose. Public speakers shall address the

Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

Prior to deliberating on matters for consideration, the Planning Commission shall receive public comment as provided for in Section 23 Citizens' Rights. After receiving public comment, the Planning Commission shall deliberate and shall receive the report, take action, or provide direction as set forth in Section 25 Motions.

21.5 Reports and Matters Initiated

This portion of the agenda is for:

a. Each member of the Planning Commission to provide brief reports on any conferences, training, community meetings, or other events of interest to the community that the Commissioner attended at the City's expense [53232.2(d)].

b. The City staff to provide information of community interest to the Planning Commission and to seek direction from the Planning Commission concerning items to be included on future agendas.

c. The Planning Commission to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during citizens forum;

d. The Planning Commission to request staff to provide information, perform studies, or undertake other administrative functions or to develop information for Commission action at a future meeting. If the requested action cannot be accomplished within the approved budget or if it will involve substantial staff resources, approval of resources would need to be provided from the City Council prior to staff completing the work.

Members of the public do not have the right to address the Planning Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

21.6 Adjournment

This portion of the agenda is for the Chairperson to adjourn the Planning Commission meeting to its next meeting. The meeting may be adjourned to a regular meeting, special meeting, special meeting workshop, adjourned regular meeting, or adjourned special meeting.

Members of the public do not have the right to address the Planning Commission during this portion of the agenda. [54954.3(a); Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors, (2005) 129 Cal.App.4th 205].

Adjournment at any other point in the meeting requires a formal motion by the Planning Commission.

22. Order of Business – Special Meetings and Workshops

No matters except those specified in the notice and agenda for a special meeting or special meeting workshop may be discussed at those meetings.

The usual order of business for special meetings and workshops shall be as follows:

22.1. Call to Order

This portion of the agenda is the same as it is for a regular meeting.

22.2. Public Comment

The purpose of this portion of the agenda is to provide the public with the opportunity to address the Planning Commission on only those items listed in the posted notice and agenda for the special meeting or workshop.

Public speakers shall address the Planning Commission following the procedures set forth in Section 23 Citizens' Rights.

However, unlike a regular meeting, the agenda for a special meeting will not include a citizens' forum or opportunity for the public to address the Planning Commission on any item of interest to the public that is within the Planning Commission's subject matter jurisdiction, unless that opportunity is expressly included in the agenda.

22.3 Special Meeting Item and Workshop Item

Generally, the procedures for this portion of the agenda follow the procedures in Section 21.4.1 Introduction, 21.4.2 Staff Presentation, 21.4.3 Questions and Comments, and 21.4.6 Deliberations. The Planning Commission may take a final action at a special meeting, but not at a workshop, as set forth in Section 15.2 Special Meetings and Section 15.3 Special Meeting Workshops

22.4 Adjournment

This portion of the agenda is the same as it is for a regular meeting.

23. Citizens' Rights

A Planning Commission meeting is a limited public forum. [78 Ops.Cal.Atty.Gen. 224 (1995); Kindt v. Santa Monica Rent Control Bd. (9th Cir. 1995) 67 F.3d 266; White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; Leventhal v. Vista Unified School District (SD Cal. 1997) 973 F.Supp. 951]. Members of the public have the right to address the Planning Commission and to attend its meetings. During the citizens forum portion of a regular meeting agenda, members of the public have a right to address the Planning Commission on any item of interest to the public that is within the Planning Commission's subject matter jurisdiction. Members of the public also have the right to address the Planning Commission before the Planning Commission considers or takes action on an item on any regular meeting agenda, except for items properly listed or considered in the Call to Order, Planning Commission Reports and Matters Initiated, and the Adjournment portions of the agenda. Members of the public shall be provided an opportunity to address the Planning Commission concerning any item that is described in the notice for special meeting workshops and special meetings. [54954.3].

The procedures for addressing public comments to the Planning Commission are as follows:

23.1 Addressing the Planning Commission

Members of the public that want to address the Planning Commission during citizens forum or before the Planning Commission considers or takes action on an item must indicate their desire by personally submitting a request to speak to the staff liaison, or his or her designee, using the methods specified by the staff liaison in the agenda for that meeting. A member of the public may not submit a request to speak on behalf of any other person. The methods for addressing the Planning Commission will be described at each meeting. The staff liaison will prominently display the methods to address the Planning Commission in the William H. Mendenhall Community Room.

Before an item is considered by the Planning Commission, the staff liaison shall identify or provide a list of the speakers to the presiding officer in the order that they are received for each agenda item. Generally, once the Planning Commission begins its consideration of an item, no additional requests to speak will be accepted absent invitation by the presiding officer.

The purpose of submitting a request to speak is to help the presiding officer conduct the Planning Commission's meetings and to complete its business in an orderly fashion. The intent is not to limit testimony. Therefore, a member of the

public will not be denied an opportunity to speak if a request to speak lacks information or because a speaker wants to remain anonymous.

Speakers who have not submitted a request to speak on time may be heard by the presiding officer's recognition or by another Planning Commissioner's successful appeal. [White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421].

23.2 Speaker Time Limit

Each advisory body, with input from the City Clerk and consistent with the uniform format provided by the City Clerk, may establish their own rules to specify the method to request, and the speaker time limits, for citizens addressing the advisory body, but the advisory body must then administer them uniformly.

23.3 Members of the Public Addressing the Planning Commission

23.3.1 A list of people who have requested to speak shall be used to call each speaker to address the Planning Commission. When calling a speaker to the lectern the next two speakers will also be identified so, they are prepared to address the Planning Commission when called.

23.3.2 The Chairperson may request each speaker to state his or her name and city of residence before addressing the Planning Commission. A speaker is not required to provide his or her name or address to address the Planning Commission. However, to the extent such information is relevant to the issues being considered by the Planning Commission, the absence of such information may bear on the speaker's credibility and the weight the Planning Commission affords the speaker's comments.

23.3.3 Speakers shall address their comments only to the Planning Commission as a body and not to a particular member.

23.3.4 Members of the public may only address the Planning Commission from the lectern. No member of the public, other than the speaker at the lectern, may address the Planning Commission, unless called upon by the Chairperson.

23.3.5 No question shall be asked of Commission Members by a speaker, except through the Chairperson. No question shall be asked of a speaker by a Commission Member, except through the Chairperson. Commission Members, the Chairperson, and the speaker are not obligated to answer any questions asked. The Chairperson may refer questions to staff for a brief answer while the speaker is at the lectern.

23.3.6 Speakers shall not use their time to unduly disrupt the orderly conduct of the Planning Commission's meeting.

23.3.7 Speakers are encouraged to avoid repetition.

23.3.8 Speakers are encouraged to avoid making personal attacks.

23.3.9 Each speaker shall relinquish the lectern when his or her time to address the Planning Commission has expired.

23.3.10 A speaker may use his or her allotted time to read letters or other documents, play electronic recordings at a non-amplified volume, or otherwise present information to the Planning Commission in a non-disruptive manner, provided those activities are completed within the allotted time. The City will not provide the means for a speaker to play an electronic recording.

23.3.11 When called upon during citizen's forum, speakers may address the Planning Commission on any item of interest to the public within the Planning Commission's subject matter jurisdiction. [54954.3(a)].

23.3.12 When called upon to provide public comment on a specific item of business on the agenda, speakers shall focus their comments on that specific item of business before the Planning Commission. [54954.3(a); White v. City of Norwalk, (9th Cir. 1990) 900 F.2d 1421; 78 Ops.Cal.Atty.Gen 224 (1995)].

23.4 Participating Parties Addressing the Planning Commission

Participating parties shall comply with the procedures set forth in Section 23 Citizens' Rights when addressing the Planning Commission, except that the participating parties shall each have up to a maximum of 10 minutes to address the Planning Commission. The Chairperson may set and announce the time limit for each active participant to address the Planning Commission based upon the same criteria set forth in Section 23.2 Speaker Time Limit.

23.5 Public Criticism

Public criticism of the City's policies, procedures, programs, or services, or of the acts or omissions of the Planning Commission, shall not be prohibited. However, the rights of each speaker to express his or her views is not absolute and nothing in these rules of procedure are intended to confer any privilege or protection for expression beyond that otherwise provided by law. [54954.3].

23.6 Disruptive Speech and Conduct

Any person unduly disrupting a Planning Commission meeting may be requested by the Chairperson to leave the meeting. The Chairperson shall discourage demonstrations before the Planning Commission, such as applauding or booing. Upon instructions by the Chairperson, a Sergeant-at-Arms may be called for the purpose of removing any person who, in the Chairperson's judgment, has disrupted the meeting. [36813, 38638, 54954.3, 54957.9, Penal Code 403]. When possible, the Chairperson is encouraged to use alternative means, such as direction to speakers to avoid disruption or by taking a recess to review these rules with the speaker, to avoid disruptions to allow the Planning Commission to complete its business.

23.7 Written Communications – Post Hearing Notice, and Post Agenda Publication

23.7.1 Submitted after the hearing notice, but before the Agenda Publication.

Any member of the public may submit written comments and materials to the Planning Commission through the Planning Commission Liaison. All written comments and materials must be submitted between the date public hearing notices are published (10 days prior to the meeting) and noon on the day before agenda publication (3 days prior to the meeting). The Planning Commission Liaison shall deliver all written comments and materials received by 12:00 p.m. the day before agenda publication as part of the agenda packet for the posted agenda.

23.7.2 Submitted Post Agenda Publication.

Any member of the public may submit electronic comments to the Planning Commission using the electronic submission process the staff liaison specifies and makes available on the City's website within the timeframe provided on the agenda. Any additional attachments can be submitted directly to the staff liaison. All comments submitted using the staff liaison's electronic process will be available to the public and the Planning Commission immediately upon submission. The staff liaison shall post on the City's website and deliver any additional materials received by 12:00 p.m. the day of the meeting to the Planning Commission in a supplemental packet prior to the meeting.

Physical copies of written comments and materials, and electronic and physical materials submitted to the Planning Office before 12:00 p.m. noon on the day of the Planning Commission meeting, will be included in the supplemental packet. After 12:00 p.m. noon on the day of the Planning Commission meeting, any member of the public that desires to submit materials to the Planning Commission for consideration at that meeting is hereby instructed to present 8 copies of the materials to the staff liaison for distribution to the Planning Commission at its meeting when the item is considered.

23.7.3 Special Meetings and Workshops.

For special meetings and workshops, the staff liaison shall specify the instructions and timeframes for the public to submit comments and materials in the agenda for those meetings.

23.8 Approaching the Planning Commission

Once a meeting is called to order, no member of the public shall enter the area between the Commission and public seating without an invitation from the Chairperson. Members of the public may enter the area before and after the meeting, and during a recess, for the purpose of interacting with the individual Commission Members and City staff.

24. Planning Commission Deliberation

Planning Commission deliberations shall be orderly and guided by the Chairperson to reach a decision on the item before them or to provide the direction sought by staff.

25. Motions

25.1 Making a Motion

A motion may be made by the Chairperson or a Commission Member. Once a motion has been made, the Chairperson will solicit a second. A motion shall die unless it receives a second. If a motion receives a second, the Chairperson shall then invite debate and discussion on the motion and any amendments.

Any Commission Member who makes a motion may withdraw it during debate and discussion, even to the point of interrupting a speaker to do so. If the motion is withdrawn, the Chairperson may ask the person who seconded the motion if the Commission Member wishes to make the motion, subject to another Commission Member's second.

25.2 Categories of Motions

There are four categories of motions that the Planning Commission may consider.

The first category is a **basic motion**, which is one that puts forward a decision for consideration. For example, a motion to approve City staff's recommendation.

The second category is a **motion to amend** an earlier motion. Such an amending motion changes a basic motion under discussion in a minor way but

does not supersede it. For example, adding a condition to a basic motion to approve staff's recommendation. If the maker of the basic motion, and the second, accept the amendment, then the amendment shall be incorporated into the original motion without the need for a second on the amending motion. If an amendment is not accepted into the basic motion by the moving Commission Members, the process for voting on simultaneous motions is then followed.

The third category is a **substitute motion**. Such a motion completely does away with the basic motion under discussion and puts a new motion before the Planning Commission. For example, if the basic motion is to approve staff's recommendation, a substitute motion would propose numerous changes to staff's recommendation or assembles multiple amending motions into a single motion. If a substitute motion is approved, the initial basic motion does not require action since it was substituted. If a substitute motion fails, the process for voting on simultaneous motions is then followed.

The fourth category is a **hostile motion**. A hostile motion is one that seeks to accomplish the opposite effect of the basic motion. For example, when a basic motion is to approve a project, a hostile motion is one to deny the project. If a hostile motion is made, the process for voting on simultaneous motions is then followed.

A decision whether a motion is one to amend or substitute is left to the Chairperson's sole discretion. A decision whether a motion is hostile is left to the Chairperson in consultation with the Commission's Attorney.

25.3 Simultaneous Motions

The Planning Commission may consider up to three motions on the floor at one time. The Chairperson may reject a fourth motion until the three before the Planning Commission have been resolved. When two or three motions are before the Planning Commission, after motions and seconds, the first vote will be on the last motion made. Generally, the discussion when a motion is before the Planning Commission should focus on the last motion made. Once the vote on the last motion takes place, if necessary, discussion and decision on additional motions will take place in order.

However, a hostile motion shall not be in the floor at the same time as the motion it challenges. A hostile motion shall be considered after a vote on the basic motion and its amendments, that it challenges.

25.4 Debatable and Non-debatable Motions

Debatable motions are subject to Commission Member comment and discussion before calling for a vote. Non-debatable motions are not subject to Commission Member comment and discussion and are to be voted on immediately.

25.4.1 Debatable Motions

Debatable motions are motions to take action on agenda items and other items of City business. For the purpose of these rules of procedure, all motions are debatable except those expressly identified in subsection 25.4.2 Non-Debatable Motions. Debate on a motion should continue as long as Commission Members wish to discuss an item, subject to the Chairperson's decision that it is time to move on and take action.

25.4.2 Non-Debatable Motions

Non-debatable motions are procedural and terminating motions. Certain motions once made immediately stop the Commission's deliberations and, upon receipt of a second, should be voted on immediately. The Commission's non-debatable motions are as follows:

a. **Motion to Adjourn**. If passed, a motion to adjourn requires the Planning Commission to immediately adjourn to its next regularly scheduled meeting.

b. **Motion to Recess**. If passed, a motion to recess requires the Planning Commission to immediately take a recess, the length of which the Chairperson will determine. The Chairperson may order a recess without a motion, and without adjourning the meeting, as the Chairperson determines necessary to maintain decorum and conduct the meeting in an orderly fashion.

c. **Motion to Fix the Time to Adjourn**. If passed, a motion to fix the time to adjourn the meeting requires the Planning Commission to adjourn at a specific time set in the motion.

d. **Motion to Table an Item**. If passed, a motion to table an item postpones an item indefinitely or to a date and time certain set in the motion. If the motion does not contain a specific time, an additional motion is required to bring the item back to the Planning Commission at a future meeting.

e. **Motion to Continue an Item**. A motion to continue an item has the same effect as a motion to table but is generally used when good cause exists or in response to a request by staff, a Commission Member, or a participating party, as set forth in Section 17 Continuance of Agenda Items, or a scheduling problem arises. If passed, the motion continues the item indefinitely or to the date and time set in the motion. If the motion does not

contain a specific time, an additional motion is required to bring the item back to the Planning Commission at a future meeting.

f. **Motion to Call the Question**. A motion to call the question, also known as moving the previous question or limiting debate, stops further Planning Commission deliberation, debate, and discussion on an item. It can be stated as stopping debate or discussion within a certain period of time, such as 15 minutes. If seconded, the Chairperson shall then call for a vote on the motion or motions pending before the Planning Commission as provided for in Section 10(g) Motion to Be Stated.

