

CITY COUNCIL MEETING

AGENDA

7:00 PM - Tuesday, April 30, 2024
via Videoconference and In Person

PARTICIPATION: Members of the public may participate by being present at the Los Altos Council Chamber at Los Altos City Hall located at 1 N. San Antonio Rd, Los Altos, CA during the meeting. Public comment is accepted in person at the physical meeting location, or via email to PublicComment@losaltosca.gov.

RULES FOR CONDUCT: Pursuant to Los Altos Municipal Code, Section 2.05.010 "Interruptions and rules for conduct": Understanding that the purpose of the city council meetings is to conduct the people's business for the benefit of all the people, in the event that any meeting of the city council is willfully interrupted by a person or group of persons so as to render the orderly conduct of the meeting impossible, the mayor, mayor pro tem, or any other member of the city council acting as the chair may order the removal of the person or persons responsible for the disruption and bar them from further attendance at the council meeting, or otherwise proceed pursuant to Government Code Section 54957.0 or any applicable penal statute or city ordinance.

REMOTE MEETING OBSERVATION: Members of the public may view the meeting via the link below, but will not be permitted to provide public comment via Zoom or telephone. Public comment will be taken in-person, and members of the public may provide written public comment by following the instructions below.

<https://losaltosca.gov.zoom.us/j/81842755604?pwd=2QTxTrga5nU7S384SqmEi4IYFtVg17.1>

Telephone: 1-669-444-9171 / Webinar ID: 818 4275 5604 / Passcode: 660612

SUBMIT WRITTEN COMMENTS: Prior to the meeting, comments on matters listed on the agenda may be emailed to PublicComment@losaltosca.gov. Emails sent to this email address are sent to/received immediately by the City Council. Emails sent directly to the City Council as a whole or individually, and not sent to PublicComment@losaltosca.gov will not be included as a public comment in the Council packet.

Please note: Personal information, such as e-mail addresses, telephone numbers, home addresses, and other contact information are not required to be included with your comments. If this information is included in your written comments, they will become part of the public record. Redactions and/or edits will not be made to public comments, and the comments will be posted as they are submitted. Please do not include any information in your communication that you do not want to be made public.

Correspondence submitted in hard copy/paper format must be received by 2:00 p.m. on the day of the meeting to ensure distribution prior to the meeting. Comments provided in hard copy/paper format after 2:00 p.m. will be distributed the following day and included with public comment in the Council packet.

The Mayor will open public comment and will announce the length of time provided for comments during each item.

AGENDA

CALL MEETING TO ORDER

ESTABLISH QUORUM

PLEDGE ALLEGIANCE TO THE FLAG

REPORT ON CLOSED SESSION

CHANGES TO THE ORDER OF THE AGENDA

SPECIAL ITEMS

Introduction of Brock the Los Altos PD K-9 to the City Council and public

Proclamation recognizing May as Bike Month

Proclamation Recognizing May 5 - May 11, 2024 as Municipal Clerks Week

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Members of the audience may bring to the Council's attention any item that is not on the agenda. The Mayor will announce the time speakers will be granted before comments begin. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "The Brown Act") items must first be noted on the agenda before any discussion or action.

[04-30-2024](#) Written Public Comments

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Council or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Mayor.

- [1.](#) Approve the Special and Regular Meeting Minutes for the Meeting of April 9, 2024
- [2.](#) Adopt Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G: Housing Mobility, and necessary amendments to comply with State law; and consideration of the City of Los Altos Planning Commission's March 21, 2024, recommendation with modifications and find that this ordinance is exempt from environmental review pursuant to

Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970

PUBLIC HEARINGS

- 3. 425 1st Street-Project Modification:** City Council Consideration of Modification Request of Approved Design Review Permit 18-D-06 and Subdivision 18-SD-04 for the property located at 425 First Street, Los Altos, CA. The Modification Request is to change the existing below market rate unit mix from one (1) low-income unit and two (2) moderate-income units to a proposed below market rate unit mix of three (3) low-income units and one (1) moderate-income unit. This project has already been approved and consideration of this item is limited to the requested modification for the below market rate unit mix. The proposed project modification request is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment

DISCUSSION ITEMS

- 4.** Discuss Los Altos Municipal Code Chapter 3.52 Public Art Fund and provide staff direction on potential ordinance amendments
- 5.** Discussion regarding updated Development Services – Development Impact Fees based on the completed Study by Matrix Consulting Group and provide staff direction on returning to the next possible City Council Meeting
- 6.** Create a process to select a representative to be on the Sourcewise advisory council

INFORMATIONAL ITEMS ONLY

There will be no discussion or action on Informational Items

- 7.** Tentative Council Calendar and Housing Element Update Implementation Calendar
- 8.** Legislative Update on AB43 (Traffic Safety)

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

ADJOURNMENT

(Council Norms: It will be the custom to have a recess at approximately 9:00 p.m. Prior to the recess, the Mayor shall announce whether any items will be carried over to the next meeting. The established hour after which no new items will be started is 11:00 p.m. Remaining items, however, may be considered by consensus of the Council.)

SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative

body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body.

If you wish to provide written materials, please provide the City Clerk with 10 copies of any document that you would like to submit to the City Council for the public record.

Melissa Thurman

From: Roberta Phillips <robertaphillips1@gmail.com>
Sent: Sunday, April 28, 2024 3:56 PM
To: Public Comment; City Council
Subject: [External Sender]Item #4 Council Meeting April 30, 2024 Public Comment/ Public Arts Fund

Dear City Council Members

Item #4 Titled " Los Altos Municipal Code Chapter 3.52 Public Art Fund " recommends that Council use the art funds for:

“the design, construction, operation and maintenance of art gallery space or cultural arts’ display, demonstration and performance space to be utilized by individuals and non-profit arts organizations for arts and cultural programming

And for"

funding the design, construction, operation and maintenance of cultural and arts’ facilities.”

This recommendation appears to allow Public Art Funds to be used to build the Theater downtown and maintain the facility.

The Community was told that no public money would be spent on building the theater, yet this proposed ordinance would allow this to happen. My expectations are that the funds to build a theater be raised privately as presented to the community.

I have my undergraduate degree and graduate degree in Art Education and support public funds to purchase and maintain top notch pieces of art. The funds would be depleted if used for buildings and not achieve the original intent

This item was not reviewed by the Parks, Arts ,Recreation and Cultural Commission and there was no time allowed for the residents to weigh in. What a shame.

The City of Livermore , which is referenced in the staff report has a population of 85,000 residents which allows for more than double the funds to be collected.

I urge the City Council to send this item to the Parks,Arts,Recreation and Cultural Commission for review and community outreach and input prior to changing the current ordinance.There is no rush, as a downtown theater is not a top priority for City Council or the community.

A Theater downtown is not a popular idea as demonstrated by several surveys . The Downtown Vision aimed to get more feet on the street to help businesses downtown. That is already happening due to the new housing being built in that location.

Sincerely

Roberta Phillips

Melissa Thurman

From: Bill Hough <psa188@yahoo.com>
Sent: Sunday, April 28, 2024 5:02 PM
To: City Council; Public Comment
Subject: [External Sender]public comment regarding item #4 on 4/30/2024 agenda

I oppose any changes to the Los Altos Municipal Code Chapter 3.52 as it relates to the Public Art Fund.

This is nothing more than a money grab to pay for a downtown theater. This item was not reviewed by the Parks, Arts, Recreation and Cultural Commission and there was no time allowed for public comment. The city needs to follow established procedure.

This item calls for "funding the design, construction, operation and maintenance of cultural and arts' facilities," which is a fancy way to say, "use public money for a downtown theater."

The Community was told that no public money would be spent on building the theater, yet this proposed ordinance would allow this to happen. Any downtown theater needs to be funded privately.

Bill Hough
Los Altos

Melissa Thurman

From: Monica Waldman <contact.mlw@gmail.com>
Sent: Monday, April 29, 2024 8:51 AM
To: Public Comment
Cc: Monica Waldman; Nancy Ellickson; City Council
Subject: [External Sender]Item #4 Council Meeting April 30, 2024 Public Comment/ Public Arts Fund

Dear City Council Members,

We are both former Chairs and two term members of the Los Altos Public Arts Commission. When the only two Los Altos Commissions funded through commercial development - Public Arts and Parks and Recreation - were combined, we feared it was an attempt to use those funds to rebuild the Los Altos Theater in downtown. We will remind you that Residents were promised by two Councils that no public funds would be used for the proposed project. We are concerned that this is now not the case and that you are re-directing these funds.

Recently, the City Council gave the green light to explore using Park-in-Lieu fees to build an underground parking lot with a park on top adjacent to where the theater is planned. And now the Los Altos Municipal Code Chapter 3.52 Public Art Fund is being considered to amend potential expenditures including "funding the design, construction, operation and maintenance of cultural and arts facilities." This is a clear money grab to funnel funds to the Los Altos Theater, a vanity project that a small minority in our City want. These dollars were not intended to be used in this way and were planned for the maintenance of our existing public arts assets that have fallen into disrepair—some of which were donated by prominent Los Altans. The fact that you are even considering re-directing these funds is a disgrace.

City Council members are voted into office to represent the people of Los Altos, not special interests. We urge you to reconsider changing the Public Arts guidelines - which were approved by two previous City Councils.

Nancy Ellickson
Monica Waldman

Melissa Thurman

From: Pat Marriot <patmarriott@sbcglobal.net>
Sent: Monday, April 29, 2024 11:13 AM
To: Public Comment
Subject: [External Sender]PUBLIC COMMENT ITEM #4 APRIL 30 2024

Council Members:

The proposal to use public art funds on “the design, construction, operation and maintenance of art gallery space or cultural arts’ display, demonstration and performance space to be utilized by individuals and non-profit arts organizations for arts and cultural programming; developing cultural programs or events for the enjoyment and appreciation of art, heritage, and culture within the Los Altos community; and, funding the design, construction, operation and maintenance of cultural and arts’ facilities.”

This is so broad a definition that I can easily imagine it being used to pay for an Iftar dinner next year under the guise of it being a “cultural program.”

One-percent for public art should NOT be used for “design, construction, operation and maintenance” of buildings or spaces. It’s meant for ART. What’s the point of having a building if there’s no art to go inside it.

Anyone could apply for a grant to host an “art” exhibit at a church or an art class at their home. This pot of \$433K will attract anyone and everyone to try to grab a chunk for their own personal project.

The really scary scenario under this vague definition of what “art” money can be used for is this: “Council would be able to direct these funds to go towards ‘developing cultural programs or events for the enjoyment and appreciation of art, heritage, and culture within the Los Altos community’ ...”

“Cultural” is difficult to define and separate from “religious” events. We’ve already seen how Mayor Weinberg was able to translate a religious event into a cultural event, so why should residents trust City Council to determine what the Los Altos Community will enjoy and appreciate?

Finally, the timing of this proposal suggests a majority of councilmembers – Mayor Weinberg, Vice Mayor Dailey and Councilmember Fligor – see this proposal as a way to transfer a nice chunk of public money to their theater friends.

Please convince me I’m wrong and leave the money where it is to be use for art, not buildings, not “culture.”

Respectfully,

Pat Marriott

Melissa Thurman

From: Anne Paulson <anne.paulson@gmail.com>
Sent: Monday, April 29, 2024 12:01 PM
To: City Council; Public Comment
Cc: Nick Zornes; Gabriel Engeland
Subject: [External Sender]April 30 Council Meeting, Item 5: Nexus report on impact fees

April 29, 2023

Dear Mayor Weinberg and Councilmembers,

As we update our nexus study, we must make sure our assumptions and our math are correct. I've noticed issues with the parks in lieu fee and the arts fee. I urge you to look closely at these fees, and instruct staff to correct them if necessary.

Parks in lieu fee

Just for information, this is what the new parks in lieu maximum would be if we use the nexus reports data for household size, park acreage and land costs. This calculation doesn't depend on the square footage of the homes.

| | |
|---|----------|
| Total park impact, per new person (from nexus report) | \$19,497 |
| People per multifamily unit, average | 1.91 |
| Proposed parks fee for average multifamily unit | \$37,239 |
| Current multifamily fee per unit | \$48,800 |
| People per house, average | 2.92 |
| Proposed parks fee for average house | \$56,931 |
| Current Single Family fee | \$77,500 |

The nexus study calculates the average size of a new multi-family home in Los Altos as 873 square feet (on page 13). I calculate the [average unit size](#) for recent developments (140 Lyell, 14 Fourth St, the three First Street condo projects, and 5150 El Camino) at around 1100 square feet; As those of you who have been Planning Commissioners probably know, unit sizes in Los Altos tend to be large. We should use the correct figure as the basis for calculation. A bigger unit size will mean a smaller fee per square foot, but will not mean that the typical condo will pay less—it merely means the typical condo is bigger.

The nexus study says that our population is 31,021, and we own 1.57 acres of parkland per 1000 people. That would mean we have 48.7 acres of park. But our actual park holdings are 44.18 acres of

owned parkland, and 1.27 acres of parkland we use but don't own (Montclair Park and Hetch Hetchy).

| Park | Acres |
|-------------------------|--------------|
| Community Plaza | 0.16 |
| Grant Park | 4.50 |
| Heritage Oaks Park | 5.33 |
| Hetch Hetchy Trail | 0.17 |
| Hillview Park | 6.63 |
| Lincoln Park | 4.44 |
| Marymeade Park | 2.47 |
| McKenzie Park | 4.30 |
| Montclair Park | 1.10 |
| Redwood Grove | 6.12 |
| Rosita Park | 5.00 |
| Shoup Park | 3.95 |
| Village Park | 0.78 |
| 647 N. San Antonio Road | 0.50 |
| Total | 45.45 |

Our “level of service” therefore is 44.18 acres of owned parkland, and we should lower the basis for the parks in lieu fee to 1.42 acres per person, which would lower the allowable fee per person and therefore the allowable fee per square foot for both multifamily and single family home, as shown below:

| | |
|--|---------------|
| Current population | 31021 |
| Current park acreage | 44.18 |
| Land in Los Altos/acre | \$12,100,000 |
| Current park acreage value | \$534,578,000 |
| Current park acreage, \$/person | \$17,233 |
| Parks and Rec Facility Costs for new residents (from nexus report) | \$425,266 |
| Parks and Rec Capital Costs for new resident (from nexus report) | \$444,660 |

| | |
|--|-------------|
| Expected new residents, from nexus report | 1939 |
| Parks and Rec Facility + Capital Cost per new resident | \$448.65 |
| Total cost per new resident | \$17,681.42 |
| Total cost per condo (1.91 people) | \$33,771.52 |
| Total cost per house (2.96 people) | \$52,337.02 |

Public Arts Fee

I reproduce the Public Arts fee justification here:



The following information is for your reference only. It is not intended to be used as a substitute for professional advice.

Just for information, the nexus study recommends that we continue our current fee, which as I understand it is 1% of construction hard costs. The inclusionary zoning report we paid for says that gross construction costs for multifamily housing are \$500/sq ft, which would mean net construction costs for a multifamily unit would be upwards of \$600/sq ft. So that means a 1000 sq ft condo would be paying \$6000 for the arts fee, which seems out of proportion to our other fees.

I see various issues here.

- Um, \$889K is not 1% of \$92 million? So on the report's own terms, we'd need to charge a lower fee than 1%.
- The arts fee is charged on multifamily units too, so their valuation should be included in the denominator here, making the allowable fee lower.
- What is the "valuation" here? At first I thought it was the value of all commercial property in Los Altos, but \$92M is much too low for that. If it's the value of FY 2023 commercial permits, that does not seem to be any basis for "level of service" to residents of Los Altos.
- I can't make out why the amount of money in the fund is used in this calculation. Shouldn't the calculation be the value of current public art divided by the value of commercial property in Los Altos?
- How do we justify charging this fee on ownership homes in multifamily buildings but not ownership homes on separate lots? If we're only charging commercial enterprises, condo buildings aren't commercial enterprises. If we're charging new homes, we should charge all new homes, not just new multifamily homes.

Conclusion

Please instruct staff to make sure our nexus study correctly calculates the maximum fees we are permitted to charge. Thanks.

Sincerely,

Anne Paulson

Melissa Thurman

From: Anne Paulson <anne.paulson@gmail.com>
Sent: Monday, April 29, 2024 8:07 PM
To: City Council; Public Comment
Subject: April 29, 2023 meeting, Item 3: 425 First Street Modification

Dear Mayor Weinberg and Councilmembers,

I urge you to take up Mr. Warmoth's offer to swap one Moderate Income deed-restricted unit for two Low Income units.

Deed-restricted Moderate Income ownership units are a bit strange, and somewhat risky for the buyer. The strangeness is the obvious—we're offering a subsidized housing unit to someone who earns **more** than the median income? A unit that would be theoretically available to more than half the population? That's a symptom of a deeply broken housing situation. But here we are. I wish that more people could afford to buy a home in our area, but they can't.

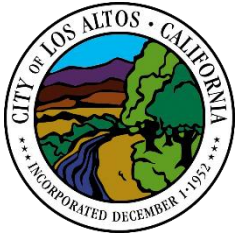
However, the riskiness is what I'm more concerned about. We would like a deed-restricted Moderate Income home to be a stepping stone for the buyer to eventually get a market rate home. But that's unlikely to happen, because the buyer doesn't get the appreciation when they sell. They have to sell to another Moderate Income buyer at a Moderate Income price.

One of two things is likely to happen, five, ten, fifteen years from now when our buyer decides to sell. First, housing prices could have skyrocketed. The buyer will be able to sell their home, but housing prices will be further away from them than ever, because they cannot gain the appreciation that a market rate buyer would have been able to enjoy.

I hope housing prices do not soar; I hope they stabilize, and it becomes possible for Moderate Income buyers to go out on the regular housing market and buy modest homes without any deed restriction, as they do in healthier housing markets now. But in that second case, in that future with the healthier housing market, our Moderate Income buyer, now a seller, of the 425 First Street unit is even worse off. Nobody will want to buy their home at anything near what they paid, because why should someone buy an encumbered home that requires income qualification when they could just submit an offer on another house and get it, without any extra rigmarole. Our Moderate Income buyer would be stuck with a home they can't sell, and the City would have a pointlessly deed-restricted unit in its inventory.

A Low Income buyer is not in the same predicament. They too won't get the appreciation from their home when they sell it, but their purchase price was low enough that their benefit is the monthly cost of their home, not the appreciation. And their purchase price is low enough that it is unlikely to be higher than the market rate price of a Los Altos condo in the foreseeable future, so they will have no trouble selling when the time comes. When they get a deed-restricted unit, they get a good deal.

For this reason, Low Income units are preferable, and the City should swap the one Moderate Income unit for the two offered Low Income units.



**CITY OF LOS ALTOS
CITY COUNCIL MEETING MINUTES
TUESDAY, APRIL 9, 2024
5:30 p.m.
1 N. San Antonio Rd. ~ Los Altos, CA**

Agenda Item # 1.

*Jonathan D. Weinberg, Mayor
Pete Dailey, Vice Mayor
Neysa Fligor, Councilmember
Lynette Lee Eng, Councilmember
Sally Meadows, Councilmember*

SPECIAL MEETING

CALL MEETING TO ORDER: Mayor Weinberg called the meeting to order at 5:30 p.m.

