



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL STUDY SESSION**  
**April 16, 2008**  
**5:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

- 5:00 P.M.    1.    **ROLL CALL**    J. Carlson, Marsala, Janz, McKeithen
- 5:02 P.M.    2.    **PUBLIC COMMENT**
- STUDY SESSION**
- 5:05 P.M.    3.    **DISCUSSION AND REVIEW OF MASTER RESOLUTION REGARDING  
COMMITTEES/COMMISSIONS**
- 6:00 P.M.    4.    **ADJOURNMENT**

Agendas and staff reports may be accessed on the Town website at: [www.ci.atherton.ca.us](http://www.ci.atherton.ca.us)  
☛ *Please contact the City Clerk's Office at 650.752.0500 with any questions.* Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**April 16, 2008**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

**6:00 P.M.     ROLL CALL             J. Carlson, Marsala, Janz, McKeithen**

**6:02 P.M.     PUBLIC COMMENTS**

**6:05 P.M.     CLOSED SESSION**

**A.     CONFERENCE WITH LEGAL COUNSEL – Existing Litigation  
pursuant to Subsection (a) of Government Code Section 54956.9**

**Lamb vs. Town of Atherton, et al.**

**Superior Court of California, San Mateo County, CIV 461630**

**Town of Atherton vs. P.G. & E.**

**Superior Court of California, San Mateo County, CIV 471234**

**Town of Atherton vs. Mia Meir**

**Superior Court of California, San Mateo County, CIV 466596**

**B.     CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation,  
Significan Exposure to Litigation pursuant to Subsection (b) of  
Government Code Section 54956.9**

**Two (2) potential case**

**C.     LIABILITY CLAIMS – pursuant to Government Code Section  
54956.95**

**Claimant: Michael Sheena**

**Agency Claimed Against: Town of Atherton**

**Claimant: Mercury Insurance Group (Mavel Guitron)**

**Agency Claimed Against: Town of Atherton**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**ADJOURN**

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**AGENDA**  
**Town of Atherton**  
**CITY COUNCIL**  
**ATHERTON CHANNEL DRAINAGE DISTRICT**  
**APRIL 16, 2008**

**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

**PLEASE NOTE:** *Times listed on the Agenda are an approximation and not a time certain. The Council may take up items out of order. Please arrive well in advance of the time listed for any item in which you are interested.*

- 7:00 P.M.     1.     **PLEDGE OF ALLEGIANCE**
- 7:03 P.M.     2.     **ROLL CALL**     J. Carlson, Marsala, Janz, McKeithen
- 7:05 P.M.     3     **PRESENTATIONS**
- A.     Mosquito and Vector Control Awareness Week Proclamation  
B.     Carolyn Williams, Principal, Selby Lane School  
C.     Menlo Park Fire Protection District – Quarterly Update
- 7:35 P.M.     4.     **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:45 P.M.     5.     **STAFF REPORTS**
- 7:55 P.M.     6.     **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed by Resolution No. 99-6)
- Victoria Manor Homeowners' Association
- 8:10 P.M.     **CONSENT CALENDAR** (Items 7-20)

*(Consent Calendar items are routine in nature and are generally considered in one motion and adopted by a single vote of the City Council. If discussion regarding a Consent Calendar item is desired, the member(s) of the City Council, public, and/or staff wishing to pull the item should so indicate at the time the Mayor calls for consideration of the Consent Calendar.)*

7. **APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING MARCH 5, 2008; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR CITY COUNCIL MEETINGS OF MARCH 19, 2008**
8. **APPROVAL OF BILLS AND CLAIMS FOR MARCH IN THE AMOUNT OF \$ 1,014,676**
9. **ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR MARCH 2008**
10. **ADOPTION OF A RESOLUTION REGARDING AB 2544 ANNUITANT MEDICAL INSURANCE – MANAGEMENT GROUP**

**Recommendation:** Adopt the attached resolution raising annuitant contributions for the Management Group to comply with AB 2544 amending Section 22892 of the Government Code, relating to public employee health benefits, and rescinding Resolution 08-07.

11. **APPROVAL OF AN AMENDMENT TO THE TOWN'S E-MAIL POLICY**

**Recommendation:** Approve by motion an amendment to the Town's E-Mail, Internet, and On-Line Service Use Policy pertaining to the retention and deletion of e-mail.

12. **APPROVAL OF JOB CLASSIFICATION FOR THE POSITION OF ASSISTANT CITY MANAGER / APPROVAL OF SALARY RANGE FOR ASSISTANT CITY MANAGER**

**Recommendation:** Approve job classification for the position of Assistant City Manager and approve the annual salary range for Assistant City Manager of \$129,924- \$ 152,844.

13. **APPROVAL OF LETTER TO C/CAG REQUESTING GRANT FUNDING IN THE AMOUNT OF \$13,000 FOR A GOVERNMENT OPERATIONS EMISSIONS INVENTORY**

**Recommendation:** Staff recommends that the City Council authorize the Mayor to sign the letter to C/CAG requesting grant funding in the amount of \$13,000 for the Town's government operation greenhouse gas emissions baseline inventory.

**14. RECOMMENDATION FROM ENVIRONMENTAL PROGRAMS COMMITTEE FOR THE CITY COUNCIL TO REFER TO THE GENERAL PLAN COMMITTEE CONSIDERATION OF GREEN BUILDING REGULATIONS AND CHANGES TO ZONING CODE FOR SOLAR INSTALLATIONS**

**Recommendation:** The Environmental Programs Committee is recommending that the City Council direct the General Plan Committee to begin the process of reviewing making changes in the zoning code to make solar installations easier and implementing green building regulations.

**15. AWARD OF TWO CONTRACTS FOR THE HOLBROOK-PALMER PARK TOWN HOME PROJECT, PROJECT NO. 07-011**

**Recommendation:** Award two contracts for the Holbrook-Palmer Park Town Home Project, Project No. 07-011, for up to \$82,000, with a construction contingency of \$14,200, for a total authorization of \$96,200; to authorize the use of informal bidding; and to authorize the Mayor to sign the contracts on behalf of the Town.

**16. APPOINTMENT OF AD HOC COUNCIL SUB-COMMITTEE REGARDING THE 2007-14 HOUSING ELEMENT UPDATE**

**Recommendation:** Appoint Mayor Janz and Vice Mayor Carlson as the Ad Hoc City Council Sub-committee to provide guidance and oversight to Staff and consultants during the 2007-14 Housing Element Update process.

**17. APPROVAL TO PARTICIPATE IN REQUEST FOR PROPOSAL FOR JOINT PROCUREMENT OF STREET SWEEPING SERVICES**

**Recommendation:** Approve participation in a request for proposal for joint procurement of street sweeping services.

**18. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE THE STEVICK DRIVE STREET RECONSTRUCTION PROJECT, PROJECT NO. 06-002**

**Recommendation:** Approve the plans and specifications and authorize advertisement for bids for the Stevick Drive Street Reconstruction Project, Project No. 06-002.

**19. RATIFY CITY MANAGER AUTHORITY RE SPECIAL EVENTS ORDINANCE ATHERTON MUNICIPAL CODE CHAPTER 17.38**

**Recommendation:** Confirm that Section 17.38.060A of the Atherton Municipal Code is the controlling authority for issuance of special event permits. This action may be taken by motion. It is intended to avoid misinterpretation of actions by the City Council at the regular City Council meeting on May 17, 2006.

**20. APPROVE AN AMENDMENT TO THE CITY OF REDWOOD CITY VEHICLE MAINTENANCE SERVICES**

**Recommendation:** Authorize the Mayor to execute Amendment No. 4 to the agreement for vehicle maintenance services with the City of Redwood City.

**PUBLIC HEARINGS (Item 21)**

**8:20 P.M. 21. RECONSIDERATION OF COUNCIL'S DECISION REGARDING THE APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)**

**Recommendation:** Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of Staff for the reasons outlined in this Report.

**REGULAR AGENDA (Items 22-24)**

**8:40 P.M. 22. ADOPTION OF A MASTER RESOLUTION GOVERNING COMMITTEES/COMMISSIONS**

**Recommendation:** Review resolution which is designed to govern all Town committees and commissions with the exception of the Planning Commission.

**9:00 P.M. 23. ACCEPT AND APPROVE THE RECOMMENDATIONS OF THE CITY COUNCIL SCREENING COMMITTEE FOR ANNUAL APPOINTMENTS TO COMMITTEES/COMMISSIONS**

**Recommendation:** Accept the recommendations of the City Council Screening Committee to appoint members to Town commissions and committees.

- 9:15 P.M. 24. **DISCUSSION AND POSSIBLE CREATION OF A BLUE RIBBON TASK FORCE TO SOLICIT INPUT AND EVALUATE THE FEASIBILITY OF A NEW TOWN CENTER; DISCUSSION AND POSSIBLE CREATION OF A BLUE RIBBON TASK FORCE TO EVALUATE THE FEASIBILITY OF FUNDRAISING OPTIONS FOR A NEW TOWN CENTER**

**Recommendation: Appoint a Blue Ribbon Task Force to solicit input and evaluate the feasibility of a new Town Center. Appoint a Blue Ribbon Task Force to evaluate the feasibility of fundraising options for a new Town Center.**

- 9:45 P.M. 25. **COUNCIL REPORTS**

- 9:55 P.M. 26. **PUBLIC COMMENTS**

- 10:05 P.M. 27. **ADJOURNMENT**

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**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**March 5, 2008**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

The meeting was called to order by Mayor Janz at 6:02 p.m.

**ROLL CALL**

**PRESENT:** Jerry Carlson  
Charles E. Marsala  
James R. Janz  
Kathy McKeithen

**PUBLIC COMMENTS**

There were no public comments.

**CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

**John P. Johns Plaintiff vs. Town of Atherton et. al. Defendant**  
Superior Court of California, San Mateo County, CIV 465782

**Lamb vs. Town of Atherton, et al.**  
Superior Court of California, San Mateo County, CIV 461630

**RECONVENE TO OPEN SESSION**

Report of action taken.

City Attorney Marc Hynes reported out of Closed Session that no reportable action was taken with respect to either case of Existing Litigation.

**ADJOURN**

**The meeting was adjourned by Mayor Janz at 7:02 p.m.**

**Respectfully submitted,**

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**James R. Janz**  
**Mayor**

**Minutes Prepared by:**  
**Kathi Hamilton**



**DRAFT MINUTES**  
**Town of Atherton**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**  
**March 19, 2008**  
**6:00 P.M.**  
**Meeting Room**  
**Town Administrative Offices**  
91 Ashfield Road  
Atherton, California  
**Special Meeting**

The meeting was called to order by Mayor Janz at 6:00 p.m.

**ROLL CALL**

**PRESENT:** Jerry Carlson  
Charles E. Marsala  
James R. Janz  
Kathy McKeithen

**PUBLIC COMMENTS**

There were no public comments.

**CLOSED SESSION**

- A. **CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

**Lamb vs. Town of Atherton, et al.**  
Superior Court of California, San Mateo County, CIV 461630

**John P. Johns Petitioner vs. Town of Atherton et. al. Respondent**  
Superior Court of California, San Mateo County, CIV 465782

- B. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant Exposure to Litigation pursuant to Subsection (b) of Government Code Section 54956.9**

**One (1) potential case**

**C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95**

**Claimant: Stanford University Hospital/Medical Center  
Agency Claimed Against: Town of Atherton**

**RECONVENE TO OPEN SESSION**

**Report of action taken.**

**City Attorney March Hynes reported out of Closed Session as follows:**

**There was no reportable action taken on either Item A or Item B.**

**With respect to Item C, LIABILITY CLAIMS, by unanimous vote of the Council, the claim by Stanford University Hospital/Medical Center was denied.**

**ADJOURN**

**The meeting was adjourned by Mayor Janz at 6:50 p.m.**

**Respectfully submitted,**

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**James R. Janz  
Mayor**

**Minutes Prepared by:  
Kathi Hamilton**



**DRAFT MINUTES  
Town of Atherton  
CITY COUNCIL  
ATHERTON CHANNEL DRAINAGE DISTRICT  
MARCH 19, 2008**

**7:00 p.m.  
TOWN COUNCIL CHAMBERS  
94 Ashfield Road  
Atherton, California**

**REGULAR MEETING**

**Mayor Janz called the meeting to order at 7:05 p.m.**

**1. PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**PRESENT Jerry Carlson  
Charles E. Marsala  
James R. Janz  
Kathy McKeithen**

**City Manager Jerry Gruber and City Attorney Marc Hynes were also present.**

**3. PRESENTATIONS**

**A. Arbor Day Proclamation**

**Mayor Janz read the Proclamation declaring April 19, 2008, Arbor Day.**

**B. Rain Gauge Project – Cynthia D’Agosta**

**The presentation was canceled.**

**C. Menlo Park Fire Protection District – Quarterly Update**

**The item was continued to the City Council meeting of April 16, 2008, at the request of Menlo Park Fire Protection District.**

**4. PUBLIC COMMENTS**

**Wu Lu, Union City, Volunteer for Global Torch Relay Rally, to be held April 5, 2008, in San Francisco Union Square. The rally would draw attention to the increasing human rights violations in China and would occur just a few days prior to the Beijing**

**Olympic Torch's arrival in San Francisco. Crimes against humanity could not coexist with the Olympics. He urged those in attendance to attend the rally.**

**Lin Liu , San Mateo, invited Council Members to be speakers at the Saturday April 5, 2008, rally. She expressed her concern for the human rights violations. She believed the Chinese Communist Party used the Olympic games as an excuse to escalate the suppression of the Chinese people.**

**Ming Hu, Foster City, a Falun Gong practitioner, supported the Global Torch Relay Rally. She urged Council to adopt a resolution to support the human rights rally. Falun Gong was a peaceful form of meditation/exercise that the Chinese government banned in 1999 due to the popularity of the practice and the policy of not tolerating a spiritual group no matter how beneficial.**

**Hongyn Sun, Belmont, said the Communist regime did not respect human rights and ignored the value of human life; not only its own Chinese people but also the rest of the world. She urged support for the rally that was a good opportunity to express concern for China to keep its promises.**

**Jim Dobbie, Atherton, Chairman, General Plan Committee, said two workshops to review Zoning Code Update had been held. There was a good turnout of builders, architects, and developers; however, there was a poor turnout of residents resulting in a tendency among those present to want to relax regulations rather than strengthen them. He encouraged everyone to attend the next workshop. He attended the recent Facilities meeting and was encouraged that the Town of Portola Valley had received \$18.5 million in contributions to build its new Town Hall. He believed Atherton could raise funds as well. While recently in Japan, he noted a very large number of people walking with masks because of pollution presumably from China.**

**John Sisson, Atherton, thanked Council for making money available for disaster preparedness. He indicated that both Lindenwood and Lloyd Park had made purchases related to disaster preparedness and would seek reimbursement. Additionally, he believed Council needed to provide some type of symbol of authority for those who were authorized to act in an emergency.**

**Jim Massey, Atherton, expressed concern as a taxpayer and resident regarding the lack of oversight for the former Finance Director in the performance of his duties. He queried how the Council planned to correct the problem and why the issue had not come to light except through public information requests and the newspaper.**

**Randy Lamb, Atherton, Member of the General Plan Committee, spoke regarding the dangerous Watkins Avenue and El Camino Real intersection. With respect to public participation, he thought the Town relied too heavily on its posting locations and that the postcard notifications were somewhat ineffective. He congratulated the Town in dropping the lawsuit with the Sequoia Union High School District and noted that former Finance Director John Johns dropped his lawsuit.**

**Mayor Janz noted the Sequoia Union High School District lawsuit was settled, not dropped.**

Austin Koenig, Atherton, current student at Sacred Heart Prep, said San Mateo County was adopting new building standards for sustainable building and that Atherton did not have any and did not plan to install mandates that would enforce the standards. He urged Council to address the issue. The Town was a wealthy town and had the ability to improve and fix what was wrong and to set an example.

Mayor Janz said the Environmental Programs Committee was looking into the issue, and no decision had been made as to “green” regulations.

Elizabeth Lewis, Member of the General Plan Committee, noted the next Zoning Code Update workshop would be held on April 9, 2008. She emphasized the need to use all the technology at the Town’s disposal to generate public participation. A Town-wide email system was needed.

## 5. STAFF REPORTS

- City Attorney Marc Hynes reported out of Closed Session as follows:

**A. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9**

**Lamb vs. Town of Atherton, et al.**

**Superior Court of California, San Mateo County, CIV 461630**

**John P. Johns Petitioner vs. Town of Atherton et. al. Respondent**

**Superior Court of California, San Mateo County, CIV 465782**

**There was no reportable action taken.**

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant Exposure to Litigation pursuant to Subsection (b) of Government Code Section 54956.9**

**One (1) potential case**

**There was no reportable action taken.**

**C. LIABILITY CLAIMS – pursuant to Government Code Section 54956.95**

**Claimant: Stanford University Hospital/Medical Center**

**Agency Claimed Against: Town of Atherton**

**By unanimous vote of the City Council, the claim was denied.**

- City Manager Jerry Gruber reported on numerous meetings he attended since the last City Council meeting.
- Public Works Director Duncan Jones announced the Town received two “Safe Routes to School” grants totaling \$137,000. One was for sidewalks and crosswalk connections at Las Lomas Elementary School, and one was for a

traffic signal at Sacred Heart Academy. The schools would make the necessary matches to the grants. The Watkins/El Camino intersection was scheduled for discussion at the Transportation Committee meeting in April. A neighborhood drainage meeting was held regarding the Fletcher/Ridgeview project and was well attended. Caltrain agreed to install four quadrant gates at both Town crossings. Encinal School would be working on the modifications to its drop-off and pickup area during the summer.

- Interim Finance Director Bill Yeomans reported on the progress of the 2006/2007 Audit.

**6. COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

None.

**CONSENT CALENDAR (Items 7-21)**

Mayor Janz removed Item No. 21 and placed it at the end of the Regular Agenda for discussion. Regarding Item No. 13, Vice Mayor Carlson asked about the items designated as out of compliance. Deputy Town Planner Lisa Costa Sanders said the items would be addressed during the Housing Element Update. Vice Mayor Carlson removed Item No. 12, which was placed first on the Regular Agenda for discussion.

Denise Kupperman, Atherton, asked that Item Nos. 8 and 19 be removed for discussion.

**MOTION – to approve the Consent Calendar as presented with the exception of Item Nos. 8, 12, 19, and 21 which were removed and placed on the Regular Agenda for discussion.**

M/S McKeithen/J.Carlson

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

**7. APPROVED MINUTES OF THE SPECIAL CITY COUNCIL CLOSED SESSION MEETING FEBRUARY 7, 2008; THE SPECIAL CITY COUNCIL CLOSED SESSION AND REGULAR CITY COUNCIL MEETINGS OF FEBRUARY 20, 2008**

~~**8. APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY IN THE AMOUNT OF \$ 785,293; APPROVAL OF ADDITIONAL CLAIMS LIST IN THE AMOUNT OF \$1,428,172**~~

**9. ACCEPTED MONTHLY FINANCIAL REPORT FOR FEBRUARY 2008**

**10. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL CODE FOR PUBLIC, EDUCATIONAL AND ACCESS SUPPORT FEES FROM VIDEO SERVICE PROVIDERS**

**Adopted Ordinance 575, “AN ORDINANCE OF THE COUNCIL OF THE TOWN OF ATHERTON AMENDING SECTION 13.10.070 OF THE ATHERTON MUNICIPAL**

**CODE REGARDING PUBLIC EDUCATIONAL AND GOVERNMENTAL (PEG) ACCESS SUPPORT FEES”**

**11. ADOPTION OF A RESOLUTION CONSENTING TO COUNTY HEALTH OFFICER ENFORCEMENT OF STATE AND LOCAL HEALTH REGULATIONS**

**Adopted Resolution No. 08-09, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON CONSENTING TO SAN MATEO COUNTY HEALTH OFFICER ENFORCEMENT WITHIN THE TOWN OF ATHERTON OF HEALTH OFFICER ORDERS PROMULGATED PURSUANT TO STATUTE AND REGULATION”**

~~**12. RESOLUTION ADOPTING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)–(Removed and placed on the Regular Agenda for discussion.)**~~

**13. 2007 ANNUAL REPORT TO THE CITY COUNCIL ON THE ATHERTON GENERAL PLAN IMPLEMENTATION**

**Accepted the Annual Report and authorized its transmittal to the California Governor’s Office of Planning and Research and the California Department of Housing and Community Development pursuant to Section 65400 of the California Government Code (CGC).**

**14. APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH REGIONAL GOVERNMENT SERVICES AUTHORITY (RGS) FOR A HUMAN RESOURCES CONSULTANT**

**Approved an agreement with Regional Government Services Authority ( RGS) For a Human Resources Specialist.**

**15. PROFESSIONAL RECRUITMENT FOR THE POSITIONS OF ASSISTANT TO THE CITY MANAGER, DIRECTOR OF FINANCE AND CHIEF OF POLICE**

**Awarded recruitment contract for Assistant to the City Manager, Director of Finance and Chief of Police to Peckham and McKenney Executive Search and Consulting, not-to-exceed \$46,000.**

**16. ADOPTION OF A RESOLUTION FROM THE CITY COUNCIL OF THE TOWN OF ATHERTON ENDORSING THE PARKS FOR THE FUTURE CONCEPT**

**Adopted Resolution No. 08-10, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ENDORSING THE PARKS FOR THE FUTURE CONCEPT”**

17. **ADOPTION OF A RESOLUTION AUTHORIZING THE INSTALLATION OF AN ADDITIONAL 80-FOOT NO PARKING ZONE ON EL CAMINO REAL, SOUTH OF SPRUCE AVENUE AT 1850 EL CAMINO REAL**

**Adopted Resolution No. 08-11, “A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AUTHORIZING THE INSTALLATION OF AN ADDITIONAL 80-FOOT NO PARKING ZONE ON EL CAMINO REAL, SOUTH OF SPRUCE AVENUE AT 1850 EL CAMINO REAL”**

18. **ACCEPTANCE OF WORK AND AUTHORIZATION TO RECORD NOTICE OF COMPLETION FOR THE VALPARAISO AVENUE OVERLAY PROJECT, PROJECT NO. 06-001**

**Accepted the work and authorized recording of a Notice of Completion for the Valparaiso Avenue Project, Project No. 06-001.**

- ~~19. **AWARD OF CONTRACT TO JOHN DEERE LANDSCAPES, GREENTECH DIVISION, FOR THE EL CAMINO REAL IRRIGATION REPAIR AND UPGRADE PROJECT (Removed and placed on the Regular Agenda for discussion.)**~~

20. **APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MACLEOD AND ASSOCIATES, INC. FOR TOPOGRAPHIC SURVEY SERVICES FOR THE TOWN CENTER LANDSCAPING PROJECT**

**Accepted the proposal and authorized the City Manager to sign a Professional Services Agreement with MacLeod and Associates, Inc., to provide topographic survey services for the Town Center Landscape Project in an amount not to exceed \$21,000, plus a 10% contingency, for a total authorization of \$23,100.**

- ~~21. **APPROVAL OF MAYOR’S 2008 CITY COUNCIL COMMITTEE ASSIGNMENTS (Removed and placed on the Regular Agenda for discussion.)**~~

**REGULAR AGENDA (Items 22, 23)**

12. **RESOLUTION ADOPTING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)**

**Vice Mayor Carlson believed the item needed more consideration.**

**Larry Lowry, Atherton, submitted a letter requesting the denial of the appeal be reconsidered. He asked Council to consider Option 2 in the staff report: “The Council could direct staff to apply the former nonconforming regulation, as the applicants had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date.” The option was not presented or discussed at the last meeting. His request for reconsideration was based on the following: 1) The plans were fully completed before the ordinance was adopted; 2) The plans were developed in consultation with the Town; 3) The plans resulted in a**

substantial upgrade to the property; and 4) Unique circumstances existed. He urged the Council to consider what the right outcome was and how to get there. No one would be damaged if the appeal were granted.

**MOTION – to reconsider the appeal at the City Council meeting of April 16, 2008**

**M/S J.Carlson/McKeithen**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

**22. REPORT FROM KEVIN KIELTY, CONTRACT ARBORIST, REGARDING LANDSCAPING AT 12 SELBY LANE (Continued from the City Council meeting of February 20, 2008.)**

City Attorney Marc Hynes said he had spoken to resident John Thomas and to Rachel Croft, President, Atherton Tree Committee, and the two agreed that the Compromise Plan on Page 3 of the staff report was acceptable: “The plan would utilize aspects of the neighbor’s plan and the committee’s plan. Plant 5 - 48” boxed coast redwoods, spaced far enough apart that corridors of undiffused light will penetrate to the property. Alternating between the redwoods, 6 – 24” boxed ginkgos will be planted to provide fall color and will not cause shading in light corridors.” The total cost was \$17,500.

William Grindley, Atherton, noted the ginkgos should be male.

**MOTION – to approve the Compromise Plan as outlined on Page 3 of the staff report, noting the ginkgos should be male**

**M/S McKeithen/J.Carlson**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

**23. ADOPTION OF A RESOLUTION APPROVING THE MID-YEAR BUDGET ADJUSTMENT (Continued from the City Council meeting of February 20, 2008.)**

Interim Finance Director Bill Yeomans noted the Finance Committee had met and recommended some changes that were detailed in the staff report. The Finance Committee also discussed the budget process for Fiscal Year 2008-09.

Council Member Marsala noted that a prior Council had authorized that \$200,000 a year be set-aside in Account 406, for a total of \$800,000, for the Building Department’s share of new Town facilities. Through research, he discovered not all of the funds had been put into the account, and some funds had been used for other purposes. He queried how the funds could be redirected to the proper account.

Interim Finance Director Yeomans said two transfers had been made totaling \$440,000; however, the \$800,000 authorized for the account had not been met. He suggested the issue be addressed during the upcoming budget process.

Council Member Marsala pointed out that the funds were collected from building permit fees and legally needed to be spent for the Building Department. He said \$55,000 had been spent on the Corporation Yard, \$92,000 on the Police storage building, \$17,000 on Administration, and \$8,000 on Engineering.

**City Manager Jerry Gruber suggested the issue be revisited during the upcoming budget cycle to clarify the resolution setting up the 406 Fund.**

**Council Member Marsala reiterated the law indicated the funds secured from permitting fees could only be used for the Building Department.**

**Mayor Janz said Council Member Marsala was correct. The money that was set aside was supposed to be used for the Building Department's share of new Town facilities. He explained how permit fees were calculated and how they could be used. He said if the amount set aside was used in the calculation of what could be charged for building permits, the money needed to be set-aside in the fund if it had not been.**

**Vice Mayor Carlson thanked his colleagues for the postponement of the item and appreciated the extra time to delve into the issues. He recommended recruiting for a Finance Director as soon as possible. A new Finance Director needed to be involved in the Long-Range Financial Plan and the budgeting process. There was a need for a better understanding of the details, e.g., the revenue area, where the sales tax revenue came from, etc. There was a need for more controls and oversight. The disaster preparedness items and the possible future MOU between the Town and Menlo Park Fire Protection District (MPFPD) needed to be thought through for future purchasing. If the MPFPD was in a supervisory role, perhaps a signoff on what was needed should be put in place. He hoped Committee/Commission budgets would be incorporated into the next budget. Regarding mid-year budget adjustments, litigation costs needed to be curtailed. Originally, a sum of \$100,000 had been allocated for repairs to the Town Home. He discovered, after touring the home, additional items were needed.**

**A discussion ensued regarding the needs and costs to finish the Town Home remodeling by July.**

**Vice Mayor Carlson supported an additional \$100,000 should be approved. We also suggested the need for a policy for how contingency funds were used.**

**Council Member McKeithen clarified with regard to the disaster preparedness purchases that the MOU with MPFPD would clearly specify how the money was being spent, whether or not MPFPD approved, and that there would be strict oversight of expenditures of disaster preparedness funds.**

**Jim Dobbie, Atherton, he believed two things were essential: 1) crystal clear delegation of authority to managers; and 2) commitment registers, i.e., showing what commitments were made even though the funds had not been expended.**

**John Sisson, Atherton, asked for clarification on the method for requesting reimbursement of the disaster funds approved in the amount of \$4,600 per district.**

**City Manager Jerry Gruber said Council originally authorized \$23,000 with specific guidelines for how it was to be used. He believed reimbursing for what had been spent would be easy if the items were within the guidelines.**

**Marylue Timpson, Atherton, Member of the Park and Recreation Commission, said she toured the Town Home. She asked for clarification as to whether \$14,000 was spent on an estimate.**

**Public Works Director Duncan Jones said \$250 was spent for the estimate that would be credited if the contractor received the job.**

**Randy Lamb, Atherton, believed a general contractor should have been used for the Town Home project. If the Town were to manage the project properly, a third party should have been hired.**

**Public Works Director Jones indicated Park Program Manager Jean Cardona had experience with home renovations and was assisting in the process.**

**MOTION – to adopt Resolution No. 08-12, A RESOLUTION OF ATHERTON OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING THE MID-YEAR BUDGET REVISIONS,” and to raise the Town Home remodeling budget to \$100,000**

**M/S J.Carlson/McKeithen**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

- 8. APPROVAL OF BILLS AND CLAIMS FOR FEBRUARY IN THE AMOUNT OF \$ 785,293; APPROVAL OF ADDITIONAL CLAIMS LIST IN THE AMOUNT OF \$1,428,172**

**Denise Kupperman, Atherton, asked for clarification on the additional Claims List.**

**Interim Finance Director Bill Yeomans explained that some transactions had not been put on the Claims List in previous months and were included to get proper approvals.**

**MOTION – to approve the Bills and Claims for February in the amount of \$785,293, as well as the additional Claims List in the amount of \$1,428,172.**

**M/S J.Carlson/McKeithen**

**Ayes: 4 Noes: 0 Absent: 0 Abstain: 0**

- 19. AWARD OF CONTRACT TO JOHN DEERE LANDSCAPES, GREENTECH DIVISION, FOR THE EL CAMINO REAL IRRIGATION REPAIR AND UPGRADE PROJECT**

**Denise Kupperman, Atherton, said the Tree Committee had applied for grants for new plantings on El Camino and she queried why significant funds were being utilized to upgrade the irrigation system.**

**Public Works Director Duncan Jones said the power source had been lost for the signal controllers. Essentially, the funds would replace the PG&E power controller with a solar power controller. The irrigation system itself was not being changed.**

**MOTION – to award the contract to John Deere Landscapes, Greentech Division, for the El Camino Real Irrigation Repair and Upgrade**

M/S McKeithen/J.Carlson

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

21. **APPROVAL OF MAYOR'S 2008 CITY COUNCIL COMMITTEE ASSIGNMENTS**

**Mayor Janz made one change to the City Council Committee assignments. He assigned Council Member McKeithen to the Finance Committee and removed himself.**

**MOTION – to approve the City Council Committee Assignments with the change to appoint Council Member McKeithen to the Finance Committee in place of Mayor Janz.**

M/S J.Carlson/Janz

Ayes: 4 Noes: 0 Absent: 0 Abstain: 0

**COUNCIL REPORTS**

- **Council Member McKeithen noted she attended the Airport Roundtable meeting. The committee would be looking into the Woodside corridor and doing a comparative analysis to lower the number of low-flying planes through the corridor. The Finance Committee would be looking in to ways to reduce costs, and to maintain greater visibility of costs, as well as clarification of items in the budget, e.g., the postal contract.**
- **Council Member Marsala said he had several meetings with City Manager Jerry Gruber discussing facilities. A meeting was held and attended by area mayors who indicated community involvement from the beginning was necessary for success. The Town was poised to move forward.**
- **Vice Mayor Carlson wanted to move ahead on the next City Council workshop regarding goals and objectives. He attended the Peninsula Traffic Congestion Relief Alliance meeting, one of 36 agencies involved in transportation in the area. He believed there were too many agencies which then diluted Council's effort to do what was best for the Town. He attended the League of Cities dinner. C/CAG was requesting a letter of support from each city regarding AB 348 that would provide \$15 million for Safe programs, the Sexual Assault Felony Enforcement program, etc. Mayor Janz asked the City Manager to follow up. He complimented the Mayor and Public Works Director Duncan Jones regarding the Rail Committee for their time and effort.**
- **Mayor Janz thanked City Manager Gruber for attending a tour and discussion on his behalf with the mayor of Menlo Park, the mayor of Portola Valley, and the vice mayor of East Palo Alto regarding social service facilities of mutual interest and concerns. He attended the Mayors for Meals program, a national event where over 2,000 mayors across nation delivered meals to seniors. He read a letter from a Nativity School student asking Council to consider replacing the old concrete street signs with modern street signs. Council did not support the idea. He received a copy of an application for an alcohol use permit for a winery on Valley Road in Woodside and he asked the Police Chief to follow up on with the Town of Woodside.**

**25. PUBLIC COMMENTS**

**John Ruggeiro, Atherton, spoke to the drainage issue. Flooding was an ongoing issue that needed to be addressed.**

**Rachel Croft, President of the Tree Committee, announced the Tree Arbor Day celebration at Selby Lane School on April 19. A Charret for Trees for El Camino would be held on May 15, at 6:30 p.m. in the Main House.**

**WILLIAM Grindley, Atherton, asked about the status of the Historical Artifact Preservation Ordinance process.**

**Deputy Town Planner Lisa Costa Sanders said the agreement had been received, and a workshop schedule would be forthcoming.**

**26. ADJOURNMENT**

**Mayor Janz adjourned the meeting was at 9:17 p.m.**

**Respectfully submitted,**

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**Kathi Hamilton  
Acting City Clerk**

**TOWN OF ATHERTON**  
**CLAIMS LIST**  
 March 2008

Payroll Checks	11149 - 11279	\$ 7,040
Electronic Transfers		373,629
A/P Checks	25763 – 25953	634,007
	<b>TOTAL</b>	<b>\$1,014,676</b>

I, Jerome Gruber, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 11149 - 11279 (payroll) and 25763 - 25953 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$1,014,676; are true and correct, and that there are sufficient funds for payment.

\_\_\_\_\_  
 Jerome Gruber  
 City Manager

The above claims, check numbers 11149 – 11279 (payroll) and 25763 - 25953 (accounts payable), and electronic transfers for employees direct deposits, federal payroll taxes and fees, inclusive, amount to \$1,014,676; are true and correct, and are authorized for payment.

\_\_\_\_\_  
 James R. Janz  
 Mayor, Town of Atherton

**SOURCE OF FUNDS**

<b>101</b>	General Fund	\$578,150
<b>105</b>	Tennis	186
<b>201</b>	Special Parcel Tax	25,220
<b>202</b>	Transportation	-
<b>203</b>	Gas Tax	-
<b>210</b>	Road Construction Impact Fees	28
<b>211</b>	Park Grants	3,893
<b>213</b>	Library	1,212
<b>401</b>	General Capital Projects	-
<b>402</b>	Storm Drainage	-
<b>403</b>	Atherton Channel District	4,381
<b>411</b>	Park Well	-
<b>610</b>	Vehicle Replacement	-
<b>611</b>	Computer Maint. & Replacement	4,426
<b>612</b>	Administrative Services	16,512
<b>715</b>	Evans Estate	-
<b>740</b>	Tree Committee	-
	<b>TOTAL</b>	<b>\$634,007</b>



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: BILL YEOMANS, INTERIM FINANCE OFFICER**

**DATE: FOR THE MEETING OF APRIL 16, 2008**

**SUBJECT: MONTHLY FINANCIAL REPORT, MARCH 2008**

#### **RECOMMENDATION:**

Receive the Monthly Financial Report for March 2008.

#### **INTRODUCTION:**

The attached schedules show revenues and expenditures for all funds as of March 31, 2008.

#### **HIGHLIGHTS:**

Revenues in the General Fund are at 73% of the Budget Estimate after nine months (75%). Next month (April) will receive Property Taxes and Franchises.

Expenditures in the General Fund are at 74% of the revised Budget and are within expected levels except in the following areas:

1. The City Attorney Department, at 99% of budget, continues to incur high litigation costs even after a mid-year budget adjustment.
2. City Council is at 94% of budget.
3. Finance costs are running high (87%) as a result of a litigation-related cost of \$18,490 for an investigation.

Internal Service Funds are at 64% of Budget.

**FISCAL IMPACT:**

Informational only.

Prepared by:

Approved by:

---

William Yeomans  
Temporary Finance Officer

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Jerome Gruber  
City Manager

**TOWN OF ATHERTON**  
**Revenue Summary**  
for the Month Ended March 31, 2008

Fund	Revenue source	2007-08 Estimate	Current Period Revenue	Year to date Revenues	% received
	Property Tax	4,286,303	-77,570	2,724,356	64%
	Sales & Use Tax	147,756	27,118	168,254	114%
	Other Taxes	1,162,774	-346,882	749,722	64%
	Licenses & Permits	2,128,188	301,038	1,373,438	65%
	Fines & Forfeitures	35,000	4,578	29,345	84%
	Revenue from Other Agencies	414,500	38,599	676,805	163%
	Charges for Services	293,808	116,120	475,169	162%
	Investment & Rental Income	489,478	2,892	304,491	62%
	Other Revenues	5,000	1,993	44,596	892%
	<b>Total General Fund Revenues</b>	<b>8,962,807</b>	<b>761,650</b>	<b>6,546,176</b>	<b>73%</b>
	Interfund (Operating Transfers) In	250,000			
101	<b>General Fund Total</b>	<b>9,212,807</b>	<b>761,650</b>	<b>6,546,176</b>	
	<b>Special Revenue Funds</b>				
105	Tennis	8,000	2,200	4,529	57%
201	Special Parcel Tax	1,858,000	93,132	1,195,516	64%
202	Transportation	265,000	0	189,237	71%
203	Street Improvement (Gas Tax)	150,000	11,475	100,542	67%
208	Police on the Street Grant		0	104	
209	State COPS Grant	100,000	0	276	0%
210	Road Construction Impact Fees	1,132,102	216,344	759,442	67%
211	Grants Fund	104,800	0	928	1%
213	Library	284,000	0	59,527	21%
	<b>Total</b>	<b>3,901,902</b>	<b>323,151</b>	<b>2,310,101</b>	<b>59%</b>
	<b>Capital Project Funds:</b>				
401	Capital Improvement	2,000	0	6,210	311%
402	Storm Drainage	1,000	0	962	96%
403	Channel Drainage District	46,000	3,265	43,214	94%
406	Facilities Construction			1,612	
411	Park Well	4,835			
	<b>Total</b>	<b>53,835</b>	<b>3,265</b>	<b>51,998</b>	<b>167%</b>
	<b>Internal Service Funds:</b>				
610	Vehicle Replacement	104,049	0	59,340	57%
611	Information Technology	109,637	0	79,391	72%
612	Administrative Services	312,599	0	158,087	51%
614	Workers Compensation Insurance				
	<b>Total</b>	<b>526,285</b>	<b>0</b>	<b>296,818</b>	<b>60%</b>
	<b>Trust and Agency Funds:</b>				
715	Evans Creative Design	14,500	0	4,194	29%
740	Tree Committee	1,400	0	1,958	140%
	<b>Total</b>	<b>15,900</b>	<b>0</b>	<b>6,152</b>	<b>29%</b>
	<b>Total Revenues</b>	<b>13,710,729</b>	<b>1,088,066</b>	<b>9,211,245</b>	<b>67%</b>

**TOWN OF ATHERTON**  
**Expenditure Summary**  
for the Month Ended March 31, 2008

Fund	Description	2007-08 Estimate	Current Period Expenditures	Year to date Expenditures	% spent
101	General Fund				
	11 City Council	35,122	9,371	32,987	94%
	12 City Manager	650,706	56,454	421,183	65%
	16 City Attorney	482,728	99,920	479,222	99%
	18 Finance	445,758	52,742	386,634	87%
	25 Building	1,682,674	174,686	1,251,788	74%
	40 Police	4,905,087	340,203	3,661,204	75%
	50 Public Works	2,242,039	128,221	1,527,171	68%
	Contingency	53,700	0	0	0%
	Total General Fund Expenditures	<b>10,497,814</b>	<b>861,597</b>	<b>7,760,189</b>	<b>74%</b>
	Interfund (Operating Transfers) out	4,835			
101	<b>General Fund Total</b>	<b>10,502,649</b>	<b>861,597</b>	<b>7,760,189</b>	
	<b>Special Revenue Funds</b>				
	105 Tennis	5,521	186	1,513	27%
	201 Special Parcel Tax	1,506,535	15,894	307,744	20%
	202 Transportation	229,500	0	15,000	7%
	203 Street Improvement (Gas Tax)	145,000	0	28,765	20%
	209 Law Enforcement (State COPS)	100,000	25,322	63,368	63%
	210 Road Construction Impact Fees	1,000,000	0	647,222	65%
	211 Grants	306,710	3,893	28,916	9%
	213 Library	78,326	1,711	16,243	21%
	<b>Total</b>	<b>3,371,592</b>	<b>47,006</b>	<b>1,108,771</b>	<b>33%</b>
	<b>Capital Project Funds:</b>				
	401 Capital Improvement	167,755	0	34,248	20%
	402 Storm Drainage	21,394	0	2,963	14%
	403 Channel Drainage District	55,000	0	22,823	41%
	406 Facilities Construction	-	0	0	
	411 Park Well	4,834	0	8,805	182%
	<b>Total</b>	<b>244,149</b>	<b>0</b>	<b>68,839</b>	<b>28%</b>
	<b>Internal Service Funds:</b>				
	610 Vehicle Replacement	64,060	0	48,637	76%
	611 Information Technology	108,304	2,924	66,391	61%
	612 Administrative Services	351,532	18,334	219,193	62%
	<b>Total</b>	<b>523,896</b>	<b>21,258</b>	<b>334,221</b>	<b>64%</b>
	<b>Trust and Agency Funds:</b>				
	715 Evans Creative Design	11,500	0	3,753	33%
	740 Tree Committee	2,200	0	1,139	52%
	<b>Total</b>	<b>13,700</b>	<b>0</b>	<b>4,892</b>	<b>36%</b>
	<b>Total Expenditures</b>	<b>14,655,986</b>	<b>929,861</b>	<b>9,276,912</b>	<b>63%</b>

**FUND BALANCES**  
**03/31/08**

Fund	Start Balance 7/1/2007	Revenues YTD	Expenditures YTD	End Balance 1/31/2008
101 General	9,853,933	6,546,176	7,760,189	8,639,920
105 Tennis	29,450	4,529	1,513	32,466
201 Special Tax	73,573	1,195,516	307,744	961,345
202 Transportation	37,018	189,237	15,000	211,255
203 Gas Tax	193,594	100,542	28,765	265,371
208 Police on the Street	4,455	104		4,559
209 COPS(Law Enf.)	11,807	276	63,368	(51,285)
210 Road Const Impact Fee	34,408	759,442	647,222	146,628
211 Grants	39,486	928	28,916	11,498
213 Library	2,564,923	59,527	16,243	2,608,207
401 GF Projects (Cap. Impr.)	270,200	6,210	34,248	242,162
402 Storm Drainage	42,381	962	2,963	40,380
403 Atherton Channel District	78,578	43,214	22,823	98,969
406 Facilities Construction	69,447	1,612	0	71,059
411 Park Well	-	-	8,805	(8,805)
610 Equipment Operations	304,332	59,340	48,637	315,035
611 Computer Services	80,400	79,391	66,391	93,400
612 Administrative Services	185,742	158,087	219,193	124,636
715 Evans Estate (AAC)	121,920	4,194	3,753	122,361
725 Lindenwood Gate Trust	250			250
727 Colley Trust Fund	-			-
730 Park Improvement	5,851			5,851
731 MA Little League	-			-
740 Tree Committee	41,519	1,958	1,139	42,338
<b>TOTALS</b>	<b>14,043,402</b>	<b>9,211,245</b>	<b>9,276,912</b>	<b>13,977,735</b>



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER

**FROM:** PAULA PIERCE, ASST. FINANCE DIRECTOR  
BILL YEOMANS, INTERIM FINANCE OFFICER

**DATE:** FOR THE MEETING OF APRIL 16, 2008

**SUBJECT:** AB2544 ANNUITANT MEDICAL INSURANCE –  
MANAGEMENT GROUP

#### **RECOMMENDATION:**

Adopt the attached resolution raising annuitant contributions for the Management Group to comply with AB 2544 amending Section 22892 of the Government Code, relating to public employee health benefits, and rescinding Resolution 08-07.