25.5 Miscellaneous Motions and Appeals

25.5.1 Motion to Reconsider

A motion to reconsider any action taken by the Planning Commission may be made as follows: (1) The motion must be made by a Commission Member that voted along with majority that voted for the original motion that passed, although the motion for reconsideration may be seconded by any Commission Member; (2) The motion must be made either at the meeting at which the action to be reconsidered was taken, or, at the next regular meeting, provided appropriate due process is afforded to any participating parties; (3) The motion is debatable; and (4) If any participating party has left the meeting, or if the motion comes at a subsequent meeting, the ultimate decision to be reconsidered must take place at a subsequent meeting.

25.5.2 Commission Member Appeal

Any Commission Member may appeal any ruling by the Chairperson. If a Commission Member so moves and the motion is seconded, after debate, the ruling of the Chairperson may be reversed by majority vote. If an appeal is taken, the question shall be, “Shall the decision of the Chair be sustained?”

26. Action and Direction

26.1 Votes, General Rules

Unless otherwise provided, the Planning Commission’s actions must be passed pursuant to a majority vote on a motion, and the motion may not be considered unless it is seconded. A simple majority vote by those Commission Members present is necessary to pass a motion providing direction to staff or establishing administrative policy.

Any Commission Member may, before the “Nays” are called for, demand that a roll call vote be taken on the motion before the Commission. The Chairperson’s

name shall be called last with other Commission Members' names called in alphabetical order by the staff liaison. Commission Members shall not give explanations for their vote during roll call.

If a motion does not receive the necessary majority vote for passage, the Chairperson may solicit additional discussion and another motion for further deliberation and voting. If further discussion and deliberation does not result in a motion receiving a majority vote necessary to pass a motion, the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. In the event of a tie vote, the procedures in section 26.2 Tie Votes, shall control.

If a Commission Member is present at the meeting but abstains from voting on a motion or is silent during the vote on the motion, then the rules in section 26.3 Abstentions and Silence shall govern how the Commission Member's silence or abstention is tabulated.

26.2 Tie Votes

Generally, a motion fails if there is a tie vote. After a tie vote, the Chairperson may solicit additional discussion and another motion in an attempt to break the tie. If the tie vote occurs during a Commission Member absence, and the absent Commission Member does not have a conflict of interest related to the item being voted on, the Planning Commission may continue the item to a subsequent meeting when the absent Commission Member is expected to be present in an effort to resolve the tie. If the tie vote is not resolved, the motion shall fail, and the Chairperson may declare that "no action has been taken" and proceed with the remainder of the agenda. However, if a decision is legally compelled under state law (such as the Permit Streamlining Act), the tie vote shall constitute a denial of the application, project before the Planning Commission and an appeal could be submitted for final decision by the City Council.

26.3 Abstentions and Silence

The City Council discourages abstentions since abstentions without legal conflict may impede the Planning Commission's actions, for example by causing a tie vote. Abstentions also deprive Livermore residents of one vote of five and may diminish accountability of Commission Members on items of legitimate concern. At the same time, it is not the City Council's intention to impede any individual Commission Member's right to choose not to speak or vote on an item.

If any Commission Member wishes to abstain from voting on a motion, the Commission Member must announce the abstention when the item of business is first called for consideration and must not participate in the consideration of the

item, in which case the minutes will reflect that the Commission Member abstained from the vote.

If the Commission Member does not announce an abstention when the item of business is first called for consideration, or the Commission Member participates in the consideration of the item, and the Commission Member's abstains during the vote, then that Commission Member's vote shall be tabulated in favor of the motion.

Silence of any Commission Member shall be tabulated along with the majority of the votes cast by the Commission Members present and voting on the motion since the silent Commission Member is conceding to the majority's wishes.

This rule is intended to expressly modify Rosenberg's Rules of Order-, Revised 2011 for counting votes with regard to abstentions and silence by a Commission Member.

26.4 Protests

Any Commission Member shall have the right to enter into public record reasons for dissent or protests against any motion carried by the majority.

27. Appeals

Development Code:
Any decision of the Community Development Director or Historic Preservation Commission regarding eligibility or planning permit decisions may be appealed to the Planning Commission, as outlined in Chapter 9.15 Appeals of the Livermore Development Code (LDC).

Municipal Code:
The Planning Commission hears appeals, outlined in the Livermore Municipal Code (LMC), for suspension or revocation of live adult entertainment (LMC 5.08.500), tree permit processed through Community Development Department (LMC 12.20.250), small residential rooftop solar system expedited permitting (LMC 15.36.060), and flood control boundaries (LMC 16.12.040),

Appeals from decisions of the Commission shall appear on the City Council agenda for discussion. Council has the options of affirming the action of the body, modifying the action of the body, referring the matter back to the Commission, or reversing the decision, unless otherwise required or provided by law.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING THE 2022 REVISED MEETING RULES OF PROCEDURE FOR THE CITY OF LIVERMORE ADVISORY BODIES

Livermore's City Council Meeting Rules of Procedure were developed for the orderly, consistent, and fair conduct of its meetings consistent with applicable law.

Livermore Municipal Code section 2.40.100 requires each advisory body to maintain rules of procedure approved by the City Council.

The City Council Meeting Rules of Procedure direct each advisory body to conform their practices and Rules of Procedure to the City Council Rules of Procedure.

In response to the COVID-19 pandemic, the City Council adopted Resolution No. 2021-139 to temporarily suspend and revise its Meeting Rules of Procedure for teleconferenced meetings and public comment.

As the State of Emergency comes to an end, the City Council has requested a return to in-person meetings. The Council also terminated the temporary suspension and revision of its Meeting Rules of Procedure in Resolution No. 2021-139 by a separate action at the same meeting at which this resolution was considered.

As directed by the City Council, the City Clerk reviewed and revised the advisory body rules of procedure in coordination with the staff liaisons assigned to each advisory body, and made additional adjustments for the meeting times and locations, member attendance, and extending the sunset date in Resolution No. 2021-027 for the limited duration Community Asset Management Program Committee and the sunset date in Resolution Nos. 2020-015 and 202-067 for the Climate Action Plan Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby approves the 2022 revised Rules of Procedure for advisory bodies that are attached to the staff report dated April 11, 2022, presented for this resolution for the following City's Advisory Bodies and committees:

Airport Commission
Beautification Committee
Climate Action Plan Advisory Committee
Community Asset Management Program Committee
Commission for the Arts
General Plan Advisory Committee
Historic Preservation Commission
Human Services Commission
Library Board of Trustees

Livermore Housing Authority
Planning Commission

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that the sunset date in Resolution No. 2021-027 for the limited duration Community Asset Management Program Committee is extended from December 2022 to December 2023.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that the sunset date in Resolution Nos. 2021-015 and 2020-067 for the limited duration Climate Action Plan Advisory Committee is extended from 2021 to 2022.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that the City Clerk is authorized to make minor adjustments to the advisory body rules of procedure to address scrivener's errors, grammar, punctuation, and other proofreading edits, and is likewise authorized to make technical adjustments to further conform them to the City Council Meeting Rules of Procedure as necessary, so long as the adjustments do not substantively change the approved advisory rules. The City Clerk shall consult with the City Manager and the City Attorney before making any technical adjustments to an advisory body's rules of procedure.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on April 11, 2022, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason R. Alcala
Jason R. Alcala
City Attorney

From: PAUL MACIOLEK
To: Cityclerk - Livermore
Subject: April 11 2022 City Council Meeting
Date: Tuesday, April 5, 2022 1:12:50 PM
Attachments: Appeal and letter to City Council 4-11-2022.docx

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Dear Ms. Weber:

My Husband and I would like to request that the attached document be included in the April 11, 2022, City Council Meeting packet. I had planned to include this as an e-comment; however, our document is in excess of the word limit.

Please let us know that you have received our document and confirm if this will be included in the packet.

Best regards,

Michelle Mitchell
Paul Maciolek

Re: Garaventa Hills Project

April 5, 2022

Dear Mayor and Council:

With the recent Appellate Court ruling to overturn and reverse Judge Roesch's prior ruling in the Superior Court, regarding the approval to move forward with the Garaventa Hills Project, we would like to request the City revisit the no-project alternative for this site.

With no current approved project for the Garaventa Hill, The City has the perfect opportunity to begin the process of keeping this land as open space.

We would like to request that the City consider the rezoning of this area to accommodate the use of this land as open space. The City recently amended the General Plan (GPA 18-003, Resolution No. 19-20) to change the zoning for the Lassen Road Townhome Project to include open space. We would like to ask that the City utilize this same method to rezone the Garaventa Hill Project site from housing to open space. The City also currently has a General Plan Advisory Committee that also has the opportunity to consider this rezoning option.

The City has the ability to work with the landowner(s) to discuss the availability of funds that can be used to purchase this site. These funding sources include the Altamont and Vasco Landfill Funds and the Dougherty Valley Open Space Funds.

The City also has the opportunity to work with L.A.R.P.D and E.B.R.P.D., to consider managing this unique parcel of land. It has a rare biodiversity, special ecosystem, and hydrology that runs within the veining, connecting the Garaventa Hill to the surrounding protected Garaventa Wetlands Preserve and downstream to the protected Springtown Wetlands Preserve.

Finally, in the winter of 2019 The Altamont Landfill Open Space Advisory Committee's (ALOSAC) entered into a project with UC Berkeley with the goal of the project to obtain an objective scoring and ranking of parcels with the potential to be purchased for conservation. This is also an avenue that the City can explore.

Thank you for your time and consideration regarding this important and special plot of land.

Best regards,

Michelle Mitchell
Paul Maciolek
[redacted] Livermore

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 11.1**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Supplemental materials received prior to the meeting.

RECOMMENDED ACTION

SUMMARY

These materials were posted online and made available to the public at the same time that they were distributed to the City Council.

5.1	Hearing to consider proposed Livermore Municipal Water rates and charges for calendar years 2023 through 2027 Material: PowerPoint Presentation
5.2	Hearing to introduce an ordinance adding section 2.36.200 to the Livermore Municipal Code in compliance with the requirements of Assembly Bill 481 (an act to add sections 7070 through 7075 to the Government Code, relating to military equipment). Material: PowerPoint Presentation
5.3	Hearing to consider a proposal to amend the Downtown Specific Plan regarding outdoor dining, outdoor dining guidelines, and amend the Livermore Municipal Code, adding Chapter 5.6, Outdoor Dining Permit, to establish an Outdoor Dining Ordinance, including a permitting process. Material: Planning Commission Draft Minutes and PowerPoint Presentation
7.0	Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, Council Members. Material: Council Reports

9.1	Conference with Legal Counsel - Existing Litigation. To meet with legal counsel pursuant to Government Code section 54956.9(d)(1) to discuss litigation that has been formally initiated. (Two cases) 1. Tolbert v. Livermore, et al., United States District Court for the Northern District of California, Case No. 4:21-cv-05174-YGR 2. Save the Hill Group v. Livermore, et al, California Court of Appeal, First Appellate District, Division Five, Case No. A161573; Alameda County Superior Court Case No. RG19020186 Material: Public Comment Received

DISCUSSION

ATTACHMENTS

1. Supplemental Materials

Prepared by: Debbie Elam
Deputy City Clerk

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

City of Livermore

Water Rate Study

Public Hearing: April 11, 2022

B CONSULTING



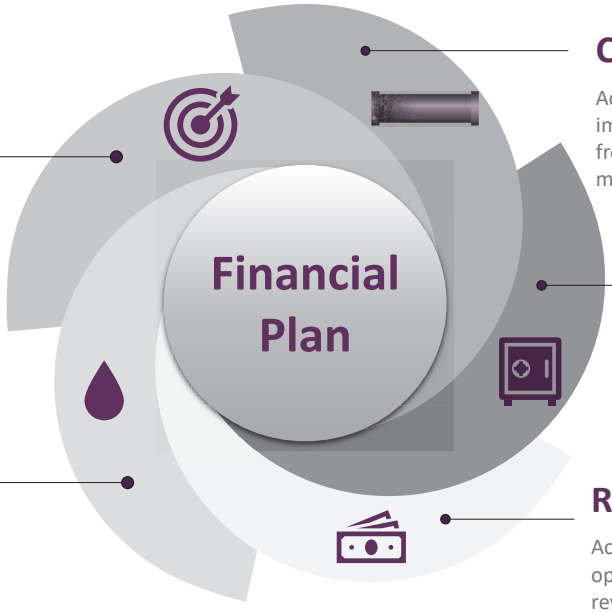
Study Goals

Main Objectives

- City at end of adopted rates. Develop financial plan for next 5 years and beyond
- Develop model with updated consumption analysis and financials
- Develop equitable rates that meet industry standards while complying with Proposition 218
- Prepare a comprehensive administrative record

Financial Plan Summary

Factors Impacting the Financial Plan



Capital Projects

Account for anticipated capital improvement plan (CIP). CIP may range from depreciation up through asset management plan

Expense Projections

Account for cost escalations by expense category, water supply expenses, and debt obligations

Reserve Funding

Account for unforeseen risks through well established reserves

Water Demand

Account for expected changes in total sales, growth, as well as changes in usage patterns

Revenue Projections

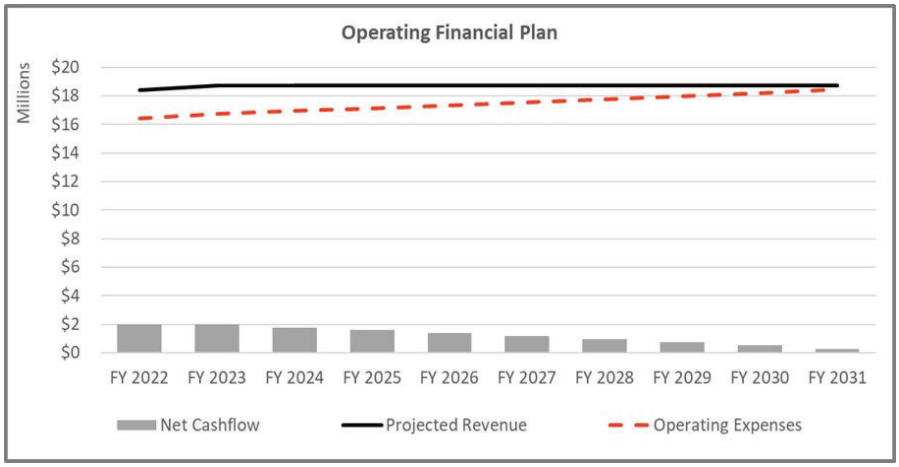
Account for rate revenues, other operating revenues, and non-operating revenues