ESTABLISH QUORUM:

All Councilmembers were present and in person during the meeting.

DISCUSSION ITEM(S)

1. Receive report from staff exploring the possibility of a Downtown Park through design and community outreach and provide further direction, if necessary.

Anthony Carnesecca, Assistant to the City Manager, presented the report.

The following members of the public spoke regarding the item:

- Mehruss Ahi
- Terri Couture
- Scott Hunter
- Mel Kahn
- Chris Bryant

The City Council provided direction to staff regarding the item. No motion taken.

ADJOURNMENT – The meeting adjourned at 7:00 p.m.

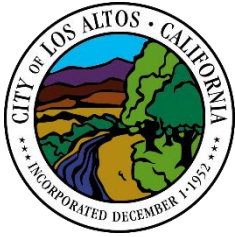
The meeting minutes were prepared by Melissa Thurman, City Clerk, for approval at the regular meeting of April 30, 2024.

Jonathan D. Weinberg,
Mayor

Melissa Thurman, MMC
City Clerk

The April 9, 2024 City Council Special Meeting recording may be viewed via the following external website: <https://www.youtube.com/@CityofLosAltosCA>

The City of Los Altos does not own or operate YouTube. The video referenced on these minutes were live at the time the minutes were published.



**CITY OF LOS ALTOS
CITY COUNCIL MEETING MINUTES
TUESDAY, APRIL 9, 2024
7:00 p.m.
1 N. San Antonio Rd. ~ Los Altos, CA**

Agenda Item # 1.

*Jonathan D. Weinberg, Mayor
Pete Dailey, Vice Mayor
Neysa Fligor, Councilmember
Lynette Lee Eng, Councilmember
Sally Meadows, Councilmember*

CALL MEETING TO ORDER – Jonathan D. Weinberg, Mayor, called the meeting to order at 7:00 p.m.

ESTABLISH QUORUM – All Councilmembers were present.

PLEDGE ALLEGIANCE TO THE FLAG – Sally Meadows, Councilmember, led the Pledge of Allegiance.

REPORT ON CLOSED SESSION

There was no reportable action taken for the Closed Session meeting of April 9, 2024 at 5:00 p.m.

CHANGES TO THE ORDER OF THE AGENDA

Motion by Meadows and Second by Weinberg to continue Item 11 on the agenda to a future meeting date. **Motion carried unanimously by roll call vote.**

SPECIAL ITEM

Recognition of Arab American Heritage Month

Jonathan D. Weinberg, Mayor, presented the proclamation to Nadiah Mshasha and Emad Ibrahim, owners of Dish Dash restaurant.

Recognition of Earth Day 2024

Jonathan D. Weinberg, Mayor, presented the proclamation to Sybil Cramer, Carl van Reis and Ben White, local representatives of various environmental associations.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

There were no speakers.

CONSENT CALENDAR

Lynette Lee Eng, Councilmember, requested to pull Items 4 and 5 of the Consent Calendar. **Jonathan D. Weinberg, Mayor**, moved Items 4 and 5 to after Item 8 on the agenda.

Motion by Meadows and Second by Dailey to approve Items 1, 2 and 3 of the Consent Calendar. **Motion carried unanimously by roll call vote for Items 1, 2 and 3 of the Consent Calendar.**

1. Approve the draft regular meeting minutes for the meeting of March 26, 2024

2. Authorize the City Manager to execute the Subdivision Improvement Agreement and approve Final Parcel Map for 14 Fourth Street
3. Adopt a Resolution approving the appointment of Sarina Revillar, a CalPERS Retiree, as Interim Finance Director to comply with Government Code Section 21221(h)

PUBLIC HEARINGS

6. **ADU Ordinance Amendments:** Introduce and Waive Further Reading of Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G: Housing Mobility, and necessary amendments to comply with State law; and consideration of the City of Los Altos Planning Commission's March 21, 2024, recommendation with modifications and find that this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970

Nick Zornes, Development Services Director, presented the report.

Jonathan D. Weinberg, Mayor, opened the Public Hearing.

The following members of the public spoke during the Public Hearing:

- Cindy Andrews
- Eric Steinle
- Jeff

Jonathan D. Weinberg, Mayor, closed the Public Hearing.

The City Council amended language in Section 14.14.050 Maximum Number of Units in the ordinance.

Motion by Fligor and Second by Meadows to introduce and waive further reading of Zoning Ordinance Text Amendments, as amended, which implement programs identified in the adopted housing element, Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G: Housing Mobility, and necessary amendments to comply with State law; and consideration of the City of Los Altos Planning Commission's March 21, 2024, recommendation with modifications and find that this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970. **Motion carried 4-1 by roll call vote with Councilmember Lee Eng opposed.**

The City Council took a recess at 9:00 p.m.

The City Council reconvened at 9:15 p.m.

DISCUSSION ITEMS

7. Program Modification and Recommendations for Tiny Tots Programs and Award Three-year Agreement with Children's Corner to operate Preschool-age Services

Manuel Hernandez, Parks and Recreation Director, presented the report.

The following members of the public spoke regarding the item:

- Benjamin McCann
- Marina Post

Motion by Weinberg and Second by Dailey to eliminate the city-run playschool program and sign a 3-year agreement with Children's Corner to operate a preschool-age program at the San Antonio Club facility as soon as terms of the agreement can be reached. **Motion carried 3-1-1 by roll call vote with Councilmember Fligor opposed and Councilmember Lee Eng abstained.**

Motion by Dailey to cancel the Tiny Tots program effective at the end of the 24/25 school year. **Motion failed due to lack of a second.**

Motion by Meadows and Second by Lee Eng to continue operating the Kinder Prep program through the 2024/25 school year under the proposed fee structure and budget. **Motion carried unanimously by roll call vote.**

8. Discuss the Criteria for Art in Public Places

Anthony Carnesecca, Assistant to the City Manager, presented the report.

The following members of the public spoke regarding the item:

Discussion item only. No motion taken.

4. Adopt a Resolution approving the raising of the Progress Pride flag in June 2024

Lynette Lee Eng, Councilmember, explained why she pulled Items 4 and 5 from the Consent Calendar.

Motion by Meadows and Second by Dailey to adopt a resolution approving the raising of the Progress Pride flag in June 2024. **Motion carried 4-1 by roll call vote with Councilmember Lee Eng opposed.**

5. Adopt a Resolution approving the raising of the Juneteenth flag in June 2024

Motion by Meadows and Second by Dailey to adopt a resolution approving the raising of the Juneteenth flag in June 2024. **Motion carried 4-1 by roll call vote with Councilmember Lee Eng opposed.**

8. Discuss the Criteria for Art in Public Places

Pete Dailey, Vice Mayor, opened the item for discussion.

There were no speakers regarding the item.

The City Council provided direction to staff for future consideration of art in public places.

Discussion item only. No motion taken.

9. Discuss and consider taking positions on various Senate and Assembly Bills

Jonathan D. Weinberg, Mayor, opened the item for discussion.

There were no speakers regarding the item.

Motion by Lee Eng and Second by Weinberg to authorize Vice Mayor Dailey to issue support for AB2814 (Low), AB1779 (Irwin), AB1772 (Ramos). **Motion carried unanimously by roll call vote.**

INFORMATIONAL ITEMS ONLY

There will be no discussion or action on Informational Items

10. Tentative Council Calendar and Housing Element Update Implementation Calendar

11. Organizational Update from Community Health Awareness Council (CHAC)

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

- **Neysa Fligor, Councilmember** – Requested future agenda items:
 - Explore a residential parking program around Los Altos High School. (*No Support*)
 - Discussion on a child-care resolution (*Supported by Lee Eng and Meadows*)
- **Lynette Lee Eng, Councilmember** – Requested future agenda items:
 - Re-visit the current flag policy (*No support*)
 - Perform an evaluation on the City Attorney (*No support*)
- **Pete Dailey, Vice Mayor** – Requested a future agenda item:
 - Study Session on 330 Distel (*No support*)

ADJOURNMENT – The regular meeting adjourned at 12:40 a.m. on April 10, 2024

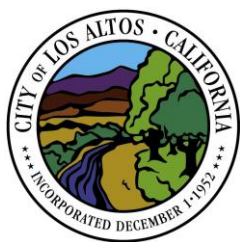
The meeting minutes were prepared by Melissa Thurman, City Clerk, for approval at the regular meeting of March 26, 2024.

Jonathan D. Weinberg
Mayor

Melissa Thurman, MMC
City Clerk

The April 9, 2024 City Council meeting recording may be viewed via the following external website: <https://www.youtube.com/@CityofLosAltosCA>

The City of Los Altos does not own or operate YouTube. The video referenced on these minutes were live at the time the minutes were published.



City Council Agenda Report

Meeting Date: April 30, 2024

Prepared By: Nick Zornes

Approved By: Gabe Engeland

Subject: Comprehensive Accessory Dwelling Unit (ADU) Update – Housing Element Implementing Ordinance

COUNCIL PRIORITY AREA

- ☐ Business Communities
- ☐ Circulation Safety and Efficiency
- ☐ Environmental Sustainability
- ☒ Housing
- ☐ Neighborhood Safety Infrastructure
- ☐ General Government

RECOMMENDATION

Adopt Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs), and Program 6.G: Housing Mobility, and necessary amendments to comply with State law; and consideration of the City of Los Altos Planning Commission's March 21, 2024, recommendation with modifications and find that this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

FISCAL IMPACT

No fiscal impacts are associated with the adoption of these implementing regulations.

ENVIRONMENTAL REVIEW

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

BACKGROUND

On January 24, 2023, the Los Altos City Council adopted the City's 6th Cycle Housing Element 2023-2031. As required by law, the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives. Programs Page 2 of 8 must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the

city's specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

In November 2022, the City of Los Altos was informed by the California Department of Housing and Community Development (HCD) that the existing Accessory Dwelling Unit (ADU) Ordinance was out of compliance and not consistent with State law; the existing ordinance was last updated on October 27, 2020. Additionally, HCD informed the Development Services Director during the Housing Element Update process that the Proactive Enforcement Unit had received complaints regarding existing regulations not being consistent with law. The draft ordinance is to bring the Accessory Dwelling Unit ordinance into compliance.

Analysis

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 2.D. The housing program requires the proposed ordinance amendments to *Encourage and streamline Accessory Dwelling Units (ADUs)*.

Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).

The city will continue to promote ADU production through streamlined review and clear informational resources, including handouts and other materials. To increase the number of ADU's constructed, the city will:

- *Prepare permit ready standard ADU plans with a variety of unit sizes, bedroom count, and architectural styles.*
- *Publicize and promote the standard ADU plans through multiple outreach methods and languages, targeting single-family households and neighborhoods. Outreach material will also include fair housing information (e.g., source of income protection).*
- *Remove any barriers in the review process of an ADU (a preliminary planning review was previously required; the city has eliminated this requirement and will continue to no longer require the preliminary planning review).*
- *Ensure ministerial processing of all ADUs.*
- *Hire one additional planning staff position to review ministerial applications which includes ADUs.*
- *Promote the availability of funding for ADUs, including the CalHFA ADU Grant Program that currently provides up to \$40,000 to reimburse homeowners for predevelopment costs necessary to build and occupy an ADU.*
- *With completion of a comprehensive fee study (see Program 3.D), the city will adopt a zero cost (\$) permit fee for ADUs to incentivize the creation of ADUs.*
- *Amend the ADU ordinance to comply with State law, pending formal comment from HCD.*
- *Annually review ADU ordinance for compliance with State law and process any necessary amendments within six months.*

The city will also monitor ADU production and affordability throughout the planning period and implement additional action if target ADU numbers are not being met.

Responsible Body: Development Services Department

Funding Source: General Fund

Time Frame: Ongoing; if ADU targets are not being met by January 2027, the city will review and revise efforts to increase ADU construction (e.g., fee waivers, local financing program for ADUs, etc.) no later than July 2027. Outreach will occur annually, targeting single-family households and neighborhoods. The City's action shall be commensurate with the level of shortfall from construction targets (i.e., if shortfall is significant, a rezoning action may be required, if shortfall is slight, additional incentives may be appropriate). Additional planning staff position will be budgeted and hired by the end of 2022. The city will release an RFQ by July 2023 for permit ready standard ADU plans; by the end of year 2024 the city will have adopted standard ADU design plans. The City will adopt amendments to the ADU ordinance six months from receipt of HCD's formal comment letter.

Objective: Adopt and provide City Standard Permit Ready ADU Plans (2024). 322 ADUs by the end of the planning period with at least 80 percent of ADUs (260 ADUs) located in the highest resource areas of the city.

Geographic Targeting: Highest resource, single-family neighborhoods throughout Los Altos.

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 6.G. The housing program requires the proposed ordinance amendments to create *Housing Mobility*.

Program 6.G: Housing Mobility

Housing mobility strategies consist of removing barriers to housing in areas of opportunity and strategically enhancing access (Los Altos is entirely highest resource in terms of access to opportunity and a concentrated area of affluence). To improve housing mobility and promote more housing choices and affordability throughout Los Altos, including in lower-density neighborhoods, the city will employ a suite of actions to expand housing opportunities affordable to extremely low, very low, low, and moderate income households. Actions and strategies include:

- *Accessory Dwelling Units (ADUs) – Encourage and streamline ADUs in single-family neighborhoods by preparing standardized ADU plans with a variety of unit sizes and by affirmatively marketing and outreach to increase awareness and the diversity of individuals residing in Los Altos. See Program 2.D.*
- *Junior ADUs – Develop and adopt objective standards to allow more than one (at minimum two) Junior ADU per structure by July 2025. The objective is to achieve at least 10 JADUs in lower-density neighborhoods by January 2031.*

Responsible Body: Development Services Department

Funding Source: General Fund

Time Frame: Annually review overall progress and effectiveness in April and include information in the annual report to HCD. If the City is not on track to meet its 150 affordable housing unit goal for the 8-year RHNA cycle by 2027 (i.e., 75 affordable units built or in process by 2027), the City will consider alternative land use strategies and make necessary amendments to zoning or other land use documents to facilitate a variety of housing choices, including but not limited to, strategies that encourage missing middle zoning (small-scale multi-unit projects), adaptive reuse, and allowing

additional ADUs and/or JADUs, within six months, if sufficient progress toward this quantified objective is not being met.

Objective: *Provide 150 housing opportunities affordable to lower income households by January 2031.*

Geographic Targeting: *Citywide, but especially lower-density neighborhoods.*

Discussion

The actions included within the attached draft ordinance are requirements pursuant to the City’s adopted 6th Cycle Housing Element. The existing Accessory Dwelling Unit Ordinance is out of compliance with State law which necessitates several revisions to the ordinance. The proposed ordinance incorporates all necessary changes to the city’s local ADU regulations based on State law, and guidance documents published by the Housing and Community Development Department.

Daylight Plane-Removed

Daylight Plane means an inclined plane beginning at a stated height above grade at each side property line and extending perpendicularly from the side property line into the site at a stated upward angle relative to the horizontal.

The City’s daylight plane provision is unenforceable as it is impossible to “protect” a daylight plane with a structure that is allowed four feet from the rear and side property lines. The provision of the daylight plane has been unenforceable since codified within the Los Altos Municipal Code and provides a false sense of hope to opposing parties for enforcement of such regulations.

Attachment #5 to the Agenda Report helps to explain the viewpoint of HCD and conflict of daylight plane regulations for any jurisdiction. The City of Palo Alto’s Accessory Dwelling Unit (ADU) Ordinance is also out of compliance with State law as reflected in the Letter of Technical Assistance dated December 21, 2022. HCD accepts requests for technical assistance from local jurisdictions and requests for review of potential violations from any party through our online Housing Accountability Unit Portal. HCD makes enforcement letters and actions available to the public. A report of all letters issued is organized by jurisdiction, date, and subject matter (e.g., housing element, fair housing, Housing Accountability Act, etc.). Letters of Technical Assistance issued can be found here:

<https://www.hcd.ca.gov/planning-and-community-development/accountability-and-enforcement>

Voluntary Additional Setback-Removed

The voluntary additional setback is intended to reduce the privacy impacts to abutting property owners, and applicants are encouraged to voluntarily increase the setbacks. Although this section is not in conflict with any State laws, the inclusion of such language within the ordinance creates a false sense of hope of opposing parties, and results in City staff playing mediator of residents. As with any proposed development no proposal must build to the “minimum” setbacks, it is the

choice of the property owner to do such, the “Voluntary Additional Setback” is problematic and does not result in a best practice for ADU regulations within the City of Los Altos.

Public Notice of Proposed ADUs-Not Allowed

Pursuant to Government Code Section 65852.2(a)(6) “(6) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that **includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units,** except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section. “As articulated in the Government Code cited above a jurisdiction cannot require any provision or process that is discretionary in nature. Ministerial permits do not include notification to the public of a proposed permit.

Planning Commission Recommendation – March 21st, 2024

On March 21, 2024, the Los Altos Planning Commission received a staff report, presentation, asked clarifying questions of staff, considered the proposed ordinance, and conducted in-depth discussion regarding the item. Modifications were recommended by the commission and have been integrated into the draft ordinance before the City Council. The modifications recommended by the Planning Commission are minor in nature but help to further clarify language within the Zoning Code for ease of application.

ATTACHMENTS

- 1. Draft Ordinance**
- 2. Appendix A**

ORDINANCE NO. 2024-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING CHAPTER 14.14 ACCESSORY DWELLING UNITS OF THE LOS ALTOS
MUNICIPAL CODE TO IMPLEMENT PROGRAM 2.D AND PROGRAM 6.G OF THE
SIXTH CYCLE HOUSING ELEMENT**

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances, and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on April 9, 2024, and April 30, 2024; and

WHEREAS, Program 2.D of the Housing Element Update calls for encouragement and streamlining accessory dwelling units within the City of Los Altos; and

WHEREAS, Program 2.D of the Housing Element Update requires the City of Los Altos to make any necessary amendments to be consistent with State law; and

WHEREAS, Program 6.G of the Housing Element Update calls for the support of housing mobility which includes the local support for the creation of all housing types; and

WHEREAS, Program 6.G of the Housing Element Update requires the City of Los Altos to allow more than one (at minimum two) Junior Accessory Dwelling Units (JADU); and

WHEREAS, having committed itself to implement Housing Element Update in its entirety, the City Council now desires to adopt this Ordinance; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CHAPTER 14.14 OF THE MUNICIPAL CODE. Chapter 14.14 of the Los Altos Municipal Code is hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Development Services Director, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on April 9, 2024, and was thereafter, at a regular meeting held on April 30, 2024, passed, and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, MMC, CITY CLERK

APPENDIX A
AMENDMENTS TO CHAPTER 14.14

APPENDIX A

Chapter 14.14 ACCESSORY DWELLING UNITS

14.14.010 Purpose and Intent.

The intent of this chapter is to provide for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), collectively known as an accessory dwelling regulations, on parcels zoned to allow single-family or multifamily dwelling residential use that include a proposed or existing dwelling. ADUs contribute needed housing to the City of Los Altos housing stock, enhance housing opportunities, and contribute to achieving the goals of the RHNA. An ADU is considered a residential use that is consistent with the existing general plan and zoning designations for the parcel. The ADU is not included in calculation of residential density for the purposes of determining general plan conformance. The ADU is not included in calculation of residential floor area ratio or lot coverage.