#### **INTRODUCTION:**

On February 20, 2008, Council adopted the attached resolution. As the Management employees have formed their own bargaining group, CalPERS has requested that a new resolution be adopted to replace Resolution No. 08-07.

#### **FISCAL IMPACT:**

No change from the previous action.

Prepared by:

Approved by:

\_\_\_\_\_  
Paula Pierce  
Asst. Finance Director

\_\_\_\_\_  
Jerry Gruber  
City Manager

Attachments: Council Staff Report, February 20, 2008  
Resolution No. 08-07

**RESOLUTION NO. 08-**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON ELECTING  
TO BE SUBJECT TO PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT  
ONLY WITH RESPECT TO MEMBERS OF A SPECIFIC EMPLOYEE ORGANIZATION  
AND  
FIXING THE EMPLOYER'S CONTRIBUTION FOR EMPLOYEES AND THE  
EMPLOYER'S CONTRIBUTION FOR ANNUITANTS AT DIFFERENT AMOUNTS**

**WHEREAS**, Government Code Section 22922(b) provides that a contracting agency may elect upon proper application to participate under the Public Employees' Medical and Hospital Care Act with respect to a recognized employee organization only; and

**WHEREAS**, Government Code Section 22892(c) provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and

**WHEREAS**, the Town of Atherton, hereinafter referred to as the Public Agency, is a local agency contracting with the Public Employees' Retirement System; and

**WHEREAS**, The Public Agency desires to obtain for the members of the Management Group, who are employees and annuitants of the agency, the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now, therefore, be it

**NOW, THEREFORE, BE IT RESOLVED** that the Public Agency elect, and it does hereby elect, to be subject to the provisions of the Act; and be it further

**RESOLVED** that the employer's contribution for each employee shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan or plans up to a maximum of **749.53** with respect to employees enrolled for self alone, **1,499.66** for an employee enrolled for self and one family member, and **1,949.56** for an employee enrolled for self and two or more family members plus administrative fees and Contingency Reserve Fund assessments; and be it further

**RESOLVED** that the employer's contribution for each annuitant shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan up to a maximum of **1,949.56** per month; and be it further

**RESOLVED**, that the employer's contribution for each annuitant shall be increased annually by **5 percent** of the monthly contribution for employees, until such time as the contributions are equal; and that the contributions for employees and annuitants shall be in addition to those amounts contributed by the Public Agency for administrative fees and to the Contingency Reserve Fund; and be it further

**RESOLVED** that the executive body appoint and direct, and it does hereby appoint and direct, Jerome Gruber to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Public Agency all functions required of it under the Act and Regulations of the Board of Administration; and be it further

\* \* \* \* \*

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 16th day of April, 2008, by the following vote:*

AYES: Council Members:  
NOES: Council Members:  
ABSENT: Council Members:  
ABSTAIN: Council Members:

\_\_\_\_\_  
James R Janz, MAYOR  
TOWN OF ATHERTON

ATTEST:

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc G. Hynes, City Attorney



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: PAULA PIERCE, ASST. FINANCE DIRECTOR  
BILL YEOMANS, CONTRACT FINANCE OFFICER**

**DATE: FOR THE MEETING OF FEBRUARY 20, 2008**

**SUBJECT: ADOPTION OF THREE RESOLUTIONS FIXING THE  
EMPLOYER'S CONTRIBUTION UNDER THE PUBLIC  
EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

#### **RECOMMENDATION:**

Adopt the attached resolutions raising annuitant contributions to comply with AB 2544 amending Section 22892 of the Government Code, relating to public employee health benefits.

#### **INTRODUCTION:**

Rates for retiree ("annuitant") health insurance have not been raised by resolution since their inception in 1992 when the Town of Atherton entered into agreement with the Public Employees' Retirement System (CalPERS) to participate in Public Employees' Medical and Hospital Care Act (PEMHCA). To comply with AB 2544 the Town must submit resolutions for its three bargaining units whenever medical insurance contributions for active employees change, currently annually.

#### **ANALYSIS:**

Under the Public Agency provisions of the PEMHCA program, contracting agency employers, including the Town of Atherton, may elect to contribute to employee and annuitant health care in equal amounts or may establish a lesser monthly employer contribution for annuitants. If the "unequal" method (PEMHCA section 22892) was

chosen (as Atherton did), employers were previously required to annually increase the monthly annuitant contribution for health care by not less than 5 percent of the monthly employer contributions. Employers under this approach did not necessarily achieve parity with active employee contributions over time, and the Town of Atherton has not adjusted this rate according to health care contributions since the original resolution was passed. Assembly Bill 2544, passed on August 21, 2006, changes the computation for annual increases to annuitant health care under the unequal method. Under the new provisions, agencies have to annually increase the total monthly annuitant health care contribution to equal an amount not less than the number of years the agency has been in the PEMHCA program, multiplied by 5 percent of the current monthly employer contribution for employees, until such time that the employer contribution for annuitants equals the employer contribution paid for employees. However, this annual adjustment to the minimum monthly employer contribution for an annuitant authorized by this change cannot exceed one hundred dollars (\$100) per annuitant.

**FISCAL IMPACT:**

To catch up with these payments under AB 2544, Atherton must increase retiree monthly health contributions for Miscellaneous and Managerial employees by the maximum \$100 per annuitant. With nine former employees currently covered in that group, the Town will pay \$900 per month more, or \$10,800 per year. The Police unit has three former employees, which will increase the Town's cost by \$300 per month or \$3600 per year. So the total cost will increase by \$14,400 per year.

Prepared By:

Approved by:

\_\_\_\_\_  
Bill Yeomans  
Interim Finance Director

\_\_\_\_\_  
Jerry Gruber  
City Manager

Attachments: Resolutions

**RESOLUTION 08-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON FIXING THE EMPLOYER’S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT**

**WHEREAS**, Government Code Section 22892(a) provides that a local agency contracting under the Public Employees’ Medical and Hospital Care Act shall fix the amount of the employer’s contribution at an amount not less than the amount required under Section 22892(b) of the Act; and

**WHEREAS**, Government Code Section 22892(c) provides that a contracting agency may fix the amount of the employer’s contribution for employees and the employer’s contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and

**WHEREAS**, the Town of Atherton, hereinafter referred to as the Public Agency, is a local agency contracting under the Act for participation by members of the Management Employee Group.

**NOW, THEREFORE, BE IT RESOLVED** that the employer’s contribution for each annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members in a health benefits plan up to a maximum of \$749.83 with respect to employee enrolled for self alone; \$1499.66 for an employee enrolled for self and one family member; and \$1949.56 for an employee enrolled for self and two or more family members, plus administrative fees and Contingency Reserve Fund assessments.

\* \* \* \* \*

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on this 20th day of February, 2008, by the following vote:*

*AYES: 3 Council Members: J.Carlson, Marsala, Janz  
NOES: 0 Council Members: None  
ABSENT: 1 Council Members: McKeithen  
ABSTAIN: 0 Council Members: None*

\_\_\_\_\_  
James R Janz, MAYOR  
TOWN OF ATHERTON

ATTEST:

---

Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

---

Marc G. Hynes, City Attorney



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: MARC G. HYNES, CITY ATTORNEY**

**DATE: CITY COUNCIL MEETING OF APRIL 16, 2008**

**SUBJECT: E-MAIL RETENTION POLICY**

#### **RECOMMENDATION:**

Approve by motion, an amendment to the Town's E-Mail, Internet and On-Line Service Use Policy pertaining to the retention and deletion of e-mail.

#### **BACKGROUND:**

The Town has previously adopted an E-Mail, Internet and On-Line Service Use Policy. It is appropriate to amend this policy to clarify that retention and deletion of e-mails conform with requirements regarding retention/destruction of public records.

Attached as Exhibit "A" is the present e-mail policy. The section entitled "User Responsibilities" portion of the policy should be revised to amend the subsection "Mail Use" appearing on page 2 by adding provisions regarding electronic-mail retention and deletion. The amended "Mail Use" subsection is set out in **bold** and/or ~~strike-out~~ in Exhibit B attached.

#### **FISCAL IMPACT:**

None

Prepared By:

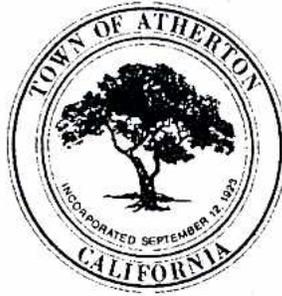
Approved By:

/s/ Marc Hynes

Marc G. Hynes  
City Attorney

\_\_\_\_\_  
Jerry Gruber  
City Manager

Attachments: Exhibit A  
Exhibit B



## TOWN OF ATHERTON

### E-MAIL, INTERNET AND ON-LINE SERVICE USE POLICY

#### PURPOSE

The Town of Atherton provides e-mail, on-line and Internet access system to certain Town employees to assist in carrying out Town business. This policy sets forth the Town of Atherton's policies with regard to access to, use of, and the disclosure of, on-line, e-mail and Internet services.

#### SCOPE

This policy covers all employees who have access to the Town of Atherton's electronic mail system, the Internet and on-line services. Town on-line accounts are Town property that is provided to be used only for general business purposes to increase production and employee effectiveness. To ensure the use of Town e-mail, Internet and on-line systems in a productive manner, a list of guidelines has been established. All employees are required to abide by the guidelines. Improper use of Town e-mail, Internet and on-line systems are not acceptable and is subject to the applicable disciplinary procedure.

#### USER RESPONSIBILITIES

##### Consultants

Use of the Town's e-mail system by non-Town employees under contract for services within Town departments may be authorized by the department. The department head will sponsor the contract employee, and request, in writing, that the person be given access to the e-mail system. A completed "Non-Town Employee Participation Request Form" must be signed by the department head, City Manager, and participating contract employee. Termination of the contract will also serve as termination of access.

## Policy Document

It is the user's responsibility to:

- Read and adhere to the adopted E-Mail, Internet and On-Line Service Use Policy
- Sign the E-Mail, Internet and On-line Use Policy Employee Agreement Form
- Return the completed form to the Personnel Department to be filed in the employee's personnel file

## Mail Use

The dual nature of electronic mail - immediate and informal like a telephone call, irrevocable like a memorandum - along with the possibility of anyone monitoring and managing staff members' messages for them, requires that you yourself explicitly recognize your responsibility for the content and dissemination of your messages.

### Your outgoing messages are to be:

- Accurate
- Courteous
- Sent to selected staff with a need to know

### Your incoming messages are to be:

- Filed and disposed of appropriately (Discard messages that do not need to be stored and retain messages that may need to be used for future reference.)
- Responded to on a timely basis, as identified in the original message.

Note: You are responsible for protecting the confidentiality rights of others. Be sure to ensure that your password is secure and change it when appropriate. If you allow other staff members to send or receive messages on your e-mail account, you are responsible for their content.

## **ON-LINE SYSTEMS POLICIES**

### Monitoring Usage

The Town reserves the right to monitor usage patterns of its on-line communications. The reasons for monitoring are to insure on-line productivity as well as for better planning and management of network resources.

### Blocking of Internet Access

The Town reserves the absolute right to block access to certain Internet sites.

## **OWNERSHIP OF ELECTRONIC COMMUNICATIONS**

All communications over Town e-mail, Internet and on-line services are property of the Town. All messages created, sent, or retrieved over the Town e-mail, Internet and on-line services are the property of the Town. Employees should not assume electronic communications are totally private. The Town reserves the absolute right to access and monitor all messages and files on the Town e-mail, Internet and on-line services.

## **MAINTAINING A HOSPITABLE ENVIRONMENT**

To ensure Town e-mail, Internet and on-line services remain a productive and stable environment, the transmittal, intentional retrieval or any subsequent or retrieved storage of information that is discriminatory, harassing, obscene, pornographic or X-rated is not permitted. The use of Town e-mail, Internet and on-line services for personal gain or any other purpose which is illegal or against Town policy or contrary to the Town's best interest is not permitted.

## **AFTER HOURS USAGE**

Town e-mail, internal and on line services may be used for personal purposes during non standard hours or off duty time, as long as the use is consistent with this policy.

## **NON-DISCRIMINATION**

The transmittal of messages with derogatory or inflammatory remarks about a person's race, color, sex, age, disability, religion, national origin, physical attributes and sexual preference is not permitted.

## **CONFIDENTIALITY**

Communication of messages disclosing trade secrets is prohibited. You should recognize that your position with the Town requires considerable responsibility and trust. No messages disclosing sensitive, confidential, restricted, non-public, or private information can be transmitted over the Town e-mail, Internet or on-line services unless it is in the course of conducting legitimate business and the receiving party has a right or need to know.

## **MAINTAINING SYSTEM SECURITY**

Keeping the E-Mail, Internet and On-Line Services Secure From Computer Viruses  
No unauthorized downloading/uploading of software or files is allowed. All software downloaded must be authorized by the Town and then registered to the Town.

## **TOWN PUBLIC IMAGE**

### Employees' Conduct in Public

The Town e-mail, Internet and on-line services is a public place for business communications. Communications over the Town e-mail, Internet and on-line services reflect Town image. Therefore, all employees are responsible to maintain and enhance the Town's public image. As stated previously, abusive, discriminatory, harassing, inflammatory, profane, pornographic or offensive language or other materials are not to be transmitted through the Town e-mail, Internet and on-line services.

### Employee Identity

No message can be transmitted without the employee's identity. Transmittal of messages with anonymous or fictitious names is prohibited.

## COPYRIGHT

### Copyright Infringement

No copying, downloading, or distributing of any of the copyrighted materials including, but not limited to, messages, e-mail, text files, program files, image files, database files, sound files and music files through the Town e-mail, Internet and on-line services is allowed.

## VIOLATIONS

### Failure To Comply

Failure to comply with this policy may result in disciplinary action up to and including termination.



## TOWN OF ATHERTON

### E-MAIL, INTERNET AND ON-LINE SERVICE USE POLICY

#### EMPLOYEE AGREEMENT

I have received a copy of the Town of Atherton's E-mail, Internet and On-line Service Use Policy on e-mail/Internet acceptable use. I recognize and understand that the Town's e-mail, Internet and on-line services are to be used for conducting the Town's business only. I understand that use of this equipment for private purposes is strictly prohibited.

As part of the Town's organization and use of the Town's gateway to the e-mail, Internet and on-line services, I understand that this e-mail and Internet policy applies to me.

I have read the policy and agree to follow all policies and procedures that are set forth therein. I further agree to abide by the standards set in the document for the duration of my employment with the Town.

I am aware that violations of this policy on e-mail and Internet acceptable use may subject me to disciplinary action, up to and including termination from employment.

I further understand that my communications on the Internet and e-mail reflect the Town of Atherton, worldwide to our customers, constituents, and suppliers.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name Printed

\_\_\_\_\_  
Date

#### INTERNET ACCESS REQUEST/APPROVAL:

\_\_\_\_\_  
Department Head's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Manager's Signature

\_\_\_\_\_

*Please return this form to the Personnel Department*

Date

## E-MAIL, INTERNET AND ON-LINE SERVICE USE POLICY

Page 2

### Mail Use

The dual nature of electronic mail – immediate and informal like a telephone call, irrevocable like a memorandum – along with the possibility of anyone monitoring and managing staff members' message for them, requires that you yourself explicitly recognize your responsibility for the content and dissemination of your messages.

#### Your outgoing messages are to be:

- Accurate
- Courteous
- Sent to selected staff with a need to know

#### Your incoming messages are to be:

- Filed and disposed of appropriately (~~Discard messages that do not need to be stored and retain messages that may need to be used for future reference.~~) **(Retain public records for at least two (2) years.)**
- Responded to on a timely basis, as identified in the original message.

### Electronic Mail Retention

- E-mail messages are often public records and should be treated as such.
- Because e-mail is not an optimal archival or retention system, if the retention of a message is important, as a sender and/or receiver you should print a hard copy of the message and file it appropriately.
- If you intend to retain a message in the e-mail system for more than a short period of time, you should store that message in an appropriate e-mail file, **where it will be retained for at least two (2) years.** Proper maintenance of e-mail messages is essential to an effective public records system.
- You should regularly (i.e., at least monthly) review your unfiled e-mails, including those in the "Sent Items" and "Deleted Items" files and insure that a back-up is retained on the network server for at least two (2) years.
- At least annually, you should delete all e-mail messages over two (2) years old which have not been stored electronically or printed as a hard copy.

Note: You are responsible for protecting the confidentiality rights of others. Be sure to ensure that your password is secure and change it when appropriate. If you allow other staff members to send or receive messages on your e-mail account, you are responsible for their content.

EXHIBIT B TO STAFF REPORT



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: CITY MANAGER, JERRY GRUBER**

**DATE: FOR THE MEETING OF APRIL 16, 2008**

**SUBJECT: APPROVAL OF JOB CLASSIFICATION FOR THE POSITION OF ASSISTANT CITY MANAGER / APPROVAL OF SALARY RANGE FOR ASSISTANT CITY MANAGER.**

#### **RECOMMENDATION:**

Approve job classification for the position of Assistant City Manager and approve the annual salary range for Assistant City Manager of \$129,924- \$ 152,844.

#### **INTRODUCTION:**

With the recent departure of the Assistant to the City Manager (ACM), the need to recruit, hire and retain a highly qualified individual has never been greater. The position, when filled, will be instrumental in assisting the City Manager and the senior management team in bringing the organization to the next level. The ACM will serve as a Department Head and will manage a full-service Human Resources Department. The Town of Atherton has a substantial amount of work ahead to modernize human resources in areas such as: Personnel filing and retrieval, policy and procedures to lessen employer liability and promote positive management practices, and bringing to the Town of Atherton training resources for job skills, safety training, enhancing communication skills and supervisory development. The ACM will also manage the Risk Management and department heads in all administrative matters and will serve as Acting City Manager when the City Manager is absent to provide consistent leadership. The ACM will assist the City Manager and Finance Director in budget discussions with departments, providing analysis and advice on the operational merits of the budget requests and how to fairly and effectively allocate the Town's finances.

**ANALYSIS:**

A salary survey was conducted by the Bay Area Employment Relations Services, an agency the Town has contracted with for at least seven years and is recognized throughout the Peninsula for its credibility in providing accurate and thorough information. The survey design included the same components and methodology consistently used by the Town for all such survey work performed in negotiations and job classification development or modification. Seven of the eleven comparison cities we typically survey have an equivalent position, so the market in our area is extremely competitive. Salaries were compiled, the highest salaries were discarded, and the 70% percentile calculation was performed resulting in the recommended salary.

**FISCAL IMPACT:**

Based on the approved salary range for the Assistant City Manager, the Financial Impact to the fiscal 2008/2009 Budget will be \$ 31,331.36. This amount includes salary and benefits.

Attachments

**ASSISTANT CITY MANAGER****Definition**

Under the administrative direction of the City Manager, the Assistant City Manager manages assigned city programs, projects, and systems, provides advice and professional staff support to the City Manager, and may act as City Manager in the City Manager's absence. This is an "At-will" department head level position

**Class Characteristics**

The incumbent performs supervisory, managerial, and analytical functions the area of administration and operations. This position involves extensive public contact and interaction with staff and elected officials requiring keen judgment, tact and discretion.

**Examples of Essential Duties and Responsibilities** The following list of responsibilities is meant to be representative not all inclusive:

- Serves as a key advisor to the City Manager providing recommendations and sound rationale for them.
- May assist in overall budget development and oversight.
- Manages and performs all human resources services including areas such as recruitment, compensation and benefits, training, workers' compensation, performance evaluations, the discipline process, and the handling of grievances.
- Manages the labor relations programs including contract negotiations, assisting management staff to address employer/employee relations, and serving as primary city representative to the employee groups.
- Oversees and ensures that administrative functions of the City Manager are effectively carried out which may which includes overseeing Information Technology.
- Manages the Risk Management function, processing claims and addressing risk management issues that arise.
- May manage the Town's Post Office function or team up with Finance to share management of the contract to provide postal services.
- Performs administrative tasks that range from very complex to routine and performs studies, updates policies, and completes special projects at varying levels.
- May monitor franchise agreements for refuse services, responds to complaints, coordinates company and city initiatives for public services, and completes rate setting activities.
- May monitor capital and special projects requiring production of narrative and statistical reports.
- Assists in setting fees
- Answers questions from, communicates information to, and provides administrative support to the Town Council; serves as staff liaison to community groups and other agencies as assigned.
- May coordinate the preparation and distribution of a newsletter for the Town, which includes writing and editing articles prepared by others, preparing camera ready copy, and coordinating the production and distribution.
- Provides information to residents and the public, interpreting and communicating policies, rules, and procedures; addresses complaints and issues by solving them or referring them to the proper

- department as required.
- Represents the Town in meetings with public, regulatory agencies, joint powers authorities, the business, community and other organizations.
- Assists in the preparation of agendas and staff reports.
- Prepares contracts and agreements, arranges for equipment purchase and maintenance for administrative offices, and serves on various task forces and committees.
- Directs the work of an office support staff on a project or day-to-day basis; may train staff in work procedures.
- Oversees and is the custodian of record for various administrative, confidential, reference, and follow-up records.
- Performs other duties as assigned.

### **Qualifications**

#### **Demonstrated Knowledge of:**

- Organization and function of public agencies, including principles of municipal finance and budgeting, employer/employee relations, human resources, supervisory principles and practices, and risk management.
- Federal, state, and municipal regulations, laws, and codes.
- Project management, reporting, developing and implementing policies and procedures.
- Practices in providing effective public information.
- How to analyze complex issues and effectively communicate conclusions and recommendations
- Information Technology practices, uses, and systems
- Computer applications related to the work, including word processing, presentation, database, and spreadsheet applications.
- Records management principles and practices.
- Producing accurate mathematical and statistical data and reports.
- Techniques for working effectively with the public and Town staff, in person, over the telephone, and electronically.
- Leadership and team orientation as appropriate to the situation.
- Effective public speaking in large and small group settings.
- How to prepare complex and/or sensitive reports.
- How to plan major events and coordinate staffing efforts.
- How to prepare and interpret the laws, regulations, and codes pertaining to Town administration

#### **Education and Experience:**

Any combination of education and experience that demonstrates possession of the knowledges and abilities required to effectively perform the duties. Equivalent to graduation from a four year college or university with major course work in business or public administration or a field related to the work and four years of responsible administrative or managerial analytical and support experience, preferably in a municipality. Master's degree in a related field desirable. Advanced knowledge and experience in the area of human resources and employee relations is highly desirable; knowledge and experience in two of the following functional areas is desirable: risk management, information technology, information technology, web site management, newsletter production, and community relations.

#### **License:**

Must possess a valid California class C driver's license and a satisfactory driving record.

**Work Environment:**

Must possess mobility to work in a standard office setting and to use standard office equipment, including a computer; ability to read printed materials and a computer screen; and communicate in person, using e-mail, and over the telephone. The employee is regularly required to sit, use hands and arms to reach and is occasionally required to stand and walk. The employee must regularly lift and/or move up to 10 pounds and occasionally lift and/or move up to 25 pounds. Normal vision abilities are required.

While performing the duties of this job, the employee is regularly exposed to video displays and regularly works in evenings and/or weekends and regularly uses a personal vehicle.

The work environment described here is representative of that which an employee will encounter while performing the essential functions of the job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: KATHY HUGHES ANDERSON, TOWN ARBORIST**

**DATE: FOR THE REGULAR MEETING OF APRIL 16, 2008**

**SUBJECT: APPROVAL OF LETTER TO C/CAG REQUESTING GRANT FUNDING IN  
THE AMOUNT OF \$13,000 FOR A GOVERNMENT OPERATIONS  
EMISSIONS INVENTORY**

#### **RECOMMENDATION:**

Staff recommends that the City Council authorize the Mayor to sign the letter to C/CAG requesting grant funding in the amount of \$13,000 for the Town's government operation greenhouse gas emissions baseline inventory.

#### **BACKGROUND:**

The City County Association of Governments (C/CAG) approved the expenditure of funds to assist local jurisdictions for the cost of preparing baseline inventories. They are partnering with Local Governments for Sustainability (ICLEI) and Sustainable Silicon Valley (SSV). Twenty-four local jurisdictions in San Mateo County and Santa Clara County are participating in order to share the cost of having ICLEI prepare government operations emissions inventory reports. The baseline inventory for the year 2005 would represent achieving the first Milestone of ICLEI's 5 Milestones methodology; a simple, standardized way to effectively reduce, measure, and verify greenhouse gas emissions.

#### **ANALYSIS**

Participating organizations are getting a volume discount that SSV helped negotiate with ICLEI. ICLEI and SSV estimate a total cost of approximately \$260,000 to develop 20 local government

inventories. The cost for each jurisdiction is \$13,000. The Joint Venture Silicon Valley Network (JVSVN) is executing the contracts with local jurisdictions in order to maximize service delivery efficiency and reduce costs. A sample agreement is attached.

Several neighboring cities have received grant funding from C/CAG for either \$13,000 or \$6,500, with the jurisdiction matching the amount. We are asking for \$13,000 to cover the entire cost of the inventory.

The scope of work for each jurisdiction includes data specification, data collection, data conditioning, data input and analysis using Clean Air and Climate Protection (CACP) software, analysis of data results, report development and provision of backup source data and CACP software data. I have included a sample report that was prepared by ICLEI for the City of Menlo Park that is representative of the inventory reports that will be produced for local governments participating in the SVJV/ICLEI inventory project.

Local government participation is contingent on joining both ICLEI and SSV. We are a member of ICLEI, but will need to become a member of SSV at a cost of \$1,000. Each participating jurisdiction must assign two representatives to be liaisons to ICLEI and SSV, one staff member and one elected official. Staff support related to the collection of data is estimated at an average 20-40 hours per local government. Some of this data I have already collected. The Mayor or City Manager must distribute a letter indicating to appropriate department heads that assistance to this project is an important priority.

**FISCAL IMPACT:**

Costs associated with participation in the greenhouse gas emissions from municipal operations project include \$1,000 to join SSV and approximately 20-40 hours of staff time. With the C/CAG grant for \$13,000, we would be ahead \$12,000, minus staff time. It is possible that there will be long-term savings to the Town by improved efficiency of government operations as a result of the inventory.

Prepared by:

Approved by:

\_\_\_\_\_  
Kathy Hughes Anderson  
Town Arborist

\_\_\_\_\_  
Jerry Gruber  
City Manager

Attachments:

1. Letter to C/CAG
2. Proposal from SSV/ICLEI and Agreement
3. Sample Municipal Operations Emissions Inventory



## Town of Atherton

April 17, 2008

Mr. Richard Napier  
City/County Association of Governments  
555 County Center  
Redwood City, CA 94063-1665

RE: Town of Atherton's Application – C/CAG Greenhouse Gas Inventory Grant (\$13,000)

Dear Mr. Napier:

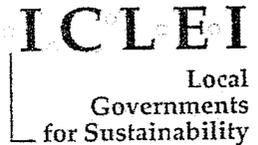
The Town of Atherton, through this letter, is applying for a \$13,000 City/County Association of Governments grant for the Joint Venture/ICLEI Greenhouse Gas Inventory of City Government Agency emissions. The Town of Atherton has signed the Mayor's Agreement on Climate Change and is committed to reducing its carbon footprint.

The Town of Atherton has no sales tax revenue and has limited resources for funding new programs. Therefore, we are requesting a grant in the amount of \$13,000 to fully fund the emissions inventory. We are an active member of ICLEI and are in the process of becoming a member of the Joint Venture Silicon Valley Network.

The Town has a very active Environmental Programs Committee and is currently forming a Citizen Task Force to assist in finding creative solutions to the environmental challenges we face. With this grant, we will be able to move ahead with the Joint Venture/ICLEI inventory which will be a first step in moving the Town towards a more sustainable future.

Sincerely,

James R. Janz  
Mayor of Atherton



## **Silicon Valley Climate Protection Partnership Proposal Government Operations Emissions Inventory Assistance**

In response to interest expressed by Silicon Valley area local governments over the past several months, ICLEI – Local Governments for Sustainability (ICLEI) and Sustainable Silicon Valley (SSV) hereby propose to provide assistance toward the development of greenhouse gas emissions inventories of government operations for Silicon Valley local governments.

Developing a government operations emissions inventory requires data gathering, analysis and report development. Some government operations data needs may be filled by data currently being pre-gathered by ICLEI and the Bay Area Air Quality Management District. Other data will require internal coordination with various departments (e.g., fleet fuel consumption).

By developing government operations emissions inventories for a large number of local governments simultaneously using a shared data analysis year and emissions factor set, it is possible for ICLEI and SSV to achieve an economy of scale and reduce associated costs significantly. ICLEI and SSV estimate a total project cost of approximately \$260,000 to develop 20 local government operations emissions inventories, plus individual membership/partnership fees associated with ICLEI and SSV from each participating local government.

ICLEI and SSV are open to executing one contract with the group of participating local governments organized by the Joint Venture Silicon Valley Network (JVSVN), or a series of contracts with individual participants executed in coordinated fashion. The partners look to JVSVN to coordinate initial participation of the local governments in order to maximize service delivery efficiency and reduce costs.

ICLEI and SSV encourage local governments with the capacity to perform some or all of this work in-house to do so. Local governments who desire more individual services, such as analyzing additional years of data, quantifying the emissions benefits of implemented actions, or developing emissions reduction plans, for example, would each have the option of doing so under separate cover.

Many Silicon Valley area local governments have recently made progress on community-scale emissions inventories via training provided by the Bay Area Air Quality Management District and ICLEI; through the partnerships of some reporting emissions results to Sustainable Silicon Valley; and/or through separate activities. For each participating local government, completing a government operations emissions inventory, as well, would represent achieving the first Milestone of ICLEI's 5 Milestone methodology – a simple, standardized way to effectively reduce, measure, and verify greenhouse gas emissions. ICLEI has developed software tools that help cities comply with the Cities for Climate Protection (CCP) methodology. The Five Milestones are:

- Milestone 1 – Conduct a baseline emissions inventory and forecast
- Milestone 2 – Adopt an emissions reduction target
- Milestone 3 – Develop a local Climate Action Plan
- Milestone 4 – Implement policies and measures
- Milestone 5 – Monitor and verify results

This proposal by ICLEI and SSV offers to help participating local governments begin the Milestone process, working towards the regional SSV CO<sub>2</sub> emissions reduction target while building capacity and momentum toward additional climate protection activities. This systematic process will enable local governments to achieve their greenhouse gas emission reduction targets in the most cost-effective manner possible and achieve the greatest return on their investment.

### **Project Objective**

Generate a government operations emissions analysis report for each local government for a common analysis year (2005).

### **Scope of Work**

#### Coordinated with all Participating Local Governments

- Kickoff meeting to explain project concept, data requirements, deliverables, responsibilities
- Debrief meeting to present results, train all participants on methodology, software functionality

#### Per Participating Local Government

- Data specification
- Data collection (including employee commute/travel survey)
- Data conditioning
- Data input and analysis using Clean Air and Climate Protection (CACP) software
- Analysis of data results
- Report development
- Provision of backup source data and CACP software data
- ICLEI and SSV membership services (see Appendix A)

#### Not Included in This Proposal

- Pre-certification or full certification of local government emissions data with California Climate Action Registry (third party certification would be required)
- Project recruitment, update, or results presentations at city council meetings or similar
- More than one data analysis year
- Data analysis for a year other than 2005
- Community-scale emissions analysis
- Analysis of minor (de minimis) emissions sources where data gathering is prohibitive

#### Local Government Operations Emissions Sources

Data needs and expected sources for this project are presented in the table below. In cases where primary data sources are incomplete, secondary sources may be used to augment or completely substitute for primary data sources. Potential estimation methods are indicated for cases where neither primary nor secondary sources are readily available. In addition to the essential data included in the table below, a variety of indicator data will also be collected for benchmarking purposes where local government staff are able to provide it. This will include square footage of facilities, number of employees in each building, hours of operation, amount of water or wastewater processed, etc., enabling additional levels of data analysis and future comparability.

**Table 1. Local Government Operations Emissions Sources**

Emissions Sector	Data Needed	Sources of Data		
		Primary	Secondary	Options for Filling Gaps
<b>Facilities</b> All facilities owned or operated by the local government	Electricity use (kWh and cost)	Utility provider records	Government maintained payment records	Usage may be estimated based on known expenditures or from size of facility compared to other similar facilities.
	Natural gas and other fuel used (therms/gallons and cost)	Utility provider records	Government maintained payment records	Usage may be estimated based on known expenditures or from size of facility compared to other similar facilities.
<b>Traffic Signals and Streetlights</b>	Electricity use (kWh and cost)	Utility provider records	Government maintained payment records	Usage may be estimated based on known expenditures or from know wattage of bulbs and expected period of use.
<b>Water and Wastewater Operations</b> Treatment, collection and distribution (where applicable)	Electricity use (kWh and cost)	Utility provider records	Government maintained payment records	Usage may be estimated based on known expenditures or from size of facility compared to other similar facilities.
	Natural gas and other fuel used (therms/gallons and cost)	Utility provider records	Government maintained payment records	Usage may be estimated based on known expenditures or from size of facility compared to other similar facilities.
<b>Vehicle Fleet</b> Government owned and operated vehicles	Fuel used (gallons by type and cost)	Vehicle fueling records	Vehicle odometer records	Usage estimated based on known expenditures and estimated fuel efficiency of vehicles.
<b>Solid Waste</b> Waste generated as a result of government operations	Solid waste hauled (tons and cost)	Collection records	None	Estimates of per-capita employee waste generation by employee type (From California Waste Management Board)
	Makeup of waste stream (percentage of waste by type of waste)	Existing analysis of local waste stream	Existing analysis of waste streams in nearby jurisdictions	California averages (From California Waste Management Board)
<b>Existing Landfills</b> Methane emissions from exiting landfills operated by the local government (if applicable)	Amount of waste in place	Operations records	n/a	Engineer's estimates of capacity
	Amount of waste added each year	Operations forecasts	n/a	Historical trends
	Composition of waste	Existing analysis of local waste stream	Existing analysis of waste streams in nearby jurisdictions	National averages (From Tellus Institute)
	Amount of methane recovery	Metered recovery	Engineer's estimates	National average recovery factors (from EPA)
<b>Employee commute (optional)</b>	Number of miles traveled by employees in daily commute	Existing employee survey or study	Conduct employee survey	U.S. Census Journey-to-work study
	Distribution of transportation modes	Existing employee survey or study	Conduct employee survey	U.S. Census Journey-to-work study
<b>Methane emissions from wastewater treatment and solids disposal (optional; where applicable)</b>	Amount of methane escaping from sewage waste treatment and disposal process	Metered recovery and flaring	Modeled output based on quantity of waste treated and disposal methods (from IPCC)	Engineer's estimates

## **Project Costs**

- Becoming a partner of SSV and member of ICLEI separately is required of each participating local government. Annual SSV partnership dues for any pledging government agency are currently \$1,000 per year per local government. ICLEI annual membership dues are based on population and start at \$600 per year for communities of up to 50,000 people (see Appendix B for further information).
- Average additional project-related costs of \$13,000 per local government, pending discussion of contracting method.

This cost proposal is contingent on the following criteria:

- Minimum of 20 local governments participating to initiate the contract.
- Shared data analysis year (2005 is recommended) for all participating local governments.
- Project anticipated to begin late 2007, with the bulk of project labor to occur in 2008.
- Written agreement before project execution by all data providers (e.g., electric and gas utilities, regional transportation planning agencies, waste management boards, local governments) to the project partners facilitated by ICLEI, SSV and JVSVN to make all needed consumption data and coefficients available in a timely manner.
- JVSVN responsible for all recruitment of local governments into this project.
- JVSVN responsible for non-labor costs associated with the two included in-person project meetings (e.g., space, refreshments).
- Each participating local government must become a member of both ICLEI and SSV at standard membership rates.
- Each participating local government must assign two representatives to be liaisons to ICLEI and SSV, one staff and one elected leader.
- Each participating local government must provide adequate staff support related to the collection of data (estimated at average of 20-40 hours per local government).
- The mayor or other high level official must distribute a letter indicating to appropriate department staff that assistance in this project is an important priority. (ICLEI and SSV will provide a template for this letter.)

## **Project Deliverables**

### Shared Deliverables for all Participating Local Governments

- Project kickoff meeting
- Project debrief meeting, including training on government operations emissions inventory development<sup>1</sup>
- Monthly Meetings and Quarterly Forums customized to meet local government needs
- Access to relevant technical and cost information through SSV, useful for prioritizing specific CO<sub>2</sub> reduction projects on a cost-effective basis

### Deliverables Per Local Government

- Government operations emissions inventory report
- CACP software data backup
- Data analysis input files
- Description of emissions analysis methodology
- Standard SSV member benefits and standard ICLEI membership benefits (see Appendix A)
- Public recognition for participation by each local government in this project via the SSV Annual Report, SSV Annual Report Release Event, and related media coverage

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<sup>1</sup> This training may be augmented by the Bay Area Air Quality Management District

## **Optional Deliverable Not Included in This Cost Proposal**

- Second government operations data analysis year

## **Project Schedule**

The project start date will be negotiated by the parties upon confirmation of participation by each local government, most likely to occur in late 2007. ICLEI and SSV, in coordination with JVSVN, will solicit input from all project participants to best prioritize the tasks associated with completing all emissions inventories. Emissions inventories for each participating local government will be completed on a rolling basis, with the first inventories being completed within approximately three months of project execution and the process continuing from there. Project completion timeline will be significantly influenced by the provision of data by the local governments and external data providers.

## **Project Team**

The project team will consist of staff from ICLEI, under the management of Director of Programs Garrett Fitzgerald, and SSV, under the management of Executive Director Rick Row. Details on how the work will be divided between the two organizations will be provided pending further discussion of the content of this proposal. Below is additional information on these two organizations.

## **ICLEI**

Since 1993, ICLEI U.S.A., a non-profit 501(c) 3 corporation, has been working with local governments to improve global environmental conditions through cumulative local leadership and action. Through performance-based campaigns and initiatives, ICLEI's U.S. office provides local governments with technical expertise and policy assistance as well as access to a valuable national peer network. In the United States, ICLEI is a growing association of local governments (over 40% growth in 2006) dedicated to climate protection and sustainable development with a strong national presence. ICLEI works with these local governments to push the boundaries of traditional leadership in the US and achieve stronger, accelerated movement toward sustainability goals through measured performance and tangible results.

In addition to providing base levels of technical assistance to all of its local government members for over 14 years, ICLEI has also provided enhanced technical assistance toward the completion of inventories and action plans for a significant number of local governments in the style of this proposed project.

ICLEI has recently completed a project with Alameda County, California, working with 11 municipal governments as well as the County government to develop greenhouse gas emissions inventories for each participant, as well as a local climate action plan template. ICLEI worked with each municipality to identify emissions reduction strategies that were appropriate for the region and facilitated three regional workshops to enhance the regional focus of the initiative. In addition, ICLEI assisted in the development of outreach and public relations materials to increase community awareness of the climate protection initiatives.

ICLEI is currently engaged in several similar projects, providing enhanced technical services for Menlo Park, CA; Haverford, PA; and Bellevue, WA. In each of these cases ICLEI staff is working closely with local staff to develop an inventory of greenhouse gas emissions that meets the needs of the local government.

## **Sustainable Silicon Valley**

Sustainable Silicon Valley (SSV), begun in 2001 and an independent non-profit 501(c)3 corporation since 2004, is a collaboration of businesses, governments, and non-governmental organizations that are

identifying and addressing environmental and resource pressures in the Valley. Its mission is to work with the Silicon Valley community to create a more sustainable future using an environmental management system (EMS), which provides a systematic approach to achieve desired environmental targets, such as CO<sub>2</sub> emissions reductions.

As its first initiative, SSV engages prominent Valley organizations to work towards a goal of reducing regional carbon dioxide (CO<sub>2</sub>) emissions 20% below 1990 levels by 2010. SSV facilitates strategies to reduce CO<sub>2</sub> emissions through increased energy and fuel efficiency and through the use of renewable sources of energy. SSV partners pledge to help meet SSV's regional target, set their own individual targets, report their progress, share information and mentor one another in quarterly educational forums and monthly meetings. SSV recognizes results in its Annual CO<sub>2</sub> Report and at its Annual Report Release Event.

SSV municipal partners include the Cities of Morgan Hill, Palo Alto, San Mateo, San Jose, Santa Clara, and Sunnyvale, the Towns of Los Altos Hills and Portola Valley, and San Mateo and Santa Clara Counties. SSV works with these municipalities to mentor and educate new partners, providing tools and resources to support these organizations. Quarterly educational forums have provided proven CO<sub>2</sub> reduction strategies from experts since 2004.

## Appendix A.

### Organizational Membership/Partnership Benefits

#### ICLEI – Local Governments for Sustainability

- Personalized orientation to the CCP Campaign, including an overview of the process for establishing an emissions baseline and developing a local climate action plan;
- Hands-on training in the use of ICLEI's Clean Air and Climate Protection Software;
- Basic ongoing technical support (estimated at 2 hours/month) in the use of the software and protocols for emissions quantification;
- Access to case studies, local government network participants, sample resolutions, and policy documents;
- Opportunities to participate in ICLEI's series of virtual training sessions on best practices and new tools in sustainability planning and climate protection;
- Notice of funding opportunities and assistance in matching with appropriate sources of funds;
- Membership in the network of worldwide local government representatives who are tackling similar environmental and management issues and who meet at workshops, seminars, and conferences around the world, and through electronic conferences on the website; and,
- Invitation and travel to national and international events, supported by ICLEI as funding is available.
- Media support as requested to foster promotion of local climate action efforts.