Water Enterprise Financial Position - Operating

Current Rates

Financial Plan Metrics

- **Generate positive annual operating net income**
- Comply with debt covenants

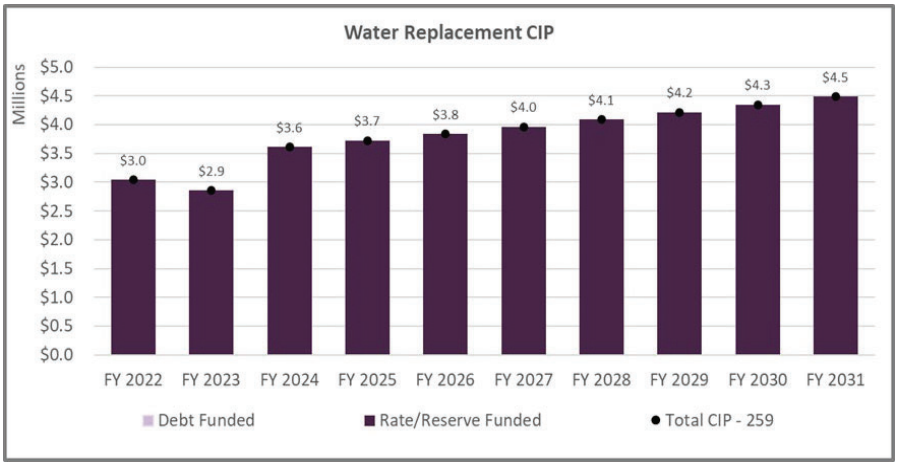


Water Enterprise Financial Position - Capital

Current Rates

Financial Plan Metrics

- Generate positive annual operating net income
- Comply with debt covenants
- **Sufficiently fund capital needs**

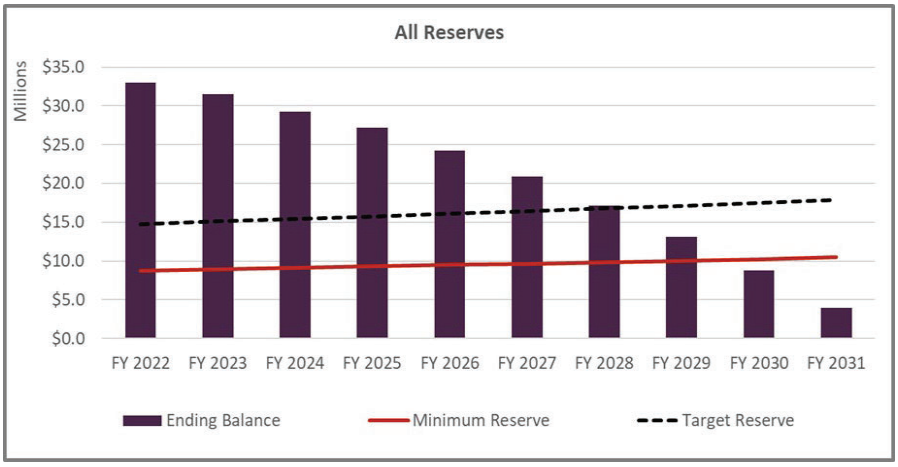


Water Enterprise Financial Position - Reserves

Current Rates

Financial Plan Metrics

- Generate positive annual operating net income
- Comply with debt covenants
- Sufficiently fund capital needs
- **Meet reserve targets**



- Ending balance reduced by capital spending

Water Enterprise Financial Review

Current Rates

Results from Review

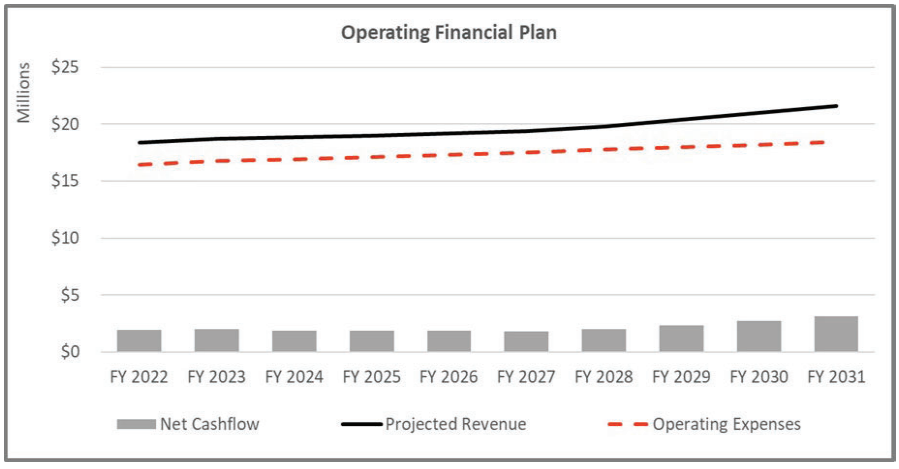
- Maintain positive net income in future years
- Ongoing capital replacement needs is primary driver
- Additional revenues needed to continue replacement program while maintaining healthy reserves
- No revenue increase in FY 2023
  - Rates adjusted to reflect updated usage trends and cost-of-service analysis
- Modest adjustments of 1% revenue increase each year from FY 2024 – FY 2027

Proposed Financial Plan - Operating

10-Year Planning Period

Proposed Financial Plan

- Positive annual operating net income
- Comply with debt covenants
- Fund capital schedule
- Meet reserve targets

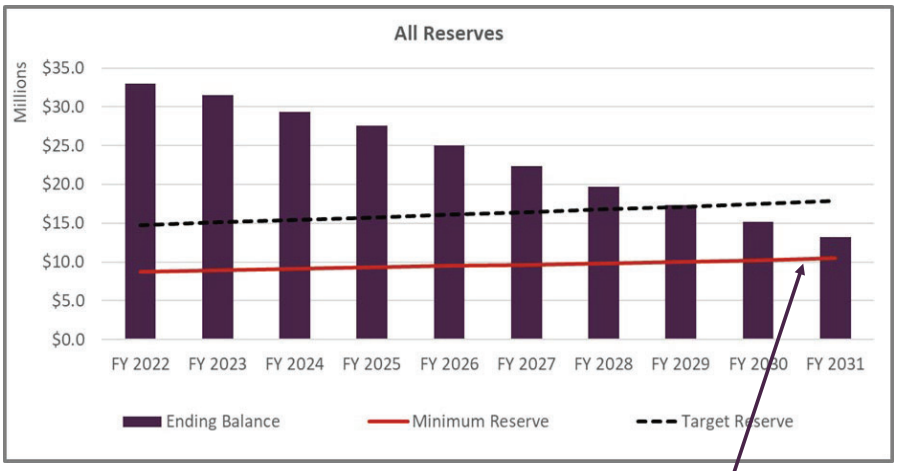


Proposed Financial Plan - Reserves

10-Year Planning Period

Proposed Financial Plan

- Positive annual operating net income
- Comply with debt covenants
- Fund capital schedule
- Meet reserve targets



- Reserves satisfy minimum requirement

Revenue Requirements

Cost-of-Service

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenue Requirements					
Purchased Water Costs					
Purchase of Water - Fixed	$4,357,000	$4,357,000	$4,357,000	$4,357,000	$4,357,000
Purchase of Water - Variable	$5,275,000	$5,275,000	$5,275,000	$5,275,000	$5,275,000
Purchased of Water - Water Loss	$586,000	$586,000	$586,000	$586,000	$586,000
Total Purchased Water Costs	**$10,218,000**	**$10,218,000**	**$10,218,000**	**$10,218,000**	**$10,218,000**
Operating Expenses (250)					
Administrative & General	$3,037,000	$3,116,000	$3,197,000	$3,280,000	$3,365,000
Water Pumping	$386,000	$403,000	$422,000	$441,000	$462,000
Water Transmission & Distribution	$2,071,000	$2,131,000	$2,193,000	$2,256,000	$2,322,000
Water Customer Accounts	$773,000	$795,000	$817,000	$839,000	$862,000
Recycled Water	$263,000	$275,000	$287,000	$299,000	$313,000
Total Operating Expenses (250)	**$6,530,000**	**$6,720,000**	**$6,916,000**	**$7,115,000**	**$7,324,000**
Revenue Offsets					
Sale Of Water Mtr-Taxabl	($28,000)	($28,000)	($28,000)	($28,000)	($28,000)
Misc Sales-Taxable	($5,000)	($5,000)	($5,000)	($5,000)	($5,000)
Contract Recycled Revenue	($55,000)	($55,000)	($55,000)	($55,000)	($55,000)
Other Revenues	($94,000)	($77,000)	($78,000)	($78,000)	($78,000)
Total Revenue Offsets	**($182,000)**	**($165,000)**	**($166,000)**	**($166,000)**	**($166,000)**
Adjustments					
Reserve Funding	$1,995,000	$1,880,000	$1,871,000	$1,860,000	$1,841,000
Adjustment for Mid-Year Increase	$0	$92,000	$93,000	$94,000	$95,000
Total Adjustments	**$1,995,000**	**$1,972,000**	**$1,964,000**	**$1,954,000**	**$1,936,000**
Revenue Requirement from Rates	**$18,561,000**	**$18,745,000**	**$18,932,000**	**$19,121,000**	**$19,312,000**

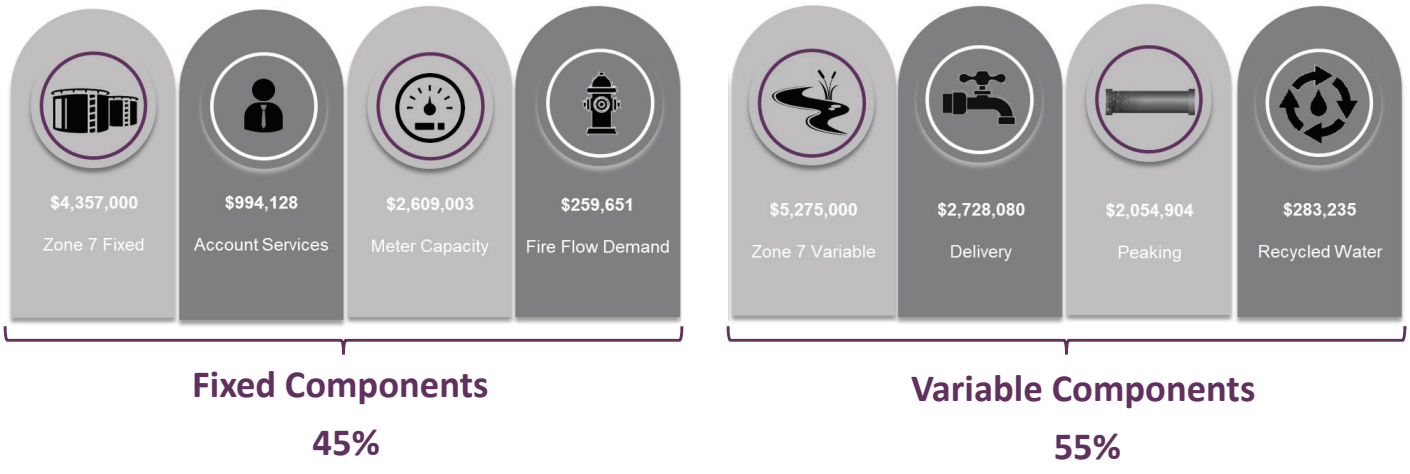
Rate Design

Structure

- Maintain current rate structure for Single-Family Residential
  - 2-tiered rate structure
- Adjust Multi-Family Residential from 2 tiers to uniform rate
  - Eliminates tracking dwelling units served by each master meter
- Fixed / Variable Recovery
  - Maintain fix charge recovery at ~45%
- Continue using pass-throughs for purchased water costs from Zone 7
  - Zone 7 Fixed Charge
  - Zone 7 Variable Rate

Cost-of-Service

FY 2023 Cost Components for Rate Development



Fixed Components

45%

Variable Components

55%

FY 2023 City Service Charges

City Monthly Fixed Charge Components

Meter Size	Account Services [A]	Capacity Ratios [B]	Meter Capacity [C] = $13.76 x B	Fire Flow Demand [D] = $0.83 x B	City Service Charges [E] = A + C + D	Existing
5/8"	$8.33	1.00	$13.76	$0.83	**$22.92**	$22.85
3/4"	$8.33	1.50	$20.64	$1.25	**$30.22**	$30.46
1" w/Fire	$8.33	1.00	$13.76	$0.83	**$22.92**	$22.85
1"	$8.33	2.50	$34.40	$2.08	**$44.81**	$45.66
1 1/2"	$8.33	5.00	$68.80	$4.15	**$81.28**	$83.68
1 1/2" T	$8.33	6.00	$82.56	$4.98	**$95.87**	$98.89
2"	$8.33	8.00	$110.08	$6.64	**$125.05**	$129.31
2" T	$8.33	9.50	$130.72	$7.89	**$146.94**	$152.12
3"	$8.33	21.75	$299.28	$18.06	**$325.67**	$338.42
4"	$8.33	37.50	$516.00	$31.13	**$555.46**	$577.95
6"	$8.33	80.00	$1,100.80	$66.40	**$1,175.53**	$1,224.29
8"	$8.33	140.00	$1,926.40	$116.20	**$2,050.93**	$2,136.79
10"	$8.33	210.00	$2,889.60	$174.30	**$3,072.23**	$3,201.35
12"	$8.33	265.00	$3,646.40	$219.95	**$3,874.68**	$3,838.11

City Service Charges: FY 2023 – FY 2027

Proposed Monthly Fixed Charges

Service Charges by Meter Size ($/Month)					
Meter Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$22.92	$23.40	$23.88	$24.37	$24.86
3/4"	$30.22	$30.89	$31.57	$32.26	$32.95
1" w/Fire	$22.92	$23.40	$23.88	$24.37	$24.86
1"	$44.81	$45.87	$46.94	$48.02	$49.12
1 1/2"	$81.28	$83.32	$85.38	$87.46	$89.56
1 1/2" T	$95.87	$98.30	$100.75	$103.23	$105.73
2"	$125.05	$128.26	$131.50	$134.77	$138.08
2" T	$146.94	$150.73	$154.56	$158.43	$162.34
3"	$325.67	$334.24	$342.90	$351.64	$360.47
4"	$555.46	$570.17	$585.03	$600.04	$615.20
6"	$1,175.53	$1,206.82	$1,238.42	$1,270.34	$1,302.58
8"	$2,050.93	$2,105.62	$2,160.86	$2,216.65	$2,273.00
10"	$3,072.23	$3,154.22	$3,237.03	$3,320.67	$3,405.14
12"	$3,874.68	$3,978.12	$4,082.59	$4,188.11	$4,294.68