14.14.020 Definitions.

"Accessory dwelling unit" (or "ADU") means an attached or a detached residential dwelling unit that provides complete independent living facilities and is located on a parcel with a proposed or existing residential dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes the following:

- A. An efficiency unit (minimum size unit shall be 150 square feet), as defined in Section 17958.1 of the Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Accessory dwelling unit, attached" means a residential dwelling unit that is created as a result of internal conversion, addition, or combination thereof made to the primary dwelling, including attached garages, storage areas or similar uses.

"Accessory dwelling unit, detached." A detached accessory dwelling unit means an ADU that is not attached to the primary dwelling. Generally, a detached ADU is constructed as an independent structure that is located on the same parcel as the primary dwelling. However, a detached ADU may also include the conversion of an existing accessory structure that is located on the same parcel as the primary dwelling, but that is detached from the primary dwelling. In such a case, the detached ADU may be attached to another existing accessory structure.

"Existing," when referring to an existing principal dwelling, accessory structure, or other building or structure, means a building or structure erected prior to the date of adoption of the appropriate building code, or one for which a legal building permit has been issued. An unpermitted building or structure shall not be considered "existing" for the purposes of this chapter.

"Multi-family dwelling" means a group of dwelling units on one site that contains separate living units for two or more families that may have joined services or facilities or both.

"Junior accessory dwelling unit" (or "junior ADU" or "JADU") means a unit that is no more than five hundred (500) square feet in size, includes an efficiency kitchen consistent with building code

standards, is contained entirely within the walls of a single-family residence and may include separate sanitation facilities or may share sanitation facilities with the existing structure or unit.

"Living area" means the interior habitable area of a dwelling unit, including basements and attics, if defined as habitable by the California Residential Code (CRC) but does not include a garage or any accessory structure.

"Multi-family residential ADU" means an ADU designed for one family and allowed under Government Code Section 65852.2(e)(1)(C).

"Nonconforming zoning condition" means a physical improvement on a parcel that does not conform with current zoning standards.

"Primary dwelling" means, (i) in the case of a parcel occupied by an existing or proposed single-family residential use, the existing or proposed primary dwelling in connection with which an ADU is proposed to be constructed, or (ii) in the case of multi-family housing, the existing or proposed multi-family use in connection with which one or more ADUs allowed under this chapter are proposed to be constructed. As used in this definition, a "single-family residential use" means a single-family residential dwelling unit that is not attached to any other dwelling unit except for an ADU, and which is designed for one family and is surrounded by open space or yards.

"Passageway". The term passageway has the meaning defined by Government Code Section 65852.2, which states: "A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit."

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and/or are available to the public.

"Single family residential ADU" means an ADU designed for one family per 65852.2(a) of Government Code.

"Tandem parking" means that two or more automobiles are parked in any location on a parcel and lined up one behind the other.

14.14.030 Review Procedures.

An application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review, processes, or provisions. The review of any accessory dwelling application shall be approved or denied in 60 days or less. In the event of conflict within this code or within State law the more permissive regulation shall prevail.

14.14.040 Location Permitted.

- A. ADUs may be permitted in the following zones: on parcels zoned for single-family, multi-family and mixed-use.
- B. Nothing in this chapter shall be construed to authorize construction of new single-family residences in multi-family or mixed-use zones where such single-family residential use is not otherwise allowed.

14.14.050 Maximum Number of Units.

For a parcel with a proposed or existing residential dwelling or use, the following regulations shall establish the maximum number of accessory dwellings allowed:

- A. One (1) attached accessory dwelling unit and one (1) detached accessory dwelling unit and two (2) junior accessory dwelling units per lot with a proposed or existing single-family dwelling.
- B. At least one (1) accessory dwelling unit built within an existing multi-family dwelling unit is allowed, but no more than up to twenty-five (25) percent of the existing multi-family dwelling units in the same multi-family dwelling development are allowed to build an accessory dwelling unit within its units. Fractional units will be rounded up to the next whole unit.

Multiple accessory dwelling units are allowed within the portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages.

All units and livable space effected in the creation of an accessory dwelling unit(s) set forth herein must comply with applicable California Building Codes.

- C. Not more than two (2) detached accessory dwelling units are allowed on a lot that has an existing or proposed multifamily dwelling development.

14.14.060 Development Standards.

The following table summarizes design standards for all accessory dwellings allowed by this code.

| | JADU | Attached ADU | Detached ADU |
|-----------------------|---|---|--|
| Maximum Size | 500 sq. ft. created from the existing or proposed square footage of the primary dwelling. | 1,200 sq. ft. but no more than 50% of the floor area of an existing or proposed primary dwelling (excluding basement area). | 1,200 sq. ft. (excluding basement area). |
| Maximum Height | NA | The greater of 16 feet or the height of the underlying zoning district whichever is greater. | 18 feet |
| Minimum Front Setback | NA | Setback of underlying zoning district. (Footnote 1.) | Setback of underlying zoning district. (Footnote 1.) |
| Minimum Side Setback | NA | 4 feet | 4 feet |

| | | | |
|---------------------------------|--|---|---|
| Minimum Rear Setback | NA | 4 feet | 4 feet |
| Maximum Floor Area Ratio | NA (Footnote 2.) | NA (Footnote 2.) | NA (Footnote 2.) |
| Maximum Lot Coverage | NA (Footnote 3.) | NA (Footnote 3.) | NA (Footnote 3.) |
| Building Separation | 5 feet | 5 feet | 5 feet |
| Bathroom Facilities | Bathroom facilities shall be provided independently for the JADU or can have shared bathroom facilities with primary dwelling. | Bathroom facilities shall be provided independently within the ADU. | Bathroom facilities shall be provided independently within the ADU. |
| Entrance | Exterior; optional interior. (Footnote 4 and 5.) | Exterior. (Footnote 5.) | Exterior. (Footnote 5.) |
| Kitchen | Cooking appliances can include a hot plate, or counter-top cooking. A wall installed oven is not required. | Must include at least a sink, a refrigerator, and either a cooktop and an oven, or a range. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the ADU are also required. | |
| Owner Occupancy | Required. | Not required. | |

Footnotes:

1. Any proposed accessory dwelling shall conform to the front setback of the underlying zone unless it is demonstrated through a site plan that a physical preclusion exists and hinders the development of an accessory dwelling as allowed by this code.
2. The square footage of any accessory dwelling shall not be included in the maximum floor area ratio of the parcel.
3. The building area of any accessory dwelling shall not be included in the maximum lot coverage of the parcel.
4. A junior accessory dwelling unit must have a separate entrance from the primary dwelling unit. An interior entry is required if the junior accessory dwelling unit does not include a bathroom.
5. An Accessory Dwelling Unit shall have a separate entrance from the primary dwelling unit provided as a side-hinged door per Section R311 of the California Residential Code.

14.14.070 Square Footage Allowance.

The following table provides the square footage allowances for all accessory dwelling unit types:

| Unit Type | Square Footage Limitations |
|------------------------|--|
| Efficiency Unit | The minimum size of an efficiency unit as defined by the Health and Safety Code shall be 150 square feet. |
| JADU | The maximum size of a JADU shall be five hundred (500) square feet created by the conversion of existing or proposed square footage of the principal dwelling unit including attached garages. Up to one hundred |

| | |
|--|---|
| | <u>fifty (150) square feet can be added to the existing structure for purposes of ingress and egress to the JADU. The additional square footage created for the purposes of the JADU shall count towards the five hundred (500) square foot maximum.</u> |
| <u>Attached accessory dwelling unit</u> | <u>An attached single family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit or one thousand two hundred (1,200) square feet with more than one bedroom. The total floor area for an attached ADU shall include any basement area and shall not be more than fifty (50) percent of the floor area of the existing or proposed principal residence. Notwithstanding this fifty (50) percent threshold requirement, an attached ADU of eight hundred fifty (850) square feet or smaller cannot be denied.</u> |
| <u>Detached accessory dwelling unit</u> | <u>A detached single-family residential ADU shall not exceed eight hundred fifty (850) square feet in floor area for one bedroom unit, or one thousand two hundred (1,200) square feet with more than one bedroom. For detached accessory dwelling units, any basement area is included in the square footage calculation for the ADU.</u> |

14.14.080 Allowed Projections.

- A. Eaves.** Roof eaves associated with an accessory dwelling shall be permitted to project into any required setback a maximum of two (2) feet.
- B. Exterior Stairs.** Exterior stairs associated with an accessory dwelling shall comply with accessory dwelling minimum setbacks. Any exterior stairs associated with an accessory dwelling shall be architecturally integrated into the exterior facade of the existing or proposed building.
- C. Porches.** Porches associated with an accessory dwelling shall comply with accessory dwelling minimum setbacks. Any porch associated with an accessory dwelling shall be architecturally integrated into the exterior facade of the existing or proposed building and allowed a maximum twenty (20) square feet.

14.14.090 General Provisions.

- A. Short Term Rental.** An ADU shall not be rented for periods less than thirty (30) days. Short term rentals are prohibited pursuant to Chapter 14.30 of the Los Altos Municipal Code.
- B. Fire Sprinklers.** The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
- C. Building Codes.** Accessory dwellings shall conform to all applicable building code standards at the time of application.
- D. Impact Fees.** Any applicable fees established by the City of Los Altos shall be proportional based on unit size.
- E. Connection Fees and Capacity Charges.** Any connection fees and capacity charges that may be required must be assessed in compliance with the provisions of State Government Code Section 65852.2 and 65852.22, as amended from time to time.
- F. Utilities.** The accessory dwelling must provide water, sewer and electric utility connections that are in working condition upon its occupancy. The accessory dwelling may be served by

the primary dwelling or may have separate utility meters. The accessory dwelling will not be considered a new residential use for the purpose of calculating connection fees or capacity charges for these utilities.

- G. Nonconforming Conditions. Ministerial approval of a permit for creation of an accessory dwelling shall not be conditioned on the correction of pre-existing nonconforming zoning conditions.
- H. Certificate of Occupancy. A certificate of occupancy for any accessory dwelling or junior accessory dwelling unit shall not be issued before the local agency issues a certificate of occupancy for the primary dwelling.
- I. Tolling. If the applicant requests a delay in processing in writing, the 60-day review time shall be tolled for the period of the delay.
- J. Historic Properties. A new accessory dwelling located on a historic property will be subject to ministerial review for compliance with the design review criteria set forth in Chapter 12.44 of the Los Altos Municipal Code and must be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties. No review by the Historic Commission shall be required.
- K. Exterior Lighting. Exterior lighting associated with an accessory dwelling shall not be permitted on the sides of the structure facing adjacent properties.
- L. Addressing. Each accessory dwelling shall be assigned its own address, consistent with the requirements of the postal service and fire authority.
- M. Deed Restriction. Prior to issuance of a building permit for a junior accessory dwelling unit, a deed restriction, in a form satisfactory to the city attorney, shall be recorded at the Santa Clara County Recorder's office and filed with the city. The deed restriction shall prohibit the sale of the junior accessory dwelling unit separate from the sale of the single-family dwelling, and one (1) of the dwellings on the lot must be occupied by at least one (1) legal owner of the property, unless the property is owned by a governmental agency, land trust or housing organization.

14.14.100 Parking Requirements.

One uncovered parking space of nine feet by eighteen feet (9 X 18) shall be required for a newly constructed single-family residential accessory dwelling, which may be located within the front setback, in tandem and in an existing driveway including within an interior side yard setback area, unless the Development Services Director determines such parking is not feasible due to specific site, topographical constraints or fire and life safety. Notwithstanding the above, a parking stall will not be required for a residential accessory dwelling that meets any of the following criteria:

- 1. The single-family residential accessory dwelling is created as a result of the conversion of existing area of the single-family residence or existing permitted residential accessory structure.
- 2. An existing garage, carport or parking structure is converted or demolished to accommodate a single-family residential accessory dwelling in the same location.
- 3. The single-family residential accessory dwelling is within one-half mile walking distance of a public transit station, such as a bus stop or train station.
- 4. The parcel is within an architecturally and historically significant historic district.

5. On-street parking permits are required in the area but not offered to the occupant of the residential accessory dwelling.
6. A vehicle share site is located within one block of the single-family residential accessory dwelling.

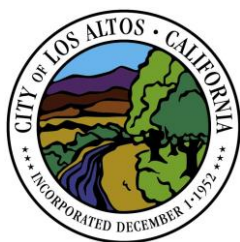
14.14.110 Mechanical Equipment for Accessory Dwellings.

Accessory dwellings shall conform to all provisions of Chapter 11.14 of the Los Altos Municipal Code unless otherwise specified. The following mechanical equipment regulations are specific to accessory dwellings:

- A. Any mechanical equipment associated with an accessory dwelling shall locate proposed equipment on the interior sides of the accessory dwelling away from all property lines and outside of any required setback.
- B. No roof mounted mechanical equipment shall be permitted.

14.14.120 ADU Rental Income Survey.

Each year the city will send out an annual ADU rental income survey to be released no later than September 1st of every calendar year. The property owner can voluntarily share the rental income for the unit. Pursuant to California Constitution Article I, Section 1 and Government Code Sections 7927.705, 7922.000, and 7922.540(a), to protect the privacy of property owners and renters and to encourage voluntary responsiveness, the aggregated data will be for the exclusive use of the city to meet its regional housing needs allocation (RHNA). The unredacted data will not be shared with outside agencies, persons or corporations unless specifically mandated by state or federal law.



City Council Agenda Report

Meeting Date: April 30, 2024

Prepared By: Sean Gallegos

Reviewed By: Nick Zornes

Approved By: Gabriel Engeland

Subject: Modification to the Inclusionary Housing Requirement for a 20-Unit Multiple-Family Development at 425 First Street

COUNCIL PRIORITY AREA

- ☐ Business Communities
- ☐ Circulation Safety and Efficiency
- ☐ Environmental Sustainability
- ☒ Housing
- ☐ Neighborhood Safety Infrastructure
- ☐ General Government

RECOMMENDATION

City Council Consideration of Modification Request of Approved Design Review Permit (18-D-06) and Subdivision (18-SD-04) for the property located at 425 First Street. The Modification Request is to change the existing below market rate unit mix from one (1) low-income unit and two (2) moderate-income units to a proposed below market rate unit mix of three (3) low-income units and one (1) moderate-income unit. This project has already been approved and consideration of this item is limited to the requested modification for the below market rate unit mix. The proposed project modification request is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment.

INITIATED BY

Applicant, Jeff Warmoth

FISCAL IMPACT

No fiscal impacts are associated with the proposed modifications to the inclusionary housing requirement.

ENVIRONMENTAL REVIEW

The proposed project modification request is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment.

SUMMARY

The application requests to modify the previously approved three affordable units (2 moderate and one low-income) to four affordable units (three low-income affordable units and one moderate-income unit, to satisfy the City's requirements for for-sale projects under its Inclusionary Housing Requirements.

BACKGROUND

On June 25, 2019, the City Council approved a multiple-family condominium residential development with 20 units, common areas and two levels of underground parking. The original site included a two-story commercial building (4,500 square feet) that was occupied with office-administrative uses and surface parking at the rear with driveway access on Lyell Street. The proposal included three affordable units, one moderate-income one-bedroom unit at the first floor, one moderate-income two-bedroom unit at the second floor and one low-income studio unit at the first floor, but it did not request any incentives or waivers. The Project's approved studio units are an average of 580 square feet in size, the one-bedroom units are an average of 1,008 square feet in size, and the two-bedroom units are an average of 1,235 square feet in size.

The 20-unit multiple-family condominium residential development, granted building permit BLD19-01450 on April 1, 2021, has reached completion of construction, with a temporary certificate of occupancy issued for the entire building. The remaining prerequisite for issuing Final Certificates of Occupancy for the entire building is completion of required alley improvements. Five units have received final certificates of occupancy. These five units include a one-bedroom low-income unit (Unit 16), a one-bedroom moderate-income unit (Unit 26), two one-bedroom market-rate units (Units 13 and 33), and a two-bedroom market rate unit (Unit 22). The other fifteen units are unsold as of this date.

DISCUSSION/ANALYSIS

The applicant requests the following modifications to the approved inclusionary housing obligation for the existing multifamily housing project:

- **Increase in Affordable Units:** The proposal seeks to increase the number of affordable units from three to four. This includes three low-income studio units and one moderate-income one-bedroom unit.
- **Change in Unit Locations:** The project reallocates affordable housing units by replacing a previous moderate-income two-bedroom unit (Unit 24) with two new low-income units (Units 17 and 18) on the first floor. Additionally, the project preserves the low-income studio (Unit 16) and a moderate-income one-bedroom apartment (Unit 26) on the first floor.

The applicants below market rate proposal letter (Attachment 2) provides information regarding the applicant's proposal to alter the affordable housing units. Accompanying floor plans (attachment 4) and unit plans (Attachment 5) illustrate how the revisions have been incorporated into the project. No modifications are proposed to the site, building form, or architecture of the approved multiple-family building to accommodate the request.

The following table summarizes the existing and proposed unit mix by bedroom size:

| Affordable Units (Existing) | | | Affordable Units (Proposed) | | |
|-----------------------------|-----------|-----------|-----------------------------|-----------|-----------|
| Affordable | Studio | 1 | Affordable | Studio | 3 |
| | 1-bedroom | 1 | | 1-bedroom | 1 |
| | 2-bedroom | 1 | | 2-bedroom | 0 |
| Market Rate | Studio | 2 | Market Rate | Studio | 0 |
| | 1-bedroom | 8 | | 1-bedroom | 8 |
| | 2-bedroom | 7 | | 2-bedroom | 8 |
| Total | | 20 | Total | | 20 |

Section 14.28.020 (Inclusionary Housing Requirements) of the Los Altos Municipal Code (LAMC) requires that fifteen (15) percent of total units within a development be designated as affordable housing units, with a majority of the units at the moderate-income level, and equally dispersed throughout the project. The existing approved affordable housing units meet the City's minimum inclusionary housing requirements. The proposed change would continue to meet the minimum percentage requirement but would not meet the requirement to provide a majority of the units at the moderate-income level and an equal disbursement throughout the project.

A letter from the Department of Housing and Community Development (Attachment 6, dated September 2, 2022) clarified that inclusionary requirements should only be enforced until the total inclusionary percentage is met. This means that once the overall affordability threshold is reached, no additional inclusionary units should be mandated, regardless of the distribution of affordability levels. Consequently, the City's previous requirement stipulating that a majority of the affordable units must be designated as moderate income is not permissible under the updated guidance provided by the Department of Housing and Community Development.

The existing affordable unit mix has one studio unit, one (1) bedroom unit, and one (2) bedroom unit. The proposed mix would include three affordable studios and one (1) bedroom unit, without any (2) bedroom affordable units. Although this mix does not represent an equal distribution of unit types within the development it does provide an additional unit beyond what is approved today.