#### Sustainable Silicon Valley

- Quarterly Educational Forums on topics of concern to organizations working to reduce energy use and CO<sub>2</sub> emissions.
- Access to Energy Efficiency Incentive Funds through an agreement with PG&E that makes energy efficiency incentive funds available to qualifying SSV Partners and Silicon Valley Leadership Group (SVLG) members.
- The ongoing exchange of Energy and CO<sub>2</sub> Best Practices, at monthly meetings and through direct contacts within Sustainable Silicon Valley.
- Public recognition, as bestowed this past year on SSV and SSV Partners by the U.S. Environmental Protection Agency, and by the California Climate Action Team in its report to the governor.
- Inclusion in the annual CO<sub>2</sub> Report, which highlights Partner achievements in the context of Silicon Valley trends.
- Media attention has included front page Business section coverage in the San Jose Mercury News, KGO/ABC7 television evening news and other programming, and interviews on various radio stations.
- Nomination by SSV for honors and recognition.
- Affiliation with other prominent Silicon Valley organizations in an internationally recognized, regional effort to address the environmental concerns of your organization and its community.

For further information about ICLEI and Sustainable Silicon Valley, consult the ICLEI web site at <http://www.iclei.org/usa>; and the SSV web site at <http://www.sustainablevalley.org>.

**Appendix B.**

**Organizational Membership/Partnership Dues**

**ICLEI – Local Governments for Sustainability**

Community Population	Annual Dues
1 to 50,000	\$600
50,001 to 100,000	\$1,200
100,001 to 200,000	\$1,750
200,001 to 300,000	\$2,250
300,001 to 500,000	\$2,750
500,001 to 750,000	\$3,500
750,001 to 1,000,000	\$4,500
1,000,001 to 2,000,000	\$5,750
2,000,001 to 4,000,000	\$7,000
Over 4,000,001	\$8,000

**Sustainable Silicon Valley**

Annual SSV partnership dues for any pledging government agency are currently \$1,000 per year per local government.

**AGREEMENT BETWEEN THE [CITY/COUNTY OF \_\_\_\_]  
AND JOINT VENTURE: SILICON VALLEY NETWORK FOR GOVERNMENT  
OPERATIONS GREENHOUSE GAS EMISSIONS INVENTORY ASSISTANCE**

This contract is dated for identification this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and is made by and between the [CITY OF \_\_\_\_\_], a California [Charter City ] and municipal corporation, whose address is [ADDRESS] (hereinafter "CITY OR COUNTY"), and JOINT VENTURE: SILICON VALLEY NETWORK, whose address is 84 West Santa Clara Street, Suite 440, San Jose, California 94113 (hereinafter "JOINT VENTURE").

[replace CITY with COUNTY throughout as appropriate]

**RECITALS**

A. CITY desires to retain the services of JOINT VENTURE to provide government operations emissions greenhouse gas inventory assistance.

B. JOINT VENTURE is a qualified professional organization capable of providing the certain professional services which CITY seeks.

NOW, THEREFORE, in consideration of the recitals and mutual promises contained herein, CITY does hereby engage JOINT VENTURE, and JOINT VENTURE agrees, to perform the services set forth herein in accordance with the following terms and conditions:

1. **Description of Services.** JOINT VENTURE shall provide the following services:

JOINT VENTURE shall provide the services set forth within Exhibit A, attached hereto and incorporated herein.

2. **Schedule and Term.** The schedule for performing said services as described in the attached proposal from JOINT VENTURE and incorporated herein as Exhibit A:

JOINT VENTURE shall commence work under this contract upon execution of the contract and shall complete all work under this contract no later than December 31, 2009.

3. **Compensation.** Total compensation to JOINT VENTURE for providing the services set forth herein shall not exceed (including reimbursed expenses) Thirteen Thousand Dollars (\$13,000.00).

4. **Payment Schedule.** CITY shall pay the full amount within thirty (30) days of receiving and approving a billing statement.

5. **Reliance Upon Professional Skill.** It is mutually agreed by the parties that CITY is relying upon the professional skill of JOINT VENTURE, and JOINT VENTURE represents to CITY that its work shall conform to generally recognized professional standards in the industry. Acceptance of JOINT VENTURE's work by CITY does not operate as a release of JOINT VENTURE's said representation.

6. **Use of Subcontractors:**

a. It is mutually agreed by the parties that JOINT VENTURE may engage one or more subcontractors and/or consultants to perform all or part of the services described herein. CITY expressly acknowledges and approves of JOINT VENTURE's use of the consulting services of ICLEI - Local Governments for Sustainability USA, Inc.

b. CITY is an intended beneficiary of any work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and CITY.

7. **Independent Contractor.** It is agreed that JOINT VENTURE is an independent contractor, and all persons working for or under the direction of JOINT VENTURE are JOINT VENTURE's agents, servants and employees, and said persons shall not be deemed agents, servants or employees of CITY.

8. **Ownership of Data and Documents.** JOINT VENTURE agrees that all records, specifications, data, maps, designs, graphics, writings, recordings and other tangible materials regardless of form or format, including, without limitation, electronically transmitted documents and ACAD files, and other collateral materials collected, compiled, drafted, prepared, produced and/or generated in the performance of this Agreement shall be the property of CITY. JOINT VENTURE shall regularly provide such documents to CITY upon CITY's request. In the event that this Agreement is terminated prior to completion of the scope of work, JOINT VENTURE shall provide all such data and documents to CITY forthwith.

9. **Hold Harmless.** JOINT VENTURE shall defend, indemnify and hold CITY, its officers, employees and agents harmless from any liability for damage or claims of same, including but not limited to personal injury, property damage and death, which may arise from JOINT VENTURE or JOINT VENTURE's contractors, subcontractors, agents or employees' operations under this Agreement. CITY shall cooperate reasonably in the defense of any action, and JOINT VENTURE shall employ competent counsel, reasonably acceptable to the City Attorney.

10. **Applicable Laws and Attorneys' Fees.** This Agreement shall be construed and enforced pursuant to the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court. Reasonable attorneys' fees of the City [County] Attorney's Office, if private counsel is not used, shall be based on comparable fees of private attorneys practicing in [\_\_\_\_\_] County.

11. **Nondiscrimination.** JOINT VENTURE shall afford equal employment opportunities for all persons without discrimination because of race, color, religion, sex, sexual orientation, political affiliation, national origin, ancestry, age, marital status, or physical or mental disability.

12. **Amendment.** This Agreement may be amended in writing and signed by both parties.

13. **Termination.** CITY may terminate this Agreement at any time by providing fifteen (15) days advance written notice to JOINT VENTURE. Should CITY terminate pursuant to said notice, CITY shall pay JOINT VENTURE for JOINT VENTURE's services rendered to the date of cancellation based on percentage of completion of scope of basic services, including actual reimbursable expenses. In no event shall said fees exceed the maximum compensation established in this Agreement.

14. **Attachments or Exhibits.** Except as expressly referenced herein, no portion of any terms or conditions included in any attachments or exhibits shall be a part of this Agreement, and they shall have no force or effect. If the attachments or exhibits to this Agreement, if any, are inconsistent with this Agreement, this Agreement shall control.

15. **Entire Agreement.** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

16. **Public Records.** The parties recognize and acknowledge that CITY is subject to the California Public Records Act, California Government Code Section 6250 and following. Public records are subject to disclosure.

17. **Notices.** Any notice required to be given to JOINT VENTURE shall be deemed to be duly and properly given if mailed to JOINT VENTURE, postage prepaid, addressed to:

Russell Hancock, President & CEO  
84 West Santa Clara Street, Suite 440  
San Jose, California 95113

or personally delivered to JOINT VENTURE at such address or at such other addresses as JOINT VENTURE may designate in writing to CITY.

Any notice required to be given CITY shall be deemed to be duly and properly given if mailed to CITY, postage prepaid, addressed to:

[\_NAME, ADDRESS\_]

or personally delivered to CITY at such address or at such other addresses as CITY may designate in writing to JOINT VENTURE.

IN WITNESS WHEREOF, this Agreement is executed by CITY and by JOINT VENTURE.

APPROVED AS TO CONTENT:  
  
\_\_\_\_\_

"CITY/COUNTY":  
CITY/COUNTY OF \_\_\_\_\_,  
a California Charter City and municipal  
corporation

FINANCIAL APPROVAL:  
  
\_\_\_\_\_  
Assistant Finance and Administrative  
Services Director

By: \_\_\_\_\_  
Department Head

By: \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City Attorney

"JOINT VENTURE: Silicon Valley  
Network":

Russell Hancock, President & CEO

By: \_\_\_\_\_

77-0389802  
Taxpayer I.D. Number

# City of Menlo Park

## Greenhouse Gas Emissions Analysis

### 2005 Municipal Operations Emissions Inventory



## ICLEI DEMONSTRATION VERSION <sup>1</sup>

<sup>1</sup> This report is an abridged, demonstration version of the Greenhouse Gas Emission Inventory Report that was prepared by ICLEI for the City of Menlo Park and made available to the public on November 20, 2007. The original report covered government operations in addition to emissions from community-wide activities. The analysis of emissions from community-wide activities has been removed from this report. ICLEI has edited the original report to produce a version that is representative of the inventory reports that will be produced for local governments in San Mateo and Santa Clara Counties through the Joint Venture Silicon Valley-ICLEI-Sustainable Silicon Valley project.

## **Credits and Acknowledgements**

### **City of Menlo Park**

Dianne Dryer, Environmental Program Coordinator

Kent Steffens, Director of Public Works

Andy Marisko, Fleet Supervisor

Ruben Niño, Assistant Director of Public Works

Carl Thomas, Facilities Supervisor

Virginia Parks, Assistant Engineer

John McGirr, Revenue and Claims Manager

### **ICLEI – Local Governments for Sustainability**

Micah Lang, Program Officer

Garrett Fitzgerald, Director of Programs

Alex Ramel, Program Officer

Brook Lee, Program Officer

This report was prepared by Micah Lang, Program Officer at ICLEI–Local Governments for Sustainability U.S.A. The author gratefully acknowledges the dedication of the staff of the City of Menlo Park, who provided much of the insight and local knowledge necessary for the completion of this report.

**ICLEI**  
Local  
Governments  
for Sustainability

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## **1 Introduction**

On June 26, 2007, the Menlo Park City Council adopted a resolution committing the City to taking action for climate protection (see Appendix 1 for a copy of the resolution). Through this resolution, the City recognized the "profound effect" that greenhouse gases emitted by human activity are having on the Earth's climate, as well as the City's opportunity to reduce these emissions, both through its municipal operations and by inspiring change throughout the community. Through energy efficiency in its facilities and vehicle fleet, alternative clean energy sources, waste reduction efforts, land use and transit planning, and other activities, the City of Menlo Park can achieve multiple benefits, including saving energy and money, reducing emissions, and preserving quality of life in our community. With the assistance of ICLEI – Local Governments for Sustainability, the City has begun its efforts to identify and reduce greenhouse gas emissions.

This document represents completion of the first milestone in ICLEI's five milestone process: conducting an inventory of greenhouse gas emissions. Presented here are estimates of greenhouse gas emissions resulting from the City's internal municipal operations. Due to data availability and the desire to conduct a baseline inventory for the same year as other Bay Area cities, data are presented for the year 2005. This data will provide a baseline against which we will be able to compare future performance, enabling us to demonstrate progress in reducing emissions.

### **1.1 Climate Change Background**

A balance of naturally occurring gases dispersed in the atmosphere determines the Earth's climate by trapping solar radiation. This phenomenon is known as the greenhouse effect. Modern human activity, most notably the burning of fossil fuels for transportation and electricity generation, introduces large amounts of carbon dioxide and other gases into the atmosphere. Collectively, these gases intensify the natural greenhouse effect, causing global average surface temperature to rise, which is in turn expected to affect global climate patterns.

Overwhelming evidence suggests that human activities are increasing the concentration of greenhouse gases in the atmosphere, causing a rise in global average surface temperature and consequent climate change. In response to the threat of climate change, communities worldwide are voluntarily reducing greenhouse gas emissions. The Kyoto Protocol, an international effort to coordinate mandated reductions, went into effect in February 2005 with 161 countries participating. The United States is one of three industrialized countries that chose not to sign the Protocol.

In the face of federal inaction, many communities in the United States are taking responsibility for addressing climate change at the local level. The community of Menlo Park might be impacted by rising sea levels and resultant changes in the height, salinity and behavior of the San Francisco Bay, as well as other changes to local and regional weather patterns and species migration. Beyond our community, scientists also expect changing temperatures to result in more frequent and damaging storms accompanied by flooding and land slides, summer water shortages as a result of reduced snow pack, and disruption of ecosystems, habitats and agricultural activities.

## 1.2 The Cities for Climate Protection Campaign

By adopting a resolution committing the City to locally advancing climate protection, Menlo Park has joined an international movement of local governments. More than 800 local governments, including over 300 in the United States, have joined ICLEI's Cities for Climate Protection (CCP) campaign.<sup>1</sup> In addition to Menlo Park the neighboring towns of Palo Alto, San Jose, and San Francisco are all CCP participants.

The CCP campaign provides a framework for local communities to identify and reduce greenhouse gas emissions, organized along five milestones:

- (1) Conduct an inventory of local greenhouse gas emissions;
- (2) Establish a greenhouse gas emissions reduction target;
- (3) Develop an action plan for achieving the emissions reduction target;
- (4) Implement the action plan; and,
- (5) Monitor and report on progress.

This report represents the completion of the first CCP milestone, and provides a foundation for future work to reduce greenhouse gas emissions in Menlo Park.

## 1.3 Sustainability and Climate Change Mitigation Activities in Menlo Park

Menlo Park got its start in environmental sustainability activities in the 1970s with the formation of the Environmental Beautification Commission. Over the years, the City has built a strong track record in its recycling, water conservation, and urban forestry programs. The efforts of the City's motivated Environmental Programs Coordinator and the strong response from residents have resulted in Menlo Park residents recycling more per pound than any of the 11 other cities in the South Bay Waste Management Authority service area.<sup>2</sup> Another example of the success of the recycling and waste reduction promotional efforts of City staff is the high rate of participation among businesses and schools in the compost collection program. Beginning in 2004, this program has grown to include 70 businesses and schools that combine to divert about 3,200 tons of food waste annually from landfills.<sup>3</sup>

Menlo Park is known for its extensive tree canopy made possible through significant efforts of residents and the City to preserve heritage trees. The old Environmental Beautification Commission has evolved into the Environmental Quality Commission, which in addition to overseeing management of 20,000 City-owned trees, also supports broader environmental sustainability activities, including the annual Environmental Quality Awards.

In the area of energy conservation and efficiency, Menlo Park has been active in promoting PG&E's energy efficiency programs.<sup>4</sup>

<sup>1</sup> ICLEI was formerly known as the International Council for Local Environmental Initiatives, but the name has been changed to ICLEI – Local Governments for Sustainability.

<sup>2</sup> Dianne Dryer, Personal Communication, 09/2007.

<sup>3</sup> Dianne Dryer, Personal Communication, 09/2007.

<sup>4</sup> Dianne Dryer, Personal Communication, 09/2007.

Within the municipal government, in 2004 the City completed an energy audit and retrofit of the heating, ventilation, and air conditioning (HVAC) systems in the library and central administration building. Through upgrading these two HVAC systems the City saved \$34,563 in 2005 over what was spent on electricity and natural gas on those two building groups in 2002/2003. Energy use has also been reduced through labeling essential vs. unessential lights, educating employees about energy conservation, and continuously replacing lamps with high efficiency fluorescent models.

In the area of renewable energy, before the end of 2007, the City will put out a request for proposals for a 35 kW solar photovoltaic system on the Maintenance Building roof.

2007 marks the beginning of Menlo Park's focused efforts on climate change mitigation work. In March, the Green Ribbon Citizens Committee (GRCC) formed and began working on a set of recommendations that will be proposed to the City Council for consideration for a climate action plan for both government and community activities. The GRCC has about 25 active members from different stakeholder groups that have been meeting monthly to finish their set of recommendations by November 2007. The greenhouse gas emissions inventory that is detailed in this report and points the way forward for future planning and actions is a necessary complement to the climate action plan.

## **2 Greenhouse Gas Emissions Inventory**

The first step toward reducing greenhouse gas emissions is to identify baseline levels and sources of emissions in Menlo Park, as well as the sectors of community and government operations that are responsible for the bulk of these emissions. This information can later inform the selection of a reduction target and possible reduction measures.

### **2.1 Methods**

ICLEI's Cities for Climate Protection campaign assists local governments to systematically track energy and waste related activities in the community, and to calculate the relative quantities of greenhouse gases produced by each activity and sector. The greenhouse gas inventory protocol involves performing two assessments: a community wide assessment and a separate inventory of municipal facilities and activities. The municipal inventory is a subset of the community inventory.

Once completed, these inventories provide the basis for the creation of an emissions forecast, and allow for the quantification of emissions reductions associated with proposed measures.

### ***2.1.1 CACP Software***

To facilitate community efforts to reduce greenhouse gas emissions, ICLEI developed the Clean Air and Climate Protection (CACP) software package in partnership with the State and Territorial Air Pollution Program Administrators (STAPPA), the Association of Local Air Pollution Control Officials (ALAPCO)<sup>5</sup>, and Torrie Smith Associates. This software calculates emissions resulting from energy consumption and waste generation. The CACP software determines emissions using specific factors (or coefficients) according to the type of fuel used. Greenhouse gas emissions are aggregated and reported in terms of equivalent carbon dioxide units, or CO<sub>2</sub>e. Converting all emissions to equivalent carbon dioxide units allows for the consideration of different greenhouse gases in comparable terms. For example, methane is twenty-one times more powerful than carbon dioxide on a per weight basis in its capacity to trap heat, so the CACP software converts one metric ton of methane emissions to 21 metric tons of carbon dioxide equivalents. The CACP software is also capable of reporting input and output data in several formats, including detailed, aggregate, source-based and time-series reports.

The emissions coefficients and quantification method employed by the CACP software are consistent with national and international inventory standards established by the Intergovernmental Panel on Climate Change (1996 Revised IPCC Guidelines for the Preparation of National Inventories) and the U.S. Voluntary Greenhouse Gas Reporting Guidelines (EIA form 1605).

The CACP software has been and continues to be used by over 160 U.S. cities and towns to reduce their greenhouse gas emissions. However, it is worth noting that, although the software provides Menlo Park with a sophisticated and useful tool, calculating emissions from energy use with precision is difficult. The model depends upon numerous assumptions, and it is limited by the quantity and quality of available data. With this in mind, it is useful to think of any specific number generated by the model as an approximation of reality, rather than an exact value.

### ***2.2.2 Creating the Inventory***

This greenhouse gas emissions inventory consists the quantification of emissions resulting from the City of Menlo Park's municipal operations. The municipal inventory is effectively a subset of the community-scale inventory (the two are not mutually exclusive). This allows the municipal government, which has formally committed to reducing emissions, to track its individual facilities and vehicles and to evaluate the effectiveness of its emissions reduction efforts at a more detailed level. At the same time, the community-scale analysis provides a performance baseline against which we can demonstrate progress being made throughout Menlo Park.

Creating this emissions inventory required the collection of information from a variety of sources, including the Pacific Gas and Electric Company (PG&E), the California Integrated Waste Management Board, CalTrans, and internal City records. Data from the year 2005 was used for the community inventory, with the exception of a subset of the waste data, which utilizes a California statewide waste characterization study conducted in 2003-2004. Data collected for the municipal inventory is from calendar year 2005. Due to data gaps, fuel usage for Menlo

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<sup>5</sup> Now the National Association of Clean Air Agencies (NACAA)

Park's municipal fleet for calendar year 2005 was estimated using fuel usage and odometer readings data from fiscal year 2006-2007 and other proxies.

Emissions sources are categorized as *Key* and *Secondary*. Key emissions sources are those sources which ICLEI considers essential components of a local greenhouse gas analysis. This determination is based on significance of the category in terms of the total emissions profile of most local governments, applicability of data to policy relevant climate protection solutions available to local governments, and availability of data at the local government scale. When conducting an emissions inventory, all Key categories must be included.

Secondary emissions sources are those which are generally challenging to gather reliable data for at a local level, and/or which are usually minimal in magnitude. ICLEI encourages local governments to conduct as complete an analysis as is practicable, but distinguishes secondary emissions sources so that local governments can prioritize their efforts. Examples of secondary emission sources include decentralized fuel consumption (e.g., propane, kerosene, fuel oil, stationary diesel); tailpipe emissions from rail, sea, pass-through highways, airplanes; and methane emissions from wastewater treatment.<sup>6</sup> In general, it is acceptable to rely on less specific data sources for estimating secondary emissions sources.

Table 1 - Government Operations Emissions Inventory Protocol Summary Chart

Macro Sector (IPCC)	Government Sector (ICLEI)		Key Emission Sources	Secondary Emission Sources
Energy	Stationary Combustion	Buildings and Facilities	Utility-delivered fuel consumption (e.g., natural gas) Decentralized fuel consumption (e.g., propane, kerosene, fuel oil, stationary diesel, biofuels, coal)	Utility-consumed fuel for electricity / heat generation
		Water/Sewer System		
	Electricity / Heat Consumption	Buildings and Facilities	Utility-delivered electricity / heat consumption (e.g., steam)	Decentralized electricity / heat consumption not accounted for under stationary combustion (e.g., solar, geothermal)
		Street lights and traffic signals		
		Water/Sewer		
	Mobile Combustion	Vehicle Fleet	Tailpipe emissions from municipally owned and operated vehicles	
Employee Commute		n/a	Tailpipe emissions from vehicles operated by municipal employees traveling to and from work	
	Fugitive emissions	Other	n/a	Fugitive emissions from energy
Industrial Processes and Product Use		Other	n/a	Fugitive emissions from industrial processes
Agriculture, Forestry and Other Land Use		Other	n/a	methane from government owned livestock
		Other	n/a	Net biogenic carbon Flux on municipally owned land
Waste		Waste	Municipally operated Landfill, incineration and compost facilities Lifetime decomposition associated with waste generated by municipality	Wastewater methane

<sup>6</sup> See Table 1 for a more complete list of secondary emissions sources.

## 2.2 Inventory Results

### *Municipal Operations Emissions Inventory*

In the year 2005, the City of Menlo Park's municipal operations generated 2,183 metric tons of CO<sub>2</sub>e, in addition to 41,748 metric tons of CO<sub>2</sub>e from Marsh Road Landfill.<sup>7</sup> Electricity and natural gas use in the City's buildings contributed 33.0%, the vehicle fleet contributed 28.4% of this total, and the remainder came from waste, streetlights, and electricity for pumping water and stormwater.

During 2005, the Menlo Park municipal government spent approximately \$790,000 on electricity, natural gas, and fuel for its buildings, streetlights and vehicles, and waste disposal. Beyond reducing harmful greenhouse gases, any future reductions in municipal energy use have the potential to reduce this expense, enabling Menlo Park to reallocate limited funds toward other municipal services. Table 2, Figure 1, and Figure 2 below illustrate the breakdown of municipal emissions by source type.

Municipal emissions in Menlo Park constitute 0.5% of the community's total greenhouse gas emissions (or 10.0% if Marsh Road Landfill is included). This is not unusual; local government emissions typically account for around two percent of community levels. As a minor contributor to total emissions, actions to reduce municipal energy use will have a limited impact on the Menlo Park community's overall emissions levels. However, as previously mentioned, municipal action has symbolic value that extends beyond the magnitude of emissions actually reduced.

Table 2: Municipal Operations Emissions Summary 2005, City of Menlo Park

Sector	Greenhouse Gas Emissions (% CO <sub>2</sub> e)	Greenhouse Gas Emissions (metric tons CO <sub>2</sub> e)	Energy Equivalent (million Btu)	Cost (\$)	Cost (%)
Buildings	33.0%	720	11,749	\$323,990	41.0%
Vehicle Fleet	28.4%	621	8,009	\$168,816	21.3%
Streetlights	11.9%	259	3,948	\$130,783	16.5%
Water/Storm Water <sup>8</sup>	5.9%	128	1,951	\$70,418	8.9%
Waste <sup>9</sup>	20.8%	455	-	\$96,845	12.2%
<b>TOTAL</b>	<b>100.0%</b>	<b>2,183</b>	<b>25,657</b>	<b>790,852</b>	<b>100.0%</b>
Marsh Road Landfill	-	41,748	-	-	-

<sup>7</sup> Marsh Road Landfill and the Bayfront Park Methane Capture Station are owned by the City of Menlo Park. The Methane Capture Station is operated by Gas Recovery Systems Inc.

<sup>8</sup> See Appendix 1 for a detailed description of how Water/Storm Water numbers were calculated.

<sup>9</sup> See Appendix 1 for a detailed description of how Waste numbers were calculated.

Figure 1. Municipal Operations Greenhouse Gas Emissions in 2005

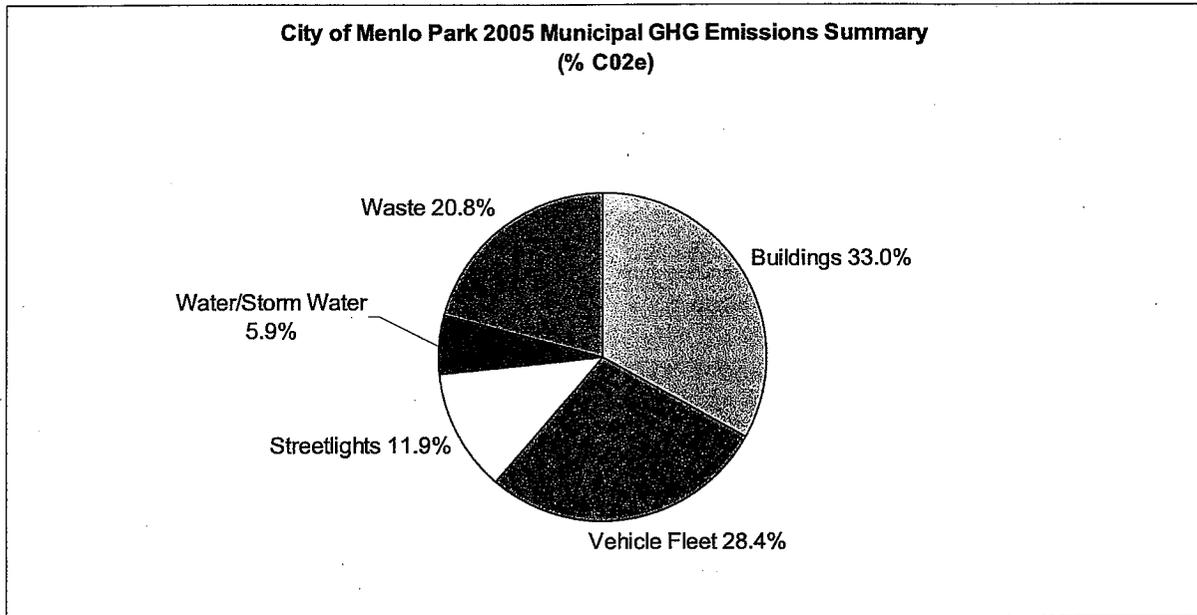
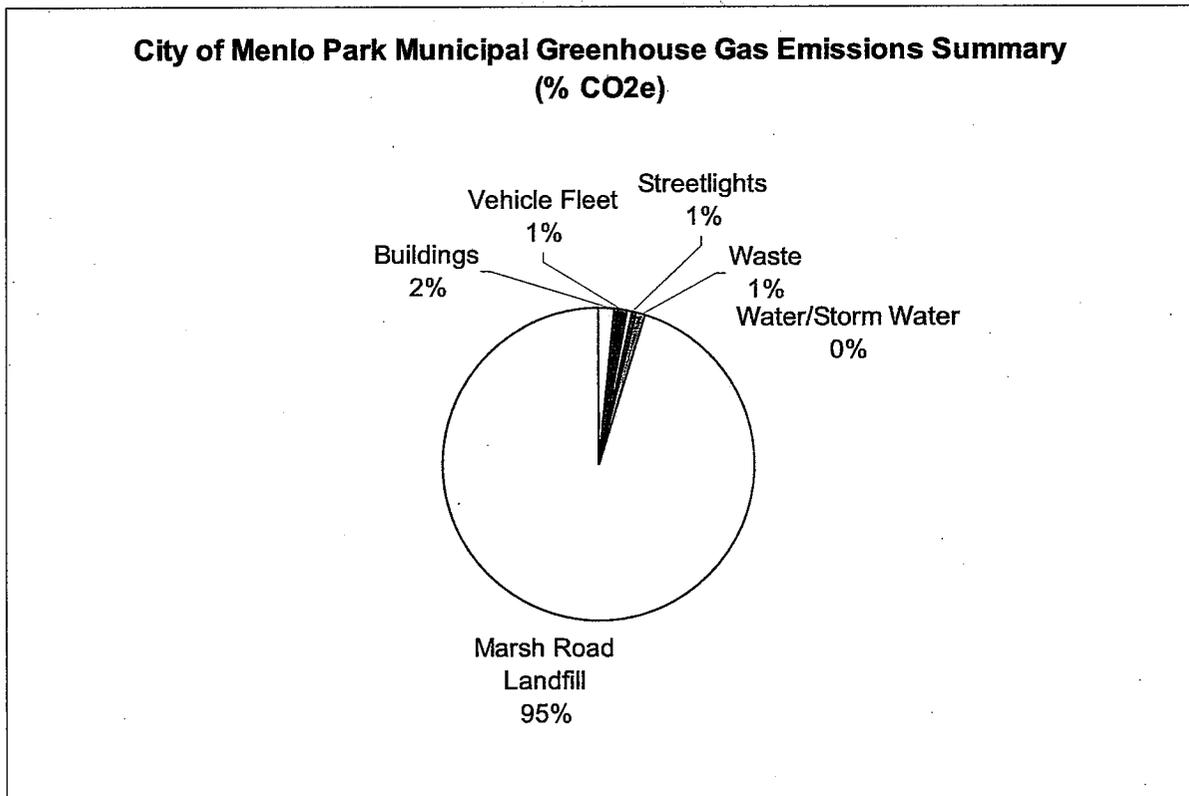


Figure 2. Municipal Operations Greenhouse Gas Emissions (Including Marsh Road Landfill) in 2005



### ***Municipal Buildings***

The municipal buildings' relative contribution to greenhouse gas emissions is highlighted in Table 3. The Administration / City Hall building complex, the Onetta Harris Community Center, and the Library were responsible for a combined 73% of the emissions from the City's buildings. In 2003 the City of Menlo Park hired a firm to perform an energy audit and retrofit of the heating, ventilation, and air conditioning (HVAC) systems in the Administration / City Hall Buildings and the Library. The new HVAC systems that were installed saved the city \$34,563 in 2005 compared to electricity and gas bills from 2002/2003, and reduced greenhouse gas emissions by 319 metric tons of CO<sub>2</sub>e.

Table 3. Municipal Operations Building Energy Use Greenhouse Gas Emissions in 2005 <sup>10</sup>

Site <sup>11</sup>	Greenhouse Gas Emissions (% CO <sub>2</sub> e)	Greenhouse Gas Emissions (metric tons CO <sub>2</sub> e)	Electricity Use (kWh)	Electricity Cost (\$)	Natural Gas Use (therms)	Natural Gas Cost (\$)	Energy Equivalent (MMBtu)
Administration / City Hall	43.1%	310	1,009,800	\$134,536	15,075	\$18,467	4,954
Onetta Harris Community Center	14.4%	103	277,760	\$37,081	7,360	\$9,265	1,684
Library	13.2%	95	320,420	\$46,207	4,213	\$5,267	1,515
Belle Haven Pool	7.4%	54	-	-	9,599	\$10,713	960
Burgess Recreation Center	6.8%	49	-	-	8707	\$10,469	871
Senior Center	4.8%	34	127,520	\$19,213	1,010	\$1,295	536
Corporation Yard	4.2%	30	86,720	\$12,839	1,850	\$2,396	481
Burgess Gym	3.3%	24	-	-	4167	\$5,929	417
Belle Haven CDC	2.0%	15	35,040	\$5,369	1,231	\$1,618	243
Belle Haven Police Station	0.5%	4	14,685	\$1,883	n/a	n/a	50
Methane Burning Station (Bayfront Park)	0.3%	2	8,619	\$1,197	-	-	29
CNG Station at Cust Premises	0.1%	1	-	-	91	246	9
<b>Buildings Total</b>	<b>100.0%</b>	<b>720</b>	<b>1,880,564</b>	<b>\$258,325</b>	<b>53,303</b>	<b>\$65,665</b>	<b>11,749</b>

### ***Street Lights***

Municipal lighting's contribution to greenhouse gas emissions is highlighted in Table 4. Street lights, parking lights, and parking lot lights are all sub-sectors where significant emission reductions could be realized through switching to light emitting diodes (LEDs) and /or using renewable energy to power them.

<sup>10</sup> Data from Pacific Gas and Electric Company; provided by John McGirr, City of Menlo.

<sup>11</sup> The Administration / City Hall Complex feeds electricity to the Burgess Recreation Center, and the Burgess Gym. The Belle Haven Pool receives electricity from the Onetta Harris Community Center.

Table 4. Street and Traffic Lighting Greenhouse Gas Emissions in 2005

Site	Greenhouse Gas Emissions (metric tons CO <sub>2</sub> e)	Electricity Use (kWh)	Electricity Cost (\$)	Energy Equivalent (MMBtu)
Street Lights	235	954,547	\$101,289	3,258
Traffic Signals	28	114,200	\$16,829	390
Park Lighting	18	74,763	\$10,947	255
Decorative Lights	3	12,522	\$1,430	43
Parking Lot Lights	0.3	872	\$288	3
<b>Street &amp; Traffic Total</b>	<b>284</b>	<b>1,156,904</b>	<b>\$130,783</b>	<b>3,949</b>

### Waste

The relative contribution of landfilled waste from municipal operations to greenhouse gas emissions is highlighted in Table 5. Emissions were calculated with the CACP software using the same method as for the waste generated by residents and businesses in the City.<sup>12</sup> Because of the large amount of waste in the closed landfill (5 million metric tons) and the inherent difficulty in containing and capturing gases in a large heterogeneous landfill, the Marsh Road Landfill emitted nearly 41,748 metric tons of methane in 2005. This is despite being closed for more than two decades and the use of a sophisticated landfill gas capture and one-megawatt electricity generation station at the landfill site.<sup>13</sup>

The waste sector deserves additional explanation because of the particular challenges in measuring the amount of methane that is released from landfills. The CACP Software is designed to be used in communities with a variety of waste disposal methods including open dumps and incineration. The calculations are based on the EPA's Waste Reduction Model (WARM). WARM was developed to assist solid waste managers in determining the GHG impacts of their waste management practices. WARM compares GHG and energy impacts of landfilling, recycling, incineration, composting, and source reduction.

Emissions from the waste sector in Menlo Park came from two different types of sources:

- 1) Waste that was generated by activities taking place within the City limits that was disposed of in landfills outside of the City; and
- 2) Waste that is in the closed Marsh Road Landfill within the Menlo Park City Limits.<sup>14</sup>

In accordance with the inventory guidelines that are outlined in the Methods section above, both of these source types are categorized as "Key Emission Sources."

It is also important to note that while waste-reduction through recycling does not overtly show-up in this inventory, recycling saves a substantial amount of energy by reducing the need for virgin inputs, and by diverting paper products from landfills, which reduces the amount of

<sup>12</sup> See Appendix 1 for a detailed description of the waste emissions calculation method.

<sup>13</sup> The Marsh Road Landfill facility captures and burns methane that is off-gassing from the landfill. Four turbines convert the methane into electricity, which allowed Gas Recovery Systems Inc. (the company that operates the facility) to sell 12,254 MWh to the grid in 2005.

<sup>14</sup> The waste in Marsh Road Landfill was generated by several cities, in addition to Menlo Park. In accordance with ICLEI's emissions inventory protocol, the entirety of the emissions from the Marsh Road Landfill was counted towards the community total because the waste is located within the geographic boundaries of Menlo Park and the Landfill is owned by the City.

landfill gas that is produced. The emissions benefits of recycling can be quantified when analyzing recycling as an emissions reduction strategy relative to the base year.

Table 5. Municipal Operations Waste Greenhouse Gas Emissions in 2005

Waste Source	Greenhouse Gas Emissions (% CO <sub>2</sub> e)	Greenhouse Gas Emissions (metric tons CO <sub>2</sub> e)	Quantity of Waste (metric tons)	Waste Disposal Costs
Regular Pick-up Containers <sup>15</sup>	66.6%	303	408	\$51,092
Roll-off Boxes <sup>16</sup>	28.1%	128	172	\$26,848
Public Bins <sup>17</sup>	5.3%	24	47	\$18,904
<b>TOTAL</b>	<b>100.0%</b>	<b>455</b>	<b>628</b>	<b>\$96,844</b>

Table 6. Marsh Road Landfill Waste and Greenhouse Gas Emissions in 2005

CO <sub>2</sub> e Generated (Metric Tons)	Methane Generated (Metric Tons)	Waste Acceptance		Decomposable Waste In Place (Metric Tons)	Average Landfill Gas Collected (scfm) <sup>18</sup>	Estimated Landfill Gas Generated (calculated scfm)	Landfill Gas Capture Rate (calculated)
		Began	Ceased				
41,748 <sup>19</sup>	1,988 <sup>20</sup>	1960	1984	5,000,000 <sup>21</sup>	760.9 <sup>22</sup>	1,167.0 <sup>23</sup>	65.20% <sup>24</sup>

### Water and Storm Water

The relative contribution of energy from pumping water and wastewater to greenhouse gas emissions is highlighted in Table 7. This analysis excludes energy used for wastewater pumping, which is done by the West Bay Sanitary District. It also excludes pumping and treatment of wastewater that is carried out by the South Bayside System Authority.<sup>25</sup>

<sup>15</sup> Waste bins used by municipal employees that were picked up by Allied Waste Services on a regular schedule.

<sup>16</sup> Waste containers used by municipal employees that were picked by Allied Waste Services as needed.

<sup>17</sup> Waste bins in parks and on the street used predominantly by the public.

<sup>18</sup> Standard cubic feet per minute.

<sup>19</sup> Calculated with CACP software using a methane capture rate of 65.2% and 5 million metric tons of waste decomposable waste in place. For a detailed description of the "waste in place" method for calculating emissions, please see Appendix 1.

<sup>20</sup> Ibid

<sup>21</sup> Data provided by the Bay Area Air Quality Management District

<sup>22</sup> Ibid

<sup>23</sup> Data was calculated based on the amount of waste-in-place using the LandGem 3.02 model.

<sup>24</sup> Capture Rate = (Landfill gas captured) / (Landfill gas generated)

<sup>25</sup> Data on emissions from the electricity use at the South Bayside System Authority is included in Appendix 2.

Table 7. Water and Storm Water Greenhouse Gas Emissions in 2005, City of Menlo Park

Site	Greenhouse Gas Emissions (metric tons CO <sub>2</sub> e)	Electricity Use (kWh)	Electricity Cost (\$)	Energy Equivalent (MMBtu)
Pump Stations <sup>26</sup>	123	550,720	\$66,020	1880
Irrigation Controllers	5	20,839	\$4,399	71
<b>Water and Storm Water Total</b>	<b>128</b>	<b>571,559</b>	<b>\$70,419</b>	<b>1,951</b>

### Vehicle Fleet

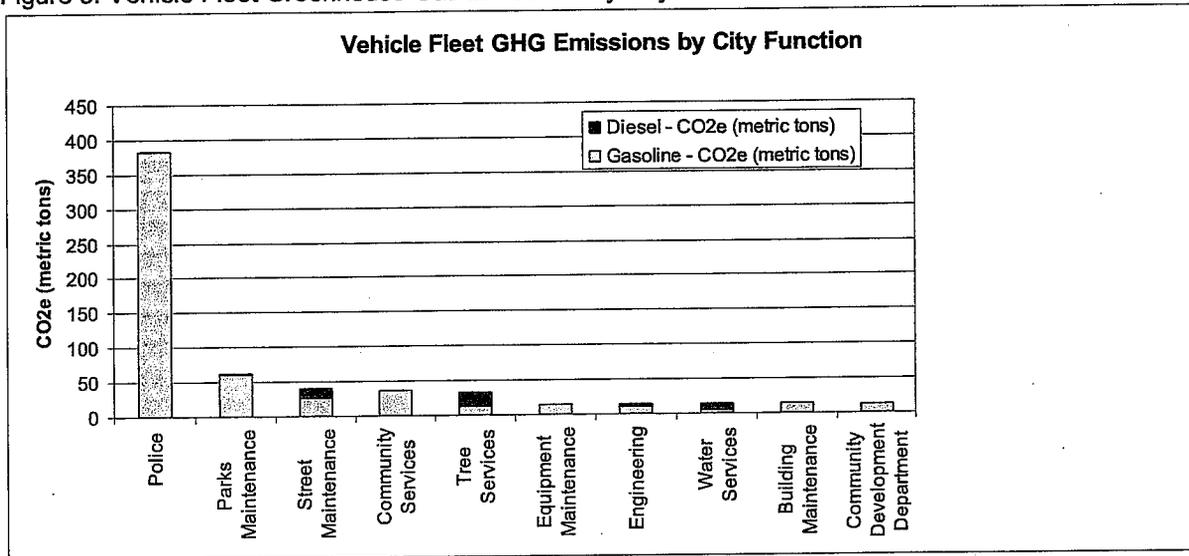
The relative contribution of energy from Menlo Park's municipal vehicle fleet to greenhouse gas emissions is highlighted in Table 8 and Figure 3. Within municipal operations, the vehicle fleet is responsible for the second largest share of the overall emissions, with the Police Department accounting for 61.5 % of those emissions. In 2007 the City added the first hybrid vehicle to its fleet. Between 2005 and 2007 the City has reduced the overall number of vehicles from 108 to 98, which has reduced overall fuel consumption by an estimated 1700 gallons, or 18 metric tons of CO<sub>2</sub>e per year (2.5% reduction).

Table 8. Vehicle Fleet Greenhouse Gas Emissions in 2005, City of Menlo Park

Function	Greenhouse Gas Emissions (% CO <sub>2</sub> e)	Greenhouse Gas Emissions (metric tons CO <sub>2</sub> e)	Gasoline Consumption (gal)	Diesel Consumption (gal)	Total Fuel Cost (\$)	Energy Equivalent (MMBtu)
Police	61.5%	382	39,354	-	\$103,966	4,943
Parks Maintenance	9.9%	62	6,200	149	\$16,954	797
Street Maintenance	6.3%	39	2,703	1,351	\$10,314	504
Community Service	6.0%	37	3,801	-	\$10,023	477
Tree Services	5.4%	34	1,331	2,170	\$9,236	423
Equipment Maintenance	2.3%	15	1,509	-	\$4,120	190
Building Maintenance	2.2%	14	1,392	-	\$3,517	175
Engineering	2.2%	14	1,129	255	\$3,835	173
Water Services	2.2%	14	439	955	\$3,731	172
Community Development Department	1.9%	12	1,098	-	\$2,933	147
<b>Vehicle Fleet Total</b>	<b>100.0%</b>	<b>621</b>	<b>58,956</b>	<b>4,880</b>	<b>\$168,629</b>	<b>8,001</b>

<sup>26</sup> This includes pumps for fresh water supplied by the Menlo Park Municipal Water District in the Sharon Heights area, storm water pumping, and pumping wastewater at Marsh Road Landfill.