FY 2023 Zone 7 Fixed Charges

Zone 7 Monthly Fixed Charges

Meter Size	Capacity Ratio [A]	Zone 7 Fixed Charges [B] = $24.41 x A
5/8"	1.00	$24.41
3/4"	1.50	$36.62
1" w/Fire	1.00	$24.41
1"	2.50	$61.03
1 1/2"	5.00	$122.05
1 1/2" T	6.00	$146.46
2"	8.00	$195.28
2" T	9.50	$231.90
3"	21.75	$530.92
4"	37.50	$915.38
6"	80.00	$1,952.80
8"	140.00	$3,417.40
10"	210.00	$5,126.10
12"	265.00	$6,468.65

Subject to pass-throughs in future years

FY 2023 Dedicated Fire Line Charges

Monthly Fixed Charges

Connection Size	Diameter Inch [A]	Dedicated Fire Line Charge [B] = $2.02 x A
5/8"	0.63	$1.27
3/4"	0.75	$1.52
1"	1.00	$2.02
1 1/2"	1.50	$3.03
2"	2.00	$4.04
3"	3.00	$6.06
4"	4.00	$8.08
6"	6.00	$12.12
8"	8.00	$16.16
10"	10.00	$20.20
12"	12.00	$24.24

Dedicated Fire Line Charges: FY 2023 – FY 2027

Proposed Monthly Fixed Charges

Fire Line Charges ($/Month)					
Connection Size	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5/8"	$1.27	$1.29	$1.31	$1.33	$1.35
3/4"	$1.52	$1.54	$1.56	$1.58	$1.60
1"	$2.02	$2.05	$2.08	$2.11	$2.14
1 1/2"	$3.03	$3.07	$3.11	$3.15	$3.19
2"	$4.04	$4.09	$4.14	$4.19	$4.24
3"	$6.06	$6.13	$6.20	$6.27	$6.34
4"	$8.08	$8.17	$8.26	$8.35	$8.44
6"	$12.12	$12.25	$12.38	$12.51	$12.64
8"	$16.16	$16.33	$16.50	$16.67	$16.84
10"	$20.20	$20.41	$20.62	$20.83	$21.04
12"	$24.24	$24.49	$24.74	$24.99	$25.24

FY 2023 - Variable Charges

Variable Rate Components

Customer Class	Tier Allotments (CCF)	Delivery [A]	Peaking [B]	Recycled [C]	FY 2023 Proposed Variable Rate [D] = A + B + C	Existing
Single-Family						
Tier 1	7	$0.96	$0.39	$0.00	**$1.35**	$1.25
Tier 2	> 7	$0.96	$0.99	$0.00	**$1.95**	$1.74
Multi-Family	(Uniform)	$0.96	$0.62	$0.00	**$1.58**	$1.25
Non-Residential	(Uniform)	$0.96	$0.59	$0.00	**$1.55**	$1.35
Irrigation	(Uniform)	$0.96	$0.80	$0.00	**$1.76**	$1.74
Recycled	(Uniform)	$0.96	$0.83	$0.95	**$2.74**	$3.30

- Zone 7 Variable Rate = $2.06

Variable Charges: FY 2023 – FY 2027

Proposed Variable Rates

Distribution Rates ($/CCF)					
Customer Class	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Single-Family					
Tier 1	$1.35	$1.39	$1.43	$1.47	$1.51
Tier 2	$1.95	$2.00	$2.05	$2.10	$2.15
Multi-Family	$1.58	$1.62	$1.66	$1.70	$1.74
Non-Residential	$1.55	$1.59	$1.63	$1.67	$1.71
Irrigation	$1.76	$1.80	$1.84	$1.88	$1.92
Recycled	$2.74	$2.77	$2.80	$2.83	$2.86

- Zone 7 Variable Rate = $2.06
  - Subject to pass-throughs in future years

Habib Isaac
IB Consulting
Principal | Managing Partner
Phone: 951-595-9354 | Email: hisaac@IBConsultingInc.com

Andrea Boehling
IB Consulting
Principal | Managing Partner
Phone: 615-870-9371 | Email: aboehling@IBConsultingInc.com

Thank You

IB CONSULTING



Introduction of an Ordinance related to a Military Equipment Policy

April 11, 2022
Presented by Jason Boberg, Captain

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1

Why is this Important Right Now?

- AB481 requires California law enforcement agencies to present an equipment policy for Council consideration at a public hearing
- AB 481 requires Council oversight related to the funding, acquisition, and use of certain types of equipment, deemed 'military equipment' by the legislation

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2

How does AB481 Actually Define Military Equipment?

AB 481 Identified Equipment	Used by Livermore PD	Used by Allied Agencies (*may be shared with Livemore PD*)
1. Weaponized aircraft, vessels, or vehicles of any kind	**No**	**No**
2. TASER shockwave, microwave weapons, water cannons, and LRADs	**No**	**No**
3. Any firearm or accessory designed to launch explosive projectiles	**No**	**No**
4. Tracked armored vehicles	**No**	Yes
5. Firearms of .50 caliber or greater	**No**	Yes
6. Battering rams, slugs, and breaching apparatuses that are explosive in nature	**No**	Yes
7. Vehicle with breaching apparatus	**No**	Yes
8. Firearms identified as assault weapons	Yes	Yes
9. Noise-flash diversionary devices and explosive breaching tools	Yes (noise-flash only)	Yes (noise-flash and explosive breaching tools)
10. Munitions containing tear gas/OC (pepper spray)	Yes	Yes
11. Kinetic energy weapons/munitions	Yes	Yes
12. MRAP or armored vehicle	Yes (armored only)	Yes (armored only)
13. Command Vehicle	Yes	Yes
14. Unmanned aerial or ground vehicles	Yes (ground only)	Yes

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3

What does Military Equipment Look Like in Livermore?



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4

Livermore PD's Armored Rescue Vehicle



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5

What is Inside of the Armored Rescue Vehicle?



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6

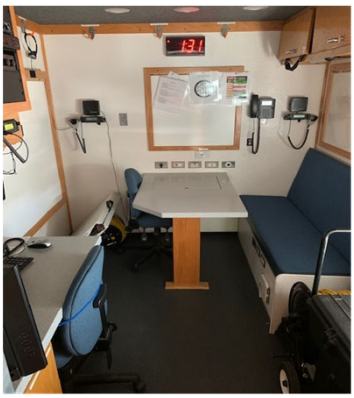
Community Outreach Vehicle



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7

What is Inside of the Community Outreach Vehicle?



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8

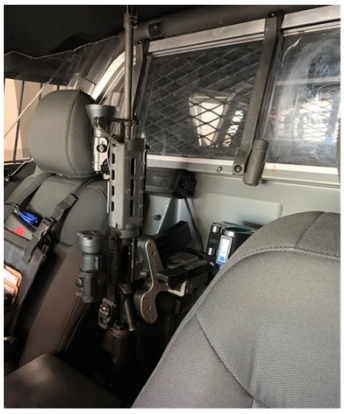
What is an Unmanned Ground Vehicle?



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9

What does an Assault Weapon Look Like?



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10

What are Kinetic Energy Weapons?

FN303





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11

Bean Bag Shotgun System





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12

40mm Kinetic Energy Launcher System with Foam-Tipped Munitions





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13

What are Noise-Flash Diversionary Devices and CS Smoke?





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14

What does a Battering Ram or Breaching Apparatus look like?





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15

How does the Military Equipment Policy Relate to Overall Department Operations?

- The department's use of force policy applies to all force options
- Individual policies related to each type of equipment define when and how the equipment may be used
- Staff are continuously trained on the use of all equipment they are authorized to use
- Many of the identified equipment items will continue to be used only by personnel with specialized training (SWAT team)

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16

How will this New Law Impact Future City Operations?

- It requires that an annual report be submitted to and considered by Council
- It requires that the Police Department host a community engagement meeting after publishing the annual report
- It requires the police department to post the policy, inventory, and a Q&A portal to its website
    - This was completed on March 3, 2022
- It requires that the funding and acquisition of designated items be approved by Council

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17

Questions?

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18

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PLANNING COMMISSION MEETING MINUTES

April 5, 2022

5.2 Hearing to consider a proposal to amend the Downtown Specific Plan regarding outdoor dining, outdoor dining guidelines, and amend the Livermore Municipal Code, adding Chapter 5.60, Outdoor Dining Permit, to establish an Outdoor Dining Ordinance.

Recommendation:

Staff recommends the Planning Commission recommend that the City Council adopt resolutions finding the project is within the scope of the 2003 General Plan and Downtown Specific Plan Environmental Impact Report and the 2009 Subsequent Environmental Impact Report for the Downtown Specific Plan Amendments and finding that the project is exempt from review under the California Environmental Quality Act (CEQA), adopt a resolution approving Specific Plan Amendment (SPPA) 22-002 for changes to the outdoor dining standards and guidelines in the Downtown, and adopt a resolution recommending the City Council approve Municipal Code Amendment (MUNI) 22-001 to establish an ordinance for Outdoor Dining Permits.

Kam Purewal, Associate Planner, presented the item.

Chairperson Dunbar opened the public comment period.

Ruby Lopez Villareal, Executive Director, Livermore Downtown, Inc. writes: *"Hello and good evening. My name is Ruby Lopez Villareal. I'm the new Executive Director of Livermore Downtown, Inc. We would like to express our appreciation to the City of Livermore for their on-going support. The City hosted several meetings in which all various industries within our downtown were invited. Those with concerns had multiple opportunities to voice their concerns and their support. Livermore Downtown, Inc. and the LDI Board agree that this outdoor dining plan is within the best interests of all the merchants; that it will keep parking balanced for all downtown merchants while still meeting the outdoor dining needs. Thank you for your time, and I'm looking forward to meeting you all downtown soon. Have a good evening."*

Commissioner Stein asked if there are any limitations of what can go into the outdoor dining area beyond chairs, tables and umbrellas, such as a warming station, serving area, etc. He also asked about the Flagpole Plaza and asked how much of it will be restored to public access.

Mr. Purewal replied Chapter 6 provides design standards for the flex zone which allows for tables and chairs, but staff has not explored other items that could be put in there such as warming stations, but can consider this and others in the future. Regarding the Flagpole Plaza, staff is working with the landscape consultant to explore that area.

Mr. Stewart added that the conditions for outdoor dining permits also require compliance with the Department of Health and ABC provisions, which may require cleaning or busing staging areas, so staff can look at that. They are also looking at live music as the next compatibility matter to review and will be returning to the Commission and Council later in the summer.

Lastly, they are working with Gates Associates to develop options at the Flagpole Plaza that looks at alternatives and will be meeting with stakeholders and others. They intend to have the design for that finished by the end of the summer to get it implemented in the off season next year so when they return, it will be ready to accommodate uses for the next season.

Commissioner Stein asked about the ratio of interior to exterior seating and requiring some balance. He also asked if staff has looked into relocating some of the trellises on First Street which are obscured by trees in mid-block areas and move them to Stockmen's Park or further to the west along First Street.

Mr. Stewart replied staff has not explored moving the trellises and in fact, new ones will be installed along the Legacy project on the north and south sides, although not the larger trellises. Staff does not have a capital project and this would need to be programmed into the CIP.

Regarding seating balances, this is generally controlled by the amount of linear frontage that would allow one space or two, with permission from the adjacent tenant and property owner.

Commissioner Branning said given the season this will be open for, heating might be a requirement on the tail end, but shade might be an issue for some of the businesses, and umbrellas seem fine but asked if there are rules for shade.

Mr. Purewal said solid colored umbrellas are allowed without corporate logos, but the business could brand their own umbrellas, and tents are not allowed.

Commissioner Branning asked and confirmed there is ADA access downtown where outdoor dining will be, and Mr. Purewal described the provision for a 5 foot corridor for pedestrians as well as a current City project to improve ramps to make them ADA-compliant.

Commissioner Branning said he thinks staff carefully balanced the project with the needs of the businesses, but thinks there may be some unknowns. He suggested the City needs to set a date for this to return to the Commission in 2 to 3 years so it provides time with the fee structure in place. The City knows supply and demand of restaurants has and will continue to change, citing varying practices of take-out and pickup, parking needs, and thriving patterns with closed streetscapes and walkable areas, hence his suggestion to have this return to assess the fee structure, demand and behaviors in the future.

Vice Chairperson Leary said the percent of the stalls seems to be the same as pre-pandemic or 25% and asked if the City is locked into this.

Mr. Purewal said staff did not change the 25% rule because it could result in other implications and require additional studies. However, if outdoor dining does explode in the next couple of years, staff could look into this to assess the percentage. For this year and 2023, staff decided to keep it at 25% to balance the need for parking for all in the downtown.

Mr. Stewart added that one of the benefit of a relatively small downtown district within a very active downtown association is that staff hears feedback daily and if the demand and environment is greater and needs improvement or the opposite is experienced, code enforcement can be implemented. However, staff can be nimble and meet demands over time of whatever the experience and can adjust as needed.

Vice Chairperson Leary asked if the Fire Department has been involved in the process and are aware of the side streets being added.

Mr. Purewal said yes, they have been involved pre-pandemic and during the pandemic, and their role was to review tent permits, ensure outdoor heaters and equipment meets code and complies with safety requirements. As far as streets, the Building Division is involved and no comments were received from them, but they are aware of the program.

Vice Chairperson Leary said right now ADA stalls are positioned for areas where people access buildings, and he asked if there could be a way to reorganize them, depending where outdoor dining is located.

Mr. Purewal said staff is not planning to use ADA spaces for outdoor dining or relocate them. It is because they want downtown to be accessible for everyone. Right now, they plan on keeping the ADA spaces and in the future they can look at the program to find other locations that might be suitable.

Mr. Stewart added that in conjunction with Risk Management, City Attorney's Office, the Community Development Department conducted an audit of the City's compliance with ADA and the City is about 60% of the way through the design phase for upgrading existing spaces, which will include new ramps, new configurations on McCloud, J and K Streets, and also will be an opportunity to replace aging streets, as well. Staff can share this as it evolves.

Vice Chairperson Leary referred to McCloud and asked if there is outdoor dining there.

Mr. Purewal said currently no restaurants that have outdoor dining but staff hopes to plan for the future in case there are moving forward.

Vice Chairperson Leary said given evening weather, more outdoor dining is a plus and he is optimistic it will continue to be successful.

Chairperson Dunbar referred to the planters on J and K and said some of the rebar is coming out of these and asked that these be addressed. He referred to the Sub-Area 3 definition on page 13 which is unclear and outdated which states, "The south side of Railroad Avenue including performing arts theater and plaza." He said staff is cleaning up outdoor dining guidelines, and he noted portable heaters are allowed and asked for staff's thoughts on requirements for them to be operated a minimum number of hours and days per week. It was also not clear as to whether they operate in the flex zone or sidewalk area, so it may be for both.

Mr. Purewal said it is for both. These are valuable parking spaces and if restaurants are applying to use them for the flex zone, there should be a minimum number of hours they are being used. If not used for a certain amount then the parking spaces could be used for visitors in the downtown, and this was the rationale for it.

Chairperson Dunbar referred to portable heaters again and the environment. For those on the sidewalk level adjacent to the building he asked to consider whether electric heaters could be allowed in that condition and ensure the wiring would not cause safety issues.