ATTACHMENTS

1. Project Resolution
2. Applicant's Proposal Letter
3. City Council Agenda Report, June 25, 2019 (previous distributed to City Council)
https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/meeting/48035/14.425_first_street.pdf
4. Floor plans
5. Dwelling Unit plans
6. Department of Housing and Community Development letter, dated September 2, 2022

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS MAKING FINDINGS, APPROVING AMENDMENTS TO THE INCLUSIONARY HOUSING REQUIREMENT FOR A 20-UNIT MULTI-FAMILY PROJECT AT 425 FIRST STREET

WHEREAS, the City of Los Altos received an application from Jeff Warmoth (Applicant), for a Modification of approved Design Review Permit (18-D-06) and Subdivision (18-SD-04) for the property located at 425 First Street. The Modification Request is to change the existing below market rate unit mix from one (1) low-income unit and two (2) moderate-income units to a proposed below market rate unit mix of three (3) low-income units and one (1) moderate-income unit, referred to herein as the “Project”; and

WHEREAS, said Project is located in the CD/R3 District, which allows multiple-family housing as a permitted use and does not specify a maximum allowable residential density; and

WHEREAS, the Applicant is offering one moderate-income and three low-income affordable housing units for sale as part of the Project; and

WHEREAS, the Applicant’s proposed unit mix would consist of 20 percent of its total units as affordable units, with 15 percent of the units affordable at the low-income level, thereby entitling the project to qualify for one incentive, and additional concessions and waivers pursuant to Los Altos Municipal Code Section 14.28.040 and Government Code Section 65915, *et seq.*; and

WHEREAS, the Applicant is not seeking any incentives or waivers under Government Code Section 65915(e) and Los Altos Municipal Code Sections 14.28.040(F); and

WHEREAS, the Applicant continues to seek a parking requirement alteration under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(G) to allow for a reduction in the minimum onsite parking requirement; and

WHEREAS, said Project is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment; and

WHEREAS, said Project has been processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

WHEREAS, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the regulations and policies of the City of Los Altos have been satisfied or complied with by the City in connection with the Project; and

WHEREAS, the findings and conclusions made by the City Council in this Resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the proposed Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby approves the modifications to the Project subject to the Findings (Exhibit A), the Conditions of Approval (Exhibit B) from Resolution 2024-XX with modifications to the Project, attached hereto and incorporated by this reference.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 30th day of April 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, CMC, CITY CLERK

EXHIBIT A

FINDINGS

1. **ENVIRONMENTAL REVIEW FINDINGS.** With regard to environmental review, in accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA), the City Council adopts the Exemption with the following findings:
 - a. Section 15061 (b)(3) applies to projects where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.
 - b. On the basis of the whole record before the City Council, there is no substantial evidence that the Design Review and Affordable Housing and Density Bonus applications, Planning Division File No. MOD24-0001 would have a significant effect on the environment.
 - c. The custodian of record is the Development Services Department. The location of the record is 1 North San Antonio Road, Los Altos, CA 94022.
2. **DESIGN REVIEW FINDINGS.** With regard to the modification to Design Review Application MOD24-0001, the City Council finds, in accordance with Section 14.76.060 of the Los Altos Municipal Code, as follows:
 - a. The Project continues to meet the goals, policies and objectives of the General Plan with its level of intensity and residential density within the First Street corridor in Downtown Los Altos, and all Zoning Code site standards and design criteria applicable for a project in the CD/R3 District;
 - b. The Project continues to maintain architectural integrity and an appropriate relationship with other structures in the immediate area in terms of height, bulk and design because the proposed minor interior alterations do not alter the exterior of the building approved under Design Review Application 18-SD-04. The building continues to utilize high quality materials that support their architectural style and are appropriately articulated and scaled to relate to the larger buildings utilizes high quality materials that support its architectural style and is appropriately articulated and scaled to relate to the size and scale of the surrounding buildings on the First Street corridor;
 - c. Building mass continues to be articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the raised planter boxes, projecting overhangs and balconies because the proposed minor interior alterations does not alter the exterior of the building approved under Design Review Application 18-SD-04. The building continues to maintain variation and depth and avoid large blank wall surfaces, and the project continues to incorporate elements that signal habitation, such as identifiable entrances, overhangs, high quality wood trim finishes and balconies;
 - d. The Project's exterior materials and finishes convey high quality, integrity, permanence and durability, and the materials continue to be used effectively to define building elements. Materials, finishes, and colors continue to be used in a manner that serves to

reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area because the proposed minor interior alterations do not alter the exterior of the building approved under Design Review Application 18-SD-04, and retains all materials, finishes and colors;

- e. Landscaping continues to be generous and inviting, and landscape and hardscape features are designed to complement the building and parking areas and continues to be integrated with the building architecture and the surrounding streetscape. Landscaping includes substantial street tree canopy, either in the public right-of-way or within the project frontage. The proposed minor interior alterations do not alter the landscaping approved under Design Review Application 18-SD-04. Landscaping, and the proposed landscape and hardscape elements continue to complement the proposed building design;
 - f. Signage, which is limited to the building address number and other required directional signage, will continue to be designed to complement the building architecture in terms of style, materials, colors and proportions;
 - g. Mechanical equipment is screened from public view by the sloped roof parapet and continues to be designed to be consistent with the building architecture in form, material and detailing because the proposed minor interior alterations does not alter the exterior of the building approved under Design Review Application 18-SD-04; and
 - h. Service, trash and utility areas continue to be screened from public view by their locations in the building garage and behind fencing in the interior side yard, and consistent with the building architecture in materials and detailing because the proposed minor interior alterations do not alter the exterior of the building approved under Design Review Application 18-SD-04 which maintains screening of all service, trash and utility areas; and
3. **AFFORDABLE HOUSING AND DENSITY BONUS FINDINGS.** With regard to the offered below market rate units and requested parking requirement alteration, the City Council finds, in accordance with Los Altos Municipal Code Section 14.28.040, as follows:
- a. The applicant is offering three low-income units and one moderate-income unit for sale, which qualifies the project for an incentive, additional waivers and a parking requirement alteration;
 - b. The applicant is not requesting an incentive or any waivers;
 - c. Per Section 14.28.040(G)(2)(a), the City shall continue to allow a minimum parking requirement, inclusive of handicapped and guest parking, of one (1) onsite parking space for each studio and one-bedroom unit and two (2) onsite parking spaces for each two-bedroom unit if requested by the applicant; and
 - d. The project includes four (4) studio units, eight (8) one-bedroom units and eight (8) two-bedroom units and is providing 28 onsite parking spaces, where a minimum of 28 onsite parking spaces is required, thus it is meeting the minimum permitted by the Code.

EXHIBIT B

CONDITIONS

GENERAL

1. Conditions in Resolution No. 2019-43

The below conditions shall supplement and not supersede the conditions of approval in resolution No. 2019-43, unless specified otherwise in the below conditions.

2. Approved Plans

The approval is based on the plans and submittal documents received on March 19, 2024.

3. Affordable Housing

The condition shall supersede Condition No. 2 in Resolution 2019-43, and the applicant shall offer the City four (4) below market rate units as follows:

- a. Three (3) studio units at the low-income level for sale
- b. One one-bedroom unit at the moderate-income level for sale.

4. Indemnity and Hold Harmless

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the City in connection with the City's defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project. The City may withhold final maps and/or permits, including temporary or final occupancy permits, for failure to pay all costs and expenses, including attorney's fees, incurred by the City in connection with the City's defense of its actions.

PRIOR TO FINAL OCCUPANCY

- 5. Affordable Housing Agreement** The condition shall supersede Condition No. 24 in Resolution 2019-43. The Applicant shall execute and record a revised Affordable Housing Agreement, in a form approved and signed by the Development Services Director and the City Attorney, that offers four (4) below market rate for-sale units, including three studio units at the low-income level and one one-bedroom unit at the moderate-income level, for a period of at least 55 years, as defined in Condition No. 3. The below market rate units shall be constructed concurrently with the market rate units, shall be provided at the location on the approved plans, and shall not be significantly distinguishable with regard to design, construction or materials.

Proposal to increase the number of Low-Income residential units at 425 First

The proposal is to increase the number of Low-Income residential units at 425 First from one (1) to three (3), and to decrease the number of Moderate-Income residential units from two (2) to one (1), resulting in an increase in the total percentage of below market rate residential units at 425 First from 15% to 20%.

Currently, the Affordable Housing Agreement requires 425 First to provide three (3) below market rate residential units (two (2) Moderate Income, plus one (1) Low Income).

The proposal is that the Affordable Housing Agreement be modified to require that 425 First provide four (4) below market rate residential units (one (1) Moderate Income, plus three (3) Low Income).

Currently, the total square footage of the Low Income BMR residential units is 542 square feet. The proposed total square footage of Low Income BMR residential units is 1,592 square feet (an increase of 1,050 square feet).

Currently, the total square footage of the Moderate Income BMR residential units is 2,120 square feet. The proposed total square footage of Moderate Income BMR residential units is 988 square feet (a decrease of 1,132 square feet).

The total "Sales Prices" of the market rate and BMR residential units included in this proposal (Residences 16, 17, 18, 24, 26), as compared to the current Affordable Housing Agreement, is essentially a breakeven for the 425 First owner - \$2,860,000 for this proposal versus, \$2,848,000 for the current Affordable Housing Agreement. Thus, no economic advantage for the 425 First owner results from this proposal. In the event that different sales prices are provided by ALTA Housing, and the result is an economic advantage for the 425 First owner, the 425 First owner is willing to pay any difference to the City as an additional affordable housing fee. As a result, this proposal would be an even substitution of Residence 24 for both Residence 17 and Residence 18.

The principal advantage resulting from this proposal for City residents is that two additional households will be able to purchase a residence at the Low Income level instead of one household being able to purchase a residence at the Moderate Income level.

Please note that Residence 16 (Low Income) has already been offered and sold by ALTA Housing to a City employee, and Residence 26 (Moderate Income) has been offered and sold by ALTA Housing to a City of Los Altos police officer.

CURRENT AFFORDABLE HOUSING AGREEMENT – RESIDENCES 16, 17, 18, 24, & 26

| Unit | Bedroom | Bathroom | SF | | |
|------|---------|----------|------|------------|--------------|
| 11 | 1 | 1 | 829 | | |
| 12 | 1 | 1 | 862 | | |
| 13 | 1 | 1 | 902 | | |
| 14 | 1 | 1 | 1031 | | |
| 15 | 1 | 1 | 588 | | |
| 16 | Studio | 1 | 542 | LOW | \$ 220,000 |
| 17 | Studio | 1 | 583 | \$1500 PSF | \$ 874,500 |
| 18 | Studio | 1 | 467 | \$1500 PSF | \$ 700,500 |
| 21 | 2 | 2 | 1126 | | |
| 22 | 2 | 2 | 1535 | | |
| 23 | 1 | 2 | 1336 | | |
| 24 | 2 | 2 | 1132 | MODERATE | \$ 575,000 |
| 25 | 2 | 2 | 1332 | | |
| 26 | 1 | 1 | 988 | MODERATE | \$ 490,000 |
| 31 | 2 | 2 | 1085 | | |
| 32 | 2 | 2 | 1407 | | |
| 33 | 1 | 2 | 1225 | | |
| 34 | 2 | 2 | 1132 | | |
| 35 | 2 | 2 | 1332 | | |
| 36 | 1 | 1 | 984 | | |
| | | | | | \$ 2,860,000 |

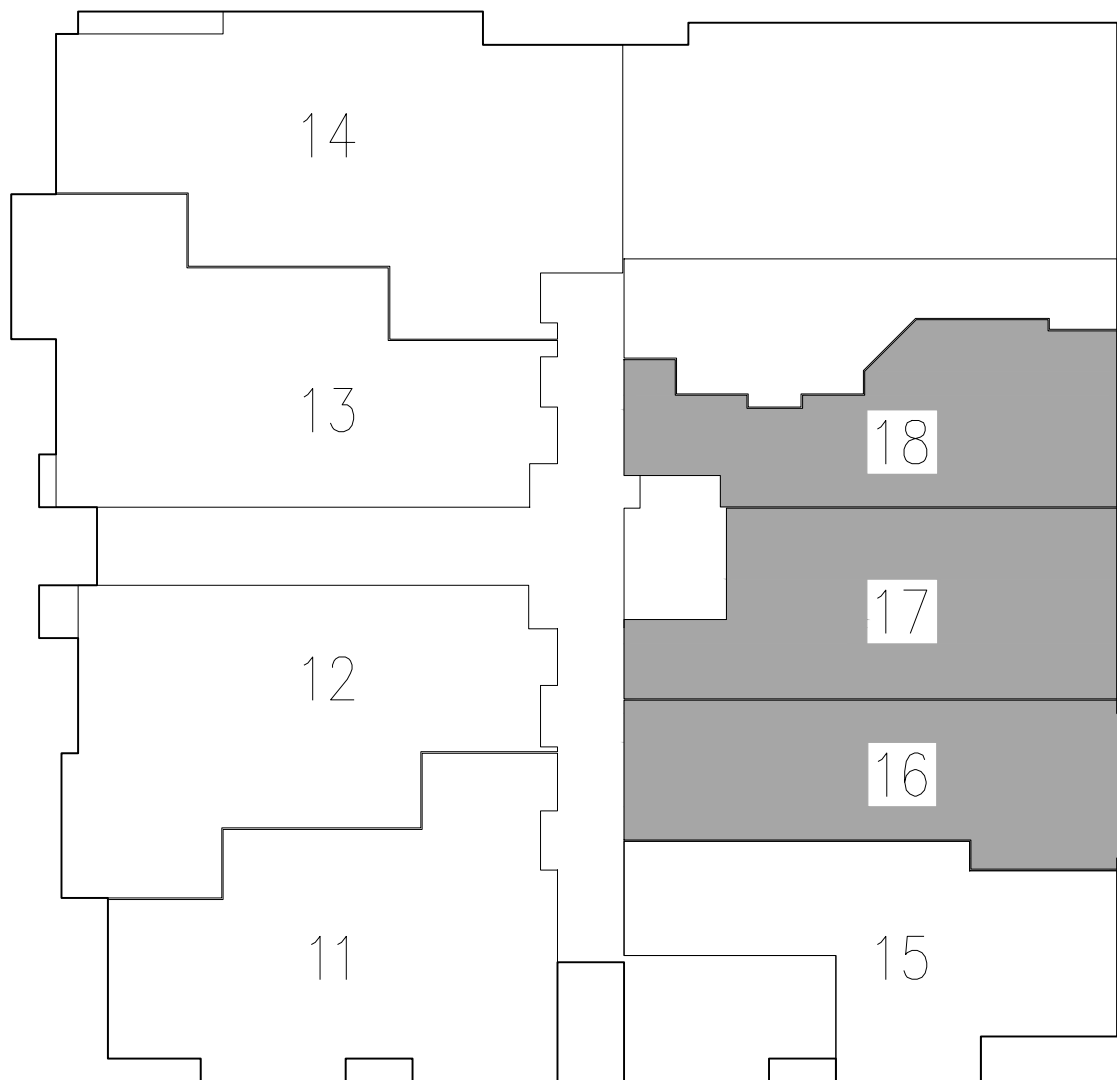
PROPOSED, REVISED AFFORDABLE HOUSING AGREEMENT – RESIDENCES 16, 17, 18, 24, & 26

| Unit | Bedroom | Bathroom | SF | | |
|------|---------|----------|------|------------|--------------|
| 11 | 1 | 1 | 829 | | |
| 12 | 1 | 1 | 862 | | |
| 13 | 1 | 1 | 902 | | |
| 14 | 1 | 1 | 1031 | | |
| 15 | 1 | 1 | 588 | | |
| 16 | Studio | 1 | 542 | LOW | \$ 220,000 |
| 17 | Studio | 1 | 583 | LOW | \$ 220,000 |
| 18 | Studio | 1 | 467 | LOW | \$ 220,000 |
| 21 | 2 | 2 | 1126 | | |
| 22 | 2 | 2 | 1535 | | |
| 23 | 1 | 2 | 1336 | | |
| 24 | 2 | 2 | 1132 | \$1500 PSF | \$ 1,698,000 |
| 25 | 2 | 2 | 1332 | | |
| 26 | 1 | 1 | 988 | MODERATE | \$ 490,000 |
| 31 | 2 | 2 | 1085 | | |
| 32 | 2 | 2 | 1407 | | |
| 33 | 1 | 2 | 1225 | | |
| 34 | 2 | 2 | 1132 | | |
| 35 | 2 | 2 | 1332 | | |
| 36 | 1 | 1 | 984 | | |
| | | | | | \$ 2,848,000 |

ATTACHMENT 3

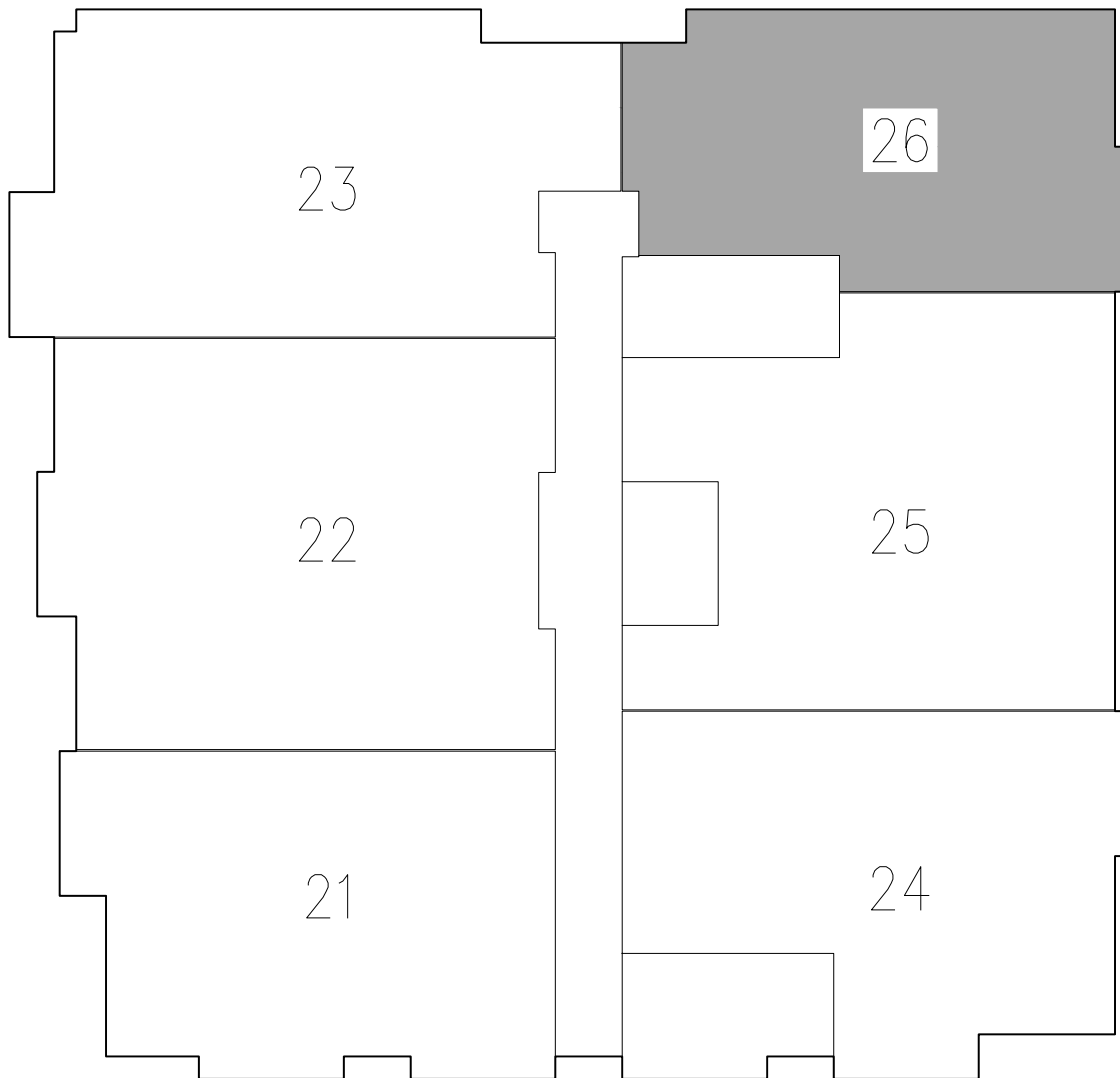
City Council Agenda Report, June 25, 2019 (previously distributed to City Council)

https://www.losaltosca.gov/sites/default/files/fileattachments/city_council/meeting/48035/14.425_first_street.pdf