Figure 3. Vehicle Fleet Greenhouse Gas Emissions by City Function in 2005



### Criteria Air Pollutants

The City of Menlo Park was also responsible for the release of criteria air pollution in 2005, as shown below. These pollutants have been linked with various environmental and public health problems. Many of the actions we might take to reduce greenhouse gas emissions will also have the additional benefit of reducing these pollutants as well.

Table 9. Municipal Operations Criteria Air Pollutant Emissions in 2005, City of Menlo Park

Sector	NO <sub>x</sub> (lbs)	SO <sub>x</sub> (lbs)	CO (lbs)	VOCs (lbs)	PM <sub>10</sub> (lbs)
Buildings	2,496	1,148	1,271	164	945
Streetlights	1,026	684	649	73	565
Vehicle Fleet	4,030	217	37,374	3,875	102
Water/Sewage	507	338	321	36	279
<b>Total</b>	<b>8,059</b>	<b>2,387</b>	<b>39,616</b>	<b>4,148</b>	<b>1,891</b>

### Menlo Park Fire Protection District

The Menlo Park Fire Protection District (MPFPD) served a population of 88,231 in 2005, including the towns of Menlo Park, East Palo Alto, Atherton, and communities of North Fair Oaks, Sequoia Tract, West Menlo Park, Menlo Oaks and other unincorporated areas. Menlo Park's share<sup>27</sup> of the greenhouse gas emissions from the MPFPD are detailed below in Table 10 as an information item because they result from essential local government services.

<sup>27</sup> Based on number of residents in Menlo Park served by the MPFPD.

## APPENDIX 1 Detailed Government Inventory Notes

	Equiv CO2 (metric tons)	Equiv CO2 (%)	Energy (million Btu)	Cost (\$)
<b>Water/Storm Water</b>				
Menlo Park, CA				
<i>Irrigation Controllers</i>				
Electricity	5	0.2	71	4,399
<i>Subtotal Irrigation Controllers</i>	5	0.2	71	4,399
<i>Pump Stations</i>				
Electricity	123	6.2	1,880	66,020
<i>Subtotal Pump Stations</i>	128	6.2	1,880	66,020
<b>Subtotal Water/Storm Water</b>	<b>128</b>	<b>5.9</b>	<b>1,951</b>	<b>70,418</b>

### NOTES:

Data on electricity and natural gas use is from the Pacific Gas and Electric Company  
 Provided by John McGirr, Revenue and Claims Manager, City of Menlo Park

The South Bayside System Authority (SBSA) treats the wastewater for the City of Menlo Park at the South Bayside System Authority Regional Treatment Plant in San Carlos. (Data provided by Dan Child, Plant Manager at the South Bayside System Authority)

In 2005 SBSA treated 18.5 million gallons of wastewater per day, which consumed 18,949 kWh per day at an expense of \$2,287 per day. In addition, the facility generated 7,945 kWh of electricity from methane captured and burned in the treatment process. In 2005, the SBSA treatment plant treated wastewater from a service area with a population of 217,000 people. Using population as a proxy for estimating Menlo Park's share of the wastewater treated, Menlo Park is responsible for 13.8% of SBSA's operations. Of the 6,916,385 kWh used for wastewater treatment in 2005, we attribute 13.8% to treating wastewater from Menlo Park. Therefore, Menlo Park is responsible for the 214 metric tons CO<sub>2</sub>e per year resulting from the use of 956,182 kWh of electricity. This data was not included in the inventory for Menlo Park.

It was outside the scope of this project to gather data on methane and N<sub>2</sub>O emissions from the wastewater treatment process. Using data from the United State Greenhouse Gas Inventory (US EPA 2007, <http://epa.gov/climatechange/emissions/usinventoryreport.html>), it is possible to calculate the average CO<sub>2</sub>e emissions per person based on national wastewater treatment averages. In 2005, US wastewater treatment plants emitted 27.6 x 10<sup>6</sup> metric tons of CO<sub>2</sub>e from methane and nitrous oxide emissions from the treatment of residential and commercial wastewater. Multiplied by Menlo Park's population of 30,000 people, we can estimate that wastewater treatment is contributing 2,504 metric tons of CO<sub>2</sub>e emissions.

**214 metric tons CO<sub>2</sub>e (electricity) + 2,502 metric tons CO<sub>2</sub>e (methane and nitrous oxide) = 2,718 metric tons CO<sub>2</sub>e.** This estimate is on-par with emissions estimates from wastewater treatment for other small and medium sized cities in the United States, where it is not uncommon for wastewater treatment to contribute 40-60% of the greenhouse gas emissions from municipal operations.

	Equip CO2 (metric tons)	Equip CO2 (%)	Cost (\$)
<b>Waste</b>			
Menlo Park, CA			
<i>Disposal Method - Managed Landfill</i>			
<i>Regular Pick-up Containers</i>			
Paper Products	97	4.5	
Food Waste	14	0.6	
Plant Debris	13	0.6	
Wood/Textiles	4	0.2	
All Other Waste	0	0.0	
<b>Subtotal City Staff Use</b>	<b>128</b>	<b>5.9</b>	<b>\$51,092</b>
<i>Public Bins</i>			
Paper Products	14	0.6	
Food Waste	5	0.2	
Plant Debris	2	0.1	
Wood/Textiles	4	0.2	
All Other Waste	0	0.0	
<b>Subtotal Public Bins</b>	<b>24</b>	<b>1.1</b>	<b>\$18,904</b>
<i>Rolloff Boxes</i>			
Paper Products	231	10.6	
Food Waste	32	1.5	
Plant Debris	30	1.4	
Wood/Textiles	10	0.4	
All Other Waste	0	0.0	
<b>Subtotal Rolloff Boxes</b>	<b>303</b>	<b>13.9</b>	<b>\$26,848</b>
<b>Subtotal Waste</b>	<b>455</b>	<b>20.9</b>	<b>\$96,845</b>

**NOTES:**

Data on tonnage of waste and cost is from Allied Waste Services of San Mateo County. This data was provided by Laurann Sarubbi, Sales Coordinator, Allied Waste and Dianne Dryer, Environmental Program Coordinator, City of Menlo Park.

"Cost" is the total dollar amount that the City of Menlo Park paid Allied Waste for waste disposal.

"Rolloff Boxes" are containers that are periodically picked up.

Waste Composition data was not available for "public bins". Therefore, waste share numbers were taken from overall waste composition study conducted by the CIWMB.

Waste Composition Data is from:

California Integrated Waste Management Board, 2004. "Public Administration" business group Waste Composition Study: <http://www.ciwmb.ca.gov/WasteChar/BizGrpCp.asp>.

California Integrated Waste Management Board, 2004. "Statewide Waste Characterization Study" <http://www.ciwmb.ca.gov/Publications/default.asp?pubid=1097>. December 2004.

CO2e emission were calculated in the CACP software, which uses the following formula:

$$eCO_2 = W_t * [(1 - R)A]$$

where

**W<sub>t</sub>** is the quantify of waste type "t",

**R** is the methane recovery factor

**A** is the CO2e emissions of methane per metric ton of waste at the disposal site (the methane factor)

### Marsh Road Landfill Emissions calculations

CO2e Generated (Metric Tons)	Methane Generated (Metric Tons)	Waste Acceptance		Decomposable Waste In Place (Metric Tons)	Average Landfill Gas Collected (scfm)	Estimated Landfill Gas Generated (scfm)	Landfill Gas Capture Rate (calculated)
		Began	Ceased				
41,748	1,988	1960	1984	5,000,000	760.9	1,167.0	65.20%

#### Waste-in-Place Method

Note: The factors used in calculating greenhouse gas emissions in the CACP software are based on the most recent research completed by the EPA as of February 2002.

In the Waste-In-Place method, landfill methane emissions are estimated based on the accumulated waste in the landfill, as opposed to the current year's generation of waste. This method is often used in national and state inventories of greenhouse gas emissions. This method calculates emissions based on the amount of waste in the landfill less the amount of gas recovered. While not particularly sensitive to "three R" (Reduce, Reuse, Recycle) waste programs, the waste-in-place method is appropriate for approximating the amount of landfill gas available for flaring, heat recovery or power generation projects.

Methane emissions in the Waste in Place module of the software are computed using a first order kinetics model. For a particular amount of waste-in-place, WIP, at a landfill, the simplifying assumption is made that the waste was deposited in the landfill in equal installments for each of the years the landfill was open. Then the methane generated in the current year (before recovery) can be estimated as:

$$k * L_o * R_n * WIP * \frac{\exp^{-kA} - \exp^{-kB}}{\exp^{-k} - 1}$$

where

**k** is the exponential time constant of decay. A value of 0.05 was used.

**L<sub>o</sub>** is the methagenic potential of the waste, expressed in cubic meters of methane per kg of waste. It has a value of 0.17 cubic meters of methane per kg of waste (or 2.72 cubic feet per pound in Standard American units).

**WIP** is the total waste-in-place in the landfill as of the year you are analyzing, input in metric tons.

**R<sub>n</sub>** is a factor that incorporates the density of methane and any unit conversions required to balance the equation dimensionally.

**A** is the difference between the current year (plus one) and year the landfill was opened.

**B** is the difference between the current year (plus one) and the most recent year and the last year waste was deposited in the landfill.

IN WITNESS WHEREOF, this Agreement is executed by CITY and by JOINT VENTURE.

APPROVED AS TO CONTENT:

\_\_\_\_\_

"CITY/COUNTY":  
CITY/COUNTY OF \_\_\_\_\_,  
a California Charter City and municipal  
corporation

FINANCIAL APPROVAL:

\_\_\_\_\_

Assistant Finance and Administrative  
Services Director

By: \_\_\_\_\_  
\_\_\_\_\_ Department Head

By: \_\_\_\_\_  
\_\_\_\_\_ City Manager

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

"JOINT VENTURE: Silicon Valley  
Network":

Russell Hancock, President & CEO

By: \_\_\_\_\_

77-0389802  
Taxpayer I.D. Number



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF APRIL 16, 2008**

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND  
AUTHORIZATION TO ADVERTISE THE STEVICK DRIVE  
STREET RECONSTRUCTION PROJECT NUMBER 06-002**

### **RECOMMENDATION:**

Approve the plans and specifications and authorize advertisement for bids for the Stevick Drive Street Reconstruction Project, Project No. 06-002.

### **INTRODUCTION:**

The Town hired EIS, Inc., using a Metropolitan Transportation Commission grant to survey all the streets in Atherton. The report recommends that all streets with a Pavement Condition Index (PCI) between 0 and 25 should be reconstructed. The streets to be included in Phase 4 are:

Stevick Drive	Juniper Drive	Selby Lane cul-de-sac (350-380)
Lupin Lane	Rebecca Lane	

The Street Reconstruction Phase 4 Project is budgeted for construction in Fiscal Year 2005-06. Stevick Drive is the largest of the projects and is scheduled for construction first. Staff prepared the design for the project. The plans and specifications are ready to be advertised for construction.

The FY 2006-07 adopted Capital Improvement Program includes funds for constructing the Street Reconstruction Phase 4 Project. The need for this project resulted from the failed condition of the pavement, and the underlying subsurface drainage problem.

**ANALYSIS:**

Stevick Drive will be reconstructed from Alameda de las Pulgas to the end of the cul-de-sac with a full-depth asphalt section. The pavement is distressed due to age and due to subsurface drainage problems. The gutter is also broken and lifted in many areas. The project includes placing a subdrain along each side of the road to intercept the subsurface water to prevent future water problems. A solid pipe system will also be constructed to pick up the subdrains at locations along the project, and to pick up nuisance water running to the street from private properties. The pipes will be placed under the existing gutter and the gutter will be replaced to a uniform grade. Because the grade is less than 5%, the gutter will be replaced with valley gutter. This will make all driveway entrances much smoother than they currently are.

A geotechnical investigation was performed in 2006. It made recommendations on subgrade preparation, subsurface drainage and pavement thickness. The report recommends removal of existing subgrade, anticipated to be very wet, and replacement with the recycled existing asphalt and base rock. Covering this stabilized subgrade with full-depth asphalt pavement will increase the life of the street and educe the potential for soil instability to crack the pavement.

The Street Reconstruction project is budgeted for construction in FY 2007-08. Staff prepared the design for the Stevick Drive project. The Stevick Drive Project plans and specifications are ready to be advertised for construction.

**FISCAL IMPACT:**

The Engineer's Estimate for the Stevick Drive Project is \$500,000. In addition, a 10% construction contingency of \$50,000 would bring the total estimate to \$550,000. \$1,000,000 from the Capital Improvements funds is budgeted for street reconstruction projects in FY 2007-08. The project is scheduled to receive bids in May and award the contract at the June, 2008 City Council meeting.

Prepared By:

Approved:

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Duncan L. Jones, P.E.  
Public Works Director

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Jerry Gruber  
City Manager



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**

**FROM: MARC G. HYNES, CITY ATTORNEY**

**DATE: CITY COUNCIL MEETING OF APRIL 16, 2008**

**SUBJECT: CITY MANAGER AUTHORITY RE SPECIAL EVENTS ORDINANCE  
ATHERTON MUNICIPAL CODE CHAPTER 17.38**

#### **RECOMMENDATION.**

Confirm that Section 17.38.060A of the Atherton Municipal Code is the controlling authority for issuance of special event permits. This action may be taken by motion. It is intended to avoid misinterpretation of actions by the City Council at the regular City Council meeting on May 17, 2006.

#### **BACKGROUND.**

Section 17.38.060A of the Atherton Municipal Code provides that the City Manager or designee may issue a special event permit when, in the opinion of the City Manager or designee, the event meets all the requirements of the Atherton Municipal Code and the Atherton General Plan.

Section 17.38.060A also provides that the City Manager or designee may refer items to the Planning Commission when, in his or her opinion, the public interest would be better served by the Planning Commission conducting a public hearing. A copy of Chapter 17.38 of the Atherton Municipal Code which includes Section 17.38.060A is attached as Exhibit A.

At the regular City Council meeting on May 17, 2006, the City Council considered a proposal advanced by the Pop Warner football organization for a special events permit which would exempt it from time limits set out in guidelines adopted by resolution attached as Exhibit B. The permit was for practices and games at playing fields located at the Menlo-Atherton High School over a four month period.

Because of the recent adoption of Chapter 17.38 of the Atherton Municipal Code and the resolution, a hearing was held to discuss the matter.

At the hearing, an excerpt (which is attached as Exhibit C) there was a statement that directions were given to the City Manager to deny the request for an exemption.

As was observed by then Vice Mayor Alan Carlson, issuance of a special event permit rests with the City Manager. Under the provisions of Chapter 17.64 of the Atherton Municipal Code the City Manager's determination may be appealed to the City Council by any Atherton citizen pursuant to the provisions of Chapter 17.64.

In order to avoid any misunderstanding in the future, it is recommended that the City Council confirm that the procedure as set out in Chapter 17.38 of the Atherton Municipal Code and the resolution establishing guideline controls issuance of Special Event permits.

**FISCAL IMPACT.**

None.

Prepared By:

Approved By:

Marc Hynes  
Marc Hynes  
City Attorney

\_\_\_\_\_  
Jerome Gruber  
City Manager

Attachments

**ORDINANCE NO. 559**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF  
ATHERTON REPEALING CHAPTER 8.52 AND ADDING CHAPTER  
17.38 OF THE ATHERTON MUNICIPAL CODE REGULATING  
SPECIAL EVENTS WITHIN THE TOWN OF ATHERTON**

---

The City Council of the Town of Atherton does ordain as follows:

**SECTION 1:** Chapter 8.52 is hereby entirely repealed.

**SECTION 2:** Chapter 17.38 is hereby added as follows:

**17.38 SPECIAL EVENTS**

**17.38.010 Title.**

This chapter shall be known as the "Special Event Ordinance" and may be so cited.

**17.38.020 Purpose and intent.**

- A. The purpose of this chapter is to insure the comfort, safety and general welfare of the Town citizens by controlling the number of special events and impacts of such events on the community and by providing a simplified permit process. It is also the purpose of this chapter to defray the costs of processing applications for these events.
- B. The intent of this chapter is to protect the residents from excessive noise, traffic and other intrusions upon their privacy.

**17.38.030 Definitions.**

A "special event" is an activity sponsored by one or more organizations, individuals, or other entities, held at one or more locations within the Town of Atherton to which the general public is invited.

**17.38.040 Permit required.**

- A. All special events held in the public right-of-way shall obtain a special event permit. Activities include, but are not limited to; processions such as: walks, road races, bicycle rides, skate-a-thons and similar activities.
- B. A special event permit is required for any special event held on private property, occurring on two or more consecutive days where members of the general public are invited. Activities requiring a permit include, but are not limited to the following;
  - 1. Motion picture filming;
  - 2. House and garden tours;
  - 3. Fundraisers

4. Auctions;
  5. Antique shows;
  6. Concerts;
  7. Other similar activities.
- C. The following provisions shall apply to special events held at private and public schools and country clubs:
1. A permit is not required for on-site school-related events. Responsible parties shall notify the Town of school events that may result in additional traffic or parking.
  2. A permit is not required for non-school-related events held at schools and country clubs that meet the School Event Guidelines as prepared by the City Manager and accepted by the City Council. Responsible parties shall notify the Town of events that may result in additional traffic or parking.
  3. A special event permit is required for non-school-related events that are planned to occur outside of the School Event guidelines.
- D. Open house tours for the purpose of selling property under the regular course of a real estate transaction shall be exempt.

**17.38.050 Application submittal requirements.**

The following items and information shall be submitted to the City Manager or designee:

- A. Completed application (application form supplied by the town) submitted to the Town at least two months prior to the event;
- B. Detailed description of the event;
- C. Contact person available prior to and during the event;
- D. Application fee, (as set by resolution of the city council);
- E. The anticipated number of attendees and number of vehicle trips per day;
- F. An on- and off-site parking plan including the placement of barricades, etc;
- G. A deposit as determined by the Police Chief for the funding of any additional security measures not provided by the applicant;
- H. A hold harmless agreement, naming the Town, its employees and agents; and certificate of insurance, naming the Town as additional insured. A form of hold harmless agreement, and insurance in the amount of \$2,000,000 and insurance provider shall be reviewed and approved by the City Attorney.

**17.38.060 Permit issuance.**

- A. The City Manager or designee may issue a special event permit when in the opinion of the City Manager or designee the event meets all of the requirements of this code and the Atherton General Plan. The City Manager or designee may refer items to the Planning Commission when, in his or her opinion, the public interest would be better served by the Planning Commission conducting a public hearing. The City Manager or designee shall issue, deny or refer a special event permit within thirty (30) days of receipt of a completed application. If the event will not be in conformance with either this code or the Atherton General Plan the application shall be denied.

- B. If a special event permit is issued by the City Manager or designee, such official may impose any reasonable conditions to insure the event will have a minimal impact on the community. Such conditions may include, but are not limited to, any of the following:
1. Adequate arrangements to prevent:
    - a. Violation of Chapter 8.16 Noise Control,
    - b. Violation of Chapter 8.20 Nuisance Abatement,
    - c. Amplified sound,
    - d. Violation of any traffic laws,
    - e. Violation of any other section of this code;
  2. Posting of docents at key/dangerous locations;
  3. Events, including setup and tear down, will be done during daylight hours if feasible;
  4. Signs on public property shall be kept to a minimum and shall not be displayed for longer than one hour prior to or after the end of the event;
  5. Other materials or mitigation measures deemed necessary by the City Manager or designee;
  6. Parking barricades shall be set back a minimum distance as required by the City Manager or his or her designee to insure site distance clearance from special event site driveways and neighboring driveways.

**17.38.070 Permit requirements.**

- A. All special events held on private property shall be limited to no more than two consecutive weeks, including no more than two consecutive weekends. Any event for a longer period of time requires a Conditional Use Permit from the Planning Commission.
- B. All special events shall be publicly noticed at least ten days prior to the issuance of a permit, pursuant to the process outlined in State Planning and Zoning Law section 65091, with a five hundred foot radius notification. However, if the event is not conducted on a single site, or is to be conducted within the public right-of-way, the applicant shall pay for the cost associated with the publication of the notice in a newspaper of general circulation at least ten days prior to issuance of a permit.
- C. The applicant shall execute an agreement acknowledging obligations to comply with all required conditions of the special event permit.
- D. No more than two special event permits shall be issued in a twelve-month period for special events on any private residential property.

**17.38.080 Permit revocation.**

A special event permit may be revoked by the City Manager or his or her designee in the event of any violation of the special events permit or this code.

**17.38.090 Violation as a public nuisance.**

Each violation of this chapter is a misdemeanor and shall constitute a public nuisance and be subject to abatement as such.

**SECTION 3:** That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

**SECTION 4:** This Ordinance shall be posted in at least three public places according to law and shall take affect and be in force from and after 30 days after its passage and adoption.

\* \* \* \* \*

Introduced this 20<sup>th</sup> day of July, 2005.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 21st day of September, 2005, by the following vote

AYES:	5	COUNCILMEMBERS:	Janz, Marsala, Carlson, Conwell, McKeithen
NOES:	0	COUNCILMEMBERS	None
ABSTAIN:	0	COUNCILMEMBERS	None
ABSENT:	0	COUNCILMEMBERS	None

*/s/ William R. Conwell*

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William R. Conwell, Mayor  
Town of Atherton

ATTEST

*/s/ Linda Kelly*

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Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

*/s/ Marc G. Hynes*

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Marc G. Hynes, City Attorney

## **SCHOOL EVENT GUIDELINES**

### **GUIDELINES FOR SPECIAL EVENTS HELD AT PRIVATE AND PUBLIC SCHOOLS WITHIN THE TOWN OF ATHERTON**

The Town of Atherton requests public and private schools enforce the following special events guidelines with regards to non-school-related special events held on school property within the Town of Atherton;

1. Field use and outdoor functions shall be limited to the hours of 8:00 a.m. until 7:00 p.m. unless further limited by the school. Field use shall include setup, breakdown, warm-up, and practice sessions. Field use and outdoor functions shall be limited to the hours of 9:00 a.m. until 6:00 p.m. on Saturdays and 10:00 a.m. until 5:00 p.m. on Sundays, excluding non-coach/player interactions.
2. Indoor activities shall cease at 9:00 p.m.
3. No amplified noise equipment shall be used in conjunction with any outdoor activity.
4. Any lighting associated with field or outdoor functions use shall be shielded or downlit so the source of light shall not shine onto adjacent properties.

A responsible school contact person shall be made available to immediately enforce any violation of the above-listed guidelines.

Any non-school-related event that is planned to occur outside of the above-listed guidelines (i.e.; earlier/later than the specified hours, use of amplified noise, spill overlighting) would be required to obtain a special events permit pursuant to section 17.38 of the Atherton Municipal Code.

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The following items and information shall be submitted to the City Manager or designee:

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- C. Contact person available prior to and during the event;
- D. Application fee, (as set by resolution of the city council);
- E. The anticipated number of attendees and number of vehicle trips per day;
- F. An on- and off-site parking plan including the placement of barricades, etc;
- G. A deposit as determined by the Police Chief for the funding of any additional security measures not provided by the applicant;
- H. A hold harmless agreement, naming the Town, its employees and agents; and certificate of insurance, naming the Town as additional insured. A form of hold harmless agreement, and insurance in the amount of \$2,000,000 and insurance provider shall be reviewed and approved by the City Attorney.

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  2. Posting of docents at key/dangerous locations;
  3. Events, including setup and tear down, will be done during daylight hours if feasible;
  4. Signs on public property shall be kept to a minimum and shall not be displayed for longer than one hour prior to or after the end of the event;
  5. Other materials or mitigation measures deemed necessary by the City Manager or designee;
  6. Parking barricades shall be set back a minimum distance as required by the City Manager or his or her designee to insure site distance clearance from special event site driveways and neighboring driveways.

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- C. The applicant shall execute an agreement acknowledging obligations to comply with all required conditions of the special event permit.
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\* \* \* \* \*

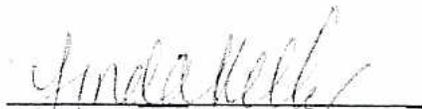
Introduced this 20<sup>th</sup> day of July, 2005.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 21st day of September, 2005, by the following vote

AYES:	5	COUNCILMEMBERS:	Janz, Marsala, Carlson, Conwell, McKeithen
NOES:	0	COUNCILMEMBERS	None
ABSTAIN:	0	COUNCILMEMBERS	None
ABSENT:	0	COUNCILMEMBERS	None

  
William R. Conwell, Mayor  
Town of Atherton

ATTEST

  
Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

  
Marc G. Hynes, City Attorney

**EXCERPT FROM THE CITY COUNCIL MEETING OF MAY 17, 2006.**

**28. CONSIDER REQUEST FROM POP WARNER FOOTBALL FOR AN EXEMPTION OF THE SPECIAL EVENTS GUIDELINES AND GIVE APPROPRIATE DIRECTION TO STAFF**

**City Manager Jim Robinson gave a brief staff report regarding the history of the Special Events Ordinance and the adopted School Guidelines for Non-School Related Events. The Town had to contend with the ongoing issue related to the increase of activities occurring on school campuses that were non-school related. Within the Special Events Ordinance, the City Manager was authorized to permit a variance for an event to occur outside the guidelines for a limited amount of days. The request from Pop Warner Football was for a special permit that would exempt it from the hours set forth in the guidelines and included a schedule for practices and games and the need for the use of the field at Menlo-Atherton High School over a four-month period. Staff was reluctant to grant a permit that was longer than a few days so soon after adoption of the ordinance and guidelines. Additionally, within the ordinance, an option for a hearing by the Planning Commission was allowed.**

**Mayor Marsala asked whether representatives from Pop Warner were present at the outreach meetings and what process was used.**

**Deputy Town Planner Lisa Costa Sanders explained the process staff used when developing the guidelines which included an extensive outreach to the schools and school districts that had oversight of the fields. Representative from AYSO Soccer and Little League attended the meetings; however, she did not recall whether anyone from Pop Warner Football had attended.**

**Vice Mayor Alan Carlson said issuing a Special Event Permit rested with the City Manager. The best the City Council could do was to listen to the residents and representatives of Pop Warner and then present the Council's view of what the City Manager should do.**

**In response to Council Member Janz, City Attorney Marc Hynes said because the ordinance resided in the Planning title, the appeal provisions provided that any decision made by a city officer could be appealed to the City Council.**

**In response to Council Member McKeithen, City Manager Robinson said his recommendation was not to issue a permit.**

**Greg Baty, Ridgeview Dr., spoke on behalf of Pop Warner Football. Pop Warner had used the field at M-A High School for the past seven years,**

**worked with the neighbors, addressed noise complaints, and was a good custodian of the field. Additionally, he was unaware of the process or public notice regarding the Special Event Ordinance. Pop Warner could only use the field when the high school teams were not using it, and the stadium field was the only field they were allowed to use. Practices/games followed Pop Warner guidelines. Additionally, there were no other schools that would allow Pop Warner to use the fields in Atherton or Menlo Park.**

**Larry Couch, Oak Grove Avenue, spoke against allowing an exemption for Pop Warner Football. More creativity on the part of Pop Warner was needed to find alternative fields. In a discussion he had with the Menlo-Atherton High School principal, she indicated a willingness to consider use of other fields.**

**Bill Barrett, Woodside, Pop Warner Board Member, spoke in favor of an exemption for Pop Warner Football. He emphasized that the requirements of the program, the cost of referees, and the practicality of multiple fields for different games would not work. Additionally, he did not consider Pop Warner Football a special event as it had been an ongoing program for the past seven years.**

**Mel Britton, Toyon Road, spoke against allowing an exemption. He believed anything beyond teaching the students of Atherton at the high school should be considered a special use. He would like to spend his Saturdays and Sundays in quiet. He urged Council to vote against an exception.**

**Richard Hill, Lindenwood, spoke in favor of Pop Warner Football and believed the program was worthwhile. He emphasized that the Lindenwood Homes Association did not contact him nor did it represent his interests or the majority of interests in Lindenwood.**

**Joan Dove, Oak Grove Avenue, spoke against allowing an exemption. She lived next door to the high school and the noise was not acceptable.**

**Mike Stanick, Lindenwood, coached Pop Warner Football and lived close to Laurel School. He loved the sound of kids and supported an exemption.**

**Bruce Smith, Oak Grove Avenue, lived 100 yards from M-A's field and could hear the P.A. system 20 yards behind the fence. He thought the Town's noise ordinance was flawed and was technically an anti-blower ordinance that really didn't measure the types of noise from the field. He wanted the Special Events Ordinance enforced.**

**Les DeWitt, Lindenwood, said he had a great deal of respect for the Lindenwood Homes Association. The Pop Warner Football program developed a community greater than Atherton and provided access to**

eastside kids. He believed there was a way to work things out and spoke in favor of an exemption for Pop Warner.

Carol Smith, Oak Grove Avenue, did not believe anyone was opposed to Pop Warner Football. The sound of children was an awesome sound. The problem was the sound of children 24/7. The neighbors wanted some quiet time. She urged Pop Warner to find a creative way to continue its program and urged Council to deny an exemption.

Bob Williams, President, Pop Warner Football, said the primary reason for not using other fields on Saturdays was the simple fact that referees were not available on Saturdays because they were officiating high school games. Also, he had been told by M-A high school officials that the only field Pop Warner could use was the artificial turf.

Alicia Seebold, Atherton, strongly urged Council to deny the exemption. An ordinance was enacted and should be followed.

Vice Mayor Alan Carlson said the evening was difficult and there was merit on both sides. A process had been followed with properly noticed public hearings when enacting the Special Events Ordinance. He sympathized with the neighbors who were exposed to a continuum of noise seven days a week from a variety of programs. Additionally, he did not see any compromise on the part of Pop Warner and urged them to try to find alternatives. If there were room for a compromise, he thought the Planning Commission was the right venue.

Mayor Marsala believed the Town needed to improve the way in which conflicts were resolved. There was room to compromise. He thought the Sunday hours should be upheld; however, the Monday-Friday schedule and the month of September might work. He suggested a 30-day trial period.

Council Member Janz concurred with Vice Mayor Carlson's comments. He liked the idea of looking at other solutions, a middle ground that complied with the ordinance. The Little League arrangement had worked well for the last six years. He suggested Menlo School might be willing to consider working with Pop Warner in conjunction with acquiring an artificial turf.

Council Member McKeithen said there were three important issues: 1) the children and their needs; 2) quality of life; and 3) the process. Notices were posted at five locations throughout the Town, one in Lindenwood, as well as on the Internet. All sides tried to compromise in crafting the ordinance. She urged Pop Warner to find an innovative solution and to try again with Menlo School and/or other fields.

**Council Member Jerry Carlson admired what the Pop Warner Football program did for the kids. He concurred with the City Manager's recommendation.**

**Direction was given to the City Manager to deny the request for an exemption, and Council suggested that the Pop Warner Football organization try to work with the community to find alternatives.**



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: ROBERT J. BRENNAN, CHIEF**

**DATE: FOR THE CITY COUNCIL MEETING OF APRIL 16, 2008**

**SUBJECT: CITY OF REDWOOD CITY VEHICLE MAINTENANCE SERVICES**

#### **RECOMMENDATION:**

Authorize the Mayor to execute Amendment No. 4 to the agreement for vehicle maintenance services with the City of Redwood City.

#### **INTRODUCTION:**

The Town of Atherton has been receiving vehicle services from the City of Redwood City since April of 2000. Amendment No. 3 to the agreement was approved in July 2006. The City of Redwood City is seeking to amend the contract's hourly rate for labor from \$106.21 to \$119.49.

#### **ANALYSIS:**

The Town of Atherton entered into this contract with the City of Redwood City in 2000 after researching vehicle maintenance vendors. Staff is satisfied with the quality of service and the priority consideration they provide when we have a vehicle in need of repair. They are very accommodating of our need to maintain a fleet of serviceable vehicles so they always provide us immediate attention. Staff continues to utilize local vendors for routine oil changes.

#### **FISCAL IMPACT:**

The exact fiscal impact is unknown. The fiscal impact of this contract for 2007/08 was \$32,500. Assuming the same amount of hours is worked this year under the increased rate, the fiscal impact in 2008/09 will be approximately \$35,800.

Prepared by:

Approved by:

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Robert J. Brennan  
Chief of Police

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Jerry Gruber  
City Manager



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF APRIL 16, 2008**

**SUBJECT: RECONSIDER DECISION TO DENY AN APPEAL – 137  
STOCKBRIDGE (APN 059-292-060)**

### **RECOMMENDATION**

Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of Staff for the reasons outlined in this Report.

### **INTRODUCTION**

#### **137 Stockbridge Timeline**

The appellants, Larry & Jeannie Lowry, indicate that they began considering options for their home remodel approximately ten years ago.

October, 2005: Lowrys hire Architects Jim Maliksi & Associates to design a major remodel and addition to their residence.

October, 2005: Architect met with Mike Hood to review as-built plans including the nonconforming areas. The applicant states that Mr. Hood indicated that the nonconforming area could remain as long as the size and shape were not changed.

June, 2006: Architect met with Mike Hood to review the proposed floor plans and site plan to ensure conformity with zoning codes. At the conclusion of this meeting, it was understood that the retention of the existing nonconforming structures would be allowed.

April 12, 2007: The plans were completed for submission.

June 22, 2007: Plans were submitted to the Building Department.

September, 2007: Town informs applicant that plans are not in compliance with non-conforming ordinance. Staff meets with applicant and architect to discuss options.

December 7, 2007: Town formally denies plans for the major alteration as the project involves alteration of more than 50% of a non-conforming structure.

December 13, 2007: Applicant files appeal of Staff's decision to deny plans.

February 20, 2008: City Council denies appeal.

March 19, 2008: City Council votes to reconsider denial of the appeal.

### **Nonconforming Ordinance Timeline**

December 13, 2006: City Council refers topic of nonconforming ordinance to the General Plan Committee.

January 10, 2007: General Plan Committee discusses the nonconforming ordinance after review of ordinances from other jurisdictions and recommends the Planning Commission adopt changes to the nonconforming ordinance.

February 28, 2007: Planning Commission reviews draft nonconforming ordinance and recommends to the City Council.

March 21, 2007: City Council approves nonconforming ordinance with minor changes.

April 18, 2007: City Council adopts nonconforming ordinance.

May 18, 2007: Nonconforming ordinance is effective.

### **ANALYSIS**

Reference is made to the City Council staff report of February 20, 2008 for analysis.

### **CONCLUSION**

It is Staff's professional opinion that the request to retain a portion of a nonconforming structure with the major renovation of the residence is not consistent with the Atherton Municipal Code and the Atherton General Plan.

**ALTERNATIVES**

- The Council could deny the appeal and uphold the decision of Staff. The applicant would be required to redesign the project.
- If the Council wishes to approve the appeal, the Council could direct staff to apply the former nonconforming regulations as the applicant had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date of the ordinance.
- If the Council determines the code interpretation of Staff is incorrect and that the applicant has the ability to demolish a nonconforming structure and build a new residence with the previous nonconforming setbacks, the Council should approve the appeal.

**FISCAL IMPACT**

The cost of the appeal process is paid for by the appellant.

**ENVIRONMENTAL IMPACT**

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, Class 3(a) (construction of a new single family residence).

Prepared by:

Approved by:

/s/ Lisa Costa Sanders  
Lisa Costa Sanders  
Deputy Town Planner

\_\_\_\_\_  
Jerry Gruber  
City Manager

Attachments:

1. Staff report from the February 20, 2008, City Council meeting with attachments
2. Staff report from the March 19, 2008, City Council meeting



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS**

**FROM: MARC G. HYNES, CITY ATTORNEY**

**DATE: CITY COUNCIL MEETING OF MARCH 19, 2008**

**SUBJECT: RESOLUTION ADOPTING FINDINGS ON APPEAL OF THE PROPERTY OWNERS AT 137 STOCKBRIDGE AVENUE FROM A DETERMINATION BY THE BUILDING OFFICIAL AND DEPUTY TOWN PLANNER (CHAPTER 17.44 OF THE ATHERTON MUNICIPAL CODE)**

### **RECOMMENDATION:**

Consider attached resolution adopting findings and, if appropriate, adopt the resolution by majority vote.

### **BACKGROUND:**

At the City Council meeting on February 20, 2008, the City Council conducted a public hearing on an appeal by the property owners of 137 Stockbridge, from a determination by the Building Official and the Deputy Town Planner that the proposed renovation of the residence on their property could not proceed under the provisions of the Town's nonconforming use regulations. Attached is a resolution setting forth the findings to support the denial of the appeal.

### **FISCAL IMPACT:**

None.

Prepared By:

Approved By:

---

Marc G. Hynes  
City Attorney

---

Jerry Gruber  
City Manager

Attachment

**RESOLUTION NO. 08-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
GRANTING APPEAL OF BUILDING OFFICIAL DETERMINATION  
FOR 137 STOCKBRIDGE AVENUE, ATHERTON**

The City Council of the Town of Atherton hereby resolves as follows:

The City Council of the Town of Atherton having considered the matter, in accordance with the provisions of Chapter 17.44 and particularly Sections 17.44.010 and 17.44.050 of the Atherton Municipal Code hereby makes the following findings and determinations in the appeal from the decision of the Building Official dated December 7, 2007, denying building plans submitted for property known as 137 Stockbridge Avenue, Atherton, California.

1. Larry and Jeanne Lowry ("the Lowrys"), owners of property located at 137 Stockbridge Avenue, Atherton, California, timely appealed the decision of the Building Official denying the plans for a renovated residence proposed by them at 137 Stockbridge Avenue.

2. The Lowrys were present at the appeal hearing and Larry Lowry presented the matter on their behalf.

3. Written and documentary evidence was presented and considered by the City Council, along with testimony from members of the public, all of which testimony and evidence was received without objection and considered and discussed by the City Council members during the public hearing and thereafter in making their determination.

4. The City Council determines that based upon substantial evidence the appeal should be granted for the following reasons:

A. The Lowrys own a single-story residence at 137 Stockbridge Avenue which is legally non-conforming because it encroaches into the current side yard setback. The existing residence is located 19 feet from the left side yard, while the current side yard setback requirement of the lot is 36 feet 6 inches. The existing residence is 3,724 square feet in area. The Lowrys proposed to demolish a majority of the residence with the exception of two non-conforming sections of the building (consisting of approximately 720 square feet) and to complete a new residence of approximately 7,456 square feet in area which would include a second floor.

B. Section 17.44.050(G) of the Atherton Municipal Code as revised effective May 28, 2007, provides, in pertinent part, that "alterations or additions to non-conforming main buildings may be permitted as long as the addition or alteration is limited to no more than 50 percent of the floor area and not more than 50 percent of the non-conforming exterior walls are rebuilt, either as a single project, or cumulatively over time . . . . Alterations or additions over 50 percent are required to entirely meet current building and zoning code requirements."

C. The proposed renovation at 137 Stockbridge Avenue well exceeds the 50 percent thresholds. The existing residence is 3,724 square feet in area (720 square feet of which is located within the required setback making the existing residence a non-conforming structure.)

D. The Lowrys' proposal would demolish 3,004 square feet or 80 percent of the existing floor area, followed by new construction which would total 7,456 square feet including the 720 square feet located within the required setback. Section 17.44.050 requires that an alteration as extensive as proposed must entirely meet current zoning and building code requirements. The plans which were rejected by the Building Official seek to retain an encroachment consisting of 720 square feet.

E. The Lowrys claim that they were advised by representatives of the Town's Building Department that their proposal could be constructed, when the plans were submitted to the Building Department on June 22, 2007. However, because the requirements of Section 17.44.050 controlled, the submitted plans were rejected.

F. The City Council recognizes that the proposed renovation would result in two accessory buildings being removed and has considered the evidence submitted by the Lowrys that because of a 20 foot hedge along the rear of their property the renovated home will not be intrusive to the adjacent neighbor.

G. The City Council has heard and considered evidence offered by the Lowrys that the representatives of the Building Department had assured them that under Chapter 17.44 as it existed prior to its amendment effective May 28, 2007, their plans and proposed renovation would be approved.

H. The Lowrys' presentation regarding the extensive time consumed in the development and presentation of their plans has also been considered, as well as the significant monetary investment made by the Lowrys in reliance on those plans.

I. Based upon the foregoing, the City Council grants the Lowrys' appeal from the decision of the Building Official. The plans may be accepted and processed by the Building Official.

This Resolution shall be effective immediately upon adoption.

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_\_th day of \_\_\_\_\_, 2008, by the following vote.*

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

ATTEST:

\_\_\_\_\_  
James R. Janz, MAYOR  
Town of Atherton

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc Hynes, City Attorney

**RESOLUTION NO. 08-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
DENYING APPEAL OF BUILDING OFFICIAL DETERMINATION  
FOR 137 STOCKBRIDGE AVENUE, ATHERTON**

The City Council of the Town of Atherton hereby resolves as follows:

The City Council of the Town of Atherton having considered the matter, in accordance with the provisions of Chapter 17.44 and particularly Sections 17.44.010 and 17.44.050 of the Atherton Municipal Code, hereby makes the following findings and determinations in the appeal from the decision of the Building Official dated December 7, 2007, denying building plans submitted for property known as 137 Stockbridge Avenue, Atherton, California.

1. Larry and Jeanne Lowry ("the Lowrys"), owners of property located at 137 Stockbridge Avenue, Atherton, California, timely appealed the decision of the Building Official denying the plans for a renovated residence proposed by them at 137 Stockbridge Avenue.

2. The Lowrys were present at the appeal hearing and Larry Lowry presented the matter on their behalf.

3. Written and documentary evidence was presented and considered by the City Council, along with testimony from members of the public, all of which testimony and evidence was received without objection and considered and discussed by the City Council Members during the public hearing and thereafter in making their determination.

4. The City Council determines that based upon substantial evidence the appeal should be denied for the following reasons:

A. The Lowrys own a single-story residence at 137 Stockbridge Avenue which is legally nonconforming because it encroaches into the current side-yard setback. The existing residence is located 19 feet from the left side yard, while the current side-yard setback requirement of the lot is 36 feet 6 inches. The existing residence is 3,724 square feet in area. The Lowrys proposed to demolish a majority of the residence with the exception of two non-conforming sections of the building (consisting of approximately 720 square feet) and to complete a new residence of approximately 7,456 square feet in area which would include a second floor.