Regarding fencing requirements, it states "Fencing shall be designated of wrought iron or cast aluminum and should not exceed 36" in height. He thinks that moving forward this should be more prescriptive for more ornamental, painted black, or just to avoid event-type unpainted stainless steel seen today.

Lastly, he referred to ADA and said the City is changing the requirements from 6 feet to 5 feet for path width, and he asked staff to describe the mitigating factors.

Mr. Stewart explained that staff proposed reducing the clearance from 6 to 5 feet which is still 1 foot in excess of the ADA minimum of 4 feet. One aspect merchants and staff continues to work on where often times people setting up the tables do not pay attention, so they will push out and intrude into the path.

He noted Neighborhood Preservation staff have been actively walking the districts and reminding businesses they need to have that minimum clearance. With street furnishings, streetlights, trash receptacles, benches, kiosks, 5 feet seems to be the most practical and the ordinance will enable enforcement of that. If there are businesses that continue to encroach on that, staff will work with them before it gets to a point to consider revoking their permit.

Chairperson Dunbar referred to the public comment received prior to the meeting and said it talked about lowering the requirement as a percentage and not expanding. They also talked about one particular flex zone areas which were two separate businesses right next to each other. He asked if it is possible these could be combined through an agreement between the two businesses.

Mr. Purewal said this is possible if the businesses agreed, but the City would not require this. Staff again will be monitoring the area to ensure the spaces are being utilized, and if not, they can explore other options. Mr. Stewart added that ABC often will require an individual business to have sole control over the area they are serving.

Chairperson Dunbar asked for final comments.

Commissioner Branning cited the diversity of small businesses and he asked for whatever the City can do to support them, and this program will assist in that, to be nimble, keep abreast of demand and revisit it in the future, and voiced support.

Commissioner Stein voiced support of staff recommendations and thinks the City is moving in the right direction and supports review in 2 to 3 years.

Chairperson Dunbar thanked Executive Director Lopez Villareal of the Livermore Downtown, Inc. for being here, looks forward to meeting her in person, agrees with comments and voiced support of the recommendation.

MOTION BY BRANNING, SECONDED BY STEIN, TO ADOPT RESOLUTIONS FINDING THE PROJECT IS WITHIN THE SCOPE OF THE 2003 GENERAL PLAN AND DOWNTOWN SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT AND THE 2009 SUBSEQUENT ENVIRONMENTAL IMPACT REPORT FOR THE DOWNTOWN SPECIFIC PLAN AMENDMENTS AND FINDING THAT THE PROJECT IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), ADOPT A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT (SPPA) 22-002 FOR CHANGES TO THE OUTDOOR DINING STANDARDS AND GUIDELINES IN THE DOWNTOWN, AND ADOPT A RESOLUTION RECOMMENDING THE CITY COUNCIL APPROVE MUNICIPAL CODE AMENDMENT (MUNI) 22-001 TO ESTABLISH AN ORDINANCE FOR OUTDOOR DINING PERMITS, AND INCLUDE A REQUIREMENT FOR A REPORT BY STAFF TO RETURN TO THE PLANNING COMMISSION WITHIN THREE (3) REGARDING THE PROGRESS OF THE PROJECT.

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City Council

April 11, 2022

Specific Plan Amendment (SPPA) 22-002;
Municipal Code Amendment (MUNI) 22-001

1

Background



- **2004** – Council adopted the Downtown Specific Plan (DSP)
- **2020 - 2021** – Pandemic (No Indoor Dining)
- **2022** – Expand Outdoor Dining - Specific Plan Amendment and Municipal Code Amendment

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2

Specific Plan Amendment

District 1: First Street from M Street to Livermore Avenue and J and K Streets
District 2: First Street from Livermore Avenue to Maple Street and McLeod Street



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3

Specific Plan Amendment

Chapter 1 – Orientation

Chapter 2 – Existing Conditions

Chapter 3 – Revitalization Strategy

Chapter 4 – Land Use and Development Policies

Chapter 5 – Development Standards – Core

Chapter 6 – Design Standards and Guidelines

Chapter 7 – Circulation and Transportation

Chapter 8 – Parking Standards

Chapter 9 – Public Utilities and Infrastructure

Chapter 10 – Implementation

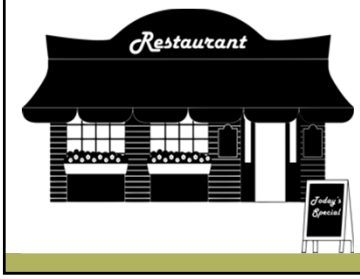
Chapter 11 – Financing

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4

Municipal Code Amendment

- Outdoor Dining Permit Ordinance - Chapter 5.60
- Establishes
  - Rules and regulations
  - Application process and procedures
  - Enforcement







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5

Cost

- **Fees for Flex Zone in 2022 will be waived**
- **2023 Proposed fees:**
- One-time Damage Deposit: $400 (refundable)
- Eligible landscaped areas, parking stall corners, and parking spaces - $1.00/ s.f.
  - 1 Flex Zone space - $187 monthly; $1,500 per season (March to October)
  - 2 Flex Zone spaces - $374 monthly; $3,000 per season (March to October)
  - Parking enforcement/ maintenance







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6

Recommendation

Planning Commission and staff recommend the City Council:

1. Adopt Resolutions finding that the project is exempt from review under the California Environmental Quality Act (CEQA) and the project is consistent with the previous environmental documents including the 2004 Program EIR and the 2009 Final Subsequent Environmental Impact Report for the 2003 General Plan and Downtown Specific Plan;

2. Adopt a Resolution approving Specific Plan Amendment 22-002, amending provisions of the Downtown Specific Plan;

3. Introduce an Ordinance amending Title 5, adding Chapter 5.60 Outdoor Dining Permit, of the Livermore Municipal Code.

4. Direct staff to file a Notice of Determination and a Notice of Exemption consistent with the provisions of the California Environmental Quality Act.

7

Council Member	Committee Meeting Date	Committee	Agenda Link	Meeting Type	Committee Report: Summary
Mayor Woerner	3/31/2022	Valley Link	https://www.valleylinkrail.com/board-of-directors	Hydrogen Proof of Concept Coordination	
Mayor Woerner	4/1/2022	East Bay Regional Communications System Authority	http://www.ebrcsa.org/meetings.page	Board Meeting	
Mayor Woerner	4/6/2022	Livermore Chamber of Commerce		Business Alliance	
Mayor Woerner	4/6/2022	Alameda County Health Care Servcies Agency		Elected Officials COVID Update	San Pablo Ave. Corridor agenda item worth reviewing.
Mayor Woerner	4/6/2022	Valley Link	https://www.valleylinkrail.com/board-of-directors	Board Meeting	
Mayor Woerner	4/6/2022	Valley Link	https://www.valleylinkrail.com/board-of-directors	Ad Hoc - Sustainability	

Council Member	Committee Meeting Date	Committee	Agenda Link	Meeting Type	Committee Report: Summary
Vice Mayor Bonanno	3/28/2022	Livermore-Amador Valley Transit Authority	https://www.wheelsbus.com/meeting/projects-and-services-committee-meeting-76/	Projects and Services Committee	
Vice Mayor Bonanno	3/30/2022	Alameda County Transportation Commission (ACTC)	https://d3n9y02raazwpg.cloudfront.net/alamedactc/312a4022-ab8e-11ec-8a90-0050569183fa-73b04346-5a05-4a37-8df1-a5bcb2f23a5e-1648586772.pdf	ACTC Strategic Retreat	
Vice Mayor Bonanno	4/4/2022	Livermore-Amador Valley Transit Authority	https://www.wheelsbus.com/meeting/board-of-directors-meeting-100/	Board	Board approve wage increase and bonus program for operators and other staff due to help address retention and operator shortages. Also began process of recruitment process for new LAVTA Executive Director.
Vice Mayor Bonanno	4/7/2022	Downtown Subcommittee		Subcommittee	

Council Member	Committee Meeting Date	Committee	Meeting Type	Committee Report: Summary
Council Member Carling	3/29/2022	Pleasanton Mayor's State of the City address	Online Event	
Council Member Carling	3/31/2022	Bay East Association of Realtors	Presentation	Discussion on housing in the state
Council Member Carling	3/31/2022	League of California Cities East Bay Division	Meeting	Dinner with report from local state senator and assembly members

Council Member	Committee Meeting Date	Committee	Agenda Link	Meeting Type	Committee Report: Summary
Council Member Munro	3/31/2022	Bay East Association of Realtors		Presentation	Presentation on 2022 Housing Market and Economic Forecast
Council Member Munro	3/31/2022	Mayor's Report for TV30	https://www.tri-valleytv.org/?q=node/45	Recorded public television show	Report on items of interest for the city
Council Member Munro	3/31/2022	League of California Cities East Bay Division		Meeting	Division Meeting and Legislative Report
Council Member Munro	4/1/2022	East Bay Community Energy Joint Powers Authority	https://ebce.org/meetings/marketing-regulatory-and-legislative-subcommittee-4-1-22/	Marketing, Regulatory and Legislative subcommittee	
Council Member Munro	4/6/2022	Livermore Cultural Arts Council		LCAC membership meeting	
Council Member Munro	4/7/2022	East Bay Community Energy Joint Powers Authority		Special Board Meeting	

From:	Emma Olenberger
To:	Cityclerk - Livermore
Subject:	Letter to City Council for 4-11-2022 Meeting
Date:	Sunday, April 10, 2022 7:11:09 PM
Attachments:	Letter to City Council 4-11-2022.doc

Hello,

Please accept this letter to be included as public comment in the 4-11-2022 City Council.

Thank you,
Wes Eacret
Emma Olenberger
[redacted], Livermore

Re: Garaventa Hills Project

April 10, 2022

Dear Mayor and Council:

With the recent Appellate Court ruling to overturn and reverse Judge Roesch's prior ruling in the Superior Court, regarding the approval to move forward with the Garaventa Hills Project, we would like to request the City revisit the no-project alternative for this site.

With no current approved project for the Garaventa Hill, The City has the perfect opportunity to begin the process of keeping this land as open space. Garaventa Hill represents a key parcel in the grander scheme of this geographic area of the knolls and Brushy Peak. Interconnected with the surrounding areas that are already designated as OSP Parks, Trail Ways, Recreation Corridors and Protected Areas, it has a rare biodiversity, special ecosystem, and hydrology that runs within the veining, connecting the Garaventa Hill to the surrounding protected Garaventa Wetlands Preserve and downstream to the protected Springtown Wetlands Preserve. We know firsthand that wildlife uses it as a corridor because we routinely see fox, coyote, and wild turkey pass through the open space. We see birds of prey soaring overhead. In fact, we had a resident great horned owl roost in our tree last summer and we are sure Garaventa Hill is part of their hunting grounds.

To lose this important piece of the puzzle would be a shame. Please strongly consider rezoning this parcel to open space. Please seek alternate funding sources if necessary, looking at the Altamont and Vasco Landfill Funds and/or the Dougherty Valley Open Space Funds. I am certain L.A.R.P.D and E.B.R.P.D. would be interested in helping manage this unique parcel of land and preserving it for all of Livermore to enjoy.

Thank you for your time and consideration in keeping the Livermore knolls intact for its biodiversity importance and for generations to come and enjoy.

Best regards,

Wes Eacret
Emma Olenberger
[redacted] Livermore

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CITY COUNCIL STAFF REPORT **ITEM NO. 11.2**

DATE: April 11, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Supplemental materials received at the meeting.

RECOMMENDED ACTION

SUMMARY

DISCUSSION

ATTACHMENTS

1. Items Received at the Meeting

Prepared by: Debbie Elam
Deputy City Clerk

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

ANNUAL POET LAUREATE REPORT
Delivered by Poet Laureate Cynthia Patton
April 11, 2022

It is my honor to update you on my activities as Livermore's 4th Poet Laureate. Now in my 5th and final year, it is amazing to reflect on how much has happened. All things considered, I think the year turned out well. Here's a recap of what's occurred since my last annual report.

Poetry in a Test Tube: Livermore's 5th Annual Science Poetry Contest launched in February 2021, and once again had record submissions. The contest has become surprisingly competitive but is still tremendously fun. Last year, as we rode out the second surge, it definitely served a community need. The 6th contest is currently underway, and I believe we are on track to break submission records once again—particularly in the youth and middle school divisions.

Also in February 2021, I hosted a social justice poetry reading as part of Livermore Reads Together. Three phenomenal poets of color read their work, followed by an incredible Q&A. In March, I hosted a virtual award ceremony and reading for the science poetry contest. In April, I did a virtual reading for National Poetry Month, and in May, I concluded another year of Teen Poet of the Month and participated in a Poets Laureate panel as well as a slam poetry workshop and poetry slam for the first ever Las Positas College Literary Arts Festival. I also created a ten-minute video for the City's All-America City Award that features four of the poems I've written as Poet Laureate.

Last summer I intended to relaunch the Whistlestop Writers Open Mic in person, but learned that Swirl on the Square—our longtime home—was no longer open on Wednesdays. This triggered a search for a new venue that has continued, on and off, until today.

In August, I participated in LCAC's community planning workshop, representing the literary arts. This lead to me being asked to serve on an ad hoc committee that met through the fall and winter to re-envision LCAC's purpose, mission statement, and organizational structure. I wanted to explore how LCAC could better serve individual artists and writers, and I'm happy to say the results exceeded my expectations. I'm excited to see how LCAC evolves in the future.

In September, I was awarded a contract with Art Builds Community to offer a series of art and poetry workshops throughout Livermore as a means to collect feedback for the City's Cultural Arts Vision. I created a project called The Hidden Heart. Participants responded to a series of prompts to create a poem about their heart. Each line of the poem was written on paper strips that were then decorated and rolled into paper beads, hiding the poem inside. Participants used these paper beads, along with other beads we provided, to create a meaningful necklace or bracelet. With the help of a few volunteers, I conducted six workshops: Rincon and Civic Center Libraries, Del Valle High School, Hagemann Ranch, the Filipino Barrio Fiesta, and the Batch Makers Market. Each workshop felt healing and even a bit magical. I was sad to see them end.

Last summer, Anne Giancola and I began discussing how to do another ekphrastic exhibit. It took us five months to pull off, but in January 2022, Double Take: Art and Literature Side By Side opened in the Bankhead Theater Lobby. We literally filled the Bankhead with art paired with poetry, flash fiction, and micro essays. Anne and I hosted two receptions where I coordinated and lead a "poetry walk" with writers reading their work in front of the art that inspired it. I am so proud of that exhibit, and hope everyone had a chance to see it. But if not, we now have a companion book that preserves the exhibit and all its creative inspiration. You can purchase one on Amazon or at the Bankhead when it's open.