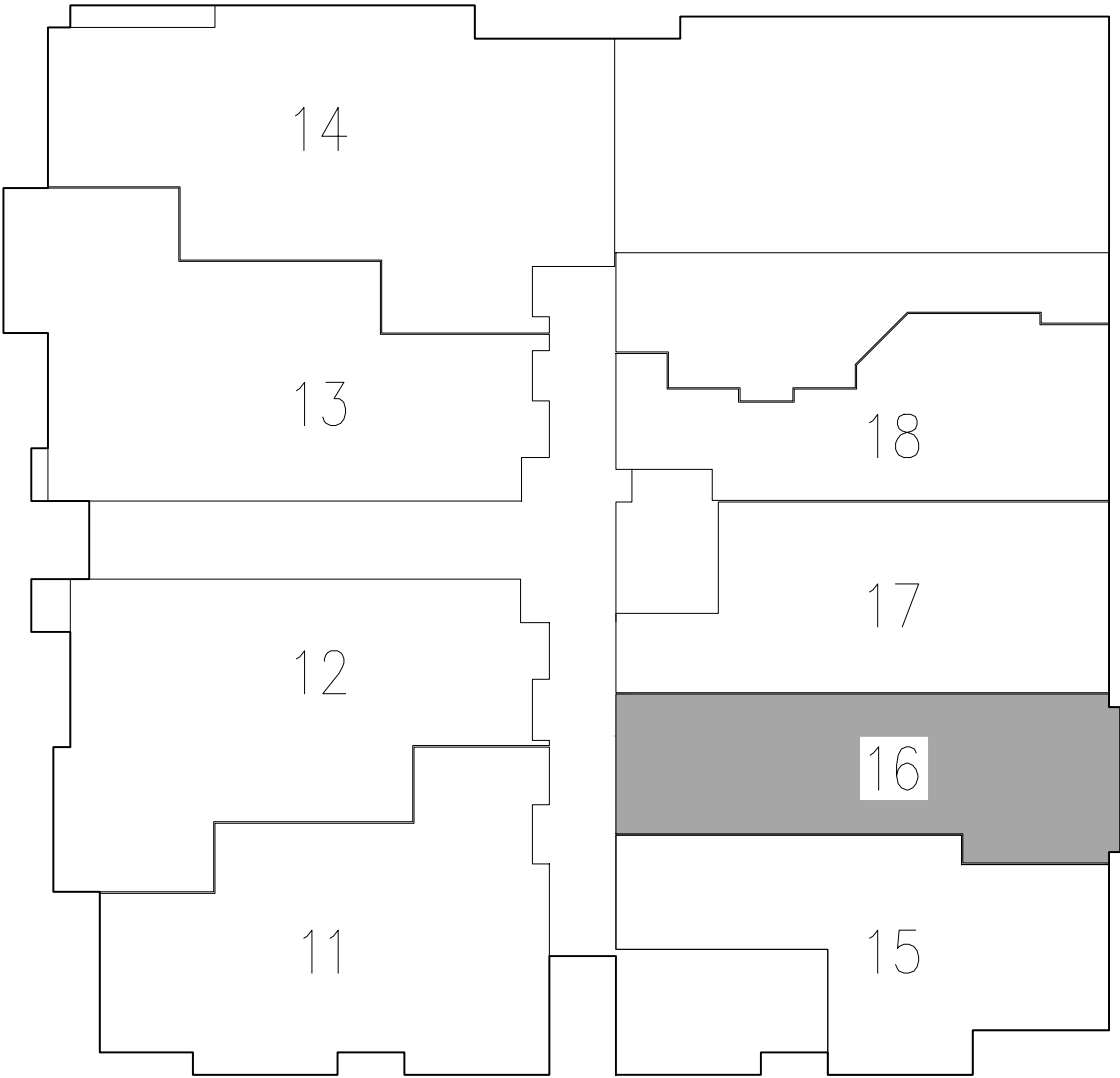
LEVEL 1





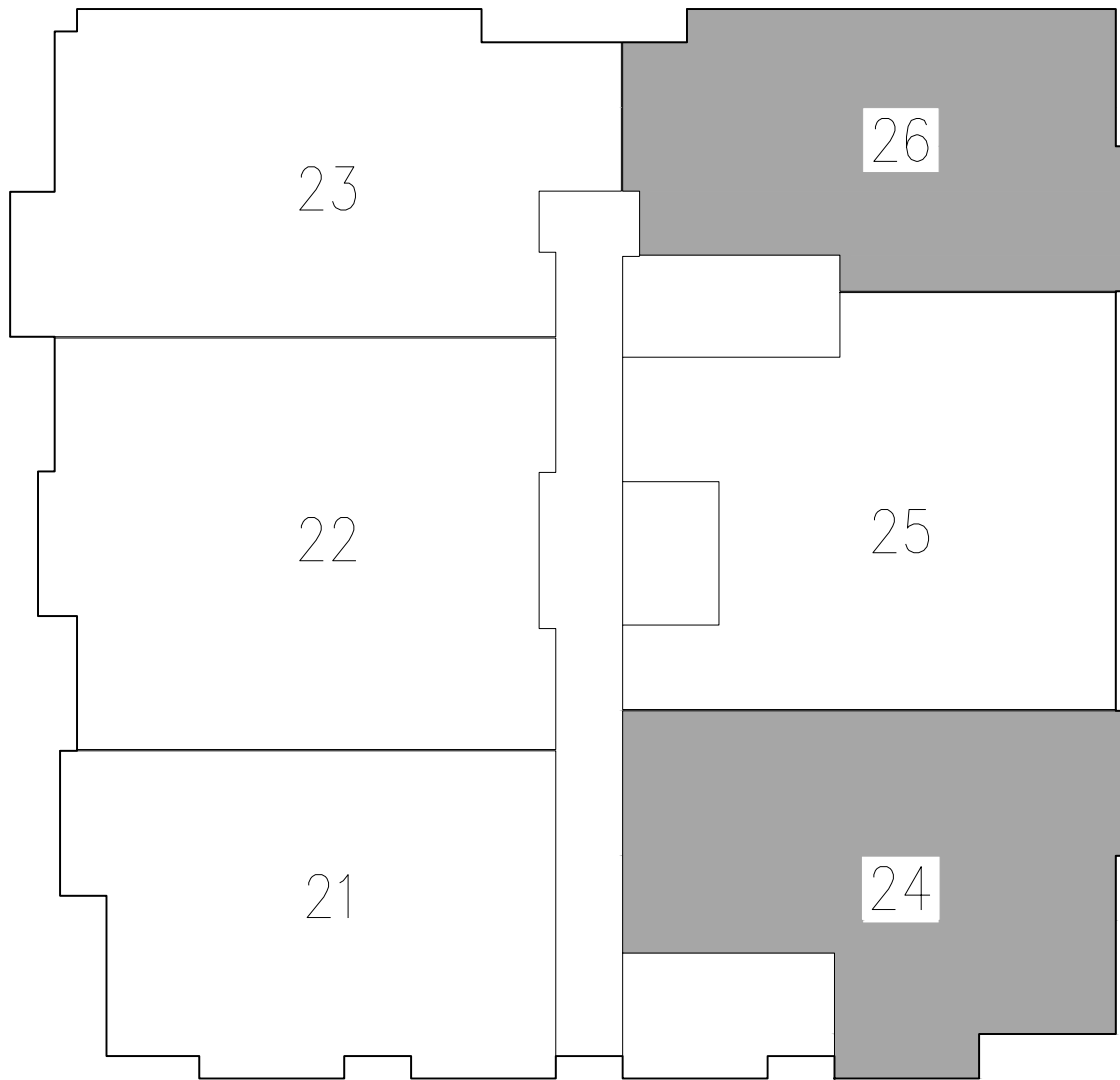
LEVEL 2





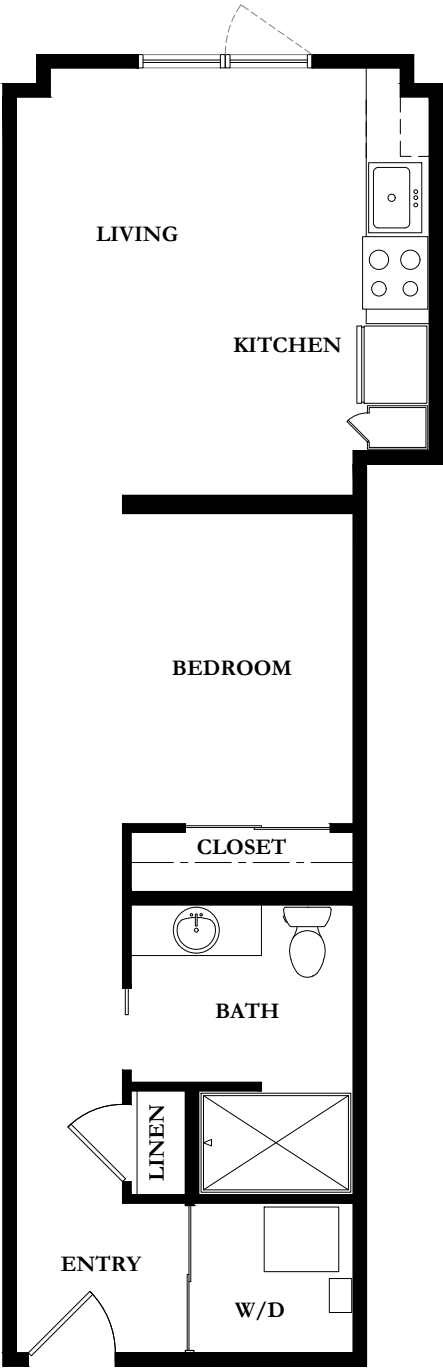
LEVEL 1



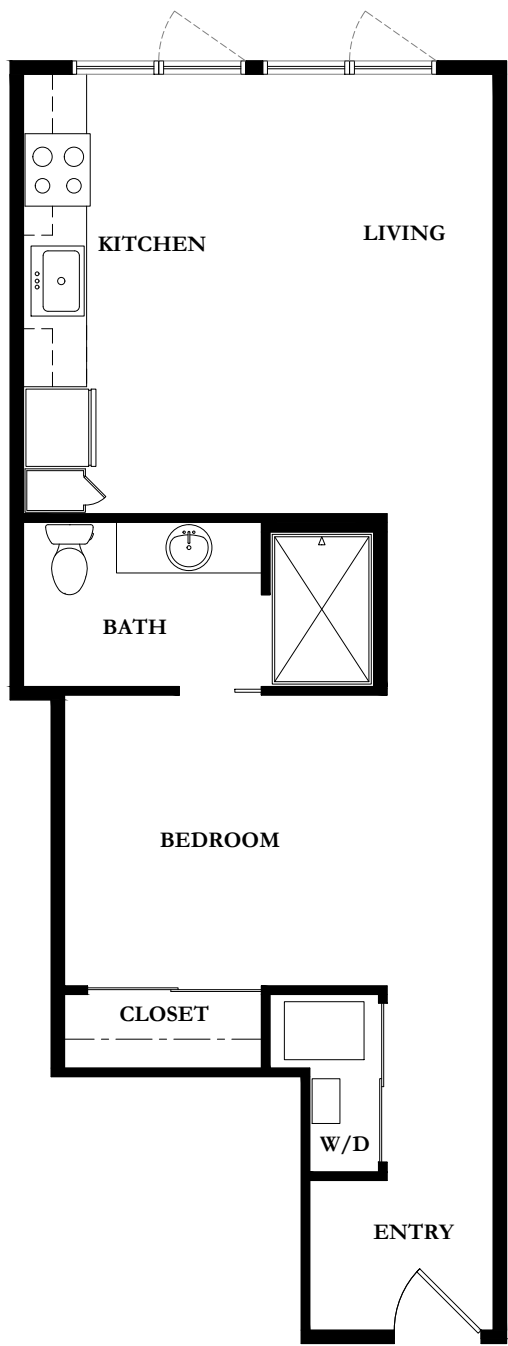


LEVEL 2

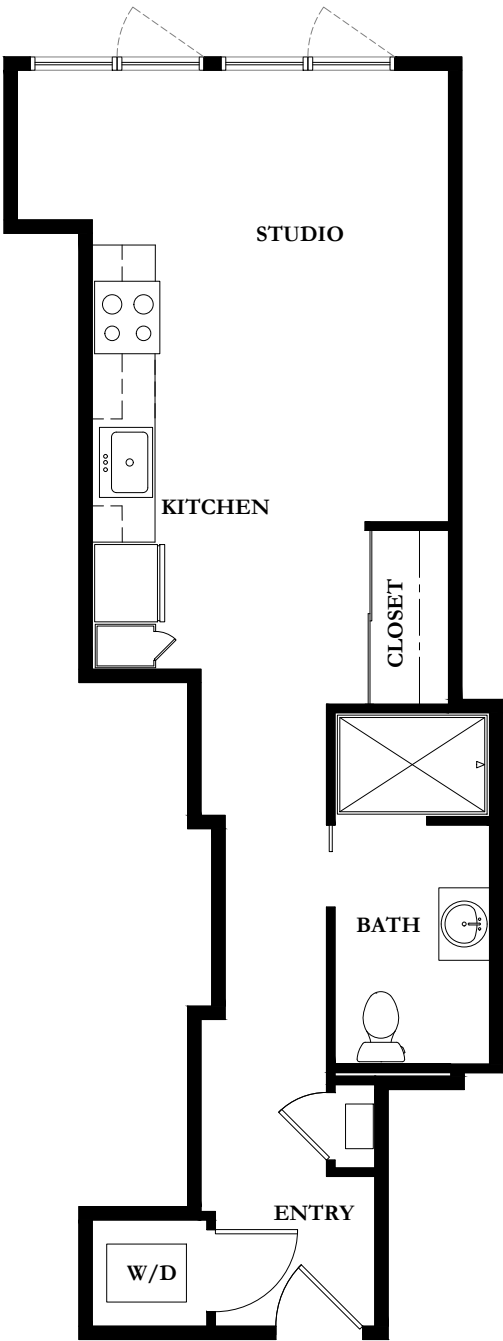




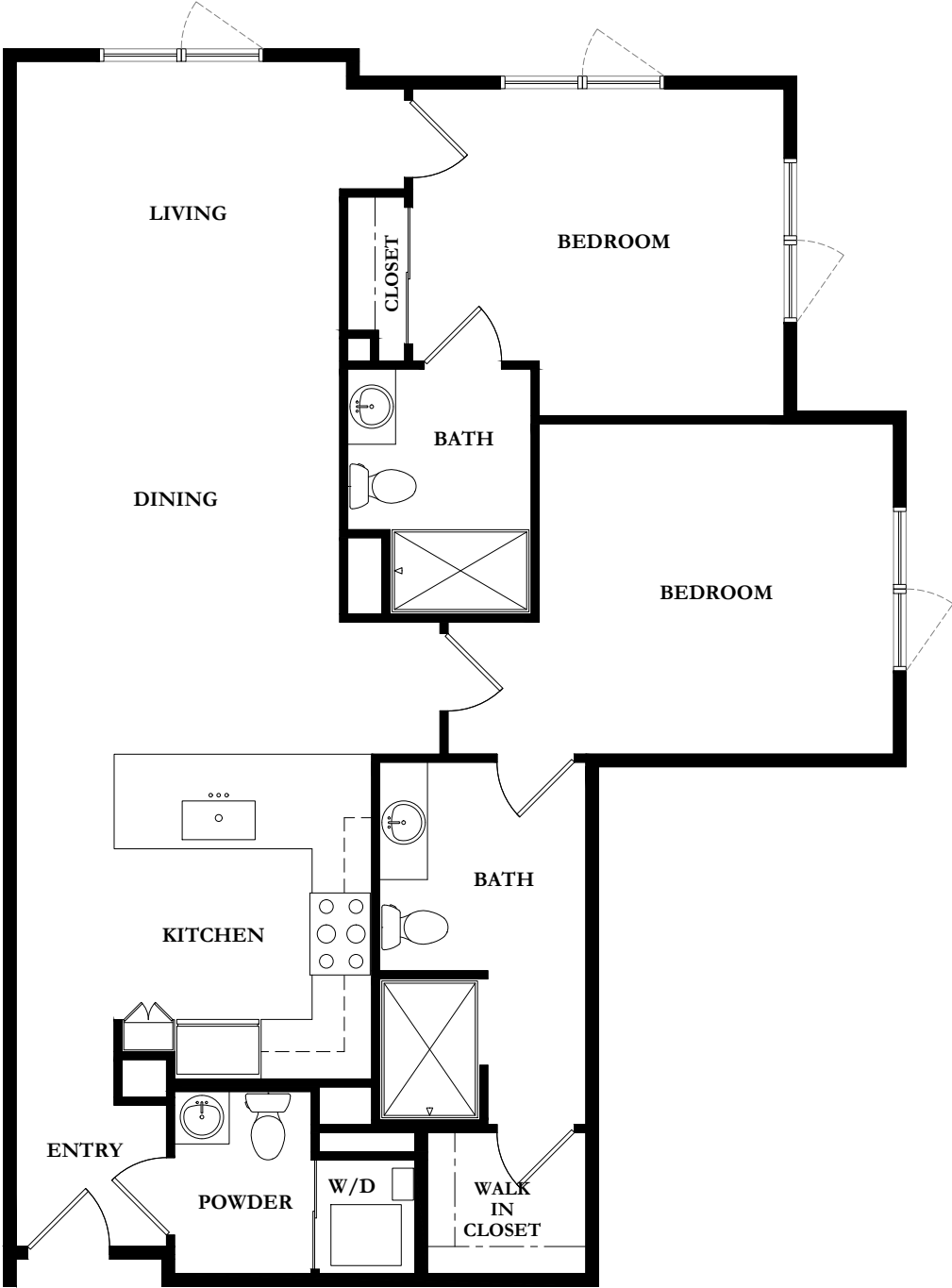
UNIT 16



UNIT 17



UNIT 18



UNIT 24

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



September 2, 2022

John Keho
Planning and Development Services Director
City of West Hollywood
8300 Santa Monica Boulevard
West Hollywood, CA 90069

Dear John Keho:

RE: 8500 Santa Monica Boulevard – Letter of Technical Assistance

The purpose of this letter is to provide technical assistance to the City of West Hollywood (City) regarding the mixed-used infill project to be located at 8500 Santa Monica Boulevard. The proposed project would result in the construction of a six-story, 30-unit mixed-use building containing ground floor commercial space and upper story market-rate and affordable housing units. The project would provide three units that would be affordable to very low-income (VLI) households, two units that would be affordable to moderate-income (MI) households, and 25 market-rate units. The proposed project utilizes the State Density Bonus Law (SDBL) (Gov. Code, § 65915) to achieve a density bonus and is subject to the City's inclusionary zoning requirements.