B. Section 17.44.050 of the Atherton Municipal Code as revised effective May 28, 2007, provides, in pertinent part, that "alterations or additions to nonconforming main buildings may be permitted as long as the addition or alteration is limited to no more than 50 percent of the floor area and not more than 50 percent of the nonconforming exterior walls or rebuilt, either as a single project, or cumulatively over time . . . . Alterations or additions over 50 percent are required to entirely meet current building and zoning code requirements."

C. The proposed renovation at 137 Stockbridge Avenue well exceeds the 50 percent thresholds. The existing residence is 3,724 square feet in area (720 square feet of which is located within the required setback making the existing residence a nonconforming structure.)

D. The Lowrys' proposal would demolish 3,004 square feet or 80 percent of the existing floor area, followed by new construction which would total 7,456 square feet including the 720 square feet located within the required setback. Section 17.44.050 requires that an alteration as extensive as proposed must entirely meet current zoning and building code requirements. Accordingly, plans which attempt to retain an encroachment consisting of 720 square feet were properly rejected by the Building Official.

E. As Section 17.44.050 of the Atherton Municipal Code as revised effective May 28, 2007, requires that the project of this size meet current code requirements, retention of nonconforming portions of the existing residence are prohibited. Although the Lowrys claim that they have been advised by representatives of the Town's Building Department that their proposal could be constructed, when the plans were submitted to the Building Department on June 22, 2007, the requirements of Section 17.44.050 controlled. Denial of the submitted plans under amended Section 17.44.050 was appropriate.

F. The City Council recognizes that the proposed renovation would result in two accessory buildings being removed and has considered the evidence submitted by the Lowrys that because of a 20 foot hedge along the rear of their property the renovated home will not be intrusive to the adjacent neighbor. The City Council has heard and considered evidence offered by the Lowrys that the representatives of the Building Department had assured them that under Chapter 17.44 as it existed prior to its amendment effective May 28, 2007, their plans and proposed renovation would be approved. However, between the time of this discussion and the actual submittal of the plans, Town regulations were changed as described in subparagraph B above. Revisions to the zoning ordinance having been properly enacted, they now should be implemented.

G. The Lowrys' presentation regarding the extensive time consumed in the development and presentation of their plans has also been considered, however, it is noted that a professional had been engaged to prepare and process the plans and should be expected to keep informed of developments in the applicable building code and zoning regulations which affect properties in the Town.

H. Based upon the foregoing, the determination of the Building Official is upheld and the Lowrys' appeal from that decision is denied.

This Resolution shall be effective immediately upon adoption.

\* \* \* \* \*

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the 19th day of March, 2008, by the following vote.*

*AYES:*                      *Council Members:*  
*NOES:*                     *Council Members:*  
*ABSENT:*                 *Council Members:*  
*ABSTAIN:*                *Council Members:*

ATTEST:

\_\_\_\_\_  
James R. Janz, MAYOR  
Town of Atherton

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

*Marc Hynes*  
\_\_\_\_\_  
Marc Hynes, City Attorney



Town of Atherton

## **CITY COUNCIL STAFF REPORT**

**TO: THE HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER**

**DATE: FOR THE MEETING OF FEBRUARY 20, 2008**

**SUBJECT: APPEAL – 137 STOCKBRIDGE (APN 059-292-060)**

### **RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing, deny the appeal and uphold the decision of Staff for the reasons outlined in this Report.

### **INTRODUCTION:**

The property owners of 137 Stockbridge Avenue, Larry & Jeannie Lowry, have filed an appeal of the decision of Staff regarding plans to renovate the existing residence at 137 Stockbridge Avenue.

The existing single-story residence located at 137 Stockbridge is considered legally non-conforming as it encroaches into the current side-yard setback. The existing residence is located 19' from the left side yard, while the current side-yard setback requirement of the lot is 36'-6". The existing residence is 3,724 square feet in area. The applicant proposes to demolish a majority of the residence, with the exception of the two nonconforming sections of the building (approximately 720 square feet in area). The newly completed residence will be 7,456 square feet in area (including the second floor).

The appellants indicate that their Architect met with the Building Department to review the preliminary plans and were assured that the nonconforming rooms could remain. Plans for the major renovation were submitted to the Building Department on June 22, 2007.

After reviewing the plans, staff informed the applicants that the proposed renovation was not consistent with the recently adopted nonconforming ordinance. Staff met with the applicants to further discuss options. As the applicants indicated their desire to proceed with the plans as

submitted rather than redesign, staff prepared a letter dated December 7, 2007, denying the plans as submitted.

The applicants filed an appeal of Staff's decision with their letter dated December 13, 2007 (attached).

**ANALYSIS:**

Atherton Municipal Code 17.44 regulates nonconforming uses and structures. The City Council, at its April 28, 2007, meeting, adopted changes to the nonconforming section of the code. These changes were effective on May 28, 2007. The relevant section of the nonconforming code states that;

*“alterations or additions to nonconforming main buildings may be permitted as long as the addition or alteration is limited to no more than 50% of the floor area and not more than 50% of the nonconforming exterior walls are rebuilt, either as a single project, or cumulatively over time, which means a series of projects beginning with the first alteration within a period of five years. Alterations or additions over 50% are required to entirely meet current zoning and building code requirements”*

Prior to the code change, Section 17.44.050 stated that *“no nonconforming structure shall be moved, altered, enlarged or reconstructed so as to increase the discrepancy between the existing conditions and the standards of lot coverage, front yard, side yard, rear yard, parking, height of structures or distances between structures prescribed in the regulations for the district in which the structure is located. This section is prohibitory only, and shall not be interpreted as authorizing any actions not specifically mentioned herein.”* The former code allowed minor repairs and maintenance and allowed major repairs and alterations which will not increase the degree of nonconformity, provided that if they involve changes to external openings, a conditional use permit is required (section 17.44.050(D)(1) and (3))

The former code section could have been interpreted to allow the nonconforming portion of the structure to remain in place, and require any new construction to meet current code requirements. The change to the code adopted in April 2007 established a threshold for major alterations (involving 50% of the floor area) to meet current code requirements.

The City Council, in 2006, granted an appeal to the property owners at 172 Austin Avenue to allow demolition and construction of a nonconforming structure (new residence) and granted an appeal at 84 Walnut to allow reconstruction of a nonconforming wall that was accidentally removed during construction. Both of these appeals were granted prior to the current nonconforming code sections and were part of the impetus to update that section of the code.

As stated above, the proposed renovation at 137 Stockbridge is extensive. The existing residence is 3,724 square feet in area (720 square feet of which is located within the required setback). As proposed, the applicant would demolish 3,004 square feet, or 80% of the existing floor area. The newly constructed residence would total 7,456 square feet.

Staff noted several options for the applicants to proceed. The applicants indicate their need to have bedrooms located on the first floor of the residence. One option is to construct a detached accessory structure in the left side yard. There is also space available within the main building area to construct the residence closer to the front yard (Ralston Avenue) and expand towards the rear. Staff understands these options are not preferred by the applicants as they have invested significant time and resources into the preparation of the proposed plans. Staff is obligated to enforce the Town's regulations in effect at the time of building permit submittal and does not have the ability to grant exceptions.

General Plan policy 1.335(F) indicates that "proposals to replace existing homes shall be designed in accordance with the density, floor area ratio, height, bulk and other standards established by the Town." It is the Town's objective for conformity with current regulations rather than retaining long term nonconforming situations.

**CONCLUSION:**

It is Staff's professional opinion that the request to retain a portion of a nonconforming structure with the major renovation of the residence is not consistent with the Atherton Municipal Code and the Atherton General Plan.

**ALTERNATIVES:**

- The Council could deny the appeal and uphold the decision of Staff. The applicants would be required to redesign the project.
- If the Council wishes to approve the appeal, the Council could direct staff to apply the former nonconforming regulations as the applicants had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date of the ordinance.
- If the Council determines the code interpretation of Staff is incorrect and that the applicants have the ability to demolish a nonconforming structure and build a new residence with the previous nonconforming setbacks, the Council should approve the appeal.

**FISCAL IMPACT"**

The cost of the appeal process is paid for by the appellants.

**ENVIRONMENTAL IMPACT:**

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, Class 3(a) (construction of a new single family residence).

**FORMAL MOTION:**

I move that the City Council deny the appeal and uphold the decision of Staff.

Prepared by:

Approved by:

---

Lisa Costa Sanders  
Deputy Town Planner

---

Jerry Gruber  
City Manager

Attachments:

1. Letter of Appeal from Larry and Jeanie Lowry dated December 13, 2007
2. Letter from Lisa Costa Sanders, Deputy Town Planner December 7, 2006
3. Atherton Municipal Code section 17.44
4. Photos of existing residence
5. Site plan, floor plan and elevations

RECEIVED  
TOWN OF ATHERTON

2008 MAR 13 P 3:40

March 13, 2008

**BY HAND DELIVERY AND EMAIL**

Mayor James R. Janz  
Vice Mayor Jerry Carlson  
Council Member Kathy McKeithen  
Council Member Charles E. Marsala  
Town of Atherton  
91 Ashfield Road  
Atherton California 94027

**Re: Reconsideration of Appeal re Application for 137 Stockbridge Avenue**

Honorable Mayor Janz, Vice Mayor Carlson and Members of the Town Council:

On behalf of our clients, Larry and Jeannine Lowry, we respectfully request that the Town Council reconsider the decision made at its February 20, 2007 Town of Atherton (“Town”) Council meeting in which it denied our clients’ appeal. As you will recall, the subject matter of the appeal was the denial by Town Building Department Staff of our clients’ application for a major remodel and addition to 137 Stockbridge Avenue.

In accordance with Roberts Rules of Order, we urge you make a decision at the next Town Council meeting on Wednesday, March 19<sup>th</sup> as to whether to reconsider the appeal at your April meeting.

The stated grounds for rejecting our clients’ request was the application by Town Staff of a zoning ordinance amendment effective on May, 28 2007, which changed the regulations governing nonconforming uses and buildings (the “Ordinance”). However, that Ordinance is unenforceable because it was not enacted in accordance with applicable provisions of State law. Specifically, the Ordinance did not comply with State law public hearing and notice requirements and therefore deprived our clients – along with all other residents of the Town – of their rights to due process.

The City Attorney has verbally confirmed to our clients on several occasions<sup>1</sup> that the Town only posted – **but did not publish** – notice of the required public hearings on the Ordinance prior to its adoption. Indeed, the City Attorney has informed the Lowrys that it has

<sup>1</sup> Including in a teleconference in which I participated on Tuesday, March 12, 2008.

Mayor James R. Janz  
Vice Mayor Jerry Carlson  
Council Member Kathy McKeithen  
Council Member Charles E. Marsala  
March 13, 2008  
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long been the Town's practice only to post and not to publish notice of changes to the Town's Zoning Ordinance prior to public hearings by the Planning Commission and Town Council.

Regardless of how long it has continued or how many changes to the Zoning Ordinance have been approved by the Town Council pursuant to this practice, it is simply not lawful. The Town's failure to publish notice in a newspaper of general circulation in the Town of Atherton of the required public hearings on this Ordinance – and any other zoning ordinance – violates State law, as described in more detail below.

State law requires both the Town's Planning Commission and the Town Council to hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance and requires that notice of the public hearings be given pursuant to Section 65090. [Cal. Gov't Code §§ 65854, 65856.] Section 65090 of the Government Code states that: "notice shall be published pursuant to Section 6061 *in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding* at least 10 days *prior to* the hearing or, if there is no such newspaper of general circulation, the notice shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency. Section 6061 states that "[p]ublication of notice pursuant to this section shall be for one time."

Within 15 days *after* passage of the ordinance, the city clerk must cause publication of the ordinance in a newspaper of general circulation *published and circulated* in the city or, if there is none, to cause it to be posted in at least three public places in the city, or published in a newspaper of general circulation printed and published in the county and circulated in the city. [Cal. Gov't Code § 36933.] Failure to publish or post an ordinance, or its summary, in substantially the manner and at the time required by California Government Code Section 36933 prevents the ordinance from taking effect or being valid. [Cal. Gov't Code. § 36933(b).] As there is no newspaper *published* in the Town of Atherton, we agree that merely posting the Ordinance *after its adoption* was proper.

However, Sections 65854 and 65856, which govern the noticing of the required public hearings *prior to adoption* of zoning ordinances, allow for only the posting of the notice (in contrast with the posting and publication, or only posting, of the notice) if there is no newspaper of general *circulation* in the Town. It is not the case that there is no newspaper of general circulation in the Town of Atherton; there are several, including the *Almanac* and the *Palo Alto Weekly* both of which are delivered free to all residents of Atherton. Therefore, because there is at least one newspaper of general circulation in the Town of Atherton, the Town must publish

Mayor James R. Janz  
Vice Mayor Jerry Carlson  
Council Member Kathy McKeithen  
Council Member Charles E. Marsala  
March 13, 2008  
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notice of public hearings on *all* zoning ordinances – including the Ordinance – in at least one such newspaper.

It appears that the Town Attorney has mistakenly conflated the requirements of the “before-hearing” and “after-passage” State statutes, leading to his erroneous conclusion (and longtime advice to the Council) that publication is not required in Atherton because no newspaper of general circulation is actually published there. The publication requirement is simply not part of the “before-hearing” notice requirement.

Based on the foregoing analysis, it is undeniable that the Town violated state law public notice and hearing requirements and the due process rights of its residents by substituting posting of the notice in lieu of publication of the notice. It is our firm legal conclusion that the Town has seriously and repeatedly misinterpreted State law governing public hearing and noticing requirements, resulting in depriving not only our clients but all Atherton residents of their due process rights.

If you take the time to review the Lowrys’ letter of appeal (a copy of which is enclosed herewith for your convenience), you will bear witness to a “perfect storm” set of facts demonstrating how a municipality’s failure to provide due process to its citizens can result in draconian consequences for those citizens. These consequences amount to \$1,381,560 in damages for our clients. The letter of appeal provides multiple examples of steps our clients could have taken – and surely *would* have taken – to avoid these damages had they had the requisite ten-day notice of the pending Ordinance before both the Planning Commission meeting and the City Council meeting.

However, our clients had no notice whatsoever of the pendency of the Ordinance or of the meeting at which it would first be discussed. As Mr. and Mrs. Lowry are both avid and regular readers of the *Almanac* and the *Palo Alto Weekly*, they surely would have been alerted to the pendency of the Ordinance if notice of the requisite public hearings on the Ordinance had been published in compliance with state law. Given our clients’ high level of diligence of the Town’s zoning policies and practices, as demonstrated in their attached letter of appeal, Mr. and Mrs. Lowry would surely have taken the opportunity both to meet with Town staff prior to the Planning Commission meeting to learn the possible effects of the then-proposed Ordinance on their remodel plans, but would also have attended the Planning Commission and Town Council meetings and made their voices heard during these public hearings. They may well have requested that the public bodies agree to postpone the effective date of the Ordinance until all applications then “in the pipeline” had been finally approved or denied. The only reason they

Mayor James R. Janz  
Vice Mayor Jerry Carlson  
Council Member Kathy McKeithen  
Council Member Charles E. Marsala  
March 13, 2008  
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did not do so is that notice of the required public hearings on the Ordinance were not properly published in compliance with state law.,

In reconsidering our appeal, we request that you adopt the second alternative provided in the City Council Staff Report dated February 20, 2008 from Ms. Lisa Costa Sanders, Deputy Town Planner which states on page three: "If the Council wishes to approve the appeal, the Council could direct staff to apply the former nonconforming regulation as the applicants had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date of the ordinance." The Lowrys' architect is prepared to submit a written declaration, signed under penalty of perjury, that the plans were fully complete before the effective date of the ordinance.

Should the Council refuse to reconsider our clients' appeal, we will have no choice but to file a writ of mandate against the Town by which we will ask the San Mateo County Superior Court to direct the Town to comply with State law applicable to noticing public hearings for zoning changes. We respectfully urge you to reconsider our clients' appeal and avoid unnecessary litigation on this matter that would expose not only the Town's violation of State notice and hearing requirements for the Ordinance, but for all of the zoning ordinances it has enacted to date without providing proper notice.

Respectfully submitted,

*Robin B. Kennedy*

CJS

Robin B. Kennedy

RBK:mjc  
Enclosure

cc: Jerry Gruber, City Manager (By Hand Delivery)  
Kathi Hamilton, Acting City Clerk (By Hand Delivery)  
Marc G. Hynes, Esq., City Attorney (via email)  
John Hanna, Esq. (via email)  
Client (via email)

Larry & Jeannie Lowry  
137 Stockbridge Avenue  
Atherton, California 94027  
Phone: 650-364-9090  
Fax: 650-368-9891  
Email: [larry\\_lowry@L3Ventures.com](mailto:larry_lowry@L3Ventures.com)

January 27, 2008

Mr. Jerry Gruber  
City Manager

Ms. Lisa Costa Sanders  
Deputy Town Planner

Atherton Town Council

Town of Atherton  
91 Ashfield Road  
Atherton, California 94027-3896

Re: Appeal of Atherton Building Department Staff decision regarding major remodel and addition for 137 Stockbridge Avenue - Addendum

Per your request, this letter is intended to recap the timeline and bases for our appeal which we discussed at our meeting on January 24, 2008. We very much appreciate the time you spent with us and your assistance with this. We understand that this letter will be included as an addendum to our appeal.

#### RECAP OF THE TIMELINE

As discussed at our meeting last Thursday and in our appeal letter, we have been working on the plans for our major remodel and addition for almost ten years. We and our architect have had numerous, specific discussions with the Town building department regarding our plans throughout this effort, including detailed discussions of the plans themselves. At each stage of the process, we received specific input from the Town's building department regarding the plans, assurances that the plans that were being developed were consistent with the Town's zoning codes, and commitments that our plans would be approved if submitted as reviewed. Outlined below is a brief recap of the timeline.

#### 1998 – 2005 (Planning and Research Phase)

We have dubbed this period the planning and research phase. This might seem like a long time. However, when you want to conduct research, consider all the alternatives, and

make sure that what you are considering is consistent with the Town's zoning codes, etc., it can take some time.

During this period we:

- Considered alternatives, including moving versus doing a major remodel and addition
- Toured the large number of houses that were on the market over time to gather ideas and to make sure that we thoughtfully evaluated the alternative of moving instead
- Met with a half a dozen prospective architects to discuss their thoughts on possible options for a major remodel and addition, discuss our ideas, and evaluate them as possible candidate architects for us
- Commissioned a set of "as-is" plans so that we could very specifically consider and evaluate possible alternative designs
- Developed initial concepts and sketches
- Had two meetings with Mike Hood, one at his office and one at our property

At our two meetings with Mike Hood, we reviewed the as-is drawings, our design concepts, zoning requirements and the implications for maintaining the two non-conforming rooms. At these meetings, Mike Hood assured us that we would be permitted to retain the two non-conforming rooms, in accordance with the explicit zoning codes and policies of the Town.

Based on this research and effort, and the explicit assurances from the Town via Mike Hood, we decided to proceed with the remodel and addition option.

#### October, 2005

In October of 2005, we hired Jim Maliksi & Associates to design our major remodel and addition, handle the permitting process, and assist us in selecting and monitoring the work of a prime contractor. In commissioning Maliksi & Associates we were very specific about the design we envisioned. We provided a written description and sketches of the design based on the as-is drawings we had commissioned and the substantial research and consideration we had undertaken. We also specifically alerted Maliksi & Associates to the two non-conforming rooms, the retention of which was central to the design and to our decision to do a major remodel and addition instead of moving, and the discussions we had had with and the assurances we had received from the Town. Jim Maliksi of Maliksi & Associates confirmed that he understood Atherton's zoning codes and that retaining the two non-conforming rooms was permitted. We asked him to reconfirm his, and our, understanding regarding retaining the two legally non-conforming rooms directly with the Town before launching the effort.

#### Week of October 10, 2005:

Jim Maliksi met with Mike Hood and Mike Wasserman to discuss zoning regulations and encroachment information regarding our project. Mr. Maliksi showed Mr. Hood and Mr. Wasserman the as-built plans prepared by our prior architect. These plans included the two existing set back encroachments. Mr. Hood advised Mr. Maliksi that the two set back encroachments were allowed to stay as long as the size and shape were not changed. Mr. Hood also represented that exterior finish changes and interior modifications to those rooms were authorized.

Based on Mr. Hood's once again very specific assurances, we launched the detailed design effort in October, 2005.

#### February, 2006

In February, 2006, Mr. Maliksi visited another project in the Town of Atherton which had encroachments similar to the ones involved with our project. The owner of that property indicated to Mr. Maliksi that the Town had allowed them to undertake a remodel at that site that involved non-conforming elements similar to our remodel. Mr. Maliksi reviewed the plans for that property to confirm that the Town of Atherton had authorized a remodel similar to our remodel. On February 10, 2006, Mr. Maliksi met with Lois English who confirmed the Town's authorization of that project. With this additional, "live" confirmation of the assurances from Mike Hood, our project continued to proceed.

#### June, 2006

During the period from October, 2005, to June, 2006, our initial plans were turned into detailed plans and drawings.

During the June 19-29, 2006, period, Gary McClure, the project manager for our project at Maliksi & Associates, met with the Atherton building department to review the proposed floor plans and site plan to ensure conformity with Atherton's zoning codes. He met first with Ken Huo, building inspector and plan checker, and presented the site plan and floor plans as proposed, showing the retention of the existing non-conforming areas of the existing residence, as well as the remodel and addition to the first floor and addition of a new second story. After establishing that the front, rear and side setbacks were correct for the particular site, they began discussing the issue of retaining the existing non-conforming structures, and the extent to which they could be modified. Ken Huo asked Mike Hood to join in this meeting. Gary McClure communicated the design intent in retaining the perimeter walls of the existing non-conforming portion of the house and adding or replacing the windows and doors per the revised plan. Mike Hood stated that this would be allowed, so long as it did not increase the degree of non-conformity. At the conclusion of this meeting, it was understood that the retention of the existing non-conforming structures would be allowed.

Based on these, once again, explicit and specific assurances from the Town, we proceeded with the detailed design of all exterior and interior elevations, selection of

appliances, materials, etc., and commissioned and completed the required engineering and geotechnical surveys, etc.

#### November, 2006

As of November, 2006, all of the plans, including all of the exterior and interior elevation details, etc. were completed, as indicated on the plans (see plan drafts dated November 15, 2006).

#### November, 2006 – April, 2007

During the period from November, 2006, when the plans were essentially complete to April, 2007, as we awaited the completion of the engineering and geotechnical surveys, etc., we refined the plans, visited appliance centers to select the kitchen appliances, visited show rooms to select flooring, counter top, and bath room materials and fixtures, etc., and detailed out the living room and dining room paneling, etc.

#### April 12, 2007

By early Spring of 2007, the engineering and geotechnical surveys, etc. along with all of the final detailed drawings had been completed. On April 12, 2007, the plans were stamped for submission for permits and were to be submitted to the Town.

#### June 22, 2007

The plans were formally submitted to the Town

#### April – September, 2007

With the plans completed, we launched the process of selecting the prime contractor for the project. We met with, interviewed and check references on five potential prime contractors, and visited completed projects for two of them. We also continued to refine the materials selections, etc.

#### September, 2007

For the first time we heard – “There may be a problem – new ordinance”.

Based on further research and discussions, we discovered that a new ordinance, that could effectively render valueless the very considerable time, effort and money we had invested, had become effective on May 18, 2007, i.e., just 35 days before our plans were formally submitted; over a month after they had been fully completed, stamped for submission, and were to have been submitted; over six months after they were essentially complete (November, 2006); and after years of multiple reviews and explicit assurances and commitments from the Town that retaining the two non-conforming rooms would be permitted.

## APPEAL

### 1) Fairness

During the design process, we and our architect met with the Town's building department on numerous occasions, reviewed our plans in detailed and received repeated explicit assurances from the Town that we could retain the two non-conforming rooms. We have spent, literally, a decade and over \$250,000 on this effort, based on those specific, repeated and explicit assurances from the Town's senior staff. And, as is covered later, if our appeal is not acted on favorably, for us there will be no alternative but write off all of that effort and expenditure, sell our current property, secure a new property and start all over there – a very high price to pay given that our plans were developed based on explicit, repeated assurances from the Town; and, given that our plans were fully completed before the new ordinance was even voted on.

\*\*\*

Should our architect have submitted our plans in April when he was supposed to? He stated that he had gone to the building department to submit our plans in April but that he had been sent away to gather some additional information.

Should our architect have done a better job of staying current on all developments in Atherton? He repeatedly assured us that he was doing so.

Given the major impact of the new ordinance, should the Town have made a more genuine effort to alert the residents of Atherton to the new ordinance? Menlo Park, Woodside and Portola Valley, in fact even the West Bay Sanitary District, all publish notices of potential/pending changes in zoning, etc., in the Country Almanac. Palo Alto publishes them in the Palo Alto Daily.

Should we ourselves have done more to stay current on changes and make certain that our plans were submitted in a timely manner? We thought that we were. We sought assurances from our architect at every step in the process. We very regularly read and monitored developments in the Country Almanac and the Palo Alto Daily. We did not realize that we had to go to and look at the posting board by the door of the Council chambers every month, or perhaps every week, to stay informed on major zoning changes, new ordinances, etc. I am sure that, if we had known that that is what we had to do, we could have found a way to do so. However, we did not know that we needed to do so, as I would guess is the case for the vast majority of Atherton residents.

These are all questions which may be worth some discussion. However, the real base question is – Should Atherton honor the very explicit, specific assurances and commitments it gave us repeatedly on multiple occasions throughout the design process? We believe that the only fair and honorable thing to do is to honor those commitments.

## 2) Consistency

The Council granted appeals in analogous situations involving 172 Austin in December of 2006, 84 Walnut Avenue in April of 2007, and possibly others. The case of 172 Austin is particularly interesting and relevant. In that case, the owners of 172 Austin appealed the staffs decision to not just remodel/rebuild the conforming part of their house but rather to rebuild even the non conforming part of their house, which they had been assured by Mike Hood that they could do even though doing so was against the written zoning code in place throughout their entire design effort.

Comparing the two cases, the cases of 172 Austin and 137 Stockbridge:

1) In both cases the owners were given repeated, explicit assurances that their plans would be approved; and, in both cases the owners expended very substantial time, effort and money based on Mr. Hood's (acting in his role as head of the Town's building department and thereby on behalf of the Town) explicit assurances. We are not sure what the basis was for Mr. Hood's assurances in the case of 172 Austin. However, in our case, i.e., 137 Stockbridge, his assurances were given repeatedly and were based on detailed reviews of very detailed plans, the same plans as were submitted with our permit application.

2) In both cases, approving the appeal would not impinge on any neighbor. This was the judgment of the Council in the case of 172 Austin. In the case of 137 Stockbridge, as discussed in detail in the next section (the Balance of Interests section), due to our extensive investment of both money and time in landscaping, including the 20 foot high hedge along the edge of our property on the side where the two non-conforming rooms are, the two currently existing legal non-conforming rooms can not even be seen from anywhere outside our property.

Further, in the case of the immediately adjacent property, i.e., the property at 18 Ralston Road, even absent this hedge the non-conforming rooms would not be visible. In 1998 - 1999 when they built their new house, in addition to the main residence and the guest house that they built 10 feet from the property line in the back corner of their property, the owners of 18 Ralston Road elected to build two new garages (against which they built lean-to's that extend nearly to the property line) and a third structure, each of which is 10 feet from the property line and between their main house and our property. So, in spite of the fact that they refused to install their legally required screening landscaping to block the view of these structures from our property, these structures are situated (conveniently for them) such that they totally block the view of our property from their house, even absent the 20 foot high hedge that we have invested heavily in developing on our side of the property line. Unfortunately for us, it has taken ten years to grow the screening landscaping on our property to screen the view from our property of these structures, the junk and trash piled up against them, and the old toilets that the owners of 18 Ralston felt it was appropriate to use along the property line,

facing us, as “stepping stools” to their elevated train tracks. Again, fortunately for them, the elevated structure for their train tracks block the view of these toilets from their yard, just as the three structures they built 10 feet from the property line and the extensive landscaping we invested in block any view of our property from their property.

And finally, 3) Interestingly, there is a difference between the two cases. In the case of 172 Austin, the plans which were developed were consistent with Mike Hood’s assurances but in violation of the letter of the zoning codes which were in place for the entire time, and for many years prior to the time during which, the plans for 172 Austin were being drafted. Conversely, in the case of 137 Stockbridge, the plans which have been developed are entirely consistent with and were based on both Mike Hood’s repeated reviews and assurances and the letter of the zoning codes in place throughout the entire design process, through the time at which the plans were completed, and up until 35 days before the plans were formally submitted to the Town.

So, rejecting the appeal for 137 Stockbridge, after accepting the appeal for 172 Austin, would seem to be inconsistent in the extreme.

### 3) Balance of Interests

If the Council rejects our appeal, it will result in substantial damages to us. We have spent literally 10 years considering every alternative and working on this, and have invested very, very substantial time and money in the effort, based on Mike Hood’s specific assurances that we could retain the two non-conforming rooms. There is not a viable alternative for us on this property. Therefore, rejecting our appeal will result in our having to scrap this effort, write off all of the time and money expended to date, and start over somewhere else, at very, very considerable additional cost to us.

Conversely, approving our appeal will benefit all:

- It will result in a very substantial upgrade to the main structure, at very considerable cost to us
- It will result in our eliminating from our property two very old, long time existing, very unattractive accessory structure, to the benefit of all
- In conjunction with the remodel and addition, we will be completing our already started very substantial upgrade of our street-side landscaping and fence
- And, the two non-conforming rooms that would remain are totally screened by a 20 foot high, very dense (English Laurel) hedge, and therefore can not even be seen from outside our property.

Inserted below is a picture of the hedge discussed above. The hedge is along our property line on the side of our property where the two existing legally non-conforming rooms are. The hedge is over 20 feet tall and totally blocks any visibility of the two non-conforming rooms.



Inserted below is a picture from in front of the adjacent property, i.e., the property at 18 Ralston Road. As is clear from this picture, our house, much less the two existing non-conforming rooms, can not even be seen from 18 Ralston Road. Also, in this picture, which was taken from the street in front of the property at 18 Ralston, you can see one of the three new structures that the owners of 18 Ralston Road built along, and 10 feet from, our common property line. Those structures also totally block any view of our property from theirs.



#### 4) Best Alternative for All Concerned

Our planned major remodel and addition is the best alternative for all concerned. It

- Very substantially upgrades the property
- Eliminates the two very old, long time existing, very unattractive accessory structures from our property
- And, due to the very extensive screening landscaping that we have invested in, and that is already in place, the two non-conforming rooms that are to be retained can not even be seen from anywhere outside our property

Staying with the property as currently configured is a worse alternative for all concerned. It

- Retains the same two non-conforming rooms as in the option above
- But, also retains the two very old, long time existing, very unattractive accessory structures, each of which is ten feet from the property line
- Destines the property of further deterioration. The property is old and tired and in need of a major upgrade; but, such an upgrade can not be justified given its current configuration

Other alternatives that have been suggested would be even worse for all concerned or simply wouldn't work

- One alternative that has been suggested, i.e., tearing down the two existing non-conforming rooms and rebuilding them fully within the setback, although ironically, in fact very ironically, permitted by current zoning codes, makes no sense for anyone. Doing so
  - Moves them eight feet closer to the property line, with the result that they would then be only 12 feet (or, as would be allowed under current zoning codes, perhaps even only 10 feet), instead of their current 20 feet from the property line.
  - Could result in damage to the hedge, potentially to the detriment of our neighbor
  - Would add very substantial cost to the project, for no gain for anyone
  - Doesn't work in terms of the intended use of the rooms
- Other alternatives that have been raised, e.g., building a bedroom and a bedroom/office at the front of the house in front of the living room, or behind the family room and kitchen (blocking the back yard), or elongating the house even further and putting bedrooms along the hall and across from the dining room, also simply don't work or don't make sense.
- We clearly would welcome any other well thought out ideas. However, having spent ten years on this, and having solicited input from six architects, we can

assure you that we have considered a very full range of alternatives and have not been able to come up with any that meet our needs.

\*\*\*\*\*

In summary, we are appealing the staffs' decision and asking the Council to approve our plans.

Or, said another way, we are asking the Council to Do the Right Thing, i.e., to

- Honor the assurances that were given to us and the commitments that were made to us, not once, but repeatedly and explicitly throughout our very expensive, intensive and extensive planning effort, including assurances that were given to us based on detailed reviews of detailed plans
- Be consistent in applying its judgment
- Balance the interests of all
- Support the alternative that is best for all
- Approve our plans, which were developed based on the explicit assurances and commitments of the Town, and that were fully completed before the new ordinance was even voted on
- And, take this opportunity to finally, constructively close the books on the Mike Hood era

We look forward to your favorable response to our appeal.

Regards,

Larry & Jeannie Lowry

**ATKINSON • FARASYN, LLP**

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J.M. ATKINSON (1892-1982)

L.M. FARASYN (1915-1979)

REPLY TO:

MARC G. HYNES

March 12, 2008

Via e-mail [john1@hanvan.com](mailto:john1@hanvan.com)

John P. Hanna, Esq.

Hanna & Van Atta

525 University Avenue, Suite 705

Palo Alto, CA 94301-1921

Re: LARRY LOWRY – 137 Stockbridge Avenue, Atherton, California

Dear John:

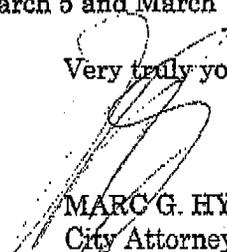
This responds to your letter dated March 10, 2008. I believe the key here is the definition of a newspaper of general circulation. Government Code section 6000 defines this as one which is printed and published at regular intervals in the state, county, or city where publication is to be given. I understand that you are reading the word "or" in the disjunctive, which is indeed appropriate, a jurisdiction determining whether to publish looks to the word which most appropriately describes it. In the case of the Town, we look to the word "city", and conclude that publication is required in a newspaper of general circulation printed and published at regular intervals in the city, i.e. Town. When there is none, posting is appropriate.

As Government Code section 65090 requires publication pursuant to Government Code section 6061, it is clear to me that such publication envisions publications in a newspaper of general circulation as defined in section 6000. Since there is no newspaper of general circulation in the Town of Atherton as the term is defined, then there is no requirement to publish.

There is a specific provision in Government Code section 65090 providing for posting in circumstances where there is no newspaper of general circulation. Notice is to be posted in at least three public places within the jurisdiction of the local agency. This language would be meaningless if the provision for a newspaper of general circulation were not read as I have described. As you know, statutory interpretation holds that all statutory language is purposeful.

I will certainly pass your letters of March 5 and March 10 on to the City Council, along with my responses.

Very truly yours,



MARC G. HYNES

City Attorney, Town of Atherton

MGH:cwb

C: City Manager

Town Planner

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David M. Van Atta, a Professional Corporation  
William R. Garrett, a Professional Corporation

Email: john1@hanvan.com

March 10, 2008

Marc Hynes, Esq.  
Atherton Town Attorney

Via email: mhynes@netgate.net

Re: Larry Lowry, 137 Stockbridge Ave.

Dear Marc:

Thank you for your March 6<sup>th</sup> letter replying to my letter of March 5<sup>th</sup>.

It seems that my March 5<sup>th</sup> letter to you was not entirely clear. In referring to the statement in the town ordinance, I may have mislead you because the town ordinance, section 2.08.010, deals with posting of ordinances. However, I was not talking about posting of an ordinance. The complaint that Mr. Lowry has is that the Notice of Hearing was not published. Once the ordinance is posted, it has already been adopted. The purpose of the Notice of Hearing is to alert citizens to the fact that an ordinance is to be considered. That gives them an opportunity to voice their objection to the adoption of the ordinance, should they have an objection. More importantly, in the case of the Lowrys, it gives them the opportunity to file their application for approval of their plans before the new ordinance is heard and/or adopted.

The section which you have cited in support of the argument that publication must be in a newspaper "published and circulated in the city," deals not with the requirement for giving notice of hearings, but rather deals with the publication of ordinances. Government Code §36933, which requires publication "in a newspaper of general circulation published and circulated in the city," deals with ordinances that have already been passed. The section begins: "Within 15 days after its passage, the city clerk shall cause each ordinance to be published at least once ..."

The section to which I referred in my letter, Government Code §65090, provides that when a provision of the Government Code requires "*notice of a public hearing* to be

Marc Hynes, Esq.  
March 10, 2008  
Page 2

given, notice shall be published pursuant to §6061 in at least one newspaper of general circulation within the jurisdiction of the local agency ...”

In addition, Government Code §6060 provides that “whenever the law provides that publication of notice shall be made ... such notice shall be published in a newspaper of general circulation ...” Section 6061 requires publication for one time.

In other words, the Government Code section requiring notices of hearing require that the publication be in a newspaper of general circulation. A newspaper of general circulation is defined in Government Code §6000 to be a newspaper “printed and published at regular intervals in the state, county, or city where publication ... is to be given ...” The statute clearly says state, county or city, and thus is distinguishable from Government Code §36933 (which applies to Notice of Adoption of Ordinances) in which section the newspaper is to be published and circulated in the city.

I therefore respectfully reiterate that Atherton did not follow the state law when it merely posted notice of its intent to consider and adopt the ordinance. This had the effect of torpedoing two years of efforts and expenditure of much money by the Lowrys on architectural plans which, had they been filed a day before the hearing (notice of which was posted, but not published), would have been approved.

I would hope that the council will take this into consideration when Mr. Lowry appears and asks for reconsideration.

Very truly yours,

John Paul Hanna

JPH:dg

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cc: Larry Lowry, via email: [lowrylarry@aol.com](mailto:lowrylarry@aol.com)

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REPLY TO:  
MARC G. HYNES

J.M. ATKINSON (1892-1982)  
L.M. FARASYN (1915-1979)

March 6, 2008

Via e-mail [johnl@hanvan.com](mailto:johnl@hanvan.com)

John P. Hanna, Esq.

Hanna & Van Atta

525 University Avenue, Suite 705

Palo Alto, CA 94301-1921

Re: LARRY LOWRY – 137 Stockbridge Avenue, Atherton, California

Dear John:

This follows our telephone conversation and your letter dated March 5, 2008, concerning the Town's procedures on posting ordinances.

You have cited Section 2.08.010 of the Atherton Municipal Code and questioned the practice of the Town in only posting adopted ordinances rather than publishing them. While you have also cited California Government Code section 65090 and Section 6061, it is necessary to view both of these in light of the provisions of Government Code Section 36933(a) and Section 6000.

Government Code Section 36933 provides in pertinent part that ordinances be published in a newspaper of general circulation "published and circulated in the city, or if there is none, he or she shall cause it to be posted in at least three public places in the city or published in a newspaper of general circulation printed and published in the county and circulated in the city." Government Code Section 6000 defines a newspaper of general circulation as one printed and published in the city where publication is to be made.

As no newspapers are published in the city, posting is an appropriate procedure and complies with legal requirements. The City Council is presently looking into ways in which broader distribution of information regarding its ordinances can be done. It certainly is possible that, in future, there will be publication of ordinances as well as posting. However, there is nothing improper in the manner in which ordinances in the past have been posted.

MARC G. HYNES

City Attorney, Town of Atherton

MGH:cwb

C: City Manager  
Town Planner

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Email: john1@hanvan.com

March 5, 2008

Marc Hynes, Esq.  
Town Attorney  
Town of Atherton

*Via E-Mail*

Re: LARRY LOWRY - 137 Stockbridge Avenue

Dear Marc:

Following-up on our telephone conversation of Tuesday, March 4, I am quite curious about the provision in the Town Ordinances, specifically Section 2.08.010 ("Posting Places"). That code section (which has apparently been around for some time) starts by stating "there being no newspaper published and circulated in the Town, all ordinances must be posted..." I contrast this language with California Gov't Code Section 65090, which states that when the law requires notice of a public hearing to be given that the notice "shall be published pursuant to Section 6061 in at least one newspaper of general circulation within the jurisdiction of a local agency..." The contrast between the local ordinance and the State law is rather significant. There are probably very few communities which can boast the publication of a newspaper within the boundaries (jurisdiction) of the town or city. I believe that is why the State law refers to "general circulation" rather than "publication". It is obvious to all that there are perhaps a dozen newspapers that are generally circulated within the Town of Atherton. One has to wonder for how many years Atherton has not been following what appears to be the State law, by not publishing notices. One also has to wonder what would be the motivation for not complying with the State law in that regard? Perhaps it is the fact that it costs money to buy newspaper space to publish notices, and it saves a lot of money to instead merely post them in public places. The problem with that approach is that not very many citizens have the time or the interest to drive by the City Hall once a week to find out what has been posted. The purpose of requiring publication in newspapers of general circulation is to give as wide as possible notice to citizens within the jurisdiction of the Town.

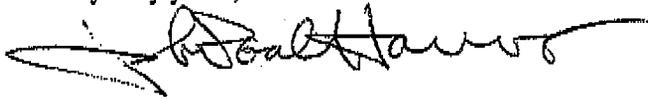
We have in the case of the Lowrys a graphic example of the harm that can result from failing to follow the State law by merely posting instead of publishing notice of a hearing involving the adoption of an ordinance, the effect of which has been to absolutely torpedo the house plans that the Lowrys spent two years or more refining, and filing with the Town, and spent hundreds of thousands of dollars in developing. This is not to say that, had the notice been published instead of merely posted, the Lowrys would for sure have been alerted, but you have to admit that the odds of their finding out about the ordinance go way up in the case of publication versus posting.

Mark Hynes, Esq.  
Page 2 of 2  
March 5, 2008

As a result of the failure of the Lowrys to get timely notice of the new ordinance, and as a result of the Town Council's denial of the Lowrys' appeal, the Lowrys have been damaged well in excess of \$1,000,000. The Town is left with a situation where a very satisfactory solution to a problem lot and a problem house could have been reached, had the parties only known that the change in the ordinance was coming down the pike. They could have filed a week before, instead of as it happened a week after the ordinance became effective.

It may or may not be too late to do anything about this. I would think that if this situation were called to the attention of the Council, that at least some of the more reasonable and responsible members in the Council would look upon this as less than satisfactory governance, and would see the justice involved in reversing the decision made the other night, and granting the appeal, and allowing the Lowrys to obtain their building permit and get everyone out of a nightmarish situation.