In February, I prepared an application for an Academy of American Poets Laureate Fellowship. It's a long shot, but why not? In March, I partnered with the Livermore Library on Livermore Reads Together. To celebrate autism and the book, *The Reason I Jump*, I hosted a prose and poetry reading with fellow autism mothers, interviewed Dr. Temple Grandin, participated in a Q&A with Annette and Matteo Musso, and coordinated an autistic art and poetry exhibit for the Library's gallery space. If you didn't see it in March, the exhibit will be displayed again as a pop-up at the Bothwell Arts Center before it becomes a traveling exhibit.

Going forward, I already mentioned Poetry in a Test Tube: Livermore's Science Poetry Contest. I've extended the deadline for submissions until Tuesday, April 19th. The Award Ceremony and Reading will take place in person on May 21st at the Civic Center Library at 2 p.m. I'm hoping to do an in-person reading for National Poetry Month at the Bankhead Theater. Teen Poet of the Month continues through May. That month I'll also be helping to select the next Poet Laureate and participating in a poetry reading hosted by Patagonia in San Francisco.

In June, I'll serve once again as a poetry judge for the Alameda County Fair. I'll host an open mic and teach a free workshop on Poetry Day at the Fair. I'll also read at Towne Centre Books in Pleasanton along with the Dublin and San Ramon Poets Laureate. Lastly, I'll be doing cowboy poetry again at Hagemann Ranch and helping our new Poet Laureate launch our marque event—Verse & Vine: Poetry in Livermore Wine Country (formerly the Ravenswood Poetry Series).

It's been an honor to serve as Livermore's Poet Laureate. Thank you for five amazing years.

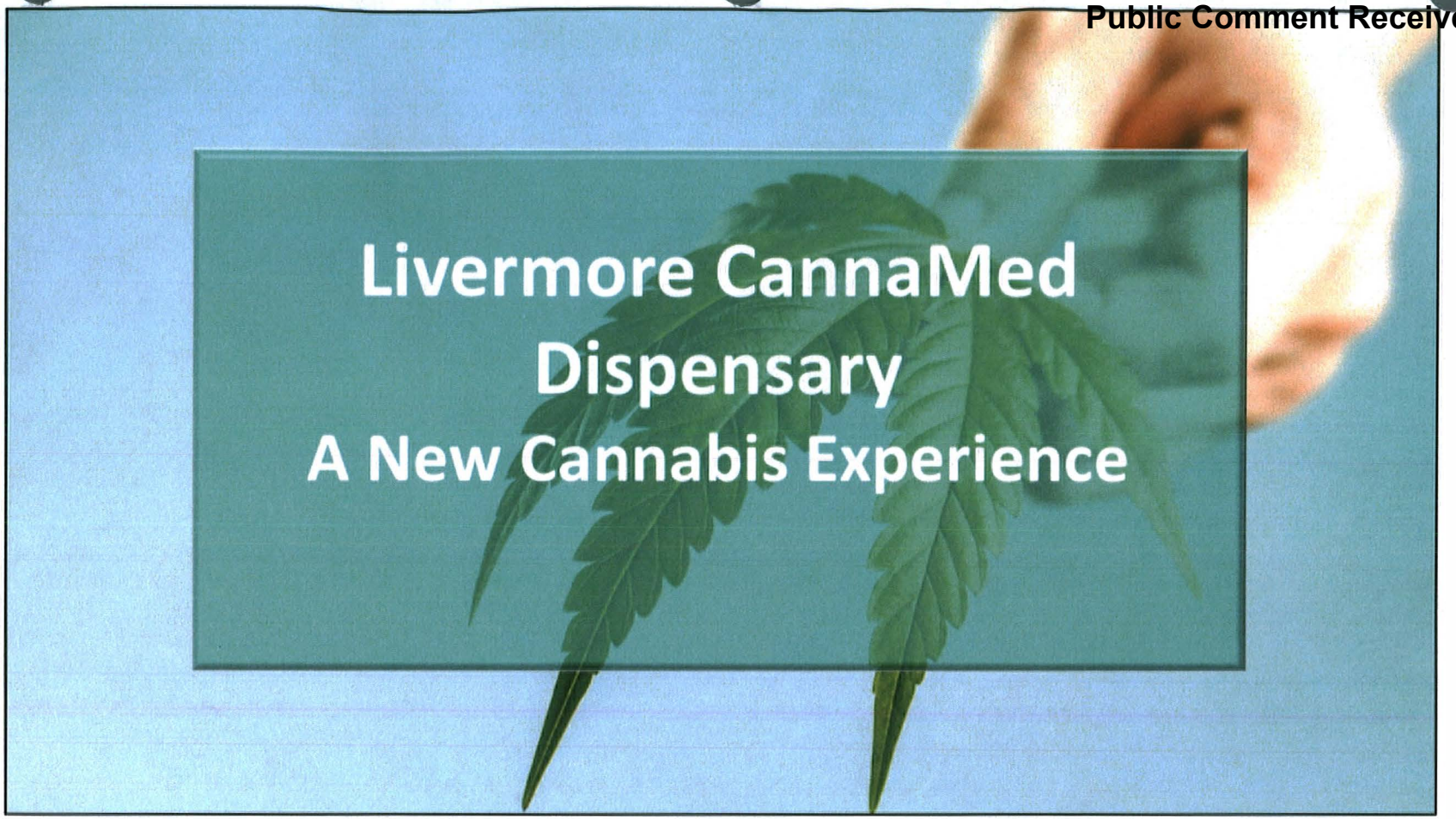
ACTIVITY SUMMARY

My infamous spreadsheet crashed and died two years ago. This summary replaces it. Since I was installed as Poet Laureate in 2017, I have:

- Written 37 poems for civic events and public art installations. Eleven additional pandemic poems were created as part of the Pandemic Poetry Project, bringing the total to 48.
- Hosted 66 open mics, in person and virtual.
- Gave more than 30 poetry readings in Livermore and throughout the greater Bay Area from 2019 to 2022.
- Prepared and distributed a monthly literary arts newsletter.
- Coordinated 30 Teen Poet of the Month contests. Have finally reached students (and teachers) at all 4 high schools. Received an incredible 60 submissions in May 2019!!
- Held an Award Ceremony and Reading for the Teen Poet of the Month program, then switched to award certificates which the students enjoy far more.
- Coordinated 5 Science Poetry Contests with award ceremony and reading.
- Hosted 2 Poetry Corners at the LVJUSD Science Odyssey in 2019 and 2020.
- Gave 6 readings at the Livermore Civic Center Library. Topics included autism, social justice, and the pandemic. Hosted 2 literary events and attended 15 additional events.
- Coordinated and hosted 8 quarterly Poetry at Ravenswood events with some phenomenal poets, including many women and poets of color.
- Curated and performed 3 cowboy poetry events at Hagemann Ranch in 2017, 2018, and 2019.
- Served as Poetry Judge at the Alameda County Fair in 2018 and 2019.
- Hosted Poetry Day at the Fair, which included an open mic and free poetry workshop, in 2018 and 2019.
- Recruited artists (along with Anne Giancola of the Bothwell Center) as well as 9 poets for the Worth A Thousand Words Exhibit held at the Bankhead Theater from 10/30/2019 to 1/6/2020. Curated a related exhibit that displayed all of the Teen Poet of the Month winners and honorable mentions for the 2018/2019 academic year.
- Lead a "Poetry Walk" at the opening and closing receptions for the Worth A Thousand Words Exhibit.
- Recruited artists (along with Anne Giancola) as well as 35 poets and writers for the Double Take: Art and Literature Side By Side Exhibit held at the Bankhead Theater from 1/5/2022 until 3/27/2022.
- Coordinated and lead a "Poetry Walk" at the opening and closing receptions for the Double Take Exhibit.
- Produced and edited the companion book, *Double Take: Art and Literature Side By Side*, available on Amazon.
- Created a ten-minute video on the Livermore Poet Laureate Program, featuring four of the poems I've written as Poet Laureate.
- Participated in the Las Positas College Literary Arts Festival in May 2021.

- Participated in the Poets Laureate on Social Justice Tour in Fall 2019, giving readings throughout Northern California focused on social justice issues. Cities included Sacramento, Stockton, San Francisco, Campbell, Berkeley, Corte Madera, and Livermore.
- Assisted Carlie Wiedmeier, a fabulous English teacher at Del Valle High School, with an elective poetry class (that also served as remedial reading/writing). The class was a pilot project to see if we could get students interested in the state and national Poetry Out Loud competition. We didn't, but 10 underserved students learned how to read, analyze, deliver, and most importantly, enjoy a variety of challenging poems. I attended class every Thursday for 10 weeks to talk about poetry and coach the students.
- Traveled to Southern California to attend the historic Gathering of Poets Laureate of California in October 2018.
- Attended the Gathering of Bay Area Poets Laureate in September 2019.
- Was featured in the Pleasanton Weekly along with 2 of my pandemic poems, February 2021.
- Attended the statewide Creativity for Change Symposium hosted by California Poets in the Schools in August 2019, August 2020, and August 2021.
- Became an official Poet-Teacher with California Poets in the Schools in June 2021.
- Represented Livermore at literary events throughout the Bay Area and beyond.

Item	Name	Comment
3) CITIZENS FORUM	Nathaniel Moore	Given the continuing drought here in California: Has the council considered re-opening the water recycling program? I'm aware that there were expense concerns last time, but the cost of the hard infrastructure like plumbing is already sunk. The argument against it last time was, "Drinking water is cheaper." This argument fails because drinking water may not be available. Additionally, we currently pay to pump the treated water out into the bay. There's a cost associated with that action. Might as well put it to use here, instead of dumping it out. Reduce, Reuse, Recycle. It's a good idea for water, too.
3.1) Public Comment Received	Becky Rhodes	I am Becky Rhodes, Political Director with the Alameda Labor Council. On behalf of our 140,000 members, we strongly urge the city to reconsider their proposals presented to firefighters. IAFF Local 1974 deserves a fair and equitable contract, similar to those offered to all other bargaining units in the City. Our firefighters risk their health and safety every day, and risk bringing covid back to their families. Our firefighters deserve better than what the city is proposing.



Thank you all for your time today to speak with our team. We understand that the city of Livermore has previously considered supporting cannabis businesses in the community, and we feel at Livermore CannaMed Dispensary we are far different from the rest. We aren't here to just sell cannabis in Livermore; we are here to work towards and develop a long term, mutually beneficial relationship with the city of Livermore and support a growing industry.

Why Us?


Jim Johnson


Sherri Souza


Steve Johnson

Contact Information:

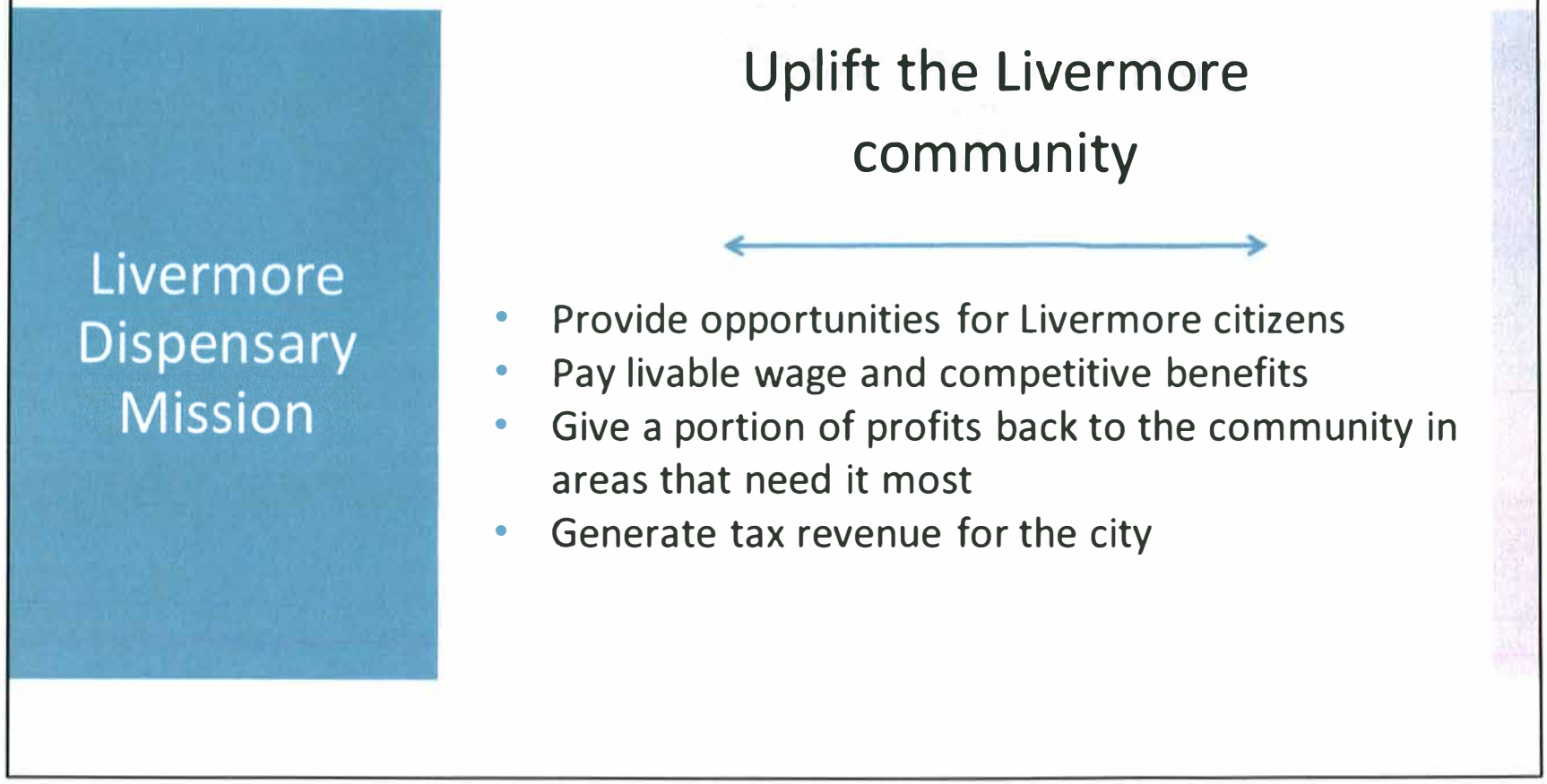
Jim Johnson – jj@soundcityinc.com

Sherri Souza – sherri@sherrisouza.com

Steve Johnson – smjohnsonmd@gmail.com

(408) 857-4592

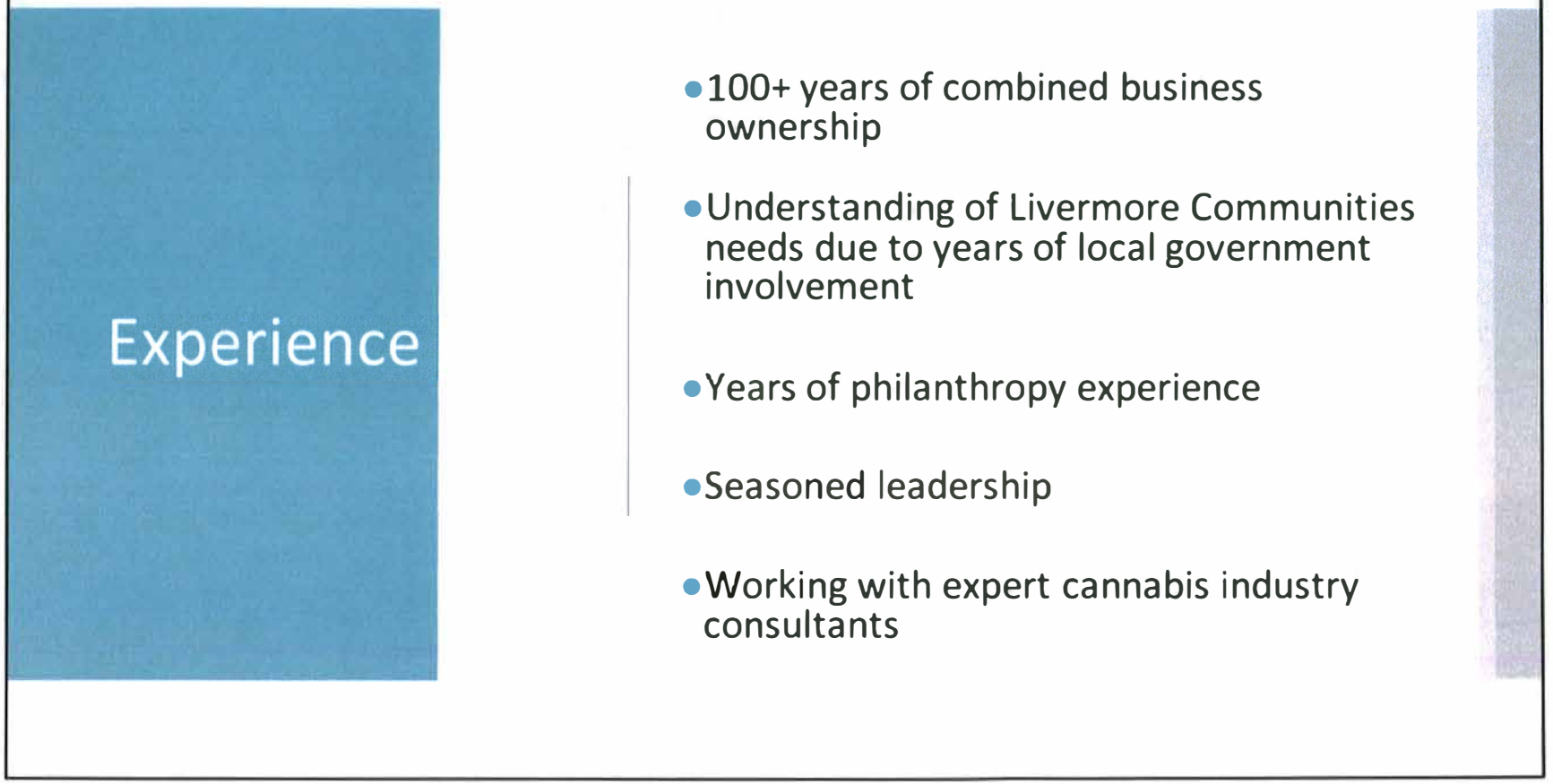
We at Livermore CannaMed Dispensary are a startup cannabis company looking to open our business in Livermore. We are aware that Alameda County has approved a cannabis establishment and people are going to flock there from the city to purchase their cannabis. This only means any local tax revenue is going to the county not the city of Livermore.



As long-time Livermore residents, we want to establish a dispensary within city limits to ensure that this necessary tax revenue helps the city of Livermore. By establishing a dispensary here in Livermore this will give us the opportunity to hire Livermore residents and pay them a livable wage with competitive benefits. We at Livermore CannaMed Dispensary would like to establish a program with our employees to further assist the most vulnerable in our community as well as giving a portion of our profits back to the community in areas that need it most such as children that are food insecure or experiencing homelessness. Livermore's mission is all about uplifting the Livermore community and providing opportunities for its citizens while generating tax revenue for the city simultaneously.



Livermore CannaMed Dispensary is comprised of a group of dedicated, active community members who are committed to operating a safe and successful cannabis dispensary within the City of Livermore, with a focus on Security and Compliance. The health and safety of the city of Livermore is of the utmost importance to us, and we believe the addition of Livermore CannaMed Dispensary will contribute to that. We understand that the cannabis industry has suffered hard lessons regarding safety and security in the past, but with that came increased security protocols and methods for mitigating danger and nefarious activity. Livermore CannaMed Dispensary is extremely proud of the many security measures that will be taken at our dispensary, including the use of panic sensors, cameras covering each square inch of the licensed facility, specified lock system, comprehensive standard operating procedures and training protocols for security, risk mitigation, and more. We believe in the value of stringent security regulations and the integrity of our proven and effective security protocols.



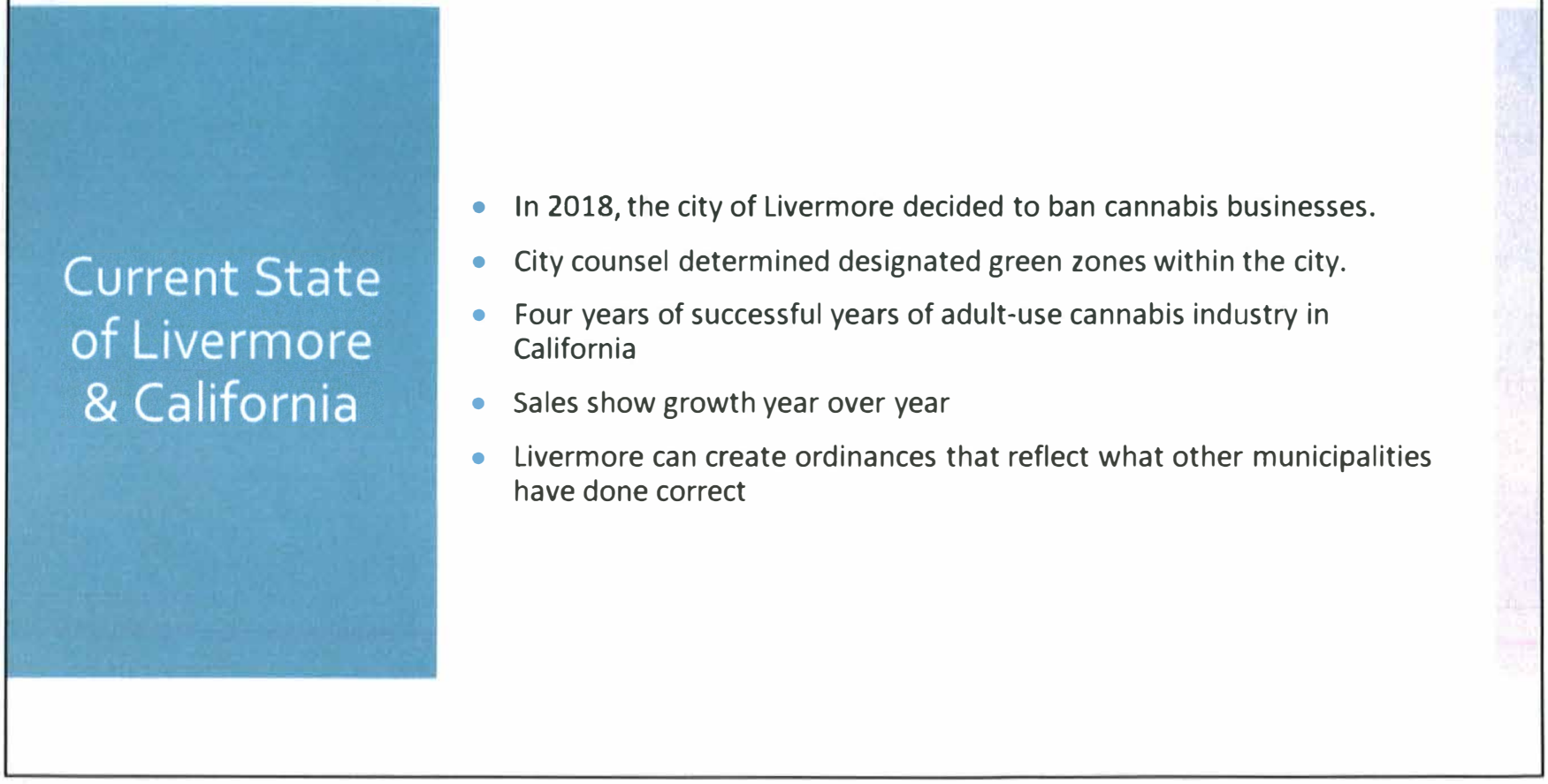
The Livermore CannaMed Dispensary leadership team has over 100 years of combined business experience with a deep understanding of Livermore community needs due to years of local government involvement. Our seasoned leadership team has years of philanthropy experience which is reflected in our goal of giving back to the community. In conjunction with our leadership team's experience, Livermore CannaMed Dispensary has also partnered with industry-leading cannabis consultants to provide extensive expertise in every critical area of cannabis operations.

Why Here?



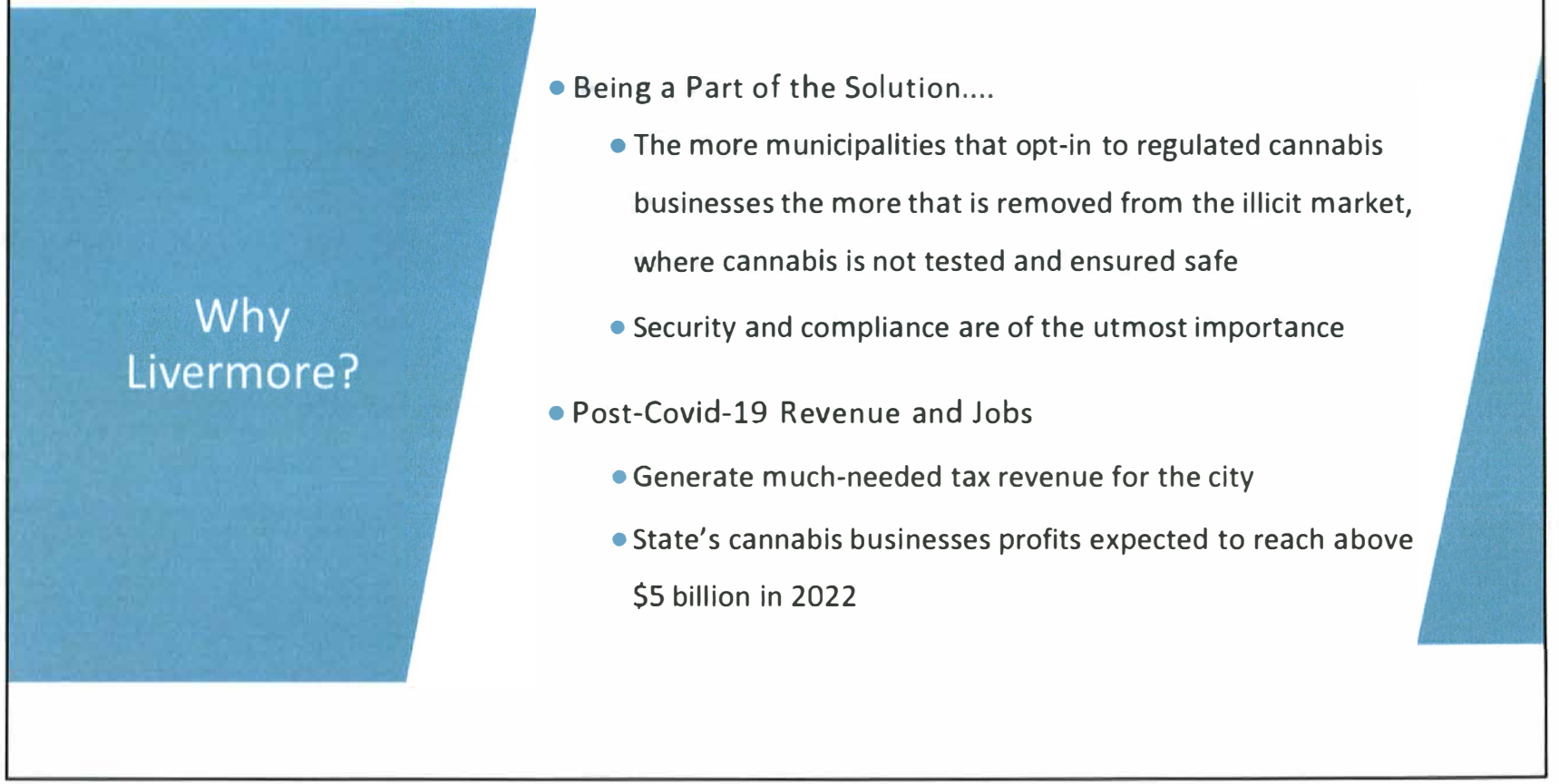


The city of Livermore sent out a survey to its citizens and received back over 300 responses that were overwhelmingly pro-cannabis. We are listening to what the citizens of Livermore want, and we at Livermore CannaMed Dispensary want to provide safe and secure access to cannabis products to the members of our community.



In 2018, it was smart on Livermore's part to ban dispensaries if they were unsure of how to create regulations for it and did not want the state to make any decisions for them. Even though the city of Livermore banned cannabis businesses, the City Council at that time still determined where designated green zones would be within the city.

However, now there has been over four successful years of the adult multi-use cannabis industry in California with sales showing year over year growth within the state. Livermore can create ordinances that regulate the industry and have the ability to factor in what other municipalities have done right and what they have done wrong.