The California Department of Housing and Community Development (HCD) received a complaint regarding the subject project, and the City requested technical assistance from HCD regarding the relationship of the SDBL and the City's inclusionary zoning ordinance (Ordinance) (WHMC, § 19.22.030). Specifically, the City seeks guidance on whether the requirement that a project include one MI unit for every VLI or low-income (LI) unit conflicts with state housing law, particularly the SDBL. Additionally, the City seeks guidance on how to best calculate base density in a zone without an associated dwelling units per acre density standard and how to consider concession requests that would increase a project's FAR. Coincidentally, these latter topics are addressed in the August 31, 2022, Letter of Technical Assistance to the City of Santa Monica. That letter will be provided to the City instead of replicating the information in this letter.

The City's Ordinance applies a 20-percent inclusionary requirement on all developments containing more than ten housing units. Applied to the subject project, this means that five units¹ of the 22 base density units must be affordable. However, the Ordinance requires that for every VLI or LI unit provided, the applicant must also provide an MI unit. (WHMC, § 19.22.030(F)). The applicant argues that this requirement

¹ Rounded up to 5 units from 4.4 units

reduces the economic feasibility of SDBL-enabled projects because, in practice, it requires that a project include more affordable units to qualify for a density bonus than are required by the SDBL. The applicant indicates that it would have preferred to construct four VLI units and one MI unit (to earn an additional SDBL concession) but were disincentivized from doing so because it would necessitate adding another MI unit. It should be noted that the SDBL offers much greater incentives for projects that include VLI/LI units than MI units, thereby incentivizing the former. For instance, to achieve the maximum 50-percent density bonus, a project needs to provide only 15 percent VLI units compared to 44 percent MI units (Gov. Code, § 65915, subd. (f)). Conversations with City staff indicate that the mandated MI unit requirement is in place to support the City in its effort to produce enough housing for MI households. Absent this requirement (the City contends), SDBL-enabled projects would largely consist only of VLI/LI units and market-rate units. This letter explores the ways that inclusionary zoning ordinances and SDBL implementation ordinances can and should be harmonized to best achieve the important functions of each.

Inclusionary Zoning

Inclusionary zoning is a vitally important affordable housing production tool used across California. Properly implemented, it can and has resulted in the production of significant amounts of deed-restricted affordable housing – often without the need for government subsidy. Unsurprisingly, many local agencies have adopted or are considering adopting inclusionary zoning ordinances. HCD strongly supports these efforts. However, some inclusionary requirements can hinder, rather than facilitate, the production of affordable housing. This is because inclusionary requirements can sometimes negatively affect the economic feasibility of residential development projects. A project that is not economically feasible will not be constructed and will provide no affordable units at all. The state inclusionary zoning statute addresses these limitations, providing that a local agency must provide alternative means of compliance (e.g., in lieu fees) and that rental inclusionary requirements in excess of 15 percent may be subject to review by HCD to consider economic feasibility (Gov. Code, §§ 65850, subd. (g); 65850.1). For more information, please see [HCD's Rental Inclusionary Housing Memo](#).

State Density Bonus Law

First adopted in 1979 and strengthened over the years, the SDBL is one of the most powerful tools in the production of affordable housing. The SDBL facilitates both the construction of 100 percent affordable projects as well as projects that provide primarily market-rate units. It allows developers to build more market-rate units than would typically be allowed in exchange for including affordable units. Like with inclusionary zoning requirements, the affordable units are often provided without the use of government subsidy. Within the context of market-rate development, the SDBL is explicit regarding the importance of maintaining the economic viability of projects. It provides, “The Legislature finds and declares that the intent behind the Density Bonus

Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.” (Gov. Code, § 65915, subd. (t).) The SDBL provides direction regarding the relationship between itself and inclusionary zoning requirements. It confirms that an affordable unit provided to satisfy an inclusionary requirement also earns the applicant the benefits and protections of the SDBL (e.g., a density bonus, concessions, development standard waivers, etc.). (Gov. Code, § 65915, subd. (o)(6).) It also provides that an affordable unit in an SDBL-enabled project is not subject to affordable housing impact fees, including inclusionary zoning fees and in-lieu fees. (Gov. Code, § 65915.1).

Relationship to SDBL

Beyond the language provided by the SDBL, a few court cases address situations in which local ordinances or interpretations have affected the mechanics of the SDBL. Chief among them is *Latinos Unidos Del Valle De Napa Y Solano v. County of Napa*², which settled the matter of whether an affordable unit can serve both as an “inclusionary unit” meeting a local inclusionary zoning requirement and as a “target unit” qualifying a project for a density bonus. It can, and the statute was subsequently amended to reflect this. If this were not the case, for instance, a project attempting to earn a 50-percent density bonus by providing 15 percent VLI units would need to provide 15 percent affordable units to meet the 15-percent inclusionary requirement and an additional 15 percent affordable units to earn the density bonus. This would require the project to provide 30 percent affordable units – twice the amount contemplated by either the SDBL or the local inclusionary ordinance. A more recent case, *Schreiber v. City of Los Angeles* reinforces the finding made in *Latinos*: “A local ordinance is preempted if it conflicts with the density bonus law by increasing the requirements to obtain its benefits.”³ These cases provide a helpful lens through which to evaluate the practical effects of local ordinances upon the operation of the SDBL. Local agencies should maintain an awareness of potential unintended impacts of local inclusionary requirements on SDBL applications.

The City should be prepared to grant a request for an SDBL concession to modify provisions of the inclusionary ordinance, especially ordinances that mandate the level of affordability of inclusionary units or their ratios. The SDBL can be used to modify or waive provisions of an inclusionary ordinance. For example, a mixed-income project that relies on tax credits may need to waive a requirement that affordable units be dispersed among the market-rate units. This is because tax credits and other affordable

² (2013) 217 Cal.App.4th 1160, 1165-66 [159 Cal.Rptr.3d 284, 287-88].

³ (2021) 69 Cal.App.5th 549, 558 [284 Cal.Rptr.3d 587, 594].

housing funding programs sometimes require the affordable units to be consolidated within a single building or on a separate parcel.

Governmental Constraints in Housing Element Law

Housing elements are required to contain analysis of potential and actual governmental constraints on the development of housing for all income levels. (Gov. Code, § 65583, subd. (a)(5).) This includes, but is not limited to, analysis of land use controls, building codes and their enforcement, and locally adopted ordinances that directly impact the cost and supply of residential development. After identifying governmental constraints, the City must implement programs to remove those governmental constraints to the development of housing where legally possible. (Gov. Code, § 65583, subd. (c)(3).) This analysis extends to a local agency's inclusionary ordinance. As described above, under Government Code section 65850.1, an inclusionary requirement of 15 percent or less is not subject to scrutiny by HCD. Above this percentage, however, the local agency should carefully consider local development conditions to ensure that a higher percentage would not constitute a governmental constraint by rendering projects economically infeasible. HCD has observed that typically inclusionary requirements are in the 15-20-percent range. This is not to say that a higher or lower level is categorically unreasonable, but that this range has been proven functional in many areas (especially in high-cost, high-development-pressure areas).

With a base density of only 22 units, the subject project does not present the most helpful scenario to examine how the City's Ordinance relates to the SDBL. Instead, consider a hypothetical scenario in West Hollywood where the base density of a site allows 100 units and the developer seeks a 35-percent density bonus (35 units) by providing 20 percent LI units. The project would be required by the Ordinance to set aside 20 units (20 percent of 100 units) as affordable housing. To earn the density bonus, 20 units (20 percent of 100 units) would have to be LI units per the SDBL. On its surface, this project would appear to handily meet the City's inclusionary requirements and the eligibility threshold of the SDBL. However, the mandated MI units requirement necessitates an additional 19 MI units.⁴ This results in a substantially higher percentage of affordable units than required by the SDBL, as summarized in the table below.

⁴ Per the WHMC, § 19.22.030 F. "...When two or more affordable units are constructed, the units shall be allocated alternately with the first unit allocated for a low or very low- income household and the second allocated for a moderate-income household, alternating between low or very low, and moderate income until all units are assigned a level of affordability."

| | Overall Units | LI Units | MI Units | Market Rate Units | Affordable % of Overall Project |
|---------------------------|---------------|----------|----------|-------------------|---------------------------------|
| Without Mandated MI Units | 135 | 20 | 0 | 115 | 14.8% |
| With Mandated MI Units | 135 | 20 | 19 | 96 | 28.9% |

It is the overall percentage of affordable units in a project that is of primary concern when evaluating economic feasibility. By requiring that 28.9 percent of the overall development be made up of affordable units, the City is in practice imposing an inclusionary requirement nearly 50 percent higher than its generally applicable 20 percent and significantly higher than the requirements of the SDBL. This may reduce the economic feasibility of the project because while affordable units are similarly expensive to build as market-rate units, the affordable units do not generate equivalent income. SDBL enables developers to build affordable housing without government subsidy – by allowing the allowing the market-rate units to offset the costs of the affordable units. The City’s mandated MI unit requirement makes this more difficult and may constitute a governmental constraint in its current form.

It should be noted that the City’s practice of allowing an applicant to combine multiple density bonuses may lessen the real-world impact of the mandated MI unit requirement. However, this practice is problematic for several reasons. First, it is not codified, so applicants have no way of knowing about it when planning a project. Second, it can only be used to achieve up to the SDBL-defined maximum of a 50 percent density bonus, which may limit its compensatory value in certain circumstances. Third, no bonus is given until the 10 percent minimum threshold is met for certain income categories, which limits its use on smaller projects (like the subject project).

Recommendations

HCD makes the following recommendations to help the City implement both the City’s local inclusionary ordinance and the SDBL. This guidance is tailored to West Hollywood but is also intended to be helpful to other jurisdictions.

- **Substitutions.** Allow more deeply affordable units to be substituted for less deeply affordable units. For example, an applicant should be able to substitute a VLI for a MI unit if they so desire. This approach is consistent with the SDBL’s approach to incentivizing more deeply affordable units. It also alleviates concerns that the local agency is disincentivizing more deeply affordable units in favor of less deeply affordable units – and risking fair housing and discrimination complaints.

- **Upper Limit to Inclusionary Requirement.** Inclusionary requirements that mandate that the units be provided at certain affordability levels or in certain ratios of affordability levels should only apply up to the point that the project meets the total inclusionary percentage required. Once the overall affordability threshold is met, no additional inclusionary units should be required regardless of any affordability level ratios. Consider the example of a jurisdiction where the generally applicable inclusionary requirement is 20 percent and there is a one-to-one ratio requirement of MI to VLI/LI units. If the applicant proposes less than 20 percent affordable units to achieve a density bonus (e.g., 15 percent VLI to achieve the maximum density bonus), the jurisdiction would require that 5 percent additional affordable units be added to the project to reach the 20 percent inclusionary threshold despite the fact that its ratio would require 15 percent MI units.
- **Integrate Language.** The provisions of the City's inclusionary ordinance and its SDBL implementation ordinance should be integrated with the expectation that projects will be subject to both. The benefits and protections of the SDBL apply to all projects that meet the statutory minimum percentage of affordable units. This is to say that in jurisdictions with inclusionary zoning requirements, the effects of the SDBL should be anticipated. When drafting the ordinance, a local agency should consider a diverse range of project types to explore how requirements affect each. As a starting point, the local agency should consider large versus small projects and projects that rely on the seven eligibility categories of the SDBL (Gov. Code, § 65915, subd. (b)(1)(A-G).) Finally, the analysis should consider the final overall percentage of affordable units in each scenario to most accurately evaluate economic feasibility.

Conclusion

HCD applauds West Hollywood's commitment to affordable housing and recognizes the challenges of harmonizing state housing law and local ordinances. HCD appreciates the City's pragmatic and progressive approach to housing policy. This letter is intended to provide helpful context and guidance and help local agencies throughout the state work to achieve their housing goals. If you have questions or need additional information, please contact Brian Heaton at Brian.Heaton@hcd.ca.gov.

Sincerely,



Shannan West
Housing Accountability Unit Chief



City Council Agenda Report

Meeting Date: April 30, 2024

Initiated By: City Council

Prepared By: Anthony Carnesecca

Approved By: Gabriel Engeland

Subject:
Public Art Fund Discussion

COUNCIL PRIORITY AREA

- ☐ Business Communities
- ☐ Circulation Safety and Efficiency
- ☐ Environmental Sustainability
- ☐ Housing
- ☐ Neighborhood Safety Infrastructure
- ☒ General Government

RECOMMENDATION

Discuss Los Altos Municipal Code Chapter 3.52 Public Art Fund and provide staff direction on potential ordinance amendments.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

- Would the City Council wish to amend Los Altos Municipal Code Chapter 3.52?

FISCAL IMPACT

None

PREVIOUS COUNCIL CONSIDERATION

July 10, 2018 & April 9, 2024

SUMMARY

- City Council approved Ordinance No. 2018-446 establishing a development fee of 1% for public art, creating a Public Art Fund, and establishing requirements for inclusion of public art in private development projects.
- The Public Art Fund has historically expended funds used on the maintenance and acquisition of various art installations on City-owned, public property throughout the City.

BACKGROUND

On July 10, 2018, the City Council approved Ordinance No. 2018-446 establishing a development fee of 1% for public art, creating a Public Art Fund, and establishing requirements for inclusion of public art in private development projects.

This ordinance requires that private, non-commercial developers devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publicly accessible art on the development site. At the discretion of the applicant, and in lieu of developing on-site public artwork, a Public Art in-lieu contribution of one percent (1%) may be placed into the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred \$200,000 per project.

The ordinance defines “publicly accessible art” as “art which can be reasonably viewed or experienced from the public right-of-way or to which access is unrestricted to members of the public at all times of day.” This governs the acquisition and installation of art on private development sites.

This ordinance also created the Los Altos Public Art Fund, where Public Art In-Lieu contributions are deposited. The funds are restricted to implementation of the Los Altos Public Art Program. Per LAMC 3.52.020, the in-lieu funds may only be used on the “acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs on City-owned, public property throughout the City.”

Public Art In-Lieu contributions may only be spent on art located on City-owned, public property. In the past two fiscal years, the fund has been used to purchase sculptures, artwork informational signage, and complete maintenance on existing art installations.

As of March 29, 2024, the Public Art Fund had \$433,631.04.

DISCUSSION/ANALYSIS

On April 9, 2024, the City Council provided direction on amending the definition of public art to broaden potential expenditures that qualify under the ordinance.

As such, City staff has evaluated other jurisdictions that have public art fees and funds to identify if other jurisdictions have already implemented some of these elements into their code.

The City of Livermore has an “Art in Public Places program” under Livermore Municipal Code 12.51 governing their public art program. It defines public artwork as “works of art created by artists as unique and original works, in any medium including but not limited to painting, drawing, printmaking, photography, calligraphy, ceramic, sculpture, glass, liquid, water features, murals, light earthworks, conceptual and temporal pieces, functional elements if designed by a professional artist, and art that is integrated into a project’s architecture. It may include space for exhibitions, displays or demonstrations and public performances. The artwork may be created through collaboration between the commission for the arts, the artist and the community.”

Furthermore, public place means “any area on public or private property which is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.”

At the direction of City Council, staff recommends blending both definitions into a new definition for “public art” meaning “works of art created by artists as unique and original works in any medium which is easily accessible and clearly visible to the public. If located on private property, the area must be open to the public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.”

The existing Los Altos Public Art Fund is only allowed to expend funds for “acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs on city owned, public property throughout the city.” Staff recommends adding the word “public” before art and remove “on city owned, public property” so that it will align with Council direction.

Additionally, staff recommends incorporating the following potential expenditures that are taken from the City of Livermore’s ordinance:

- “the design, construction, operation and maintenance of art gallery space or cultural arts’ display, demonstration and performance space to be utilized by individuals and non-profit arts organizations for arts and cultural programming;
- developing cultural programs or events for the enjoyment and appreciation of art, heritage, and culture within the Los Altos community; and,
- funding the design, construction, operation and maintenance of cultural and arts’ facilities.”

This would allow Public Art Funds to be expended on a wider variety of public art within the community.

City Council requested information on whether they would be able to expend these funds through grants to organizations or towards specific projects by organizations. If City Council were to direct staff to incorporate the potential expenditures mentioned above, then Council would be able to direct these funds to go towards “developing cultural programs or events for the enjoyment and appreciation of art, heritage, and culture within the Los Altos community” if a grant was clearly going towards an organization expending funds on these items.

Additionally, City Council could provide these funds towards specific projects if the funds are intended to go towards the “acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs” on public and/or private property depending upon any potential amendments to the ordinance.

ATTACHMENTS

1. Ordinance No. 2018-446
2. Livermore Public Art Policy

ORDINANCE NO. 2018-446**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOS ALTOS ESTABLISHING A DEVELOPMENT FEE OF 1%
FOR PUBLIC ART, CREATING A PUBLIC ART FUND AND
ESTABLISHING REQUIREMENTS FOR INCLUSION OF
PUBLIC ART IN PRIVATE DEVELOPMENT PROJECTS AND
ADOPTING CEQA EXEMPTION FINDINGS**

WHEREAS, public art enhances the quality of life in a community, fosters economic development and creates inventive and/or stimulating public spaces; and

WHEREAS, published data strongly indicates that cities with an active and dynamic cultural scene are more attractive to individuals and businesses; and

WHEREAS, public art provides an intersection between the past, present and future as well as between disciplines and ideas; and

WHEREAS, Los Altos can create diverse, interactive and engaging art experiences for the community with public art in the Civic Center, community plazas, parks, buildings and other public spaces throughout the City; and

WHEREAS, new development generally results in aesthetic impacts to a community; and

WHEREAS, as development and revitalization of real property in the City continues, the opportunity for creation of new cultural and artistic resources is diminished and the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased; and

WHEREAS, through the inclusion of public art or payment of an in-lieu fee, developers will address at least a portion of the aesthetic impact of their developments on the community by providing art or an in-lieu fee that can be used to increase the presence of art; and

WHEREAS, the provision of public art, or payment of a fee, will benefit the public interest, convenience, health safety and/or welfare and address the legitimate public concern of mitigating aesthetic impacts of development; and

WHEREAS, the legislative requirement to provide public art or an in-lieu fee generally applies broadly to all similarly situated private developers throughout the City and is a permissible land use regulation and a valid exercise of the City's traditional police power; and

WHEREAS, private, non-residential construction projects in the City of Los Altos can contribute to funding the creation, installation, maintenance and administration of public art for the enjoyment of residents and visitors; and

WHEREAS, on June 26, 2018, the City Council held a duly notice public meeting and all interested parties were provided an opportunity to comment on this ordinance; and

WHEREAS, this Ordinance is exempt from environmental review under the California Environmental Quality Act, Cal. Pub. Res. Code sections 21000, *et seq.* and the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, *et seq.*, each as a separate and independent basis, for the reasons set forth in Section 4 of this Ordinance.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Chapter 3.52 “Public Art Funding” is hereby added as follows:

“Chapter 3.52 – “Public Art Funding”

3.52.010 – Definitions

The definitions set forth in this Section shall govern the application and interpretation of this Chapter 3.52.