Very truly yours,



John Paul Hanna

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cc: Larry Lowry

RECEIVED  
TOWN OF ATHERTON  
2008 MAR 14 P  
Larry & Jeannie Lowry  
137 Stockbridge Avenue  
Atherton, California 94027  
Phone: 650-364-9090

March 13, 2008

Mr. James R. Janz, Mayor  
Mr. Jerry Carlson, Vice Mayor  
Ms. Kathy McKeithen, Council Member  
Mr. Charles E. Marsala, Council Member  
Town of Atherton  
91 Ashfield Road  
Atherton, California 94027-3896

Dear Sirs and Madam,

We would like to request that the Town Council reconsider our appeal. Further, we would like to request that in doing so, the Council in particular consider the second option which was included in the staff's report for the Council meeting on February 20, 2008, but not presented or discussed at the Council meeting on February 20, 2008, i.e., "If the Council wishes to approve the appeal, the Council could direct staff to apply the former nonconforming regulation as the applicants had invested significant resources into the preparation of the plans and the plans were completed and ready for submission prior to the effective date of the ordinance." (Please see page 3 of the staff's report for the Council meeting on February 20, 2008.) If, in considering this option, it would be helpful to the Council, our architect could submit a written declaration, signed under penalty of perjury, that the plans were fully complete before the date on which the ordinance was voted and well in advance of the effective date of the ordinance.

To briefly recap the main elements of our appeal:

- Our plans were fully completed and stamped for submission before the new ordinance was even voted on and long before it became effective.
- Our plans were explicitly approved by the former head of the Atherton building department, which prompted the subsequent extensive investment in detailing.
- The Town did not provide the notice that it was considering the new Ordinance that is required by State law, and in fact violated State law Section 65090 [Cal. Gov't Code §§ 65854, 65856.] which states that: "notice shall be published pursuant to Section 6061 *in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding* at least 10 days prior to the hearing or, if there is no such newspaper of general circulation, the notice shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency." This State law, which is explicitly intended provide the fullest possible opportunity for public awareness and input and to avoid situations such as ours, does not require

that there be a newspaper published and circulated within the jurisdiction. Rather, it requires that notice be published if there is a newspaper *in general circulation* within the jurisdiction. And, there are several such newspapers in general circulation in Atherton, including the Almanac and the Palo Alto Weekly, which is why all of the surrounding municipalities, including Menlo Park, Palo Alto, Woodside, Portola Valley, and even the West Bay Sanitation District, all publish notices as required by State law.

- If the Town had complied with this State law, we and our architect would have been aware of the impending ordinance and would have taken the steps necessary to avoid this entire situation for all of us. Unfortunately, however, the Town's failure to comply with State law, subsequent rejection of our plans and denial of our appeal, if not reconsidered, will result in damages to us in the amount of \$1,381,560.
- Our plans result in a very substantial upgrade of the main residence and landscaping, and, more importantly, remove from the property two old accessory structures which are in poor condition and ten feet from our property line, and preclude for ever the addition of any new accessory structures.
- Our plans are better for all concerned than the legally permitted alternative of tearing down the two legally non-conforming rooms and rebuilding them ten feet closer to the property line.

As very long term residents of Atherton, we are hopeful that we all can find a constructive way to deal with this situation. Therefore, we would very much appreciate your thoughtful reconsideration of our appeal, including the option provided by the staff and referred to above, especially in light of the fact that the Town did not comply with State law regarding the requirement to provide notice.

Sincerely,



Larry & Jeannie Lowry

cc: Mr. Jerry Gruber, City Manager  
Mr. Marc G. Hynes, City Attorney  
Ms. Lisa Costa Sanders, Deputy Town Planner



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCILMEMBERS**

**FROM: MARC G. HYNES, CITY ATTORNEY**

**DATE: CITY COUNCIL MEETING OF APRIL 16, 2008**

**SUBJECT: MASTER RESOLUTION GOVERNING COMMITTEES AND COMMISSIONS**

#### **RECOMMENDATION.**

Review resolution which is designed to govern all Town committees and commissions with the exception of the Planning Commission.

#### **BACKGROUND.**

Nine committees and one commission are described in this resolution. Their purpose is to assist the City Council in connection with matters affecting the Town. The committees and commission are described alphabetically in the attached resolution.

The Crime Prevention Committee, Heritage Committee, Emergency Preparedness Committee, and Tree Committee are not included in the resolution. The Atherton Channel Drainage District Committee will be terminated. At a subsequent meeting, the City Council will consider issues involving the Tree Committee and its recommendations for use of funds from civil penalties derived from prosecutions of the Heritage Tree Ordinance. Issues regarding the Emergency Preparedness Committee, including funding and the acquisition of equipment, will be addressed in a separate agreement being developed by the Town and the Menlo Park Fire Protection District.

The Arts Committee was created by Resolution No. 98-06. The General Plan Committee and Parks and Recreation Commission were created by ordinances codified in the Atherton Municipal Code Chapters 2.37 and 2.40, respectively. The Planning Commission is established and described in Chapter 2.36 of the Atherton Municipal Code. Because state planning law, Government Code section 65100 and following, requires that the Planning Commission must be

established by ordinance, it is not included in this resolution. There is no similar requirement for establishment of the Park and Recreation Commission or the General Plan Committee. Accordingly, these two may be removed from the Atherton Municipal Code and placed in the resolution.

If the City Council approves the resolution, paragraph 9 of the City Council Rules of Procedure will be amended to provide that Town committees are described as governed by this master resolution. Resolution No. 98-06 regarding the Arts Committee will be rescinded, and the Atherton Municipal Code will be amended to delete Chapters 2.37 and 2.40.

**FISCAL IMPACT.**

Staffing of committees and commission to meet requirements imposed by the resolution (see Sections 3 and 5 of the resolution) will require expenditures to be considered when adopting the budget.

Prepared By:

Approved By:

\_\_\_\_\_  
Marc Hynes  
City Attorney

\_\_\_\_\_  
Jerome Gruber  
City Manager

Attachments

**RESOLUTION NO. 08-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
GOVERNING TOWN COMMITTEES AND COMMISSIONS**

The City Council of the Town of Atherton hereby resolves as follows:

Section 1.     Establishment of Committees. The following committees and commissions are established for the Town of Atherton:

1.     Arts Committee
2.     Atherton Rail Committee
3.     Audit Committee
4.     Environmental Programs Committee
5.     Finance Committee
6.     General Plan Committee
7.     Park and Recreation Commission
8.     Screening Committee
9.     Town Center Committee
10.    Transportation Committee

Section 2.     Powers and Duties.

1.     The Arts Committee shall have the following powers and duties:
  - a.     Act in an advisory capacity and make recommendations to the City Council upon request in matters regarding art awareness including, without limitation, the following goals and objectives:
    - i.     Fulfill the requirements of the Rita Corbett-Evans estate;
    - ii.    Develop a unique arts program specific to the needs of Atherton and the surrounding community;
    - iii.   Provide a base and focal point for arts programs in Atherton;
    - iv.    Include a multi-disciplinary range of artistic endeavors including fine, performing, and literary arts as well as crafts.
2.     The Atherton Rail Committee shall have the following powers and duties:
  - a.     Act in an advisory capacity to the City Council upon request in all matters pertaining to rail service in and through the Town;
  - b.     Research and address the specific impacts that high-speed rail and other rail improvements may have on the Town.
3.     The Audit Committee shall have the following powers and duties:
  - a.     Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to the Town's annual audit;
  - b.     Provide oversight of the annual audit;
  - c.     Advise City Council regarding appointment of outside auditors for annual audit;

- d. Review proposed audit scope with outside auditors prior to commencement of annual audit.
4. The Environmental Programs Committee shall have the following powers and duties:
    - a. Recommend to the City Council any actions required by federal, state or county environmental legislation, and such other matters as directed by the City Council;
    - b. Provide information to Town residents on matters concerning the environment that fall within the Council's environmental goals on such matters as:
      - i. Global warming and CO2 Emissions
      - ii. Green Buildings
      - iii. Earth Day events
      - iv. ABAG/PG&E Energy Watch Partnership
      - v. E-Waste Collection Day
      - vi. Mayors Agreement on Climatic Change
      - vii. Energy Awards for Homeowners
      - viii. Energy Consumption Reduction in public facilities.
      - ix. Conservation programs in the Town and schools.
5. The Finance Committee shall have the following powers and duties:
    - a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to Town finances;
    - b. Consult with the City Manager on matters pertaining to the budget, capital spending plan and the long range financial plan for the Town;
    - c. Perform such tasks as assigned by the City Council.
6. The General Plan Committee shall have the following powers and duties:
    - a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to Town planning;
    - b. Review the General Plan and make recommendations to the City Council, Planning Commission and Town staff regarding the operation of the ordinances and policies on the subject of Town planning.
7. The Park and Recreation Commission shall have the following powers and duties:
    - a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to parks and public recreation and to cooperate with other governmental agencies and public and private groups in the advancement of park and recreation planning and programming;
    - b. Develop and maintain a master plan for park development for each park facility within the Town and, annually, in the month of April, present a report to the City Council

- detailing the changes to the plan enacted by the Council during the previous year and proposed study or change of the future year;
- c. Review the annual budget for parks and recreation during the process of its preparation and make recommendations with respect thereto to the City Council. This includes recommendations regarding the setting of fees. The budget should contain estimates and recommendations for such long-term capital outlay projects as may be necessary to provide for orderly development of park and recreation areas, buildings and facilities;
  - d. Study and make recommendations on the acquisition and development of recreation areas, activities and facilities such as playgrounds, buildings, parks, open space and other centers of recreation;
  - e. Assist Town staff in the planning of recreation programs for the community, promote and stimulate public interest therein, and to that end, solicit public and private agencies, interested therein.
8. The Screening Committee shall have the following powers and duties:
- a. Interview all applicants for the Planning Commission and committees and commissions as described in Section 1 of this Resolution and make recommendations for appointment(s) to the City Council.
9. The Town Center Committee, an ad hoc committee, shall have the following powers and duties:
- a. Assist the City Council in developing a vision and goals for the Town Center which includes facilities for Police, Administration, Building, Public Works, Planning and Library functions;
  - b. Upon approval of the City Council, the committee may engage Town residents and outside professional services to aid in the visioning process;
  - c. Upon approval of the City Council assist in the implementation of approved plans for Town Center improvements.
10. The Transportation Committee shall have the following powers and duties:
- a. Act in an advisory capacity and make recommendations to the City Council upon request in all matters pertaining to transportation.

Section 3. Rules of Procedure – Staffing – Minutes - Reports.

- All committees and commissions shall follow the Rules of Procedure as adopted by and as amended by the City Council, and the provisions of the California Open Public Meeting Law (Brown Act).
- The Mayor shall have the authority to appoint the Chair of each committee and commission.
- The City Manager shall have the authority to appoint any Town staff member(s) to serve Town committees and commissions.
- All committees and commissions shall prepare action minutes for the City Council. Draft minutes, that is unapproved minutes, shall be presented to the City Council as soon as possible following the meeting they report.
- Members of committees and commissions are encouraged to advocate to the City Council their position on matters before their committee or commission. Otherwise, no committee or commission or any of its members shall represent itself or themselves as speaking on behalf of the Town, City Council, and/or committee or commission without prior approval of the City Council. Statements of existing policy may be made without prior City Council approval.
- Committees and commissions may provide educational materials to the public regarding the functions and actions of the committee or commission, but shall not engage in advocating to the public any particular position which is contrary to Town policy.

Section 4: Appointment of Voting Members to Committees and Commissions.

Members other than City Council Members shall be appointed following recommendation of the City Council Screening Committee and approval by the City Council. All appointed members shall be registered voters in the Town. Unless otherwise provided in Section 5 below, the City Council desires that committees and commissions be composed of members representing the broadest segment of the Town. Members shall serve at the pleasure of the City Council, or until the expiration of their terms set out below. Vacancies in any committee or commission arising from any reason, including expiration of term, shall be filled by appointment of the City Council based upon recommendations of the City Council Screening Committee.

Section 5. Composition – Terms.

The composition and terms of the Town's committees and commissions shall be as described below:

- City Council representatives on committees are selected by the City Council to serve a one (1) year term.
- Appointed members shall serve no more than two full consecutive terms on the committee or commission to which they are appointed. Subsequent appointments of the members to that committee or commission may be made following a two (2) year period consistent with this provision.
- An annual report shall be provided to the City Council of attendance at committee and commission meetings.
- Unexcused absences of members, other than City Councilmembers, from two or more consecutively scheduled meetings shall result in the automatic vacation of the member's office.

- In the event funding for the committees or commissions is desired, a budget shall be prepared and presented to the City Council for review and approval as part of the Town's regular budget process.
- Any requests by a committee or commission for staff work, information, or assistance from Town Staff shall be made to the City Manager.

1. Arts Committee. Consists of up to ten (10) appointed members. The term of office shall be as follows: Five (5) of the members shall be appointed to a four (4) year term commencing 2008 and ending on April 30, 2012. The remaining members' terms shall be three (3) years commencing 2008 and ending on April 30, 2011. Thereafter, each term of office shall be four (4) years. The Committee meets on the 4<sup>th</sup> Tuesday of each month at 1:00 p.m. in the Holbrook-Palmer Park Garden Room unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

2. Atherton Rail Committee. Consists of up to twelve (12) members including two (2) Council Members and up to ten (10) appointed members. The term of office for appointed members shall be a four (4) year term commencing 2007 and ending on April 30, 2011. Thereafter, each term of office shall be four (4) years. The committee meets on the first Tuesday of every other month at 6:00 p.m. in the City Council Chambers unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair. Persons appointed to the Atherton Rail Committee are appointed to represent and further the interests of Atherton homeowners and particularly those with properties on and along the Caltrain right-of-way. This declaration is made with specific recognition of the provisions of 2 California Code of Regulations Section 18707.4.

3. Audit Committee. Consists of five members, including two Council Members of the Finance Committee, and three appointed members. The term of office for all appointed members shall end on April 30, 2008. Thereafter, one term shall be for two (2) years ending in April, 2010. The remaining terms shall be for four (4) years ending in April, 2012. Thereafter, the term of office shall be four (4) years. The committee meets as needed in the Conference Room of the Town Administrative Offices.

4. Environmental Programs Committee. Consists of up to twelve (12) members including two (2) Council Members and ten (10) residents of the Town. The term of office shall be as follows: Five (5) of the appointed members shall be appointed to a two-year term commencing 2007 and ending April 30, 2009. The remaining members' terms shall be four (4) years commencing 2007 and ending April 30, 2011. Thereafter, each term of office shall be four (4) years. The committee meets quarterly on the first Wednesday of the month at 10:00 a.m. in the Conference Room of the Town Administrative Offices unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

5. Finance Committee. Consists of two (2) Council Members. The Members also serve on the Audit Committee. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

6. General Plan Committee. Consists of two (2) Council Members, two (2) Planning Commissioners and up to five (5) appointed members. The term of office shall be four (4) years. Planning Commission representatives are selected by the Planning Commission to serve for a

term of one (1) year. The committee meets quarterly or more frequently if required on the first Wednesday of the month at 6:00 p.m. in the Town Council Chambers unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

7. Park and Recreation Commission. Consists of seven (7) appointed members. One member shall be a representative of the Holbrook-Palmer Park Foundation. One member shall be a representative of the Atherton Dames. Each of the foregoing representatives shall serve a term of two (2) years. The term of office for the two (2) members ending April 30, 2008 shall be four (4) years. The term of office for the remaining members shall be four (4) years. Thereafter, each term of office shall be four (4) years. The Park and Recreation Commission meets on the first Wednesday of each month at 6:30 p.m. in Holbrook-Palmer Park unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

8. Screening Committee. Consists of two (2) Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

9. The Town Center Committee. Consists of two (2) Council Members. The committee meets on an as needed basis in the Conference Room of the Town Administrative Offices.

10. Transportation Committee. Consists of five (5) members including two (2) Council Members and three appointed members. The term of office shall be four (4) years. The committee meets on the second Tuesday of every other month at 6:00 p.m. in the City Council Chambers unless a special meeting in compliance with the provisions of the Brown Act is called by the committee chair.

This Resolution shall be effective immediately upon adoption. The operative date of this resolution for the General Plan Committee and the Park and Recreation Commission shall be thirty (30) days from and after the date of adoption of the Ordinance rescinding Chapters 2.37 and 2.40 of the Atherton Municipal Code. Resolution 98-06 is hereby rescinded.

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote.*

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

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James R. Janz, MAYOR,  
Town of Atherton

ATTEST:

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Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney

RESOLUTION NO. 08- \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON RESCINDING  
RESOLUTION NO. 98-06 PERTAINING TO THE ATHERTON ARTS COMMITTEE

WHEREAS, the City Council has adopted Resolution No. \_\_\_\_\_ pertaining to all of  
the Town's committees and commissions; and

WHEREAS, the foregoing action supersedes the provisions of Resolution No. 98-06  
pertaining to the Atherton Arts Committee;

NOW, THEREFORE, the City Council of the Town of Atherton does hereby resolve as  
follows:

Resolution No. 98-06 pertaining to the Atherton Arts Committee is hereby superseded  
and rescinded.

This Resolution shall be effective immediately upon adoption.

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted  
by the City Council of the Town of Atherton at a regular meeting thereof held on the  
\_\_\_\_\_ day of \_\_\_\_\_ 2008, by the following vote:*

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

\_\_\_\_\_  
James R. Janz, MAYOR  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Marc G. Hynes, City Attorney

**RESOLUTION NO. 08-\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING CITY COUNCIL RULES AND REGULATIONS BY REVISING  
PARAGRAPH 9 RELATING TO COMMITTEES OF THE TOWN**

The City Council of the Town of Atherton hereby resolves as follows:

Section 1. Section 9 “City Council Committees” is hereby amended to read as follows:

9. Town Committees

9.1 Establishment. At the regular meeting in January, the Mayor shall appoint Council members to serve on various committees for a one year term. Committees shall be created and members appointed thereto in accordance with rules and regulations set out by the City Council by Resolution No. \_\_\_\_\_ and as amended.

9.2 Appointment of Voting Members to City Council Committees. Appointment of voting members to City Council Committees shall proceed as provided by the terms and provisions of separate resolution and as amended. Committees shall be created and members appointed thereto in accordance with rules and regulations set out by the City Council by Resolution No. \_\_\_\_\_ and as amended.

9.3 City Council Review of Town Committee Decisions. City Council Members on Town committees may bring any decision of the committee to the full City Council for final determination. Pending such action by the full City Council, any such decision shall be suspended.

This Resolution shall be effective immediately upon adoption.

*I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_\_ th day of \_\_\_\_\_, 2008, by the following vote:*

<i>AYES:</i>	<i>Council Members:</i>
<i>NOES:</i>	<i>Council Members:</i>
<i>ABSENT:</i>	<i>Council Members:</i>
<i>ABSTAIN:</i>	<i>Council Members:</i>

---

James R. Janz, MAYOR  
Town of Atherton

] ATTEST:

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Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney

**ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
REPEALING CHAPTERS 2.37 AND 2.40 OF THE ATHERTON MUNICIPAL CODE  
PERTAINING TO THE GENERAL PLAN COMMITTEE AND THE PARK AND  
RECREATION COMMISSION**

WHEREAS, the City Council has provided for the creation, maintenance and description of powers and duties of Town committees and commissions by resolution;

NOW, THEREFORE, the City Council of the Town of Atherton does hereby ordain as follows

**SECTION 1:** Chapters 2.37 and 2.40 of the Atherton Municipal Code are hereby repealed.

**SECTION 2:** Upon the effective date of this Ordinance repealing Chapters 2.37 and 2.40, the terms and provisions of Resolution No. \_\_\_\_\_ governing Town committees and commissions adopted by the City Council on \_\_\_\_\_, 2008, shall become operative.

**SECTION 3:** The City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

**SECTION 4:** This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

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

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James R. Janz, MAYOR  
Town of Atherton

ATTEST:

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Kathi Hamilton, Acting City Clerk

APPROVED AS TO FORM:

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Marc G. Hynes, City Attorney



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: KATHI HAMILTON, ACTING CITY CLERK**

**DATE: FOR THE CITY COUNCIL MEETING OF APRIL 16, 2008**

**SUBJECT: ACCEPT AND APPROVE THE RECOMMENDATIONS OF THE CITY  
COUNCIL SCREENING COMMITTEE FOR ANNUAL APPOINTMENTS  
TO COMMITTEES/COMMISSIONS**

#### **RECOMMENDATION:**

Accept the recommendations of the City Council Screening Committee to appoint members to Town commissions and committees.

#### **BACKGROUND:**

Each April, the City Council Screening Committee interviews applicants and makes recommendations to the City Council to fill the vacancies created when terms expire on Town Commissions and Committees. The Screening Committee, consisting of and Vice Mayor Jerry Carlson and Council Member Charles Marsala, will interview potential candidates prior to the City Council Meeting of April 16, 2008. The Screening Committee will make its recommendations at the meeting.

No applications were received for the Arts Committee during this recruitment. Four applications were received for the Park and Recreation Commission, four applications were received for the Mosquito Abatement District Board, and one application was received for the Mid-Peninsula Media Center Board.

Prepared by:

Approved by:

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Kathi Hamilton  
Acting City Clerk

---

Jerry Gruber  
City Manager



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: DUNCAN L. JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF APRIL 16, 2008**

**SUBJECT: DISCUSSION AND POSSIBLE CREATION OF A BLUE  
RIBBON TASK FORCE TO SOLICIT INPUT AND  
EVALUATE THE FEASIBILITY OF A NEW TOWN  
CENTER; DISCUSSION AND POSSIBLE CREATION OF A  
BLUE RIBBON TASK FORCE TO EVALUATE THE  
FEASIBILITY OF FUNDRAISING OPTIONS FOR A NEW  
TOWN CENTER**

### **RECOMMENDATION:**

Appoint a Blue Ribbon Task Force to solicit input and evaluate the feasibility of a new Town Center. Appoint a Blue Ribbon Task Force to evaluate the feasibility of fundraising options for a new Town Center.

### **INTRODUCTION:**

The Facilities Committee met on March 28, 2008, and discussed the process to undertake the development of a new Town Center facility. Based on the recent experiences of other cities, the Facilities Committee recommended that two committees be formed. One would undertake to raise funds for the new facility, primarily from Atherton residents. The other would undertake to develop the design of the facility by conducting design charettes to obtain input from residents.

**ANALYSIS:**

Several nearby cities have raised millions of dollars in contributions for their new town center facilities. Some Atherton residents have already indicated a willingness to contribute. The suggested format is to establish a fundraising task force, and establish an account with a community foundation, such as the Silicon Valley Community Foundation (which serves San Mateo and Santa Clara Counties), to receive, document, and hold donated funds and to disperse them for project costs.

Similarly, those same cities undertook a significant outreach program to obtain neighborhood input into the design of the facility. Atherton recently conducted extensive design charettes for the Park Landscape Master Plan. A similar program should be undertaken to develop a plan and design for our new Town Center. The suggested format is to first establish a design task force to oversee the process, to keep it on track and moving along, and to recommend a design program for the new facility.

**FISCAL IMPACT:**

There is no fiscal impact of establishing the task forces, but the tasks they undertake, such as extensive mailings for fundraising and meeting announcements, will have a cost that will be determined at the time.

Prepared By:

Approved by:

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Duncan L. Jones, P.E.  
Public Works Director

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Jerry Gruber  
City Manager

Attachments: Town Center Space Plan  
Town Center Site Plan

FAIR OAKS LANE



PUBLIC PARKING LOT

ST. SIDEWALK

SECURITY FENCE

POLICE DEPARTMENT

COUNCIL CHAMBER/  
E.O.C.

ADMINISTRATION

BUILDING DEPARTMENT/  
PUBLIC WORKS

PLAZA

TO  
LIBRARY

ASHFIELD ROAD

POLICE  
STAFF  
PARKING  
(Z3)

HCP

HOP

SECURITY  
GATE

SECURITY FENCE

DRIVEWAY  
TO GARAGE

PATIO

TOWER

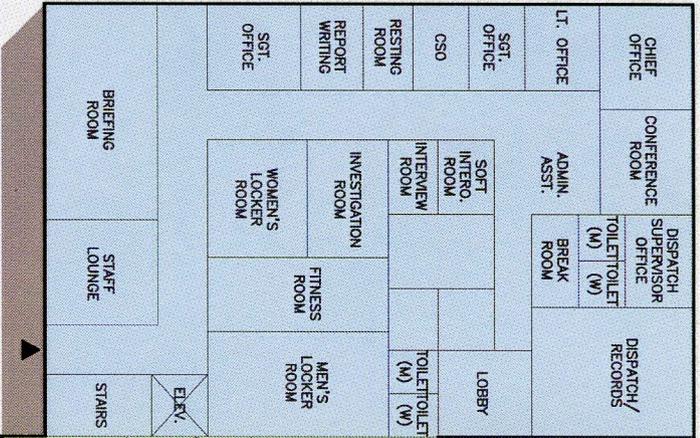
FENCE  
AND  
GATE

EMPLOYEE  
PARKING  
(Z2)

HCP

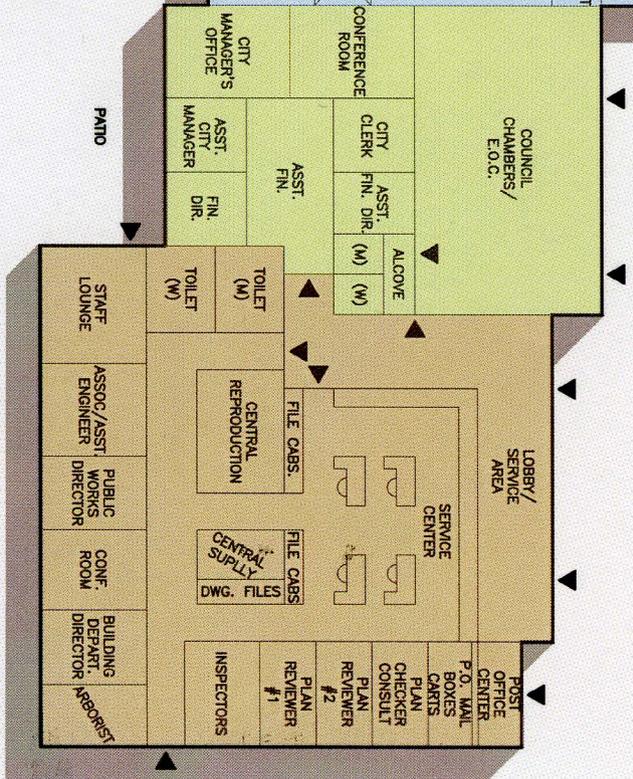
HCP

SCALE: 1"=40'-0"



**GROUND FLOOR PLAN**

- POLICE DEPARTMENT
- ADMINISTRATION
- PUBLIC WORKS/BUILDING DEPARTMENT



SCALE: 1" = 20'-0"



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: KATHY HUGHES ANDERSON, TOWN ARBORIST**

**DATE: FOR THE REGULAR MEETING OF APRIL 16, 2008**

**SUBJECT: RECOMMENDATION FROM ENVIRONMENTAL PROGRAMS  
COMMITTEE FOR THE CITY COUNCIL TO REFER TO THE  
GENERAL PLAN COMMITTEE CONSIDERATION OF GREEN  
BUILDING REGULATIONS AND CHANGES TO ZONING CODE FOR  
SOLAR INSTALLATIONS**

**RECOMMENDATION:**

The Environmental Programs Committee is recommending that the City Council direct the General Plan Committee to begin the process of reviewing making changes in the zoning code to make solar installations easier and implementing green building regulations.

**BACKGROUND:**

At the April 8, 2008, meeting of the Environmental Programs Committee, two motions were made and passed by the Committee. The motions adopted are as follows:

**Motion A.**

The Environmental Programs Committee supports implementing changes to the Zoning Code to make solar implementation easier and requests the support of the City Council to recommend to the General Plan for review the following:

1. A three-foot variance on height to existing roofs for adding solar.
2. Solar (not exceeding 6' in height) be exempt from the 10' setback along the rear or side property line.

3. The addition of solar less than three feet in height will not be seen as increasing the nonconformity of a structure.
4. To add a definition of solar to the Atherton Building Code.

**Motion B.**

The Environmental Program Committee supports implementing changes to the Zoning Code to support Green Building Guidelines and requests the support of the City Council to recommend to the General Plan for review the following:

1. Implementing green building regulations using San Mateo County's and Los Altos' green building regulations as a model ordinances and offering additional points for Atherton conservation methods.

**ANALYSIS**

While the EPC is aware the General Plan has been meeting frequently to review changes to the Zoning Code, the green building discussions that were started with the General Plan at a joint meeting in February 2007 have been on hold for over a year. The EPC would like to see these items addressed in a timely manner.

**FISCAL IMPACT:**

The costs associated with taking the items to the General Plan include staff time for the Deputy Town Planner, Lisa Costa Sanders, and Building Department staff time. Staff time to prepare the documents for a new ordinance and amend existing ordinances is anticipated to be 8-10 hours for the Deputy Town Planner. Staff time to move the ordinances through the General Plan, the Planning Commission and back to City Council is approximately 20-30 hours for the Town Planner and 15-20 hours for the Town Arborist. There may be additional costs associated for public outreach. Costs associated with the implementation of the ordinance will be borne by the applicants.

Prepared by:

Approved by:

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Kathy Hughes Anderson  
Town Arborist

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Jerry Gruber  
City Manager

Attachments:

1. San Mateo County Ordinance 04411
2. San Mateo County Staff Report dated January 28, 2008

ORDINANCE NO. 04411

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

\* \* \* \* \*

**AN ORDINANCE ADDING CHAPTER 14, CONSISTING OF SECTIONS 1401-1407, TO DIVISION VII OF THE SAN MATEO COUNTY ORDINANCE CODE (BUILDING REGULATIONS) ESTABLISHING A GREEN BUILDING PROGRAM**

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The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

**SECTION 1.** Chapter 14, consisting of Sections 1401-1407, is hereby added to Division VII of the San Mateo County Ordinance Code and shall read as follows:

**CHAPTER 14. GREEN BUILDING PROGRAM**

**SECTION 1401. PURPOSE.** The purpose of the County Green Building Program is to enhance public health and welfare by encouraging green building measures in the design, construction, and maintenance of buildings. The green building practices referenced in this Chapter are intended to achieve the following goals:

- A. To encourage the conservation of natural resources;
- B. To reduce waste in landfills generated by construction projects;
- C. To increase energy efficiency and lower energy usage;
- D. To reduce the operating and maintenance costs for buildings; and
- E. To promote a healthier indoor environment.

**SECTION 1402. DEFINITIONS.** For purposes of this Chapter, the following terms shall have the meanings set forth below:

- A. "50% remodel" means any additions, alterations, or repairs within any 12-month period that exceeds 50% of the value of the existing building or structure.
- B. "Build It Green™" means the non-profit organization that publishes the New Home Construction Green Building Guidelines, the New Home GreenPoints Checklist, and the Multi-Family GreenPoints Checklist, and any successor entity that assumes responsibility for the programs and operations of Build It Green™.
- C. "Commercial and industrial project" means any new construction of a retail, office, industrial, warehouse, or service building, or portion of a building, which is not a residential project.
- D. "Dwelling, single-family" means a building containing exclusively a single dwelling unit and built to the specifications of the California Building Code (CBC), California Electrical Code (CEC), California Mechanical Code (CMC), California Plumbing Code (CPC), and California Energy Code; or a mobile home containing exclusively a single dwelling unit, built to the Federal Department of Housing and Urban Development (HUD) Construction Standards, on a permanent foundation system, pursuant to Section 18551 of the Health and Safety Code.
- E. "Green building" means a whole systems approach to the design, construction, location and operation of buildings and structures that helps to mitigate the environmental, economic, and social impacts of construction, demolition, and renovation. Green building practices recognize the relationship between the natural and built environments and seek to

minimize the use of energy, water, and other natural resources and promote a healthy, productive indoor environment.

- F. "GreenPoint Rated (GPR)" means the version of the applicable GreenPoint Rated checklist approved by Build It Green™, in effect at the time of project application for County building permit.
- G. "GreenPoints" means credits assigned under the applicable GreenPoint Rated Checklist for a covered project.
- H. "LEED® certification" means having accrued the minimum number of points to merit a "certified" rating on the appropriate Leadership in Energy and Environmental Design (LEED®) Rating System Checklist.
- I. "LEED® rating system" means the applicable version of the Leadership in Energy and Environmental Design (LEED®) rating system, approved by the U.S. Green Building Council (USGBC), in effect at the time of project application for County building permit.
- J. "Low-rise multi-family residential" means a building or portion thereof, or a group of buildings, containing three or more dwelling units, including apartment houses, apartment hotels and flats, but not including tourist courts, of three stories or less.
- K. "Two-family dwelling" means a building containing exclusively two dwelling units.
- L. "USGBC" means the United States Green Building Council.
- M. "Working days" means Monday through Friday, excluding County holidays.

**SECTION 1403. STANDARDS FOR COMPLIANCE FOR RESIDENTIAL**

**PROJECTS.** Approval of any building permit for new construction or a 50% or greater remodel of a single-family dwelling, a two-family dwelling, or a low-rise multi-family residential project shall not be granted unless the applicant submits a checklist demonstrating that the project receives:

- A. 50 GreenPoints or higher on the appropriate GreenPoint Rated Checklist,  
or
- B. LEED® certification.

In addition to any other fees and payments otherwise due, applicants will be required to post a bond in the amount of \$5,000, or \$1.50 per square foot for the total square footage of the building, whichever is higher, prior to the issuance of the building permit. Verification from Build It Green™ or USGBC must be presented to the Building Inspection Section prior to release of the bond. If the Building Inspection Section does not receive verification that a score of 50 GreenPoints or higher or LEED® for Homes certification has been achieved, the project shall be brought into compliance, or the bond will be forfeited.

**SECTION 1404. EXPEDITED PERMIT PROCESSING FOR RESIDENTIAL**

**PROJECTS.** Expedited building permit processing will be available for new construction or a 50% or greater remodel of a single-family dwelling, two-family dwelling, or a low-rise multi-family residential project as follows:

- A. For projects GreenPoint Rated at 75 points or higher or LEED® for Homes certified, comments on the first round of building permit applications will be provided from all County departments within 30 days of submittal.

- B. For projects GreenPoint Rated at 100 points or higher or LEED® for Homes certified, an additional benefit of guaranteed building inspections within two working days of a request for inspection will be provided.

Applicants participating in the voluntary expedited permit processing program will be required to post a \$10,000 bond. When the project is verified as receiving a score of 75 GreenPoints or higher or LEED® for Homes certification under Option A above, or 100 GreenPoints or higher under Option B above, the bond will be released. If the project does not receive verification that 75 GreenPoints or higher or LEED® for Homes certification under Option A above, or 100 GreenPoints or higher under Option B above, has been achieved, the project shall be brought into compliance, or the bond will be forfeited. Verification from Build It Green™ or USGBC must be presented to the Building Inspection Section prior to release of the bond.

**SECTION 1405. STANDARDS FOR COMPLIANCE FOR COMMERCIAL AND INDUSTRIAL PROJECTS.** Approval of any building permit for commercial or industrial construction of a new building(s) greater than 3,000 sq. ft., including additions of 3,000 sq. ft. or greater to an existing building, shall not be granted unless the applicant submits a checklist demonstrating that the project receives LEED® certification. Comments on the first round of building permit applications will be provided from all County departments within 30 days of submittal.

In addition to any other fees and payments otherwise due, applicants will be required to post a bond in the amount of \$5,000, or \$1.50 per square foot for the total square footage of the building, whichever is higher, prior to the issuance of the building permit. Verification from USGBC must be presented to the Building Inspection Section prior to release of the bond. If the Building Inspection Section does not receive verification that LEED® certification has been achieved, the project shall be brought into compliance, or the bond will be forfeited.

**SECTION 1406. EXPEDITED PERMIT PROCESSING FOR COMMERCIAL AND INDUSTRIAL PROJECTS.**

If LEED® "Silver" certification is achieved, the applicant may opt to receive guaranteed building inspections within two working days of a request for inspection.

Applicants participating in the voluntary expedited permit processing program will be required to post a \$10,000 bond. When LEED® "Silver" certification is verified, the bond will be released. If LEED® "Silver" certification cannot be verified, the project shall be brought into compliance, or the bond will be forfeited.

**SECTION 1407. APPEAL.** Any decision or determination by the Building Inspection Section under this Chapter may be appealed by the applicant or any interested person to the Building Inspection Manager, at no cost to the applicant.

Any decision or determination by the Building Inspection Manager under this Chapter may be appealed by the applicant or any interested person to the Board of Building Permit Appeals, in accordance with Chapter 7 of this Division, except that no appeal fee will be charged. Notice of such appeal must be filed with the Building Inspection Section not more than ten days after the date on which the final decision or determination by the Building Inspection Section is rendered. The notice shall identify the decision or determination that is the subject of the appeal and shall state the alleged error or reason for the appeal.

**SECTION 2.** This ordinance shall be in full force and effect thirty (30) days after adoption by the San Mateo County Board of Supervisors or when approved by the California Energy Commission, whichever is later. Not sooner than 12 months after adoption of this ordinance, County staff shall report on the results of the Green Building Program to the Board of Supervisors.

Regularly passed and adopted this 26<sup>th</sup> day of February, 2008.

*AYES and in favor of said ordinance:*

*Supervisors:*

MARK CHURCH

JERRY HILL

RICHARD S. GORDON

ROSE JACOBS GIBSON

ADRIENNE J. TISSIER

*NOES and against said ordinance:*

*Supervisors:*

NONE

*Absent Supervisors:*

NONE

Adrienne J. Tissier

*President, Board of Supervisors  
County of San Mateo  
State of California*

Certificate of Delivery

*I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.*

Marie L. Peterson

*Marie L. Peterson, Deputy  
Clerk of the Board of Supervisors*



## COUNTY OF SAN MATEO

### Inter-Departmental Correspondence

### PLANNING AND BUILDING DEPARTMENT

**DATE:** January 28, 2008

**BOARD MEETING DATE:** February 12, 2008

**SPECIAL NOTICE/HEARING:** None

**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors

**FROM:** Lisa Grote, Director of Community Development

**SUBJECT:** EXECUTIVE SUMMARY: Consideration of an amendment to Division VII, Chapter 14, of the San Mateo County Ordinance Code (the Building Regulations) to establish a "Green Building Program," including compliance with minimum standards for new construction or substantial remodels of residential single-family, low-rise multi-family, commercial and industrial buildings, as well as incentives for expedited building permit processing for residential, commercial and industrial construction.

#### **RECOMMENDATION**

That the Board of Supervisors approve the proposed amendment to the Building Regulations, Attachment B, and adopt the findings in Attachment A.

#### **VISION ALIGNMENT**

**Commitment:** The proposed program keeps the commitment of "Preserve and provide people access to our natural environment."

**Goal 14 states:** "Important natural resources are preserved and enhanced through environmental stewardship."

The proposed "Green Building" program encourages amongst other things the use of recycled materials and energy efficient appliances in building projects. The program will lower energy usage, reduce the operating and maintenance costs for buildings, provide a healthier indoor environment, and reduce waste in landfills.

#### **PROPOSAL**

The proposed amendment would establish a "Green Building Program" with minimum standards, as well as incentives for expedited building permit processing. The minimum

standard of 50 GreenPoints or Leadership in Energy and Environmental Design (LEED®) certification would apply to all new residential construction, 75%, and 50% remodels. Incentives would include a 30-day turnaround on comments from County departments for building permits receiving a GreenPoint rating of 75 points or higher and/or LEED® certification. In addition, projects with a GreenPoint rating of 100 or more or LEED® certification would receive guaranteed building inspections within two working days of a request. For new commercial and industrial construction projects of 3,000 sq. ft. or more, LEED® certification would be required and would receive the benefit of a 30-day turnaround time for building permit comments. Achievement of LEED® "Silver" certification would be voluntary and would result in the additional incentive of building inspections within two working days of the request.

### **SUMMARY**

The Green Building Task Force was created in October 2007 under the leadership of Supervisor Mark Church and the Environmental Quality Committee of the Board of Supervisors. Its membership includes contractors, architects, environmental advocates, and homeowners. It is chaired by Community Development Director Lisa Grote. The Task Force's proposal would enhance public health and welfare by encouraging green building measures in the design, construction, and maintenance of buildings.

The Task Force and Planning Commission are recommending that all new residential construction be required to achieve a 50-point or better GreenPoint rating. Task Force members have determined that accruing 50 GreenPoints will not be especially costly or complicated for most residential projects. The proposed ordinance would expedite building permit processing for those residential projects GreenPoint rated at 75 points or higher or LEED® certified. For qualifying projects, the County reviewing agencies would be required to provide comments on building permit applications within 30 days. Projects with 100 or more GreenPoints or LEED® certification would also be guaranteed building permit inspection within two working days of a request. The Task Force proposes LEED® certification as an alternate means of qualifying for expedited building permit processing. For new commercial and industrial construction projects of 3,000 sq. ft. or more, LEED® certification would be required and would receive the benefit of a 30-day turnaround time for building permit comments. Achievement of LEED® "Silver" certification would be voluntary and would result in the additional incentive of building inspections within two working days of the request.

**Planning Commission Action:** The Planning Commission considered this item at their January 23, 2008 hearing. The Commission voted to recommend approval of the proposed program and ordinance, with revisions to make the program mandatory for commercial and industrial projects, to reduce the threshold for the program's application to both residential and commercial projects, and to increase the amount of the bond over what was originally proposed. In addition, the Commission also recommended that the Planning and Building Department schedule an additional public meeting on the Coastsides prior to the Board hearing on the matter, that the work of the task force be continued for one year with a mandate for public education and outreach, and that Planning and Building staff and the Task Force report back in one year on how to strengthen the program.

**FISCAL IMPACT**

The fiscal impact on the County is negligible.

# City of Los Altos

## Green Building Regulations

**Notice:** Effective December 14, 2007, the City's Green Building Regulations ordinance will go into effect for all projects as follows:

- New single-family and multiple-family houses, and additions of 50 percent or greater to main structures excluding basements:
  - Prior to building permit issuance, provide verification that the house is designed with a GreenPoint Rating of 50 points or more; and
  - Prior to final inspection, provide verification that the house was built in compliance with the GreenPoint Rated approval.
  
- New commercial, mixed-use, and public and community facility buildings, and additions of 50 percent or greater to main structures excluding basements:
  - Prior to building permit issuance, provide verification that the building design will exceed the energy efficiency standards by at least 15 percent over that required by Part 6 of Title 24 of the California Code of Regulations using a State of California adopted performance method, as approved by the State Energy Commission; and
  - Prior to final inspection, provide verification that the building was built in accord with the approved energy efficiency requirements.

These regulations will affect all applicable projects submitted for design review on or after December 14, 2007. Please note that it is important to review these Green Building Regulations with your design professional as early in the design process as possible. The City will only accept plans for building permit plan checking that are verified to meet the minimum GreenPoint rating or the minimum required energy efficiency.

Copies of the 2007 edition of the New Home Construction Green Building Guidelines, the GreenPoint Checklist, and a list of approved GreenPoint raters may be downloaded from [www.builditgreen.org](http://www.builditgreen.org) or obtained at the Planning Division at City Hall.