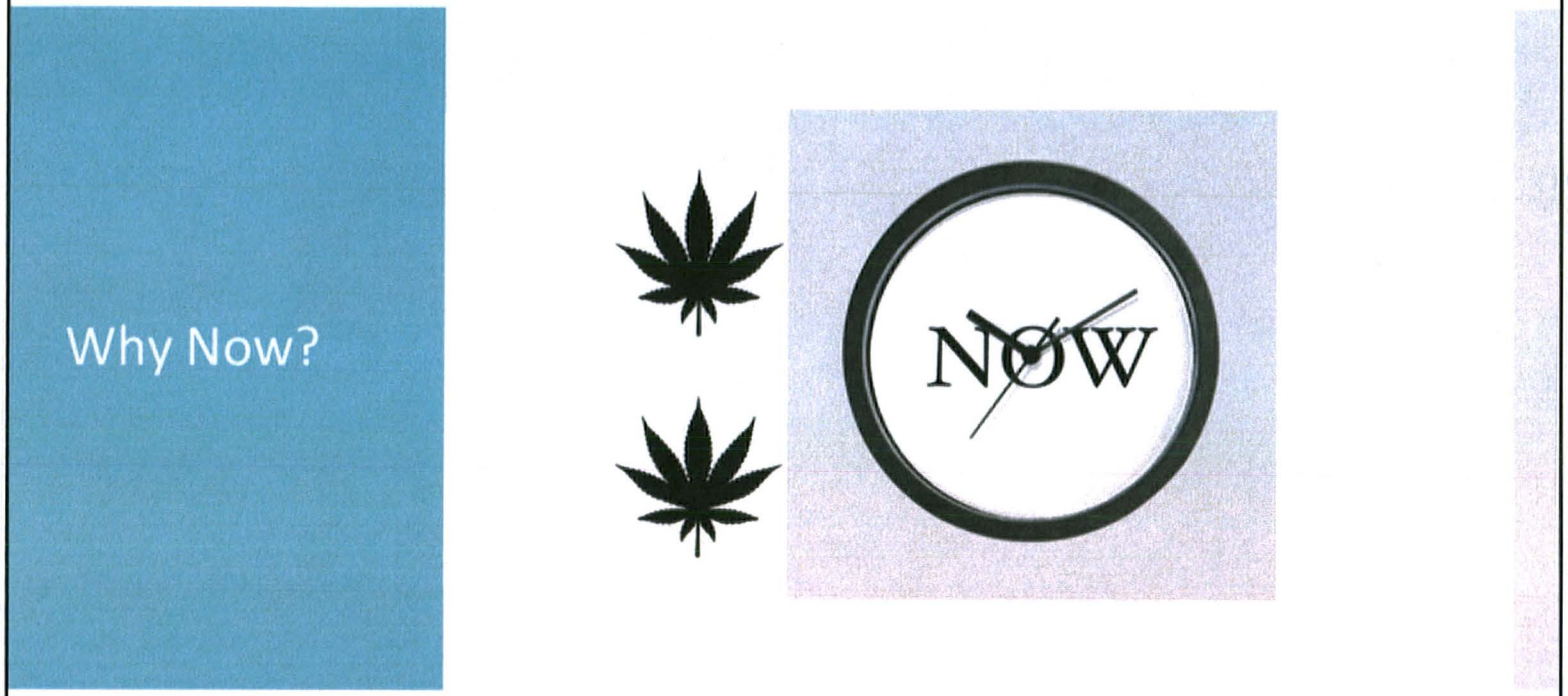
As previously mentioned, security and compliance are of the utmost importance to us. It is imperative to us that our store is safe, secure, and abiding by all rules and regulations required by the municipality and the State of California. The cannabis industry has come a long way in California in terms of the many ancillary businesses that have been formed to ensure safety and compliance.

In addition to helping the community have access to safe and holistic cannabis, the City of Livermore will benefit from Livermore CannaMed Dispensary in many ways. With the Covid-19 pandemic, tax revenue has taken a huge dip and creating ordinances within Livermore that include an additional city tax on all cannabis sales could really help to generate the much-needed tax revenue for the city as well as opportunity for job creation. Currently, our model estimates potential local Livermore revenue of as high as millions of dollars per year. We have done extensive market research that shows increased tourism in areas with these types of businesses who then have a palpable impact on the other businesses in the area (i.e. gas stations, restaurants, night life).

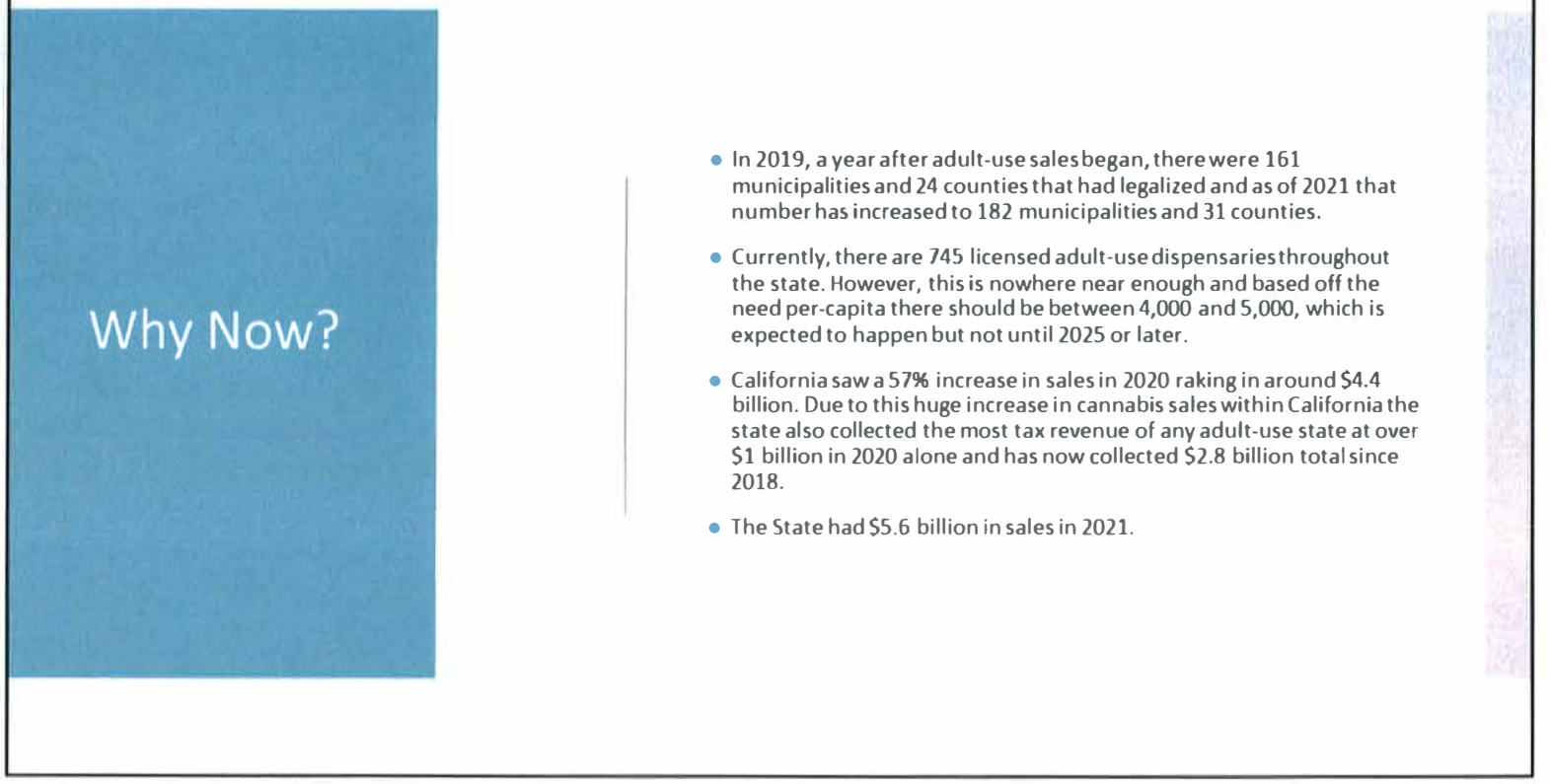
CannaMed Dispensary in Livermore

- Long-term active community members
- Establish a workforce that reflects the demographic of the city
- Importance of diversity and inclusion
- Eager to give back to the community that has consistently given back to us

As long-term residents of Livermore, we are committed to establishing a workforce that reflects the demographics of the city in which we operate and look forward to utilizing the surrounding community to support local workforce development opportunities. Diversity and inclusion are big components of what makes Livermore CannaMed Dispensary who we are. We are eager to give back to the community that has consistently given back to us. Not just in means of monetary contributions but also on a personal level.



In 2016, with over 57% of the roughly 14 million votes reported in favor, California voters approved statewide adult use cannabis legalization. The first sales did not begin until 2018 and for a state that has had medical cannabis since 1996, it was still a slow start to get municipalities on board, due to the unknown regulations. In 2019, a year after adult-use sales began, there were 161 municipalities and 24 counties that had legalized. As of 2021 that number has increased to 182 municipalities and 31 counties. California since then has seen many changes as it relates to who regulates adult-use cannabis and other compliance efforts. It was not until 2019 that California required the use of Metrc a statewide seed-to-sale tracking system.



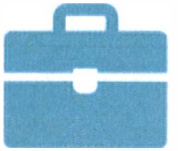
This system was vitally important to deter product from the illicit market and has seen great success. Now there is so much guidance from the state and training for businesses to utilize when implementing Metrc. These more established regulations should be helpful in convincing even more municipalities to opt-in for allowing adult-use cannabis establishments, which is highly in demand. Currently there are 745 licensed adult-use dispensaries throughout the state, however, this is nowhere near enough. Future estimates, based off the need per-capita, shows there should be between 4,000 and 5,000 dispensaries across the state, which is expected to happen but not until 2025 or later. The opportunity for revenue for new businesses and tax revenue for municipalities is still looking extremely positive. After California deemed adult-use cannabis businesses essential during the Covid-19 pandemic, California saw a 57% increase in sales in 2020 bringing in around $4.4 billion. Due to this huge increase in cannabis sales within California the state also collected the most tax revenue of any adult-use state at over $1 billion in 2020 alone and has now collected $2.8 billion total since 2018. In 2021 the state still saw an increase in sales bringing in $5.6 billion.



4 years of successful regulation to assist in creating one's own



Additional tax revenue to help repair from the Covid-19 Pandemic!



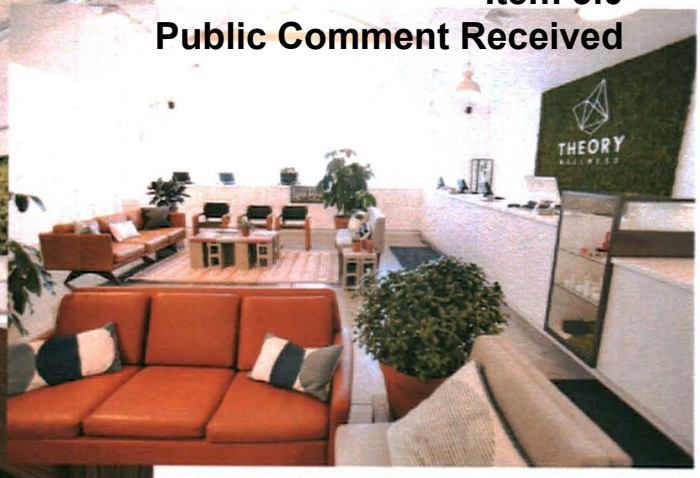
Job Creation

Why Now?

So why not now? Livermore has had four years to watch the successes and mistakes of other municipalities to form comprehensive regulations of their own. Covid-19 has impacted the municipality financially and allowing for cannabis dispensaries, where the municipality can generate local sales tax, from will be extremely advantageous. The market assessment shows the California cannabis industry is nowhere near saturation and Livermore CannaMed Dispensary would be 1 of only 2 multi-use dispensaries in the TriValley/Livermore area and can contribute to the State's need for an additional 4,000 dispensaries to meet current demand. Also, the community of Livermore has made it clear that they are in favor of a safely regulated cannabis dispensary within the town. We feel the time is now.


THANK YOU!

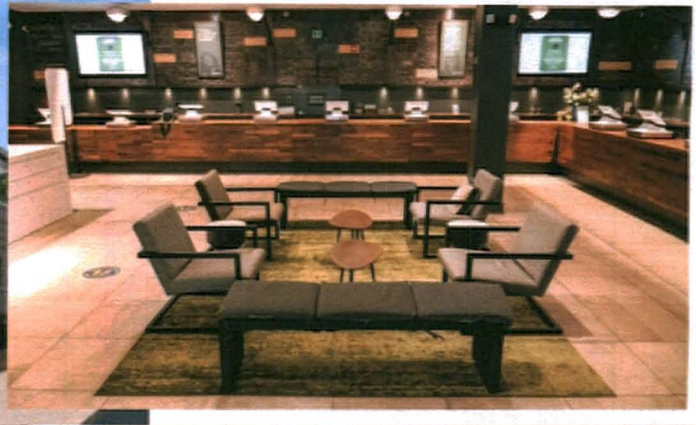



THEORY

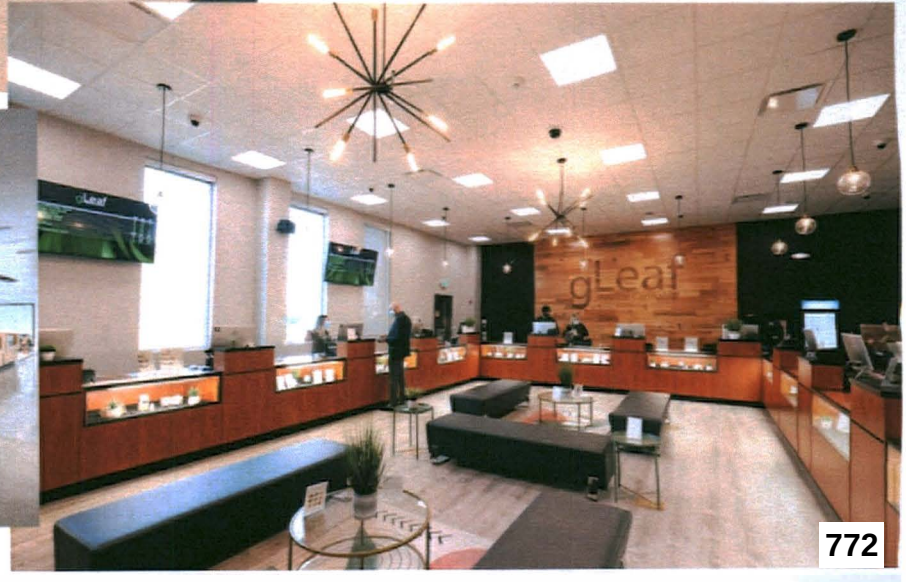

ELEVATE




The Healing Center






gLeaf

MARCH 25, 2022

City Clerk's Office
APR 11 2022
City of Livermore

Attention: City of Livermore – City Clerk's Office (Water Service Rate Protest)

1052 S Livermore Avenue, Livermore, CA 94550

Livermore City Council,

I would like to make a statement with regards to protesting the proposed Livermore Municipal water increase on rates. I reside and am the property owner at [redacted], Livermore, CA 94550

Parcel [redacted] – Tax Rate Area [redacted]

I am protesting the proposed rate hike due to the following reasons:

- I am a one income household supporting many financial increases as a property owner ie….gas, groceries, PG&E increases, house insurance increase, and property upkeep increases.
- I purchased my property 6 years ago and it is an approx. 9600 sq ft corner lot with a lot of landscaping.
- I recently put in drought resistant rocks that cost me $5,000 including labor. I still have a sizeable yard with grass and plants that need to be watered 3X/week. This landscape is one of the reasons that my home has retained it's value.
- I have a 1264 sq ft house on an approx. 9,600 sq ft lot the majority of it landscaping that requires water.
- My property taxes have increased as well. I pay $8,682.04 per year for this small house.
- I believe that I am being unfairly targeted for a rate increase by investing in Livermore and my home.
- I reviewed the rate increases by year through year 2027 and they are outrageous.
- My income has dropped substantially due to job loss during COVID and losing my 29 year job with my former employer. I have taken another position at 60% of my old salary.

I am asking for an exemption for my property so that I can maintain living here in Livermore. It is a wonderful town and will become unaffordable with these many rate increases.

I invite you to come and inspect my home and yard to review the accuracy of these statements.

Thank you for your consideration.

Joyce Carlin