- A. “Applicant” shall mean the property owner or developer who submits a development application to the City and their successors
- B. “Publicly accessible art” shall mean art which can be reasonably viewed or experienced from the public right-of-way or to which access is unrestricted to members of the public at all times of day.
- C. “Total construction costs” shall mean the valuation of the proposed structures or improvements, as calculated based on the most recent City of Los Altos Building Valuation Fee Schedule.

3.52.020 – Los Altos Public Art Fund

There is hereby created a Los Altos Public Art Fund, which funds shall be restricted to implementation of the Los Altos Public Art Program. Such funds may be used for the following purposes, including: acquisition, placement, maintenance, and promotion of temporary and permanent art and art programs on City-owned, public property throughout the City.

3.52.030 – Contribution Requirements

- A. R1-10, R1-H, R1-20, R1-40. Private single-family developments within the R1-10, R1-H, R1-20 and R1-40 districts shall be exempt from the requirements of this chapter. Private, non-residential developments with total construction costs in excess of one million dollars (\$1,000,000) and subject to design review approval within the R1-10, R1-H, R1-20 and R1-40 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars (\$200,000).

- B. R3-4.5, R3-5, R-3-3, R3-1.8, R3-1. Private developments of four (4) or more units and subject to design review approval within the R3-4.5, R3-5, R-3-3, R3-1.8 and R3-1 districts shall contribute an amount of one percent (1%) of construction costs to the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars (\$200,000). Construction costs for Below Market Rate units shall not be included in valuation.
- C. OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, PUD. Private building developments with total construction costs in excess of one million dollars (\$1,000,000) and subject to design review approval within the OA, OA-1/OA-4.5, CN, CD, CRS, CT, CD/R3, CRS/OAD, PC, PCF, and PUD districts shall devote an amount not less than one percent (1%) of such costs for the acquisition and installation of publicly accessible art on the development site. At the discretion of the applicant, and in lieu of developing on-site public artwork, a Public Art in-lieu contribution of one percent (1%) may be placed into the Los Altos Public Art Fund to be used pursuant to Section 3.52.020. Such contribution shall not exceed two hundred thousand dollars (\$200,000). Costs directly attributable to construction for Affordable Housing units as defined by Section 14.28.020 shall not be included in valuation.

3.52.040 – Application procedures for placement of required public art on private property

An application for placement of public art on private property shall be submitted in a form and manner as prescribed by the Public Arts Commission staff liaison and shall include:

- A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;
- B. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods; and
- D. A detailed plan that demonstrates how the property owner or developer will maintain the artwork, including schedule, cost and manner of maintenance; and
- E. A narrative statement or plan that demonstrates the public art will be displayed in a publicly accessible manner.

3.52.050 – Approval for placement of public art on private property

An application for placement of public art on private property submitted pursuant to Section 3.52.040 shall be reviewed by the Public Arts Commission for recommendation prior to final review of the application as a whole by the City Council. Public art on private property shall conform to standards adopted by Resolution of the City Council. A formal application for final placement of public art on private property shall be submitted to and approved by the Public Arts Commission prior to issuance of a building permit. Installation of public art on private property shall occur concurrent with project construction prior to issuance of final certificate of occupancy.

3.52.060 – Modification of an approved public art on private property application

For modifications to an approved application for public art on private property, the Public Arts Commission shall be the decision-making body. The action of the Public Arts Commission shall be final unless it is appealed in writing to the City Council within fifteen (15) days of the date of the action, and the appropriate fee is paid.

Any material damage to, or removal or replacement of public art installed pursuant to this Chapter shall require immediate written notification to the City and, within thirty (30) days thereof, full repair or in-kind replacement of same, or payment of a Public Art in-lieu contribution as defined in Section 3.52.030.

3.52.070 – Ownership of public art on private property; insurance

The installation or placement of public art on private property shall not constitute a donation to the City. Ownership of public art on private property shall continue with the applicant. The City shall bear no obligation nor assume any responsibility or liability with respect to the installation, operation or maintenance of any art installed on private property, which obligations, responsibilities and liabilities shall be borne by the property owner.

The property owner shall be required to carry insurance to cover the full replacement cost of the public art installed pursuant to this Chapter. Such insurance shall include coverage resulting from any loss or damage to, including but not limited to vandalism. The property owner shall, upon request of City, timely provide evidence of such insurance coverage to the City.

3.52.080 – Waiver.

Notwithstanding any other provision of this chapter, the requirement to install public art on private property or to pay a Public Art in-lieu contribution may be waived, adjusted or reduced by the City Council if an applicant demonstrates that there is no reasonable relationship between the impact of the proposed development and the requirement to install public art or to pay the Public Art in-lieu contribution, or that applying the requirements of this chapter would take property in violation of the United States Constitution or California Constitution or would result in any other constitutional result.

3.52.090 – Enforcement

The provisions of this chapter shall apply to all agents, successors and assigns of an applicant proposing or constructing a development governed by this chapter, or a property owner

with art installed governed by this chapter. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to, actions to revoke, deny or suspend any permit, including a development approval, building permit or certificate of occupancy. The City shall be entitled to costs and expenses for enforcement of the provisions of this chapter, or any agreement pursuant thereto, as awarded by the court, including reasonable attorneys' fees.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of any of the remaining portions of this code.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. Based on all the evidence presented in the administrative record, including but not limited to the staff report for the proposed ordinance, the City Council hereby finds and determines that the proposed ordinance is exempt from CEQA review: (1) pursuant to CEQA Guidelines Sections 15050(c)(2) and 15061(b)(3) because it does not authorize any direct or indirect changes to the physical environment and there is no possibility of a significant effect on the environment; (2) because it is not a "project" for purposes of CEQA and is exempt pursuant to State CEQA Guidelines sections 15378(b)(2); (3) pursuant to CEQA Guidelines Section 15378(b)(4) because it constitutes a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; (4) because it is not intended to apply to any specifically identified development project and as such it is speculative to evaluate any such future project now; and/or (5) because it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the ordinance's requirements. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 5. NOTICE OF EXEMPTION. The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County, County Clerk within five working days of the adoption of this ordinance.

SECTION 6. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on June 26, 2018 and was thereafter, at a regular meeting held on July 10, 2018 passed and adopted by the following vote:

AYES: MORDO, PEPPER, PROCHNOW
NOES: LEE ENG
ABSENT: BRUINS
ABSTAIN: NONE

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK



| | | |
|-----------------------|---|-----------------------------|
| STATE OF CALIFORNIA |) | |
| COUNTY OF SANTA CLARA |) | CERTIFIED COPY OF ORDINANCE |
| CITY OF LOS ALTOS |) | SECOND READING/ADOPTION |

I, Jon Maginot, City Clerk for the City of Los Altos in said County of Santa Clara, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 2018-446, adopted by the Los Altos City Council on July 10, 2018 by the following vote:

AYES: MORDO, PEPPER, PROCHNOW
NOES: LEE ENG
ABSTAIN: NONE
ABSENT: BRUINS

I hereby further certify that a summary of the ordinance was published in accordance with Government Code Section 36933 on the following dates: _____, 2018 and _____, 2018. Said ordinance shall be effective _____, 2018.

Dated this ____ day of _____, 2018.

Jon Maginot, CMC
City Clerk

Art in Public Places Program

POLICY & PROCEDURES MANUAL



"Peace Monument" by Don Homan



Community Development Department
Commission for the Arts

Adopted: April 28, 2008
Amended: July 13, 2009
Amended: January 25, 2016



TABLE OF CONTENTS

CHAPTER 1 – INTRODUCTION

Purpose of Public Art Policy and Guidelines 3

City of Livermore Public Art Ordinances 4

What is Public Art? 4

What is Public Space? 5

What is the Public Art Fund? 5

What are Permissible Expenditures? 5

CHAPTER 2 – POLICY AND PROCEDURES

Policy Scope and Objectives 6

Identification of sites and opportunities 6

Selection of Artists – Commissioned Works 7

Criteria for the Selection of Artwork 8

Project Management 9

Artist Responsibilities 9

Insurance 10

 Endorsements 10

Municipal Development Projects

 City-funded Capital Projects 10

 Selection Procedures 11

Public Art Asset Management Plan 11

Funding 11

Public Art Subcommittees of the Commission for the Arts 11

Conservation and Maintenance 12

 Ownership 12

 Documentation 12

 Review and Deaccessioning of Artwork 13

 Removal of an Artwork from Public Display 13

CHAPTER 3 – GRANTS

Applications 16

Types and Amounts of Grants 16

Timelines 16

Methods for Submitting Applications 17

Matching Funds 18

General Instructions for Preparing Grant Applications 18

Standards for Preparing Applications 18

Amending an Application 18

Application Reviews and Grant Awards 19

Appeals 19

Public Nature of Application Material 20

| | |
|---|----|
| Acknowledging City Support | 20 |
| Eligibility Requirements | 21 |
| Grant Awards | 21 |
| Exclusions | 21 |
| Work Samples | 21 |
| How to Prepare Samples of Work for Submission | 23 |

CHAPTER 4 – ARTS GIFT POLICY

| | |
|--|----|
| Definition of Public Artwork | 24 |
| Gifts of Public Artwork Considered | 24 |
| Review Process for Proposed Gifts | 25 |
| Review Criteria | 25 |
| Standards for Acceptance of a Gift | 25 |
| Proposal for Artwork Gift Form | 27 |

CHAPTER 5 – DEVELOPER GUIDELINES

| | |
|---|----|
| Requirements and Procedures to install public art | 28 |
| Commission for the Arts Approval Guidelines | 28 |
| Contribution to the Public Art Fund | 30 |
| Definition of Public Space | 30 |
| Permitted Types of Artwork | 30 |
| Eligible Mediums | 30 |
| Ineligible Mediums | 30 |
| Submittal Requirements | 31 |

APPENDICES

| | |
|--|----|
| Appendix 1 – Project and Program Grant Application Form, Instructions, Checklist, and Evaluation Criteria | 33 |
| Appendix 2 – Mini Grant Application Form, Instructions, Checklist, Evaluation Criteria, and Final Report Form | 42 |
| Appendix 3 – artsALIVE! Executive Summary | 52 |
| Appendix 4 – Commission for the Arts Belief and Mission Statements | 58 |
| Appendix 5 – Ordinance No. 1836 Establishing Art in Public Place Program | 60 |
| Appendix 6 – Glossary of Terms and Definitions | 68 |
| Appendix 7 – City of Livermore Cultural Arts District Map | 70 |
| Appendix 8 – City of Livermore Public Art Site Map | 71 |
| Appendix 9 – Proposed Statuary Locations | 73 |
| Appendix 10 – Proposed Mural Locations | 74 |



CHAPTER 1 INTRODUCTION

Public art plays an important role in increasing the understanding and enjoyment of art by the community. Art is more accessible and visible to people when displayed in public areas. A key feature of public artwork is the importance of integrating art into the urban fabric of the city in order to enrich and enhance the physical attractiveness of the city. Public art transforms spaces and makes a valuable contribution to our appreciation of the city and the quality of public places.

In addition, public art located in public places reflects the unique environment and cultural identity of the city to visitors and to residents of Livermore. It often provides a link with our history and can contribute to development of tourism.

Through artsALIVE!, Livermore’s Cultural Arts Master Plan, the City endeavors to feature more works of art in public places as well as supporting art related activities that enhance and further develop the arts community of Livermore. In the City’s existing collection, there are two main components:

- a. Private sector contributions which provide artwork as part of development or the entitlement process, for example the sculptures provided on site in the Station Square housing development and the statuary in Hanson Park;
- b. City collection housed in public buildings and on City grounds.

Purpose of Public Art Policy and Guidelines

The Livermore Public Art Policy is a key strategy in the management of the City’s current collection of public artwork, the commissioning of new artwork, and inclusion of new public artwork in private development.

The strategy aims to provide a clear policy and guidelines for the commissioning, creation, placement, maintenance and promotion of the City’s Public Art. The policy guides and informs the criteria for the assessment of all public art commissioned by or proposed to the Commission for the Arts, as well as management and promotion of the existing collection. This includes the expenditure of funds collected through strategies described in artsALIVE!

City of Livermore Public Art Ordinances

The City of Livermore has adopted ordinances to include public artwork in its public parks, streets, and plazas, and within City owned buildings, as well as policies that support the inclusion of public artwork in private development. On January 14, 2008, City Council adopted the following ordinances supporting the inclusion of public art throughout the City:

- For City of Livermore public works construction projects, one percent (1%) of the original estimated cost of the project shall be set aside and used for acquisition and/or installation of public art.
- All new construction of residential, industrial, and commercial private developments shall be required to allocate one third of one percent (0.33%) of the construction costs of a development project for acquisition and installation of Public Art in the development project in an amount to be determined by the building official. This ordinance also applies to substantial rehabilitation adding 25% or more square footage. In lieu of providing Public Art at the site, the developer at its discretion, may contribute the amount to the Livermore Public Art Fund.

What is Public Art?

The term "Public Art" is defined as artistic works created by artists as unique and original works for, gifted to, or located in part of a public space or facility and/or accessible to members of the public. Public Art includes works of a permanent or temporary nature located in the public domain.

Public Artwork can include:

- Artwork created for specific locations.
- Temporary exhibits, exhibitions, events, performances, and/or artwork installations located in a public space.
- Artwork produced through involvement of the community.
- Integration of art and architecture to enhance the design of urban or public spaces.
- Collaboration of artists, architects or urban designers to create unique physical environments or features which integrates art into the urban fabric of the city.

Eligible mediums include but are not limited to:

- Sculpture, painting, drawing, printmaking, photography, calligraphy, ceramic, murals, glass or water features, landscaping, literary arts, uniquely designed or site specific paving, furniture and parts of buildings, sound and light works, organic form, works that are designed to be temporary in nature, memorabilia or ceremonial objects related to civic activities.

Ineligible mediums include but are not limited to:

- Mass produced or standardized art objects, unless incorporated into an artwork by the project artist.
- Mechanical reproductions of original works of art
- Landscape and ornamental features designed by the architect builder without the commission of a professional visual artist.

- Directional elements and signage unless where integral to an overall concept created by a professional artist.

What is a Public Space?

A Public Space is defined as a space, which is easily accessible and clearly visible for public view; this includes, but is not limited to parks, streets, squares, promenades, public plazas and foyers. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.

What is the Public Art Fund?

The Public Art Fund consists of revenues, which can include, but are not limited to, developer in-lieu fees, bequests, gifts, other donations, and funding acquired from other sources by the Commission for the Arts. At the discretion of the developer, in lieu of providing artworks within the project, a developer may choose to contribute to the Public Art Fund in the amount equal to their public art requirement. A developer may choose to include artwork that costs less than what is required for their project but must pay the remainder of the fee to the public art fund. The Public Art Fund will be distributed through a variety of grant programs overseen by the Commission for the Arts.

What are Permissible Expenditures?

Expenditures of funds may include, but are not limited to, the following uses:

- a. The cost of the public art itself including the artist's fee for design, structural engineering and fabrication; transportation and installation of the work at the site; identification signs, if any; and mountings, anchorages, containments, pedestals, bases, or materials necessary for the property presentation and installation of the art.
- b. Water works, lighting and other objects which are an integral part of the artwork.
- c. Walls, pools, landscaping or other architectural elements necessary for the proper aesthetic and structural placement of the artwork.
- d. Maintenance and repair of Public Art funded through the art in public places fund.
- e. The design, construction, operation and maintenance of art gallery space or cultural arts' display, demonstration and performance space to be utilized by individuals and non-profit arts organizations for arts and cultural programming.
- f. Building the functional capacity of eligible non-profit organizations devoted to the development of arts and culture in Livermore.
- g. Developing cultural programs for the enjoyment and appreciation of art, heritage and culture within the Livermore community.
- h. Funding the design, construction, operation and/or maintenance of cultural and/or arts' facilities, either at the development or off-site.



CHAPTER 2
POLICY AND PROCEDURES

Policy Scope and Objectives:

- The philosophy and processes of the Public Art Policy covers the area defined in artsALIVE! as the Cultural Arts District. They will also apply to projects and programs throughout the city.
- Increase the awareness of public art and promote opportunities to further advance public art.
- Contribute to the unique identity of the City of Livermore within the downtown Cultural Arts District and throughout the City.
- Encourage the involvement of artists in the design and development of public spaces by facilitating collaboration between artists, planners, architects, landscape architects, and urban designers whenever possible in the total design process.
- Develop a public art strategy that integrates art into the urban design fabric of the city in order to create high quality public spaces through the integration of art, urban design and architecture.
- Encourage artworks, which are accessible to the public either visually or physically.
- Involve the community.
- Excite the imagination of the public and increase the understanding and enjoyment of public art.
- Encourage artworks which have relevance to their site.
- Enhance the economic and cultural vitality of the City.
- Ensure recognition that Livermore’s art activities are valuable and a significant component of the City’s culture, heritage and economic vitality.
- Recognize the diversity of the City and support this diversity through a range of publicly accessible opportunities for all residents, businesses and visitors.

Identification of sites and opportunities

The Cultural Arts District Maps (see Appendices 7 - 10) identify existing artwork and proposed locations for new artwork in downtown locations. The commission maintains the proposed Cultural Arts District Maps to provide an overview of potentially desirable locations for public art; however, the places listed are merely suggestions. The Cultural Arts District Maps are not intended to be an exclusive list of locations for public art, and therefore do not preclude other locations, public or privately owned, from consideration. Opportunities for integral artistic development in new development projects and art related activities will be presented to the Commission as these opportunities arise. When identifying sites and opportunities the Commission shall consider the following:

- a. Cultural Arts District – Priority is given to the Cultural Arts District area, but art may be displayed anywhere within City boundaries.

- b. Access to the Public – Priority will be given to locations that are frequently visited or viewed by the public, including but not limited to the Cultural Arts District, the Civic Center, parks, transit centers, and open spaces surrounding public buildings.
- c. Public or Private Property – Public art may be located on public or private property. If located on public property, consideration must be given to the costs of maintaining the art. If located on private property, the property owner must enter into a written agreement with the City to assure the art is adequately secured and maintained as long as the artwork is displayed, but not less than 30 years.
- d. Maintenance – If art is affixed to a building or other structure, it must be reasonable to assume that the building or structure will remain standing and in good condition for 30 years. If the art is freestanding, it must be in a location that allows for necessary maintenance.
- e. Security – Artwork must be properly secured to ensure safety (structural and surface integrity, public safety, and public liability) and designed to be reasonably protected from environmental degradation, damage, vandalism or theft.
- f. Consideration should be given to diversity of locations, so that art is not bundled in one area, with little or no art in other areas that otherwise meet the criteria for public art locations.

Selection of Artists – Commissioned Works

The policy encourages the commission of works by artists from the Tri-Valley arts community. The encouragement of Livermore residents to participate is an integral part of the policy, and will contribute to the unique identity of the City of Livermore as an outstanding city of the Tri-Valley. However, this policy does not preclude consideration given to commissioning of Bay Area, regional and international artists where appropriate.