Title 12 BUILDINGS AND CONSTRUCTION

Los Altos

**Chapter 12.66 GREEN BUILDING REGULATIONS**12.66.010 Purpose.12.66.020 Definitions.12.66.030 Covered projects.12.66.040 Private building compliance.12.66.050 Public building compliance.12.66.060 Maintenance of resources.12.66.070 Historic resources.**12.66.010 Purpose.**

The city finds that green building design and construction can have a significant positive effect on energy and resource efficiency and reduce waste and pollution generation. The intent of this chapter is to promote the environmental sustainability of natural resources by efficiently redirecting the use of recyclable materials away from landfills, by encouraging recycled-content materials in construction, and by reducing the energy consumption needs of structures by making use of efficient construction methods. (Ord. 07-315 § 2 (part))

**12.66.020 Definitions.**

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

"Alteration" means to replace or make a change which will prolong the life of the supporting members of a structure, such as bearing walls, roof rafters, columns, beams, or girders.

"Build It Green" means the Build It Green organization. Build It Green is a California professional nonprofit membership organization whose mission is to promote healthy, energy- and resource-efficient buildings.

"Certified green building rater" means a person or organization determined by the building official to be qualified to perform inspections and provide documentation to assure compliance with the Build It Green program requirements.

"GreenPoint Rated" means the rating system developed by Build It Green.

"LEED" means the leadership in energy and environmental design program developed by the U.S. Green Building Council. The U.S. Green Building Council is a national professional nonprofit membership organization whose mission is to promote buildings that are environmentally responsible.

"LEED accredited professional" means a person or organization determined by the building official to be qualified to perform inspections and provide documentation to assure compliance with the U.S. Green Building Council LEED requirements. (Ord. 08-319 § 20 (part); Ord. 07-315 § 2 (part))

**12.66.030 Covered projects.**

This chapter shall apply to the new construction of the following types of buildings:

A. New single-family and multiple-family homes;

B. New commercial, mixed-use, and public and community facility buildings.

For the purposes of this chapter, new construction shall mean an entirely new main building, additions or alterations of fifty (50) percent or greater to existing buildings, excluding basements.

This chapter shall not apply to accessory structures or to additions and alterations of less than fifty (50) percent to existing main buildings. (Ord. 08-319 § 20 (part); Ord. 07-315 § 2 (part))

#### **12.66.040 Private building compliance.**

All covered projects shall demonstrate compliance with the following level of green building standards:

**A. Single-family and multiple-family homes.**

1. Prior to issuance of a building permit, the applicant shall submit verification that the home design has been GreenPoint Rated with a minimum score of fifty (50) points.
2. Prior to issuance of a final occupancy inspection, the applicant shall submit verification that the home was built in compliance with the GreenPoint Rated approval.

**B. Commercial, mixed-use, and public and community facility buildings.**

1. Prior to issuance of a building permit, the applicant shall submit verification that the building design will be fifteen (15) percent more energy efficient than required by Part 6 of Title 24 of the California Code of Regulations using a state of California adopted performance method, as approved by the State Energy Commission.
2. Prior to issuance of a final occupancy inspection, the applicant shall submit verification that the building was constructed per the approved energy efficiency requirements. (Ord. 07-315 § 2 (part))

#### **12.66.050 Public building compliance.**

All covered projects shall demonstrate compliance with the following level of green building standards:

**A. Public buildings that are less than seven thousand five hundred (7,500) square feet in size.**

1. Prior to issuance of a building permit, the city shall verify that the building design will be fifteen (15) percent more energy efficient than required by Part 6 of Title 24 of the California Code of Regulations using a state of California adopted performance method, as approved by the State Energy Commission.
2. Prior to issuance of a final occupancy inspection, the city shall verify that the building was constructed per the approved energy efficiency requirements.

**B. Public buildings that are seven thousand five hundred (7,500) square feet in size, or larger.**

1. Prior to issuance of a building permit, the city shall verify that the building design has been LEED certified at a minimum silver level.
2. Prior to issuance of a final occupancy inspection, the city shall verify that the building was constructed in compliance with the LEED certification. (Ord. 07-315 § 2 (part))

#### **12.66.060 Maintenance of resources.**

The building official shall maintain a current list of certified green building raters and LEED accredited professionals who are qualified to provide the GreenPoint Rated and LEED certifications, and shall be responsible for administering and implementing the requirements of this chapter. (Ord. 07-315 § 2 (part))

#### **12.66.070 Historic resources.**

The historical commission may grant exceptions to these regulations in order to conduct any proposed work necessary to maintain the architectural and historic integrity of a designated historic landmark, a landmark eligible building, or property located within a designated historic district, if the applicant presents clear and convincing evidence demonstrating that implementation of these regulations would harm the architectural and historic integrity of the building. The historical commission shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding. (Ord. 07-315 § 2 (part))

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# Single Family GreenPoint Checklist

date: \_\_\_\_\_



The GreenPoint Checklist is based on the various green features incorporated into the home and is the basis for the GreenPoint Rated program. A home can be considered green if it fulfills the prerequisites, earns at least 50 points, and meets the minimum points per category: Energy (30), Indoor Air Quality/Health (5), Resources (6), and Water (9). Please contact Build It Green for a list of qualified GreenPoint Raters if you are interested in pursuing third-party verification.

The green building practices listed below are described in the New Home Construction Green Building Guidelines, available at [www.builditgreen.org](http://www.builditgreen.org).



ENTER PROJECT NAME		Points Achieved	Community	Energy	IAQ/Health	Resources	Water
<b>A. SITE</b>		Points Available Per Measure					
1. Protect Topsoil and Minimize Disruption of Existing Plants & Trees							
<input type="checkbox"/>	a. Protect Topsoil from Erosion and Reuse after Construction	0	1				1
<input type="checkbox"/>	b. Limit and Delineate Construction Footprint for Maximum Protection	0					1
<input type="checkbox"/>	2. Deconstruct Instead of Demolishing Existing Buildings On Site	0				3	
3. Recycle Job Site Construction Waste (Including Green Waste)							
<input type="checkbox"/>	a. Minimum 50% Waste Diversion by Weight (Recycling or Reuse) - Required	0				R	
<input type="checkbox"/>	b. Minimum 65% Diversion by Weight (Recycling or Reuse)	0				2	
<input type="checkbox"/>	c. Minimum 80% Diversion by Weight (Recycling or Reuse)	0				2	
4. Use Recycled Content Aggregate (Minimum 25%)							
<input type="checkbox"/>	a. Walkway and Driveway	0				1	
<input type="checkbox"/>	b. Roadway Base	0				1	
Total Points Available in Site = 12		0					
<b>B. FOUNDATION</b>		Points Available Per Measure					
1. Replace Portland Cement in Concrete with Recycled Flyash or Slag							
<input type="checkbox"/>	a. Minimum 20% Flyash or Slag	0				1	
<input type="checkbox"/>	b. Minimum 25% Flyash or Slag	0				1	
<input type="checkbox"/>	2. Use Frost-Protected Shallow Foundation in Cold Areas (C.E.C. Climate Zone 16)	0				3	
<input type="checkbox"/>	3. Use Radon Resistant Construction (In At-Risk Locations Only)	0			1		
4. Design and Build Structural Pest Controls							
<input type="checkbox"/>	a. Install Termites Shields & Separate All Exterior Wood-to-Concrete Connections by Metal or Plastic Fasteners/Dividers	0				1	
<input type="checkbox"/>	b. All New Plants Have Trunk, Base, or Stem Located At Least 36 Inches from Foundation	0				1	
Total Points Available in Foundation = 8		0					
<b>C. LANDSCAPING</b>		Points Available Per Measure					
1. Construct Resource-Efficient Landscapes							
<input type="checkbox"/>	a. No Invasive Species Listed by Cal-IPC Are Planted	0					1
<input type="checkbox"/>	b. No Plant Species Will Require Hedging	0				1	
<input type="checkbox"/>	c. 75% of Plants Are Drought-tolerant California Natives, Mediterranean, or Other Appropriate Species	0					3
<input type="checkbox"/>	2. Use Fire-Safe Landscaping Techniques	0	1				
3. Minimize Turf Areas in Landscape Installed by Builder							
<input type="checkbox"/>	a. All Turf Will Have a Water Requirement Less than or Equal to Tall Fescue (≤0.8 plant factor)	0					2
<input type="checkbox"/>	b. Turf Shall Not Be Installed on Slopes Exceeding 10% or in Areas Less than 8 Feet Wide	0					2
<input type="checkbox"/>	c. Turf is ≤33% of Landscaped Area (total 2 points)	0					2
<input type="checkbox"/>	d. Turf is ≤10% of Landscaped Area (total 4 points)	0					2
<input type="checkbox"/>	4. Plant Shade Trees	0					3
<input type="checkbox"/>	5. Group Plants by Water Needs (Hydrozoning)	0					2
6. Install High-Efficiency Irrigation Systems							
<input type="checkbox"/>	a. System Uses Only Low-Flow Drip, Bubblers, or Low-flow Sprinklers	0					2
<input type="checkbox"/>	b. System Has Smart Controllers	0					3
<input type="checkbox"/>	7. Incorporate Two Inches of Compost in the Top 6 to 12 Inches of Soil	0					3
<input type="checkbox"/>	8. Mulch All Planting Beds to the Greater of 2 Inches or Local Water Ordinance Requirement	0					2
<input type="checkbox"/>	9. Use 50% Salvaged or Recycled-Content Materials for 50% of Non-Plant Landscape Elements	0				1	
<input type="checkbox"/>	10. Reduce Light Pollution by Shielding Fixtures and/or Directing Light Downward	0	1				
Total Points Available in Landscaping = 31		0					
<b>D. STRUCTURAL FRAME &amp; BUILDING ENVELOPE</b>		Points Available Per Measure					
1. Apply Optimal Value Engineering							
<input type="checkbox"/>	a. Place Rafters and Studs at 24-Inch On Center Framing	0				1	
<input type="checkbox"/>	b. Size Door and Window Headers for Load	0				1	
<input type="checkbox"/>	c. Use Only Jack and Cripple Studs Required for Load	0				1	
2. Use Engineered Lumber							
<input type="checkbox"/>	a. Beams and Headers	0				1	
<input type="checkbox"/>	b. Insulated Engineered Headers	0		1			
<input type="checkbox"/>	c. Wood I-Joists or Web Trusses for Floors	0				1	
<input type="checkbox"/>	d. Wood I-Joists for Roof Rafters	0				1	
<input type="checkbox"/>	e. Engineered or Finger-Jointed Studs for Vertical Applications	0				1	
<input type="checkbox"/>	f. Oriented Strand Board for Subfloor	0				1	
<input type="checkbox"/>	g. Oriented Strand Board for Wall and Roof Sheathing	0				1	
3. Use FSC-Certified Wood							
<input type="checkbox"/>	a. Dimensional Lumber, Studs and Timber: Minimum 40%	0				2	
<input type="checkbox"/>	b. Dimensional Lumber, Studs and Timber: Minimum 70%	0				2	
<input type="checkbox"/>	c. Panel Products: Minimum 40%	0				1	
<input type="checkbox"/>	d. Panel Products: Minimum 70%	0				1	

ENTER PROJECT NAME		Points Achieved	Community	Energy	IAQ/Health	Resources	Water
<b>4. Use Solid Wall Systems (Includes SIPs, ICFs, &amp; Any Non-Stick Frame Assembly)</b>							
<input type="checkbox"/>	a. Floors	0		2		2	
<input type="checkbox"/>	b. Walls	0		2		2	
<input type="checkbox"/>	c. Roofs	0		2		2	
<b>5. Reduce Pollution Entering the Home from the Garage</b>							
<input type="checkbox"/>	a. Tightly Seal the Air Barrier between Garage and Living Area	0			1		
<input type="checkbox"/>	b. Install Garage Exhaust Fan OR Build a Detached Garage	0			1		
<input type="checkbox"/>	<b>6. Design Energy Heels on Trusses (75% of Attic Insulation Height at Outside Edge of Exterior Wall)</b>	0		1			
<input type="checkbox"/>	<b>7. Design Roof Trusses to Accommodate Ductwork</b>	0		1			
<input type="checkbox"/>	<b>8. Use Recycled-Content Steel Studs for 90% of Interior Wall Framing</b>	0				1	
<input type="checkbox"/>	<b>9. Thermal Mass Walls: 5/8-Inch Drywall on All Interior Walls or Walls Weighing more than 40 lb/cu.ft.</b>	0		1			
<b>10. Install Overhangs and Gutters</b>							
<input type="checkbox"/>	a. Minimum 16-Inch Overhangs and Gutters	0				1	
<input type="checkbox"/>	b. Minimum 24-Inch Overhangs and Gutters	0		1			
Total Points Available in Structural Building Frame and Envelope = 36		0					
<b>E. EXTERIOR FINISH</b>							Points Available Per Measure
<input type="checkbox"/>	<b>1. Use Recycled-Content (No Virgin Plastic) or FSC-Certified Wood Decking</b>	0				2	
<input type="checkbox"/>	<b>2. Install a Rain Screen Wall System</b>	0				2	
<input type="checkbox"/>	<b>3. Use Durable and Noncombustible Siding Materials</b>	0				1	
<input type="checkbox"/>	<b>4. Select Durable and Noncombustible Roofing Materials</b>	0				2	
Total Points Available in Exterior Finish = 7		0					
<b>F. INSULATION</b>							Points Available Per Measure
<b>1. Install Insulation with 75% Recycled Content</b>							
<input type="checkbox"/>	a. Walls and/or Floors	0				1	
<input type="checkbox"/>	b. Ceilings	0				1	
<b>2. Install Insulation that is Low-Emitting (Certified Section 01350)</b>							
<input type="checkbox"/>	a. Walls and/or Floors	0			1		
<input type="checkbox"/>	b. Ceilings	0			1		
<input type="checkbox"/>	<b>3. Inspect Quality of Insulation Installation before Applying Drywall</b>	0		1			
Total Points Available in Insulation = 5		0					
<b>G. PLUMBING</b>							Points Available Per Measure
<b>1. Distribute Domestic Hot Water Efficiently (Maximum 7 Points)</b>							
<input type="checkbox"/>	a. Insulate Hot Water Pipes from Water Heater to Kitchen	0		1			1
<input type="checkbox"/>	b. Insulate All Hot Water Pipes	0		1			1
<input type="checkbox"/>	c. Use Engineered Parallel Piping	0					1
<input type="checkbox"/>	d. Use Engineered Parallel Piping with Demand Controlled Circulation Loop	0					1
<input type="checkbox"/>	e. Use Structured Plumbing with Demand Controlled Circulation Loop	0		1			2
<input type="checkbox"/>	f. Use Central Core Plumbing	0		1		1	2
<input type="checkbox"/>	<b>2. Install Only High Efficiency Toilets (Dual-Flush or ≤1.28 gpf)</b>	0					4
Total Points Available in Plumbing = Total 12		0					
<b>H. HEATING, VENTILATION &amp; AIR CONDITIONING</b>							Points Available Per Measure
<input type="checkbox"/>	<b>1. Design and Install HVAC System to ACCA Manual J, D, and S Recommendations</b>	0		4			
<b>2. Install Sealed Combustion Units</b>							
<input type="checkbox"/>	a. Furnaces	0			2		
<input type="checkbox"/>	b. Water Heaters	0			2		
<input type="checkbox"/>	<b>3. Install Zoned, Hydronic Radiant Heating with Slab Edge Insulation</b>	0		1	1		
<input type="checkbox"/>	<b>4. Install High Efficiency Air Conditioning with Environmentally Responsible Refrigerants</b>	0	1				
<b>5. Design and Install Effective Ductwork</b>							
<input type="checkbox"/>	a. Install HVAC Unit and Ductwork within Conditioned Space	0		3			
<input type="checkbox"/>	b. Use Duct Mastic on All Duct Joints and Seams	0		1			
<input type="checkbox"/>	c. Install Ductwork under Attic Insulation (Buried Ducts)	0		1			
<input type="checkbox"/>	d. Pressure Balance the Ductwork System	0		1			
<input type="checkbox"/>	e. Protect Ducts during Construction and Clean All Ducts before Occupancy	0		1			
<input type="checkbox"/>	<b>6. Install High Efficiency HVAC Filter (MERV 6+)</b>	0			1		
<input type="checkbox"/>	<b>7. Don't Install Fireplace or Install Sealed Gas Fireplaces with Efficiency Rating Not Less Than 60% using CSA Standards</b>	0			1		
<b>8. Install Effective Exhaust Systems in Bathrooms and Kitchens</b>							
<input type="checkbox"/>	a. Install ENERGY STAR Bathroom Fans Vented to the Outside	0			1		
<input type="checkbox"/>	b. All Bathroom Fans Are on Timer or Humidistat	0			1		
<input type="checkbox"/>	c. Install Kitchen Range Hood Vented to the Outside	0			1		
<b>9. Install Mechanical Ventilation System for Cooling (Maximum 4 Points)</b>							
<input type="checkbox"/>	a. Install ENERGY STAR Ceiling Fans & Light Kits in Living Areas & Bedrooms	0		1			
<input type="checkbox"/>	b. Install Whole House Fan with Variable Speeds	0		1			
<input type="checkbox"/>	c. Automatically Controlled Integrated System	0		2			
<input type="checkbox"/>	d. Automatically Controlled Integrated System with Variable Speed Control	0		3			
<b>10. Install Mechanical Fresh Air Ventilation System (Maximum 3 Points)</b>							
<input type="checkbox"/>	a. Any Whole House Ventilation System That Meets ASHRAE 62.2	0			2		
<input type="checkbox"/>	b. Install Air-to-Air Heat Exchanger that meets ASHRAE 62.2	0		1	2		
<input type="checkbox"/>	<b>11. Install Carbon Monoxide Alarm(s)</b>	0			1		
Total Points Available in Heating, Ventilation and Air Conditioning = 30		0					
<b>I. RENEWABLE ENERGY</b>							Points Available Per Measure
<input type="checkbox"/>	<b>1. Pre-Plumb for Solar Hot Water Heating</b>	0		4			

ENTER PROJECT NAME		Points Achieved	Community	Energy	IAQ/Health	Resources	Water
<input type="checkbox"/>	2. Install Solar Water Heating System	0		10			
<input type="checkbox"/>	3. Install Wiring Conduit for Future Photovoltaic Installation & Provide 200 ft <sup>2</sup> of South-Facing Roof	0		2			
<input type="checkbox"/>	4. Install Photovoltaic (PV) Panels						
<input type="checkbox"/>	a. 30% of electric needs OR 1.2 kW (total 6 points)	0		6			
<input type="checkbox"/>	b. 60% of electric needs OR 2.4kW (total 12 points)	0		6			
<input type="checkbox"/>	c. 90% of electric need OR 3.6 kW (total 18 points)	0		6			
Total Available Points in Renewable Energy = 28		0					
<b>J. BUILDING PERFORMANCE</b>			Points Available Per Measure				
<b>1. Diagnostic Evaluations</b>							
<input type="checkbox"/>	a. House Passes Blower Door Test	0		1			
<input type="checkbox"/>	b. House Passes Combustion Safety Backdraft Test	0			1		
0%	2. Design and Build High Performance Homes - % above Title 24 - minimum 15% Required	0		≥30			
<input type="checkbox"/>	3. House Obtains ENERGY STAR with Indoor Air Package Certification - Pilot Measure (Total 45 points; read comment)	0			5	2	
Total Available Points in Building Performance = 39		0					
<b>K. FINISHES</b>			Points Available Per Measure				
<input type="checkbox"/>	1. Design Entryways to Reduce Tracked in Contaminants	0			1		
<b>2. Use Low-VOC or Zero-VOC Paint (Maximum 3 Points)</b>							
<input type="checkbox"/>	a. Low-VOC Interior Wall/Ceiling Paints (<50 gpl VOCs (Flat) and <150 gpl VOCs (Non-Flat))	0			1		
<input type="checkbox"/>	b. Zero-VOC: Interior Wall/Ceiling Paints (<5 gpl VOCs (Flat))	0			3		
<input type="checkbox"/>	3. Use Low VOC, Water-Based Wood Finishes (<250 gpl VOCs)	0			2		
<input type="checkbox"/>	4. Use Low-VOC Caulk and Construction Adhesives (<70 gpl VOCs) for All Adhesives	0			2		
<input type="checkbox"/>	5. Use Recycled-Content Paint	0				1	
<b>6. Use Environmentally Preferable Materials for Interior Finish: A) FSC-Certified Wood, B) Reclaimed, C) Rapidly Renewable, D) Recycled-Content or E) Finger-Jointed</b>							
<input type="checkbox"/>	a. Cabinets (50% Minimum)	0				1	
<input type="checkbox"/>	b. Interior Trim (50% Minimum)	0				1	
<input type="checkbox"/>	c. Shelving (50% Minimum)	0				1	
<input type="checkbox"/>	d. Doors (50% Minimum)	0				1	
<input type="checkbox"/>	e. Countertops (50% Minimum)	0				1	
<b>7. Reduce Formaldehyde in Interior Finish (CA Section 01350)</b>							
<input type="checkbox"/>	a. Subfloor & Stair Treads (50% Minimum)	0			1		
<input type="checkbox"/>	b. Cabinets & Countertops (50% Minimum)	0			1		
<input type="checkbox"/>	c. Interior Trim (50% Minimum)	0			1		
<input type="checkbox"/>	d. Shelving (50% Minimum)	0			1		
<input type="checkbox"/>	8. After Installation of Finishes, Test of Indoor Air Shows Formaldehyde Level <27ppb	0			3		
Total Available Points in Finishes = 21		0					
<b>L. FLOORING</b>			Points Available Per Measure				
<b>1. Use Environmentally Preferable Flooring: A) FSC-Certified Wood, B) Reclaimed or Refinished, C) Rapidly Renewable, D) Recycled-Content, E) Exposed Concrete. Flooring Adhesives Must Have &lt;50 gpl VOCs.</b>							
<input type="checkbox"/>	a. Minimum 15% of Floor Area	0				1	
<input type="checkbox"/>	b. Minimum 30% of Floor Area	0				1	
<input type="checkbox"/>	c. Minimum 50% of Floor Area	0				1	
<input type="checkbox"/>	d. Minimum 75% of Floor Area	0				1	
<input type="checkbox"/>	2. Thermal Mass Floors: Floor Covering Other than Carpet on 50% or More of Concrete Floors	0		1			
<input type="checkbox"/>	3. Flooring Meets Section 01350 or CRI Green Label Plus Requirements (50% Minimum)	0			2		
Total Available Points in Flooring = 7		0					
<b>M. APPLIANCES AND LIGHTING</b>			Points Available Per Measure				
<b>1. Install Water and Energy Efficient Dishwasher</b>							
<input type="checkbox"/>	a. ENERGY STAR (total 1 point)	0		1			
<input type="checkbox"/>	b. Dishwasher Uses No More than 6.5 Gallons/Cycle (total 2 points)	0				1	
<b>2. Install ENERGY STAR Clothes Washing Machine with Water Factor of 6 or Less</b>							
<input type="checkbox"/>	a. Meets Energy Star and CEE Tier 2 requirements (modified energy factor 2.0, Water Factor 6.0) (total 3 points)	0		1			2
<input type="checkbox"/>	b. Meets Energy Star and CEE Tier 3 requirements (modified energy factor 2.2, Water Factor 4.5 or less) (total 5 points)	0					2
<b>3. Install ENERGY STAR Refrigerator</b>							
<input type="checkbox"/>	a. ENERGY STAR Qualified & < 25 Cubic Feet Capacity	0		1			
<input type="checkbox"/>	b. ENERGY STAR Qualified & < 20 Cubic Feet Capacity	0		1			
<b>4. Install Built-In Recycling Center</b>							
<input type="checkbox"/>	a. Built-In Recycling Center	0				2	
<input type="checkbox"/>	b. Built-In Composting Center	0				1	
Total Available Points in Appliances and Lighting = 12		0					
<b>N. OTHER</b>			Points Available Per Measure				
<input type="checkbox"/>	1. Incorporate GreenPoint Rated Checklist in Blueprints - Required	0					R
<input type="checkbox"/>	2. Develop Homeowner Manual of Green Features/Benefits	0		1	1		1
<b>3. Community Design Measures &amp; Local Priorities: See the Community Planning &amp; Design section in Chapter 4 of the New Home Guidelines for measures. Maximum of 20 points for suggested measures. Local requirements may also be listed here.</b>							
<input type="checkbox"/>	Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
<input type="checkbox"/>	Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
<input type="checkbox"/>	Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0

ENTER PROJECT NAME		Points Achieved	Community	Energy	IAQ/Health	Resources	Water
<input type="checkbox"/>	Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
4. Innovation: List innovative measures that meet the green building objectives of the Guidelines. Enter up to a maximum combined total of 20 pts. See Innovation Checklist for suggested measures, using the link to the right.			<u>Build It Green Checklists and Guidelines</u>				
<input type="checkbox"/>	Innovation in Community: Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
<input type="checkbox"/>	Innovation in Energy: Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
<input type="checkbox"/>	Innovation in IAQ/Health: Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
<input type="checkbox"/>	Innovation in Resources: Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
<input type="checkbox"/>	Innovation in Water: Enter description here, and enter points available for measure in appropriate categories to the right.	0	0	0	0	0	0
Total Available Points in Other = 43		0					

Summary			4+	96+	42+	66+	43+
Total Available Points in Specific Categories*			0	30	5	6	9
Minimum Points Required in Specific Categories							
Total Points Achieved		0	0	0	0	0	0

**Project has not yet met the following recommended minimum requirements:**  
 - Total Project Score of At Least 50 Points



## Town of Atherton

### **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: DUNCAN JONES, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF APRIL 16, 2008**

**SUBJECT: AWARD OF TWO CONTRACTS FOR THE HOLBROOK-PALMER  
PARK TOWN HOME PROJECT, PROJECT NO. 07-011**

#### **RECOMMENDATION:**

Award two contracts for the Holbrook-Palmer Park Town Home Project, Project No. 07-011, for up to \$82,000, with a construction contingency of \$14,200, for a total authorization of \$96,200; to authorize the use of informal bidding; and to authorize the Mayor to sign the contracts on behalf of the Town.

#### **INTRODUCTION:**

There are numerous contracts involved in the upgrade of the Town Home. Several contracts are already underway, including removal of debris by staff, restoration of the bathroom tiles, electrical repair work, removal of existing flooring and painting. Contracts approved last month include repairs, flooring, paint and electrical installations. The painting and electrical contracts are underway. We are still struggling to get three bids on repairs.

The flooring contractor who gave the original bid for carpet/linoleum had stated the cost would be equivalent for laminate flooring. However, his final proposal was more (\$16,000). Several other flooring contractors preparing bids expressed concerns about placing laminate flooring instead of hardwood, reasoning that hardwood, with proper care and occasional refinishing, could last much longer. These contractors prepared proposals for both laminate and hardwood. The hardwood proposal was \$4,000 more than the laminate proposal (\$20,000). Staff had expected that hardwood would cost double or triple the cost of laminate, but the increase is only 25%. Because this would be an increase over the previously approved amounts, the item is being brought back to Council with a recommendation that the floors be hardwood. The previous flooring authorization of \$12,000, plus a \$1,200 contingency, will be cancelled.

The next phase will involve hiring contractors to renovate the kitchen. The contractor that renovated the Main House kitchen was hired to prepare a plan for renovation of the Town Home kitchen. The plan will replace all cabinets and countertops with new wood cabinets and granite countertops, except where the cook-top and ovens are located, which will be left empty for opening of the wall to the dining room (by separate contractor). The alcove will be converted into a pantry cabinet. The center island will be replaced. The cook-top and ovens will be replaced with an oven/range on the opposite side of the kitchen, with a stainless steel vent hood. See attached plan.

### **ANALYSIS:**

Bids are currently being solicited for the Project. Staff determined from previous experience that a sealed competitive bidding process would not work well for this size and type of work. The primary reason is that considerable discussion and negotiation with several contractors is needed to refine the scope of work in order to obtain bids from three contractors for the same scope of work.

Staff solicited from knowledgeable members of the community and local home developers to determine several recommended qualified contractors from which to obtain bids. Staff is having difficulty having recommended qualified contractors provide detailed proposals for the work in a timely fashion. This is primarily because the better contractors are very busy.

Several bids have been received, but still require more negotiation to assure the scope is correct, and that all bidders are bidding the same scope of work.

### Flooring

The scope of work changed based on installing laminate flooring instead of carpeting and removing carpeting from the spa room. The low bid when previously approved was slightly below \$11,000, with an indication that laminate would be equivalent. However, the re-negotiated scope of work for laminate, and more floor area, resulted in a low bid of \$15,936. Based on the recommendation of several flooring contractors, staff recommends that hardwood floors be installed instead of laminate floors. The current low bid for hardwood floors is \$21,995. A 10% contingency of \$2,200 is recommended to cover possible re-nailing and subfloor repairs that may be required, for a total flooring authorization of \$24,195.

Four bids were received for the Flooring Project as follows:

<u>CONTRACTOR</u>	<u>BID</u>
Next Level	\$21,995
Floor Effects	\$26,400
Heywood & Sons	\$29,880
Stuart Floors	\$30,390

### Kitchen

The estimating contractor was allowed to prepare a bid based on his plan, understanding that the plan would be used to solicit bids from other contractors as well. The current estimate is for \$60,000. Staff is currently soliciting proposals from kitchen contractors, and has received one proposal for \$68,000 that needs to be renegotiated (it included some repairs and flooring not included in the original estimate, but included in other contracts). A 20% contingency of \$12,000 is recommended to allow for estimating variables, minor revisions and unanticipated conditions that may be experienced once the existing cabinets are removed. It may be advisable to remove some repair items from other

The above contracts are anticipated to need to be awarded before the May City Council meeting in order to meet an anticipated July move-in date. Staff recommends that the City Council approve award of contracts to the low bidder after the requisite three bids are received from qualified contractors, not to exceed the above amounts.

Staff also recommends that the City Council approve the use of informal written competitive bid procedures (per Municipal Code Section 3.16.100.C) for those contracts that are above \$15,000. These procedures would be used instead of competitive sealed bidding under Municipal Code section 3.16.110 (7) because the public interest requires dispensing with competitive sealed bidding, in accordance with the exception contained in Municipal Code Section 3.16.150, in order to negotiate matching scope and terms from no less than three bidders.

**FISCAL IMPACT:**

Parcel Tax funds in the amount of \$100,000 was budgeted for this project in FY 2007-08. The mid-year budget adjustment added \$100,000 to the budget from Parcel Tax funds, for a total budget of \$200,000. Bids will be received for the project during the month of April 2008 for up to \$82,000 with a contingency of \$14,200 for a total authorization of \$96,200.

In summary, the project budget will be used for the following items:

	<u>Proposal</u>	<u>Contingency</u>
Tile Restoration	\$4,439 (completed)	0
Window Coverings	\$4,335 (soliciting bids)	0
Kitchen Appliances	\$10,000 (estimate)	0
HVAC repairs	\$4,875 (underway, bid)	0
Painting	\$17,050 (underway, bid)	\$4,950
Electrical	\$18,000 (underway, est.)	\$1,800
Repairs	\$25,000 (soliciting bids)	\$2,500
Flooring	\$21,995 (four bids)	\$2,200
Kitchen	<u>\$60,000</u> (soliciting bids)	<u>\$12,000</u>
	\$175,694	\$23,450
Contingency	<u>\$23,450</u>	
TOTAL	\$199,194	

Anticipated savings on lower bids or unused contingency will allow expenditure on other miscellaneous minor items, repairing the house alarm system, plumbing repairs, replacing smoke

detectors, toilets (with low-flow units), bath fixtures, shower enclosures, lights and ceiling fans (the home is not air-conditioned), as well as a thorough top-to-bottom/inside-outside cleaning of the house once all the contractors are finished.

Additional budget will be proposed for FY 2008-09 for further upgrades considered to be needed to the house, including repairs not accomplished under the \$25,000 repair contract, repair of the rear patio or replacement with a deck/patio combination, refinishing or replacement of the concrete walkways and painting the exterior of the house. Estimates are currently being obtained for various levels of upgrade for each of these items. These estimates will be brought to the Park and Recreation Commission and the Facilities Committee for recommendation of an appropriate expenditure on each, to be included in the budget for next year.

Prepared By:

Approved:

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Duncan L. Jones, P.E.  
Public Works Director

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Jerry Gruber  
City Manager

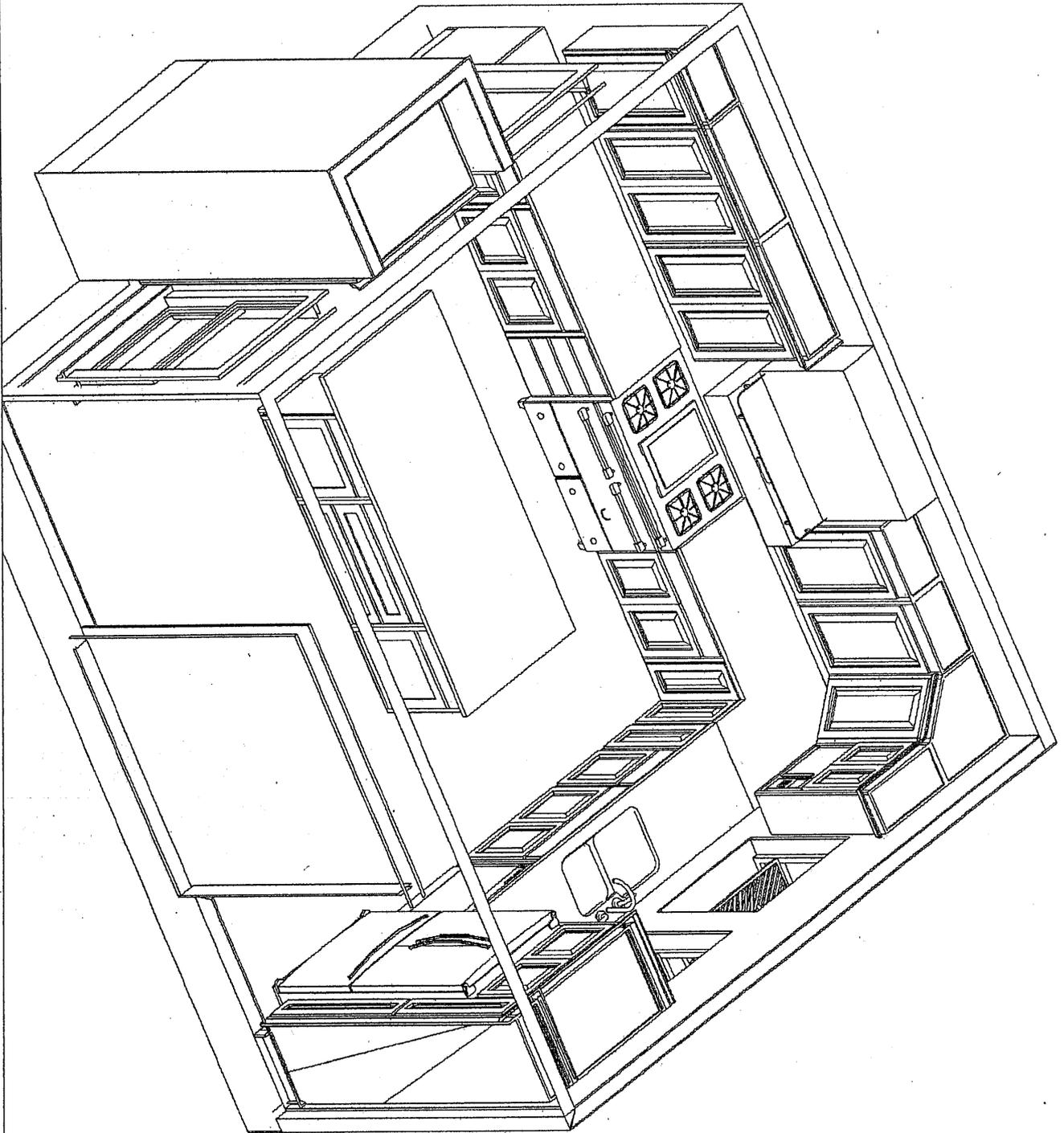
Attachment: Kitchen Plan

3/6/08 Jean,

My best guess for removal of existing soffit, patch ceiling and walls, new cabinets per design, installation of cabinets and countertops: \$60K

John Beeley

DOES NOT INCLUDE: Permits, appliances, appliance assembly, plumbing fixtures, electrical modifications, lighting, plumbing/gas modifications, flooring, paint-ready wall texturing or finishing, painting, disposal of appliances or hazardous materials



Extras could include: cabinet embellishments (like mouldings, glazing, stacking cabinets to ceiling), second sink, window replacement, widen doorway, new exhaust vent through (tile) roof (versus use existing roof vent on far side of kitchen).

**Kitchen-tune-up**

Mountain View, CA  
(650) 940-9210

License # 709202

This rendering is an approximate representation. Dimensions, locations, layout and components are approximate. Plan is provided as a service to our customers only and cannot be copied unless applicable fee has been paid.

Plan For

Holbrook-Palmer House  
160 Watkins Ave, Atherton  
Jean Cordona 650-752-0534

Revision: 2a

Date: 3 - 3 - 1  
File: Holbrook-Pal



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER**

**FROM: NEAL J. MARTIN, TOWN PLANNER**

**DATE: FOR THE MEETING OF APRIL 16, 2008**

**SUBJECT: APPOINTMENT OF AD HOC COUNCIL SUB-COMMITTEE REGARDING  
THE 2007-14 HOUSING ELEMENT UPDATE**

**RECOMMENDATION:**

Appoint Mayor Janz and Vice Mayor Carlson as the Ad Hoc City Council Sub-Committee to provide guidance and oversight to Staff and consultants during the 2007-14 Housing Element Update process.

**BACKGROUND AND DISCUSSION:**

State law requires all cities and counties within the Bay Area to adopt an update of their General Plan Housing Elements by June 30, 2009. In order to meet that deadline, Staff is preparing a Scope of Work and a schedule for completion of various components of the process. Work on the project will need to begin in the near future. Staff is requesting the formation of an ad hoc City Council Sub-Committee to provide guidance and oversight of the Staff and consultant work and draft work products during the Update process. Mayor Janz and Vice Mayor Carlson have expressed interest in serving on this sub-committee. When the Housing Element Update process is completed the sub-committee can be dissolved.

**FINANCIAL IMPACT:**

The costs for the 2007-14 Housing Element Update Project will be included in the proposed 2008-09 Atherton Budget. There will be no additional costs associated with the Ad Hoc City Council Sub-committee.

Prepared by:

Approved by:

/s/ Neal J. Martin  
Neal J. Martin  
Town Planner

\_\_\_\_\_  
Jerry Gruber  
City Manager



## Town of Atherton

### CITY COUNCIL STAFF REPORT

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
JERRY GRUBER, CITY MANAGER

**FROM:** DUNCAN L. JONES, PUBLIC WORKS DIRECTOR

**DATE:** FOR THE MEETING OF APRIL 16, 2008

**SUBJECT:** APPROVAL TO PARTICIPATE IN REQUEST FOR  
PROPOSAL FOR JOINT PROCUREMENT OF STREET  
SWEEPING SERVICES

#### **RECOMMENDATION:**

Approve participation in a request for proposal for joint procurement of street sweeping services.

#### **INTRODUCTION:**

Under our current Municipal Regional Permit (MRP) the Town of Atherton is required to sweep our streets annually before the winter rains and during the winter when significant storm debris is on the roadways. Additionally, we are required to sweep streets with gutters monthly. Currently, Allied Waste provides the monthly sweeping, and the Town contracts on a competitive bid basis each time we require town-wide sweeping services.

The new MRP currently in the final process and anticipated to be implemented this summer will require more frequent sweeping of all streets. Allied waste does a poor job, despite repeated admonishment from our Publics Works Superintendent. As an extreme example, the same debris has been evident on Alameda de las Pulgas for several months, despite Allied Waste's claim that it has been swept. The new MRP will have standards and reporting requirements that Allied Waste will probably not be able to meet.

The City of San Mateo has taken the lead in preparing a Request for Proposals (RFP) for Joint Procurement of Street Sweeping Services. Currently six cities (Brisbane, Daly City,

East Palo Alto, Foster City, San Carlos and San Mateo) are considering participating, in addition to Atherton. The cities have met to discuss the RFP, draft the RFP and develop criteria for each city. The RFP is ready to issue and requires affirmation from each city that they are willing to participate.

**ANALYSIS:**

A joint procurement contract will potentially provide reduced costs per lane mile because the contractor will be bidding for all services from seven cities for a two-year period. In addition, staff time will be saved by having an on-call sweeper for a two-year period instead of bidding each time. And finally, the joint procurement contract provides very stringent specifications for the sweeping services that will guarantee a better result than we currently get from allied Waste.

Upon receipt of the proposals, the cities will have the option to enter into the contract for services or to reject all bids and exclude themselves from the joint procurement process. The initial contract will cover only the sweeping we are currently required to perform, but will allow an increase in sweeping frequency based on the requirements of the new MRP.

**FISCAL IMPACT:**

The cost to participate in the RFP is \$1000 to cover the cost of preparation of the RFP and the bid process. The \$1000 will be from NPDES funds.

Currently, annual sweeping is performed under our streets and storm drains operations budget, and monthly sweeping is charged to refuse collection by Allied Waste. The cost of the joint procurement contract sweeping services will be covered by NPDES fees for the first year, with a portion covered by our annual AB1546 grant. After the first year, it is anticipated that a mechanism will be in place to fund the services through alternative funding sources, including AB 1546, increased NPDES fees, refuse collection fees, other grant programs or other fees.

Prepared By:

Approved by:

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Duncan L. Jones, P.E.  
Public Works Director

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Jerry Gruber  
City Manager

Attachments: Request for Proposal

# Request for Proposal

Joint Procurement of

## **STREET SWEEPING SERVICES**

for the

*Cities of Brisbane, Burlingame, Daly City, East Palo Alto, San Carlos, Foster City, San Mateo, and the Town of Atherton*

**PROPOSAL DUE: 5:00 PM, Tuesday June 3, 2008 date to be determined**

**Return Proposal to:**

Mr. Larry Patterson  
Director of Public Works  
City of San Mateo  
330 West 20<sup>th</sup> Avenue  
San Mateo, CA 94403

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SECTION 5	GENERAL REQUIREMENTS
SECTION 6	CONTRACTORS QUALIFICATIONS AND REFERENCES
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SECTION 8	INSURANCE FORMS
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ENCLOSURE 1: (CD-ROM)	ROUTES, PARKING LOTS AND SCHEDULES
	1. TOWN OF ATHERTON
	2. CITY OF BRISBANE
	3. CITY OF DALY
	4. CITY OF EAST PALO ALTO
	5. CITY OF FOSTER
	6. CITY OF SAN CARLOS
	7. CITY OF SAN MATEO

## **SECTION 1 SUBMITTAL REQUIREMENTS**

### **1.01 GENERAL DESCRIPTION**

This request for proposals is for the street sweeping services in the Town of Atherton, and the Cities of Brisbane, Daly City, East Palo Alto, Foster City, San Carlos and a portion of San Mateo. These cities are the participating agencies in a joint procurement for the street sweeping services. Contractors can submit proposals for street sweeping in any or all of these cities. Cost proposals and unit prices are requested for each participating agency.

Selected Contractor(s) will be invited to enter into separate agreements with each participating agency based on their response to this request for proposal. The participating agencies have created and agree to use the agreement provided in Section 6 of this Request for Proposals.

### **1.02 SUBMITTAL REQUIREMENTS**

The Contractor shall complete and submit all **blue forms** included in this a proposal package that includes the followingas follows:

- COST PROPOSAL SCHEDULES (SECTION 2) - one for each pParticipating aAgencyies
- CONTRACTORS QUALIFICATIONS AND REFERENCES (SECTION 5)
- INSURANCE FORMS (SECTION 7)
- CONTRACTORS CERTIFICATIONS (SECTION 8)

Contractor shall also sign and submit copies of any addenda to this Request for Proposal issued after its release. Failure to meet these submittal requirements may be considered grounds for rejection of the proposal.

### **1.03 PRE-PROPOSAL MEETING**

A mandatory pre-proposal meeting will be held at the City of San Mateo City Hall, 330 W. 20<sup>th</sup> Avenue at 1:300 PM on May 14, \_\_\_\_\_, 2008 in Conference Room C at the City of San Mateo City Hall, 330 W. 20<sup>th</sup> Avenue, San Mateo.

Contractors must attend the pre-proposal conference to be eligible to submit a proposal in response to this Request for Proposals. Subsequent to the pre-proposal meeting, questions regarding the request for proposals shall be directed to Larry Patterson, Director of Public Works:

City of San Mateo  
330 W. 20<sup>th</sup> Avenue  
San Mateo CA 94403  
p 650-522-7303  
f 650-522-7301  
e [lpatterson@cityofsanmateo.org](mailto:lpatterson@cityofsanmateo.org)

Questions and responses will be made available to pre-proposal conference attendees.

#### 1.04 DEADLINE FOR SUBMITTAL

Ten (10) copies of the proposal must be received by the City of San Mateo no later than 5:00 PM on Tuesday June 3, \_\_\_\_\_, 2008. Proposals received after the deadline for submittal will be rejected. Proposals shall be addressed as follows:

City of San Mateo  
Department of Public Works  
330 W. 20<sup>th</sup> Avenue  
San Mateo, CA 94403

ATTN:Larry A. Patterson  
Director of Public Works

#### **TIME SENSITIVE: STREET SWEEPING PROPOSAL**

Proposals may be mailed or hand-delivered. Hand-delivered proposals shall be delivered to the Department of Public Works, City of San Mateo City Hall, 330 West 20<sup>th</sup> Avenue, San Mateo.

#### 1.05 EVALUATION OF PROPOSALS

Proposals will be evaluated based on the information outlined in Section 1.02: "Submittal Requirements." Proposal price alone will not be the sole determining factor in the selection of the contractor for this work. Each participating agency will consider the proposed costs for all proposal items identified herein together with the contractor qualifications and references to form the basis for its selection decision. The participating agencies reserve the right to reject any and all proposals determined to be non-responsive to this Request for Proposals.

The Request for Proposals provides a joint procurement process for sweeping services. Proposals will be reviewed by a selection committee comprised of representatives from

participating agencies. The selection committee will make a recommendation regarding the selection of one or more contractor to provide sweeping services to the participating agencies. Selected contractor(s) will be asked to enter into separate agreements with each participating agency. Each participating agency will review the contractor proposals and selection committee recommendation and will make an independent decision regarding whether to enter into a contract for sweeping services. Selected contractor(s) will be asked to enter into separate agreements with each participating agency. The draft agreement that will be used by all participating agencies is provided in request for proposal Section 7, "Sample Agreement for Professional Services". Agreements with the selected contractor(s) may be subject to approval by the City/Town Council of each participating agency.

END OF SECTION

## SECTION 2 SCOPE OF WORK AND DEFINITIONS

### 2.01 SCOPE OF WORK

The Contractor shall furnish all labor, tools, shop facilities, equipment, and materials and perform all work necessary to provide street sweeping services as described in this Request for Proposals. The work to be performed consists of sweeping, either mechanically or by hand, all designated improved public streets (including curb returns and median islands), parking lots and paved areas within each city as described on the Compact Disk (CD-ROM) which accompanies this Request for Proposals as Enclosure 1 and is available in hard-copy format upon request. Frequency of sweeping shall comply with the schedule described in Enclosure 1 for each participating agency and as described in Section 2.05, *Schedule for Work*. Generally, the work shall be defined as follows:

- a. City Parking Lots– Sweeping of all designated agency parking lots at the frequency outlined in Enclosure 1. Sweeping shall include the paved parking area including areas behind wheel stops and internal pedestrian paths. Parking lot sweeping shall be performed between the hours of 12:00 Midnight and 8:00 AM unless otherwise specified in Enclosure 1. Frequency of parking lot sweeping shall be weekly unless otherwise specified in Enclosure 1. Each participating agency has provided maps and instructions for performance of parking lot sweeping in their city, if required. Copies of these instructions are included in the CD-ROM included with this Request for Proposals as Enclosure 1.
- b. Hand-Sweeping/Vacuuming - Contractor shall remove all visible debris along curbs and medians. Specific areas such as some cul-de-sacs, may require hand sweeping of the corners or have situations where debris must be vacuumed into the sweeper. Compensation for hand-sweeping/vacuuming shall be considered as included in the scope of work for basic sweeping service, and no separate payment will be made therefore.
- c. Scheduled Machine Street Sweeping - Regular machine sweeping of streets listed for each participating agency shall be accomplished in accordance with the routes and schedules provided in Enclosure 1. Routes and sweeping schedules shall not be modified without prior written approval by the participating agency. Sweeping shall include both outside gutter area and median curb areas unless otherwise specified for a participating agency in Enclosure 1.

d. Bridges/Overpasses

Contractor shall sweep shoulders and medians located on any bridges or overpasses located in each city and as shown for each participating agency in Enclosure 1. Sweeping frequency shall be as specified for the street approaches unless otherwise specified in Enclosure 1.

All deposits of dirt, rock, glass, cans, leaves, sticks, papers, or any like materials within the areas to be swept within the terms of this contract and of a size which can be practically removed by mechanical sweeping or hand-sweeping operations shall be removed and disposed of in a manner and at a location approved by the participating agency.

2.02 DURATION OF CONTRACT

The initial contract period for the street sweeping services shall be from July 1, 2008 to June 30, 2010, a twenty four (24) month period. The contract may be renewed subject to successful completion of the initial contract term, in up to three (3) one-year (12 month) increments. The contract shall terminate if not extended. A participating agency shall provide written notice to Contractor of intent to extend the contract at least 90 calendar days prior to the expiration date of the contract. Contractor shall provide at least 90 calendar days written notice prior to the expiration date of the contract of intent to terminate the agreement at the end of the current contract term.

2.03 DEFINITIONS

a. Basic Sweeping Services

Basic Sweeping Services shall be defined as the work required to mechanically sweep, hand sweep or vacuum all routes and parking lots within the participating agency as defined in Enclosure 1 of this Request for Proposal at the frequency specified in Enclosure 1 excluding any additions, deletions or extra work.

b. Curb Mile

Curb Mile shall be defined as the distance the machine sweeper travels with an effective sweeping width of eight (8) feet from the curb face along an improved street.

c. Emergency Extra Work

Emergency Extra Work is defined as work outside of Basic Sweeping Services that requires Contractor response within 2 hours or less. Emergency Extra Work items may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year, in an emergency timeframe.

d. Holidays

Holidays shall include New Years Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day.

e. Participating Agencies

The agencies participating in this joint procurement of contract street sweeping services are the Town of Atherton and the cities of Brisbane, Daly City, East Palo Alto, Foster City, San Carlos and portions of the City of San Mateo.

f. Refuse

All deposits of dirt, rock, glass, cans, leaves, sticks, papers, or any like materials within the areas to be swept within the terms of this contract and of a size which can be practically removed by mechanical sweeping or hand-sweeping operations shall be removed.

g.f. Scheduled Extra Work

Scheduled Extra Work Items is defined as work outside of Basic Sweeping Services that may include but are not limited to correcting damages due to accidents, vandalism, acts of God, spillage, sandblasting, paving preparation, and undesignated special events, which may require sweeping services during the year. Scheduled Extra Work shall be completed within 48 hours of notice by the participating agency unless otherwise agreed.

h.g. Sweeping Rate

Sweeping Rates provided in Section 2, "Cost Proposal Schedule" shall include equipment, operator, overhead costs and direct expenses for providing sweeping services.

## 2.04 SCHEDULE FOR WORK

Contractor shall sweep streets, parking lots and paved areas listed or described for each participating agency in accordance with their, "ROUTES AND SCHEDULES" routes and schedules provided in digital form in Enclosure 1 and available in hard copy upon request from the City of San Mateo, Department of Public Works, 330 W. 20<sup>th</sup> Avenue, San Mateo, California 94403.

No machine street sweeping shall be performed on holidays unless requested as extra work. Sweeping shall not be performed during rainstorms, when there is running water in the gutter or street, or for any other reason sweeping is impractical as determined by the participating agency. Normal working days on which no work is performed constitute reductions as defined in Section 4.01 "Payment – Basic Sweeping Services."

\* END OF SECTION \*



**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**A. TOWN OF ATHERTON**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	



**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**B. CITY OF BRISBANE**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	



**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**C. CITY OF DALY CITY**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	



**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**TY OF EAST PALO ALTO BURLINGAME**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	



**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**E. CITY OF FOSTER CITY**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	



**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**F. CITY OF SAN CARLOS**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	

**NO BID**

Check this box **ONLY** if you **DO NOT** wish to be considered for Basic Sweeping Services in this Participating Agency.

SECTION 3  
COST PROPOSAL SCHEDULE

**G. CITY OF SAN MATEO**

STREET SWEEPING SERVICES  
2-YEAR CONTRACT TERM  
NON PREVAILING WAGE

PROPOSAL ITEM No.	DESCRIPTION	ANNUAL QUANTITY	UNIT	UNIT PRICE	TOTAL ANNUAL AMOUNT
<b>I. Annual Sweeping Services</b>					
	Annual basic sweeping services based on the routes, parking lots and schedules defined in SECTION 1.052 of this Request for Proposals.	1	\$/Year	\$ _____	\$ _____
<b>II. Additions/Deletions – Curb Mile</b>					
	Sweeping rate per curb mile for additions or deletions to the basic sweeping services. Payment for quantity less than one mile shall be prorated.	3	\$/Mile	\$ _____	
<b>III. Additions/Deletions – Square Yards – Parking Lots</b>					
	Sweeping rate per square yard for additions or deletions to the basic street sweeping services.	3	\$/Sq. Yard	\$ _____	
<b>IV. Scheduled Extra Work</b>					
	Hourly sweeping rate for scheduled extra work (includes operator and sweeper).	3	\$/Hr.	\$ _____	
<b>V. Emergency Extra Work</b>					
<b>V.a</b>	Hourly sweeping rate for emergency extra work <b>during</b> normal business hours, including operator and sweeper. Normal business hours are from 8 AM to 5 PM, weekdays excluding weekends and holidays.	3	\$/Hr.	\$ _____	
<b>V.b</b>	Hourly rate for emergency extra work <b>outside of</b> normal business hours, including operator and sweeper.	3	\$/Hr.	\$ _____	

Notes:

1. Proposal price alone will not be the sole determining factor in the selection of the contractor for this work. Each participating agency will consider the proposed costs for all proposal items identified herein together with the contractor qualifications and references to form the basis for its selection decision.
2. Proposals may be submitted for one, multiple or all participating agencies.
3. All cost proposal schedules must be returned.
  - a. All cost proposal schedule items must be completed for a participating agency if the Contractor wishes to be considered for basic sweeping services in that participating agency.
  - b. Contractor shall check the box labeled "NO BID" on the cost proposal schedule for those participating agencies in which the Contractor does not wish to be considered for basic sweeping services. All cost proposal schedule items shall be left blank if the "NO BID" box is checked.
4. A Contractor will not be considered for additions, deletions or extra work in participating agencies for which he/she does not provide basic sweeping services.
5. Proposals shall be valid for 90 days from RFP due date.

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Authorized Signature

\* END OF SECTION \*

## **SECTION 4 COMPENSATION**

### **4.01 PAYMENT – BASIC SWEEPING SERVICES**

The Contractor shall provide all work necessary to conduct basic sweeping services as defined in this request for proposals. Compensation for this work shall be made monthly based on 1/12th of Contract Item I: “Annual Sweeping Services”, as listed in the Section 2: “Cost Proposal Schedule” plus and additions or deletions. Payment for additions and reductions for deletions shall be prorated based on the number of days within the month for which the work covered under the addition or deletion was performed.

### **4.02 PAYMENT - EXTRA WORK**

#### **A. Scheduled Extra Work**

For Scheduled Extra Work Items, the Participating Agency will inform the Contractor of the need. The contractor will be provided up to forty-eight (48) hours to complete the extra work unless otherwise agreed. Compensation for Scheduled Extra Work as defined in Section 1.04: “Definitions” of this Request for Proposal shall be based on Item IV: “Scheduled Extra Work” of Schedule 2: Cost Proposal Schedule.

A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for the Scheduled Extra Work. No additional compensation shall be given for travel time to the Scheduled Extra Work site.

#### **B. Emergency Extra Work**

Emergency Extra Work performed during normal business hours shall be compensated based on Item Va of the Cost Proposal Schedule. Emergency Extra Work performed outside of normal business hours (5 PM – 8 AM), weekends and holidays shall be compensated based on Item Vb of the Cost Proposal Schedule.

A separate itemized invoice, indicating the actual hours spent on-site, shall be prepared for the Emergency Extra Work. No additional compensation shall be given for travel time to the Emergency Extra Work site.

### **4.03 ALL OTHER WORK**

All other work included in these specifications, unless identified as “Scheduled Extra Work” or “Emergency Extra Work”, shall be deemed ancillary to the work

covered by proposal Item I of the Cost Proposal Schedule, and no additional compensation shall be granted.

#### 4.04 PROGRESS PAYMENTS

Separate invoices will be required for each participating agency for which the Contract performed sweeping services during the month. Invoices for all services provided in the previous month should be submitted by the fifth of the month to the contact person designated by the participating agency. If, in the opinion of the participating agency, all services have been provided in a timely and competent manner, full payment for basic sweeping services adjusted for approved additions and deletions shall be made within thirty (30) days after receipt of invoices. Scheduled and Emergency Extra Work shall be invoiced concurrent with the invoice for basic sweeping services. Payment for approved Scheduled Or Emergency Extra Work completed during the previous month shall be made within 30 days of receipt of the invoice.

#### 4.04 ANNUAL ESCALATION

At the end of the initial twelve months of the contract period, and each anniversary thereafter for the duration of the contract, the rates on the COST Proposal Schedule oOn Section 2 may, upon Contractor or participating agency or Contract Administrator request, be increased or decreased in direct proportion to the increase or decrease in the Consumer Price Index (CPI). The most recent CPI for October – October San Francisco/Oakland area for all urban wage earners shall be used. The Contractor shall submit to the participating agency a revised Cost Proposal Schedule and supporting CPI information for any requested changes prior to the beginning of a new contract year.a minimum of 120 days prior to the end of the current contract term.

\* END OF SECTION \*

**SECTION 5  
GENERAL REQUIREMENTS**

**5.01 SWEEPING LOG REQUIRED**

The Contractor shall submit a Weekly Sweeping Log to each participating agency for each city to the Contract Administrator by the Wednesday of the following week. The log shall include daily starting and ending odometer readings, cubic yards of material collected and type of sweeper used. A separate log shall also be used for any additional work items performed. A weekly statement template form will be provided by the Contract Administrator participating agency and may be modified at any time at the discretion of any of the cities participating in this RFP to comply with the that cities' Storm Water Discharge Permit.

**5.02 PAYMENT PENALTIES**

Attention is directed to the following contract provisions relating to payment penalties.

It is mutually agreed that timely and complete performance of all aspects of this contract is of extreme importance to all parties. By entering a contract for performance of all work called for in these specifications, the Contractor agrees to the following penalties as being appropriate and acceptable, and further agrees that such penalties will be deducted from funds otherwise due and payable to the Contractor.

1.	Failure to file the weekly statement as required in PARAGRAPH 4.01	Assess \$50/Day for each day late
2.	Failure to sweep required eight feet width from curb face as specified in PARAGRAPH 1.04b	Corresponding in payment reduction per PARAGRAPH 1.04b
3.	Callbacks as specified in PARAGRAPH 4.09	Assess \$100 per each callback

### 5.03 QUALITY OF WORK

The standards of performance, which the Contractor is obligated to perform hereunder, are those standards which are considered to be good street sweeping practices and which are subject to approval by each of the participating agencies in this Request for Proposals. Each participating agency may, at its discretion, conduct periodic audits to ensure the quality of work is in compliance with that agency's street sweeping specifications and expectations. Contractor shall not limit the number of times that the sweeper debris hopper is emptied for any given route in order to meet quality standards identified in this section.

### 5.04 HOURS OF SWEEPING

All scheduled machine street sweeping shall be performed only during the hours of 8:00 AM to 5:00 PM for day routes and during the hours of 10:00 PM to 7:00 AM for night routes unless otherwise established in Enclosure 1. Sweeping shall not be performed on weekends or on any holidays unless requested and authorized by the participating agency requesting such services.

### 5.05 EQUIPMENT

Contract work shall only be performed with equipment suitable to produce the quality of work identified in Section 5.03 "Quality of Work." All equipment shall be subject to the approval of each participating agency prior to use. All sweeping equipment shall have appropriate safety markings consisting of highway lighting, flashing and warning lights, clearance lights, and warning flags, all in accordance with the State Vehicle Code and approved by the Contract Administrator and each city participating agency.

The use of a steel plate on the sweeper wheel to prevent tire scuffing against the curb will not be permitted. Sweepers shall be limited to top or side dumps only, no end dumps are permitted unless approved by a participating agency.

The Contractor shall properly maintain sufficient working machine sweepers, in good condition and appearance, to be able to consistently meet the schedule requirements for all participating agencies as described in Enclosure 1.

- A. Sweepers shall comply with all local sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the contract or replaced with a sweeper which does meet the limits.
- B. The maximum noise level allowed is 85 dBA.

#### 5.06 DISPOSAL OF SWEEPING REFUSE

The Contractor must dump all debris swept from city streets in appropriate disposal areas or dumpsters. Dumpsters may be furnished by the participating agencies or designate authorized dumping sites will be defined. In any case, proper disposal of street sweeping debris is the responsibility of the contractor.

#### 5.07 WATER

The Contractor shall utilize adequate amounts of water to conduct street sweeping services. No dry sweeping shall be allowed unless authorized by the participating agency. The Contractor shall provide equipment with adequate air gap to prevent cross contamination of any cities' water system

#### 5.08 CALLBACKS

Whenever, in the opinion of a specific city, a section of street is inadequately swept, the Contractor shall, within 24 hours after notification, re-sweep the section in question and may, at the discretion of that city, forfeit as a penalty of one hundred dollars (\$100) for each time a street is inadequately swept. No additional payment will be made for callbacks as a result of inadequate sweeping.

#### 5.09 STORAGE OF EQUIPMENT

The Contractor must provide his own storage for equipment such as sweepers, brooms, tires, gas, oil and other required parts and materials. Contractor shall assume that storage of sweepers, equipment and supplies will not be provide by the participating agencies.

#### 5.10 SPEED OF VEHICLES

The Contractor shall operate the sweepers between four and five miles per hour when sweeping, unless it can be proven, to the satisfaction of the participating agency, that the sweeper can operate at a higher speed and still operate efficiently.

#### 5.11 INDIVIDUAL PARTICIPATING AGENCY RIGHTS

Each agency will:

- a. At its own discretion, reject any or all proposals or waive any informalitydeficiency in any proposals.

- b. Consider proposals for a period of up to 90 days following the time of receipt of proposal before deciding which proposal, if any, will be accepted.
- c. Increase or decrease the amount of work to be performed with no change in the unit price.
- d. Have emergency services performed by in-house labor forces or by a separate contractor as needed.
- e. Use video equipment to create public service spots for community awareness.
- f. Change hours of sweeping as necessary provided 48 hours advance notice is given.
- g. The Contractor shall provide, at the request of the participating agency, the capability for tracking sweeper location and speed using GPS hardware and software or other equivalent method. The cost of the required equipment and software shall be deemed ancillary to the work covered by proposal Item I of the Cost Proposal Schedule, and no additional compensation shall be granted. Require that each sweeper be equipped with Global Positioning System (GPS) equipment. However, the purchase of GPS hardware and vehicle tracking software by the contractor is not a requirement of this Request for Proposals.

#### 5.12 SUBCONTRACTING LIMITATION

The Contractor shall not subcontract any of the basic sweeping services without prior consent of the participating agency within which the subcontracted work will be performed.

#### 5.13 ASSIGNMENT OF CONTRACT

The contract shall not be assigned without written consent of the participating agency.

#### 5.14 EQUIPMENT IDENTIFICATION

The Contractor shall display on the side of the equipment being used within each participating agency, an agency logo for that agency. The logo will consist of the agency's existing emblem with the words, "contracted by" added to it. Each city participating in this RFP will furnish these signs. The signs are the property of the participating agency and shall be returned to that agency upon termination of the contract. Supplemental signage indicating the contractor's name or logo is permitted provided that it does not conflict with the agency sign.

- 5.15 STREET SWEEPING SCHEDULE

The schedule for specific streets and maps showing the area to be swept and existing routes are provided for each participating agency on the CD-ROM included with this Request for Proposals as Enclosure 1. The contractor is encouraged to improve and optimize the sweeping routes and schedules within the constraints for each participating agency. However, the schedule and routes for basic sweeping services may not be changed without the written approval of the participating agency for which the change is requested.

#### 5.16 ADDITIONS/DELETIONS

Each city reserves the right to add or delete curb miles and to increase or reduce the sweeping frequency called for in these specifications. The cost per curb mile for additions or deletions (Item II of the COST PROPOSAL SCHEDULE) will dictate the maximum increase that will be allowed for additional miles and/or for additional frequency. That amount will also dictate the minimum reduction in monthly cost for deletion of curb miles and/or decrease in sweeping frequency.

- 5.17 MEETINGS & NOTIFICATION

The Contractor shall attend street sweeping progress meetings with a representative of each participating agency city or the contract administrator on a monthly regular basis at a location to be designated as established by each participating agency. No additional compensation will be allowed the Contractor for meeting times.

- \* END OF SECTION \*

**SECTION 6  
CONTRACTORS QUALIFICATIONS AND REFERENCES**

Name of Contractor: \_\_\_\_\_

**THE CONTRACTOR SHALL COMPLETE THE FOLLOWING STATEMENTS (Attach additional sheets if required):**

1. The Contractor has been engaged in the contracting business, under the present business name for \_\_\_\_\_ years.
2. Experience in work of a nature similar to that covered in the proposal documents extends over a period of \_\_\_\_\_ years.
3. Name and explain any and all instances where satisfactory sweeping contract compliance or completion has not been achieved. The following maintenance contracts have been satisfactorily completed in the last three years for the persons, firms or authorities indicated:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	TYPE OF YEAR	CONTRACT WORK	LOCATION AMOUNT	AND FOR WHOM PERFORMED
(a)	_____	_____	_____	_____
(b)	_____	_____	_____	_____
(c)	_____	_____	_____	_____
(d)	_____	_____	_____	_____
(e)	_____	_____	_____	_____

5. The following person may be contacted for information concerning the contract work listed above (list a reference for each contract named):

	NAME/TITLE	ADDRESS	TELEPHONE
(a)	_____	_____	_____
(b)	_____	_____	_____
(c)	_____	_____	_____
(d)	_____	_____	_____
(e)	_____	_____	_____

6. Following is a list of plant and equipment owned by the Contractor, which is definitely available for use on the proposed work as required:

QUANTITY	NAME, TYPE, AND CAPACITY	CONDITION	LOCATION
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Attach additional sheets as necessary)

7. Attach a brief operational plan for delivering basic and emergency sweeping services to the participating agencies. The plan shall describe the number and type of sweepers that will be available to service the participating agencies for which proposals have been submitted. Allocation of sweeping equipment per participating agency shall be described. The number of full time operators including back-up personnel must be described. The operational plan must also describe how equipment maintenance will be provided and what provisions will be made for storing contractor equipment and supplies.

- 8. All of the above statements as to experience, financial qualifications, and available plant and equipment are submitted in conjunction with the proposal, as a part thereof and the truthfulness and accuracy of the information is guaranteed by the Contractor.

Signature of Contractor: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

- \* END OF SECTION \*

**SECTION 7**  
**SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

This Agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2008 by and between the (Town/City) of \_\_\_\_\_ hereinafter calle“d "PARTICIPATING AGENCY” and \_\_\_\_\_ hereinafter calle“d "CONTRACT”OR".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. That PARTICIPATING AGENCY desires to engage the CONTRACTOR to render certain professional services as enumerated in the REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008, a copy of which is attached hereto and incorporated by this reference;
- B. That CONTRACTOR is qualified to provide such services to the PARTICIPATING AGENCY and;
- C. That the PARTICIPATING AGENCY have elected to engage the services of CONTRACTOR upon the terms and conditions as hereinafter set forth.

AGREEMENT

- 1. Services. The services to be performed by CONTRACTOR under this Agreement shall include those services set forth in the REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008 is hereby made an obligation of CONTRACTOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in the REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008.

- 2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written. The initial term of this Agreement and shall be twenty-four (24) months. The contract may be renewed subject to successful completion of the

initial contract term, in up to three (3) one-year (12 month) increments. expire upon completion of performance of services hereunder by Contractor. (b) Notwithstanding the provisions of (a) above, any of the parties may terminate this Agreement without cause by giving written notice not less than thirty (30) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, the participating agency shall compensate Contractor for services rendered, and reimburse Contractor for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of the PARTICIPATING AGENCY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to the PARTICIPATING AGENCY hereunder.

3. Compensation; Expenses; Payment. PARTICIPATING AGENCY shall compensate Contractor for all services performed by Contractor hereunder in an amount based upon the COST PROPOSAL SCHEDULE included in the STREET SWEEPING MAINTENANCE STREET SWEEPING MAINTENANCE PROPOSAL dated \_\_\_\_\_2008 during the time of the performance of said services.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum \_\_\_\_\_ (\$\_\_\_\_\_ ) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses in writing by the PARTICIPATING AGENCY.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefore by Contractor to the PARTICIPATING AGENCY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed.

4. Additional Services. In the event thea specific PARTICIPATING AGENCY desires the performance of additional services not otherwise included within the services described in the REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008, such services shall be authorized in advance of the performance thereof by thea PARTICIPATING AGENCY, in writing. Such amendment to this Agreement shall include a description of the services to be performed there under, the maximum compensation and reimbursement of costs and expenses payable therefore, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.

5. Records. Contractor shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by Contractor hereunder. Said records shall be available to the PARTICIPATING AGENCY for review and copying during regular business hours at Contractor's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by all parties in the spaces provided below.
7. Reliance on Professional Skill of Contractor. CONTRACTOR represents that it has the necessary professional skills to perform the services required and the PARTICIPATING AGENCY shall rely on such skills of the CONTRACTOR to do and perform the work. In performing services hereunder Contractor shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by Contractor hereunder.
8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by Contractor pursuant to the terms of this Agreement, shall, upon preparation and delivery to the PARTICIPATING AGENCY, become the property of the PARTICIPATING AGENCY.
9. Relationship of Parties. It is understood that the relationship of CONTRACTOR to the PARTICIPATING AGENCY is that of an independent contractor and all persons working for or under the direction of CONTRACTOR are its agents or employees and not agents or employees of the PARTICIPATING AGENCY.
10. Schedule. Contractor shall adhere to the schedule set forth in the REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008.

Contractor acknowledges the importance to the PARTICIPATING AGENCY of the street sweeping project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. Contractor hereby agrees to defend, indemnify, and holdsave harmless each cityPARTICIPATING AGENCY, its Councils, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation including attorneys fees) of every nature, kind or description, which may be brought against, or suffered or sustained by, the PARTICIPATING AGENCY, its Councils, boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortious act or omission, or willful misconduct of CONTRACTOR, its officers, employees or agents in the performance of any services or work pursuant to this Agreement

or resulting from any breach by CONTRACTOR of its obligations under this Agreement.

This duty of CONTRACTOR to indemnify and hold save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONTRACTOR to indemnify the PARTICIPATING AGENCY, its Councils, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

12. Insurance. CONTRACTOR shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability, and professional liability insurance coverage relating to Contractor's services to be performed hereunder covering each city's risks in form subject to the approval by of that PARTICIPATING AGENCY's Attorney and/or Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease
Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to Contractor's vehicle usage in performing services hereunder)

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise acceptable to the PARTICIPATING AGENCY.

Concurrently with the execution of this Agreement, CONTRACTOR shall furnish the PARTICIPATING AGENCY with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to

evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- (a) Precluding cancellation or reduction in coverage before the expiration of thirty (30) days after the PARTICIPATING AGENCY shall have received written notification of cancellation or reduction in coverage by first class mail;
  - (b) Providing that 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 (cross liability endorsement);
  - (c) Providing that the insurer agrees to waive all rights of subrogation against the PARTICIPATING AGENCY, its elected or appointed officers, officials, agents and employees for losses paid under the terms of any policy which arise from work performed by the CONTRACTOR for PARTICIPATING AGENCY. This provision also applies to the CONTRACTOR'S Workers' Compensation policy.
  - (c) Naming the PARTICIPATING AGENCY, its Councils, officers, boards, commissions, employees, and agents, as additional insureds; and
  - (d) Providing that CONTRACTOR's insurance coverage shall be primary insurance with respect the PARTICIPATING AGENCY, its Councils, officers, boards, commissions, employees, and agents, and any insurance or self-insurance maintained by each city for itself, its Councils, officers, boards, commissions, employees, or agents shall be in excess of Contractor's insurance and not contributory with it.
13. WORKERS' COMPENSATION. CONTRACTOR certifies that he is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONTRACTOR certifies that he will comply with such provisions before commencing the performance of the work of this agreement.
14. NON-DISCRIMINATION. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONTRACTOR will take affirmative action to insure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including

apprenticeship. The CONTRACTOR shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336), which prohibits discrimination on the basis of disability by public entities. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by each city setting forth the provisions of this non-discrimination clause.

- 15. Notice. All notices required by this Agreement shall be given to the PARTICIPATING AGENCY and CONTRACTOR in writing, by first class mail, postage prepaid, addressed as follows:

PARTICIPATING AGENCY

Attention: [redacted]

CONTRACTOR: [redacted]

- 16. Non-Assignment. This Agreement is not assignable either in whole or in part.
- 17. Amendments. This Agreement may be amended or modified only by written agreement signed by all parties.
- 18. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 19. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
- 20. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement, and each party shall bear its own legal costs.
- 21. Conflict of Interest. CONTRACTOR may serve other clients, but none who are active within the PARTICIPATING AGENCY or who conduct business that would place CONTRACTOR in a "conflict of interest" as that term is defined in State law.

22. Entire Agreement. This Agreement, including REQUEST FOR PROPOSAL, STREET SWEEPING MAINTENANCE dated \_\_\_\_\_2008 comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf

## **SECTION 8**

### **INSURANCE FORMS**

CONTRACTOR shall provide Certificates of Insurance and original Endorsements affecting the coverages specified in PARAGRAPH 12 - INSURANCE of the Agreement on the attached forms.

#### **ATTACHED**

1. Certificate of Insurance
2. General Liability Endorsement
3. Automobile Liability Endorsement

**CERTIFICATE OF INSURANCE**

**CITY OF \_\_\_\_\_**

This certifies to the City of \_\_\_\_\_ (The Agency) that the following described policies have been issued to the Insured named below and are in force at this time.

Insured: \_\_\_\_\_

Address: \_\_\_\_\_

Description of operations/locations/products insured (show contract name and/or number, if any):  
 \_\_\_\_\_  
 \_\_\_\_\_

POLICIES AND INSURERS	LIMITS	POLICY NUMBER	EXPIRATION DATE
Workers' Compensation _____ (Name of Insurer) Best's Rating _____	Employers Liability \$ _____		
Check policy type: Comprehensive General Liability _____ or Commercial General Liability _____ _____ (Name of Insurer) Best's Rating _____ Claims-Made _____ or Occurrence _____	Comprehensive General Liability Each Occurrences \$ _____ Aggregate \$ _____ Commercial General Liability Each Occurrence \$ _____ General Aggregate either per project/location \$ _____ or twice occurrence limit \$ _____		
Business Auto Policy Liability Coverage Symbol _____ _____ (Name of Insurer) Best's Rating _____	Each Person \$ _____      Each Accident \$ _____ Each Accident, Property Damage \$ _____ or Combined Single Limit \$ _____		
Umbrella Liability _____ (Name of Insurer) Best's Rating _____ Claims-Made _____ or Occurrence _____	Occurrence/Aggregate \$ _____ Self Insured Retention \$ _____		

Note: If commercial general liability insurance is used or if aggregate limits are endorsed to the comprehensive general liability policy form, the general aggregate must apply per location/project or the aggregate limit must be at least twice the occurrence limit.

**Return completed certificate to: City of \_\_\_\_\_**

**ONLY THIS CERTIFICATE OF INSURANCE WILL BE ACCEPTED**

The following coverage or conditions are in effect:	Yes	No
The Agency, its officials, officers, employees and volunteers are named on all liability policies described above as insureds as respects: (a) activities performed for the Agency by or on behalf of the named insured, (b) products and completed operations of the Named Insured, and (c) premises owned, leased or used by the Named Insured.		
Products and Completed Operations		
The undersigned will mail to the Agency 30 days' written notice of cancellation or reduction of coverage or limits.		
Cross Liability Clause (or equivalent wording)		
Personal Injury, Perils A, B, and C		
Broad Form Property Damage		
X, C, U Hazards included		
Contractual Liability Coverage applying to this Contract		
Liquor Liability		
Coverage afforded the Agency, its officials, officers, employees and volunteers as Insureds applies as primary and not excess or contributing to any insurance issued in the name of the Agency.		
Waiver of subrogation from Workers' Compensation insurer.		

This certificate is issued as a matter of information. This certificate is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

\_\_\_\_\_  
Agency or Brokerage

\_\_\_\_\_  
Insurance Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Home Office

\_\_\_\_\_  
Name of Person to be Contacted

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Telephone Number

Note: Authorized signatures may be the agent's if agent has placed insurance through an agency agreement with the insurer. If insurance is brokered, authorized signature must be that of official of insurer.

**GENERAL LIABILITY ENDORSEMENT**

CITY OF \_\_\_\_\_ ("The Agency")

City Address

Attn: City Clerk

**A. POLICY INFORMATION**

Endorsement # \_\_\_\_\_

- 1. Insurance Company \_\_\_\_\_; Policy Number \_\_\_\_\_
- 2. Policy Term (From) \_\_\_\_\_ (To) \_\_\_\_\_; Endorsement Effective Date \_\_\_\_\_
- 3. Named Insured: \_\_\_\_\_
- 4. Address of Named Insured: \_\_\_\_\_
- 5. Limit of Liability Any One Occurrence/Aggregate  
\$ \_\_\_\_\_ / \_\_\_\_\_

General Liability Aggregate (check one):

Applies "per location/project" \_\_\_\_\_

Is twice the occurrence limit \_\_\_\_\_

- 6. Deductible or Self-Insured Retention (Nil unless otherwise specified):  
\$ \_\_\_\_\_

- 7. Coverage is equivalent to:

Comprehensive General Liability form GL0002 (Ed 1/73) \_\_\_\_\_

Commercial General Liability "occurrence" form CG0001 \_\_\_\_\_

Commercial General Liability "claims-made" form CG0002 \_\_\_\_\_

- 8. Bodily Injury and Property Damage Coverage is:

\_\_\_\_\_ "claims-made"

\_\_\_\_\_ "occurrence"

If claims-made, the retroactive date is \_\_\_\_\_

Note: The Agency's standard insurance requirements specify "occurrence" coverage. "Claims-made" coverage requires special approval. If commercial general liability form or equivalent is used, the general aggregate must apply separately to this location/project or the general aggregate must be twice the occurrence limit.

**B. POLICY AMENDMENTS**

This endorsement is issued in consideration of the policy premium. Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any other endorsement attached thereto, it is agreed as follows:

- 1. **INSURED:** The Agency, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, or (c) premises owned, leased or used by the Named Insured.

2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the Named Insured for or on behalf of the Agency; or (b) products sold by the Named Insured to the Agency; or (c) premises leased by the Named Insured from the Agency, the insurance afforded by this policy shall be primary insurance as respects the Agency, its elected or appointed officers, officials, employees or volunteers; or stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Agency, its elected or appointed officers, officials, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
  
3. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:
  - (1) Insurance Services Office form number GL 0002 (Ed. 1/73), Comprehensive General Liability Insurance and Insurance Services Office form number GL 0404 Broad Form comprehensive General Liability endorsement; or
  - (2) Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001 or "claims-made" form CG 0002; or
  - (3) If excess, affords coverage which is at least as broad as the primary insurance forms referenced in the preceding sections(1) and (2).
  
4. SEVERABILITY OF INTEREST. The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respects to the Company's limit of liability.
  
5. PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its elected or appointed officers, officials, employees or volunteers.
  
6. CANCELLATION NOTICE. The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail return receipt requested has been given to the Agency. Such notice shall be addressed as shown in the heading of this endorsement.

C. **INCIDENT AND CLAIM REPORTING PROCEDURE**

Incidents and claims are to be reported to the insurer at:

ATTN: \_\_\_\_\_  
 (Title) (Department)

\_\_\_\_\_  
 (Company)

\_\_\_\_\_  
 (Street Address)

\_\_\_\_\_  
 (City) (State) (Zip Code)

(\_\_\_\_\_) \_\_\_\_\_  
 (Area Code) (Telephone Number)

D. **SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER**

I, \_\_\_\_\_(print/type name), warrant that I have authority to bind the below listed insurance company and by my signature hereon do so bind this company.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature  
required on endorsement furnished to the Agency)

ORGANIZATION: \_\_\_\_\_ TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TELEPHONE: (\_\_\_\_) \_\_\_\_\_

**AUTOMOBILE LIABILITY ENDORSEMENT**

CITY OF \_\_\_\_\_ ("The Agency")

City Address  
Attn: City Clerk

- A. POLICY INFORMATION** Endorsement # \_\_\_\_\_
1. Insurance Company \_\_\_\_\_; Policy Number \_\_\_\_\_
  2. Policy Term (From) \_\_\_\_\_ (To) \_\_\_\_\_; Endorsement Effective Date \_\_\_\_\_
  3. Named Insured: \_\_\_\_\_
  4. Address of Named Insured: \_\_\_\_\_
  5. Limit of Liability Any One Occurrence/Aggregate \$ \_\_\_\_\_
  6. Deductible or Self-Insured Retention (Nil unless otherwise specified:) \$ \_\_\_\_\_
- 

**B. POLICY AMENDMENTS**

This endorsement is issued in consideration of the policy premium. Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any other endorsement attached thereto, it is agreed as follows:

1. **INSURED.** The Agency, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Agency, its elected or appointed officers, officials, employees or volunteers.
2. **CONTRIBUTION NOT REQUIRED.** As respects work performed by the Named Insured for or on behalf of the Agency, the insurance afforded by this policy shall: (a) be primary insurance as respects the Agency, its elected or appointed officers, officials, employees or volunteers; or (b) stand in an unbroken chain of coverage excess of the Named Insured's primary coverage. In either event, any other insurance maintained by the Agency, its elected or appointed officers, officials, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage to the Named Insured at least as broad as:
  - (1) Insurance Services Office form number CA 0001 (Ed. 1/78), Code 1 ("any auto") and endorsement CA 0025.
  - (2) If excess, affords coverage which is at least as broad as the primary insurance forms referenced in the preceding section (1).
4. **SEVERABILITY OF INTEREST.** The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the Company's limit of liability.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS.** Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its elected or appointed officers, officials, employees or volunteers.
6. **CANCELLATION NOTICE.** The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail return receipt requested has been given to the Agency. Such notice shall be addressed as shown in the heading of this endorsement.

C. **INCIDENT AND CLAIM REPORTING PROCEDURE**

Incidents and claims are to be reported to the insurer at:

ATTN: \_\_\_\_\_  
(Title) (Department)  
\_\_\_\_\_  
(Company)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_  
(City) (State) (Zip Code)  
(\_\_\_\_\_) \_\_\_\_\_  
(Area Code) (Telephone Number)

---

D. **SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER**

I, \_\_\_\_\_ (print/type name), warrant that I have authority to bind the below listed insurance company and by my signature hereon do so bind this company.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE (original)

ORGANIZATION: \_\_\_\_\_ TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TELEPHONE: (\_\_\_\_) \_\_\_\_\_

**SECTION 9**

**CONTRACTOR'S CERTIFICATIONS**

**CITY OF \_\_\_\_\_**  
**TO BE EXECUTED BY ALL CONTRACTORS AND SUBMITTED WITH COST**  
**PROPOSAL SCHEDULE**  
**STREET SWEEPING MAINTENANCE**

**Term of Contract: \_\_\_\_\_**

**CERTIFICATE OF NON-DISCRIMINATION**

On behalf of the contractor submitting this proposal, the undersigned certifies that there will be no discrimination in employment with regard to race, color, religion, sex, sexual orientation, or national origin; that all federal, state, and local directives and executive orders regarding non-discrimination in employment will be complied with; and that the principle of equal opportunity in employment will be demonstrated positively and aggressively.

\_\_\_\_\_  
CONTRACTOR'S SIGNATURE

**STATEMENT OF CONVICTIONS**

"I hereby swear, under penalty of perjury, that no more than one final, non-appealable finding of contempt of court by a Federal Court has been issued against me within the past two years because of failure to comply with an order of a Federal Court to comply with an order of the National Labor Relations Board."

\_\_\_\_\_  
CONTRACTOR'S SIGNATURE

**PREVIOUS DISQUALIFICATIONS**

"I hereby swear, under penalty of perjury, that the below indicated proposer, any officer of such proposer, or any employee of such proposer who has a proprietary interest in such proposer, has never been disqualified, removed or otherwise prevented from bidding on, or completing a Federal, State, or local government project because of a violation of law or a safety regulation except as indicated on the separate sheet attached hereto entitled "Previous Disqualifications." If such exceptions are attached, please explain the circumstances.

\_\_\_\_\_  
CONTRACTOR'S SIGNATURE

**CERTIFICATION OF WORKER'S COMPENSATION INSURANCE**

By my signature hereunder, as CONTRACTOR, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract.

\_\_\_\_\_  
CONTRACTOR'S SIGNATURE

Company Name \_\_\_\_\_

Signed by (printed) \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

\* END OF DOCUMENT \*