The selected artist(s) will be commissioned to carry concepts proposed by the Commission and through completion of the work. The contractual arrangements between the City of Livermore and the artist will define certain agreed parameters for the work and the process will be monitored by Staff to the Commission for the Arts, with any major changes to concept, scale and materials being negotiated prior to contract signing.

Requests for Proposals from the Commission will define:

- The audience and/or community the artwork will engage
- Concept development
- The process by which the contract design will be monitored
- Responsibilities of contractual parties
- Technical requirements
- Site information (including plans)
- Budget

Artists' proposals will be presented to the Commission prior to contracting with the artist. The Commission has the option to display the proposal in a public location for public comment.

Artists considered should have the credentials and/or track record and the ability to execute works of the scale envisaged, but this does not exclude opportunities for other artists of merit. The Commission or its representatives may choose to visit the artist's workspace or request that the artist present their portfolio of commissioned works prior to contract with the City.

Methods of selecting artists for public artwork may be based on the following:

- Open Competition - Publicly advertised calls for entries; any artist may submit proposals and/or qualifications.
- Limited Competition - between invited parties.
- Specific commission or acquisition by Commission for the Arts - This method would apply where limited or open competition would be impractical or inappropriate.

In many cases, a short list of applicants will be briefed on the project, and will be required to make initial design proposals for the site. A stipend may be given to each submitting artist for this stage of the process as funds are available.

From the submissions and this process an artist will be selected by the Commission.

Criteria for the Selection of Artwork

Criteria for the selection of public works of art may include, but will not be limited to artwork that:

- Is specifically designed for its site and is commensurate in scale with its surroundings;
- Adds to the local identity and profile in the context of the City of Livermore;
- Is durable (where applicable) and reasonable to maintain in terms of time and expense;
- Is a permanent fixed asset to the property;
- Is designed and constructed by persons experienced in the production of such artwork and recognized by critics and by his or her peers as one who produces works of art;
- Aesthetically enhances the public space or built environment to which it relates or otherwise interacts with its surrounding environment;
- Is suitable by way of form and quality for public viewing and accessibility taking into consideration the possibility of an unsecured public space;
- Is free of unsafe conditions or factors;
- Is a suitable addition to the public space proposed;
- Contributes to a sense of civic pride;
- Involves the local community;
- Addresses, but is not limited to, aspects of the city's history and/or culture; and/or
- Recognizes the broad intent and objectives of the Cultural Arts Master Plan and Livermore Public Art Policy.

Specific criteria will be determined on an individual project basis and detailed in the RFP or grant application.

Project Management

Once a public art project has been funded, staff, along with representatives of the Commission for the Arts, will coordinate each project considering the following tasks:

- Develop project descriptions and contract;
- Receive necessary approvals as required;
- Describe and mitigate any public safety requirements;
- Work with the artist to develop a timeframe;
- Seek relevant project consultation as needed;
- Work with the artist and Staff to define long term maintenance;
- Establish ownership; and
- Define any other relevant factors and tasks associated with a project.

In developing strategies for each project the following will be considered:

- Whether the artwork is to be permanent or temporal work;
- The materials to be used must be durable and vandal resistant as the public will have access to the works at all times; and
- The proposed site, including usage and scale of the work.

Artist Responsibilities will include:

- The artist commissioned to carry out a public work will creatively interpret the proposal given in terms of his/her craft, skills, and vision.
- The artist must ensure the artwork is unique as a result of the artist's personal creative efforts except in the case of a design collaborative.
- The artist must ensure the art does not infringe upon any copyright, and agrees to hold the City harmless for any copyright infringement.
- The artist must comply with all City procedures, including but not limited to, artist signature, sponsor acknowledgements, and finishes, which will be provided to artist along with the City's agreement for services.
- The artist shall, without additional compensation, correct or revise any errors, omissions or deficiencies in his/her work.
- The artist agrees to release ownership of the artwork to the City unless otherwise called for in the City's Agreement for Commissioned artwork. Any marketing of reproductions shall only be permitted with the prior written approval of the artist and the City.
- The artist will provide a general maintenance plan for the artwork. The City reserves the right to have this plan reviewed by a certified conservator or require technical documents or warranties on the product.
- Artist agrees to maintain minimum insurance levels acceptable by the City as follows:

Insurance

Artist shall, during times in which the artist is working on City property, and until the artwork is accepted by the City, maintain the following insurance to cover Artist in connection with the performance of Work under this Agreement. This Agreement identifies the minimum insurance levels with which Artist shall comply; however, the minimum insurance levels shall not relieve Artist of any other performance responsibilities under this Agreement (including the indemnity requirements), and Artist may carry, at its own expense, any additional insurance it deems necessary or prudent. Concurrently with the execution of this Agreement by the Artist, and prior to the commencement of any Work, the Artist shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the City. Artist shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.

- Commercial General Liability (with coverage at least as broad as ISO form CG 20 01 04 13) coverage in an amount not less than \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- If Artist will be driving while conducting business on behalf of the City, Automobile Liability with \$1,000,000 per accident for bodily injury and property damage.
- If Artist has employees, Workers' Compensation/Employer's Liability as required by State of California statutes. A waiver of subrogation is required for Workers' Compensation insurance.
- Fine Arts Insurance or other insurance against loss in an amount sufficient to cover the contract value of the Artwork.

Endorsements - The insurance policies shall be endorsed as follows:

- For the commercial general liability insurance, the City (including its elected officials, employees, and agents) shall be named as additional "insured."
- For the fine arts or property insurance, the City shall be named as loss payee.
- Artist's insurance is primary to any other insurance available to the City with respect to any claim arising out of this Agreement. Any insurance maintained by the City shall be excess of the Artist's insurance and shall not contribute with it.

Additional responsibilities will be listed in the solicitation of proposals by the City and the Contract for Commissioned Artwork.

Upon reasonable written notice, the artist shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by the City's Risk Manager.

Upon appointment of an artist, contractual arrangements will be made in accordance with contractual criteria established by the City of Livermore City Attorney's Office.

Municipal Projects – City-funded Capital Projects

The City Engineer's Office is involved in the initial phase of all municipal capital improvements through the Capital Improvement Plan (CIP) process over a two-year period. The City Engineer's office should forward a copy of the draft CIP to the Community Development Department staff and the Commission for the Arts for review to submit recommendations as to the inclusion of public art elements. This process will enable staff

and the commission to seek funding opportunities and have funding allocated prior to City Council approval.

Coordination between departments at the conceptual stage of projects is important as federal and state funds are available to public art projects included in redevelopment, parks, open spaces, and highway and transit projects.

Selection Procedures

Procedures for the selection of municipal art may include any of the methods outlined in Chapter 2, based on the ability to generate the best artwork for the project. Upon receipt of applications or proposals and recommendation of the Community Development Department staff, a subcommittee of the Commission for the Arts will review and make recommendations as to the selection of artists for the project. The Subcommittee might also include expert technical staff including architects, engineers and project design staff and may include a representative of the Design Review Commission and members of the public in proximity to the project.

Public Art Asset Management Plan

The development of a Public Art Register shall be completed to establish the extent and condition of the City’s existing artwork collection.

Once this work has been undertaken the next step is to develop a plan for the maintenance of existing and new works once commissioned.

Funding

Funding for activities proposed in the Public Art Policy is anticipated to come from a variety of sources:

- Sponsorship
- Private funding
- Budgeted funds
- In-Lieu Public Art Fund
- Grants

Public Art Subcommittees of the Commission for the Arts

A Subcommittee may be responsible for:

- Coordinating public art activity within public spaces, including making recommendations to the Commission for the Arts on the commissioning of public art projects, and recommending to the Commission for the Arts approval of works of art obtained through development agreements.
- Reviewing and making recommendations regarding gifts and loans of art following the guidelines outlined in the public arts policy.
- Reviewing and making recommendations regarding the de-accessioning of artworks following the guidelines outlined in this policy.
- Reviewing proposals for projects.

- Determining selection process (as described above in Selection of Artists).

Composition and Term of subcommittees:

- A subcommittee consists of no more than three (3) voting members of the Commission for the Arts. Members will be appointed by the Commission for the Arts Chairperson on a project-by-project basis and will remain on the subcommittee until the project is completed.
- On a project-by-project basis, a subcommittee may also include voting and/or non-voting members that provide technical or creative expertise for the project, such as business, community, architectural, engineering or design consultants.

Conservation and Maintenance

An important part of the management of the city's public art collection is the recognition of the conservation and maintenance required for both the existing and new artworks. When new works are commissioned or the Commission accepts gifts of art works the Commission must consider not only the capital costs of acquisition but also the ongoing commitment for maintenance and repairs. All items recorded in the Public Art Register shall be assessed as part of the condition report and an ongoing maintenance plan formed.

Donors of items may be required to provide funds or be responsible for the maintenance and upkeep of the donated work for a designated period of time.

Where new works are commissioned or accepted, written details of warranties (where these apply) detailing service should be provided with the completed work. This may cover details such as cleaning, lighting, servicing, circuit diagrams, manufacturer, and/or agents. This information will be entered into the Public Art Register as well. Allowance for the cost of ongoing maintenance of new works will need to be planned for and may need to be reviewed by a certified conservator for care and maintenance plan. Artwork shall be maintained by the property owner in a neat and orderly manner acceptable to the City, unless the artwork is installed on property owned by the City, in which case the City shall maintain the artwork.

Ownership

In most cases the artwork will become the property of the City of Livermore. Public art may be placed on land owned by the City provided that ownership of the work is vested in the City. The ownership of artwork on privately owned sites may also be transferred to the City. If the City accepts ownership it may be responsible for maintenance, insurance and any contractual agreement related to the art as outlined by this policy or City Council may require the site owner to be responsible for those items.

Documentation

All new works will be documented and this information will form part of the Public Art Registry database.

The information should include:

- Artists name, curriculum vitae, artistic statement

- Any warranties, maintenance details including name of agent and manufacturer (if applicable)
- Construction/maintenance details
- Relevant dates
- Site/display information
- Any other relevant details
- Photographic Record

Review and Deaccessioning of Artwork

Community Development Department staff shall review the entire public art collection at least once every five-years to assess condition and shall make appropriate recommendations to the Commission for the Arts. The City shall dispose of works of art in its collection only in the public interest and as a means of improving the overall quality of the collection. Since artworks are acquired by the City through a thorough review process by City staff and the Commission for the Arts, based on the quality of the artwork and the value of the work to the collection as a whole, deaccessioning should be considered only after five years following acceptance. The need for relocation or the temporary removal from public display does not automatically necessitate deaccession.

Deaccessioning should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence of fluctuations of taste and the premature removal of artwork from the collection. Prior to the deaccession of any work, the Commission for the Arts must weigh carefully the interests of the public, the intent in the broadest sense of the donor (if any), and the interests of the cultural community.

All proceeds from any sale or auction of a work of art will be used for the purpose of acquiring or maintaining one or more other works of art for the same public art program or purpose for which the original work of art was acquired. If that is not possible, then the proceeds shall be used to acquire or maintain a work of public art, or support another City Public Art program.

Removal of an Artwork from Public Display

1. Cause for Review

While the intent of acquisition of artwork is for permanent public display, circumstances and/or conditions may arise that make it prudent for the Commission, on behalf of the public interest, to remove an artwork from public display. One or more of the following conditions must apply in order for an artwork to be considered for permanent removal or deaccession:

- a) The work presents a threat to public safety.
- b) The condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work.
- c) The work requires excessive or unreasonable maintenance.
- d) The work has serious or dangerous faults in design or workmanship.
- e) The condition of the work requires restoration in gross excess of its monetary value, or is in such a deteriorated state that restoration would prove either unfeasible, impractical or would render the work essentially false.
- f) The work is of poor quality.

- g) A similar but superior example exists in the collection.
- h) The work is a forgery.
- i) No suitable site for the work is available.
- j) Significant adverse public reaction is documented over an extended period of time (5 years or more).
- k) The work is judged to have little or no aesthetic and/or historical or cultural value.
- l) The Arts Commission wishes to replace a work with a more appropriate work by the same artist.
- m) The work can be sold to finance, or can be traded for, a work of greater importance.
- n) A written request from the artist has been received to remove the work from public display.
- o) The work is not, or is rarely displayed.
- p) The artwork has been determined to be incompatible with the rest of the County's collection.

2. Review Process

Prior to deaccession, Community Development staff must observe the following procedures.

- a) Prepare a report which indicates:
 - i. Acquisition method and purchase price.
 - ii. Any restrictions that may apply to the specific work based on contract review.
 - iii. An analysis of the reasons for deaccessioning.
 - iv. Alternatives to deaccessioning.
 - v. Suggested methods of deaccession.
 - vi. Appraised value of the work by two independent consultants, if obtainable.
 - vii. Documentation of correspondence, press or other evidence of public debate documenting extended adverse public reaction.
- b) Discuss with the artist or donor the circumstances prompting the review.
- c) Discuss the circumstances with the affected City department and document input.
- d) Make all reasonable efforts to ascertain that the City is legally free to dispose of the work in question.
- e) Community Development Department staff may seek additional information regarding the work from the artist, art galleries, curators, appraisers or other professionals.
- f) The report shall then be presented to the Commission for the Arts for action at a regular public meeting.

3. Deaccession Process

- a) Upon a recommendation of deaccession, staff will work with the Commission for the Arts to determine the manner of disposition. Every effort will be made to ensure that this process is fair and open. Sale at public auction is strongly encouraged. Whenever works are deaccessioned by means other than public auction, staff will secure no fewer than two independent estimates of fair market value.
- b) Artwork may not be given or sold privately to City employees, officers, volunteers or members of City commissions, committees, boards, affiliate groups or their representatives unless they are sold at public auction and with appropriate disclosures.
- c) Consideration should be given to placing the artwork, through gift, exchange or sale, in another tax-exempt public institution wherein it may serve the purpose for which it was acquired initially by the City. Community Development staff may exchange a work of art on such terms as the Commission for the Arts determines appropriate.
- d) A work of art may be sold privately under the following circumstances:

- i. If the work is offered at public auction and no bids are received, or if the bids are rejected. A work of art on which bids have been rejected shall not thereafter be sold through private sale for less than the amount of the highest bid received.
 - ii. If the Commission for the Arts determines that the work may be sold on terms more advantageous to the City if sold through private sale.
 - iii. If the artist of the work chooses to purchase it at the original purchase price.
- e) An adequate record of the conditions and circumstances under which objects are deaccessioned and disposed of should be made and retained as part of the records of the Community Development Department.
- f) All recommendations for deaccession are subject to appeal to the City Council. All appeals must be made in writing to the County Clerk within ten days of the decision by the Commission for the Arts.



CHAPTER 3 GRANTS

Applications

Grant applications must be submitted on the grant application form, following the instructions provided by the Commission for the Arts.

Application forms can be downloaded from the Internet at <http://www.cityoflivermore.net/citygov/cdd/arts/grants.htm>. They can also be requested by e-mail at Arts@cityoflivermore.net or by calling 925.960.4400.

Types and Amounts of Grants

City of Livermore Public Art Grant – Applications will be accepted from individuals or organizations or may be solicited via a Request for Proposal (RFP) by the Commission for the Arts. The Commission for the Arts will review unsolicited Public Art Grant applications for grants over \$10,001 on an annual basis. Applicants must meet the definition of public art as defined in the City’s Public Art Policy, or qualify under the list of permissible expenditures (page 5).

Project and Program Grants – Applicants must meet the definition of public art as defined in the City’s Public Art Policy. Artists or organizations are eligible for up to \$10,000. The Commission for the Arts will review Project and Program Grants applications twice each year. The number of Project and Program grants available each year will vary depending on the resources of the Commission for the Arts. The number and ratio between public art and programs will be determined at the beginning of the grant cycle.

Mini Grants - Applicants must meet the definition of public art as defined in the City’s Public Art Policy. Artists or organizations are eligible for up to \$1,000. The number of Mini grants available each quarter will vary depending on the resources of the Commission for the Arts. The number and ratio between public art and programs will be determined at the beginning of each grant cycle. Funding for Mini Grants may not be available every quarter.

Timelines

City of Livermore Public Art Grants – Timelines will be set out in the RFP. The Commission for the Arts will review unsolicited Public Art Grant applications annually. At the September meeting of the Commission for the Arts, a Public Art Grants Subcommittee will be appointed to review the applications. All unsolicited applications for funding in the following calendar year that are received by October 1st will be reviewed by the Community Development Department staff for eligibility. Eligible applications are then provided to the Subcommittee who will work with program staff to evaluate the applications for compliance with the Commission’s current goals and priorities. This process may include an interview with the applicant, at the discretion of the Public Art Grants Subcommittee. The Subcommittee will make a recommendation to the Commission at the October meeting. The Commission will

make their final recommendations to the City Council annually in November. Events related to funded projects may not begin until grant agreements are fully executed.

Project and Program Grants – Applications will be due to the Community Development Department by 5:00 p.m. on the 1st of March and September for funding of projects which will begin after the 1st of May and November, respectively. At the February and August meeting of the Commission for the Arts, a Project and Program Grants Subcommittee will be appointed to review the applications. Eligible applications are first reviewed by the Community Development Department staff for eligibility and completeness. Eligible applications are then provided to the Subcommittee. Relying on the information provided in each application and its attachments, the Subcommittee will measure the strength of the applications and work with program staff to develop proposed grant awards. This process may include an interview at the discretion of the Project and Program Grants Subcommittee. All applications will be evaluated using the Evaluation Form found in Appendix 1. Funding proposals are submitted with recommendations to the full Commission for the Arts at its March and September meetings. The Commission will make its final recommendations to the City Council in April and October. Events related to funded projects may begin no earlier than two (2) months after the application deadline.

Mini Grants – Applications will be due to the Community Development Department by 5:00 p.m. on the 1st of March, June, September and December. Applications are first reviewed by Community Development Department staff for eligibility and completeness. A Mini Grant Subcommittee will be appointed on a quarterly basis. Eligible applications are then provided to the Mini Grant Subcommittee. The Subcommittee will make recommendations to the full Commission at its regularly scheduled meeting in March, June, September and December. The Commission will make the final approval. Events related to funded projects may begin no earlier than two (2) months after the application deadline.

Methods for Submitting Applications

Applications that are delivered to the Community Development Department (in person, or using a commercial delivery service such as Federal Express or United Parcel Service) must arrive by 5:00 p.m. on the deadline date.

Applications sent via U.S. Mail must be sent First Class or Priority Mail and postmarked by the U.S. Postal Service by the deadline date. (Please note: Applicants are encouraged to obtain a date-stamped receipt from the Post Office in case they need to document that they met the deadline. Self-generated Postage meter indicia are not sufficient to establish that the application was postmarked by the deadline.)

Please submit completed grant application packets to:

City of Livermore
 Public Art Grants
 Community Development Department
 1052 S. Livermore Avenue
 Livermore, CA 94550

Requests for Proposals may require applications to be submitted using the Western States Arts Federation's online website: www.callforentry.org. Café. Applicants must follow specific instructions outlined in each Request for Proposals.

Matching Funds

All Project and Program Grant applicants must provide at least a dollar-for-dollar (one-to-one) match for the grant award, no less than 50 percent of which must be a cash match. The cash match must be from sources other than the City of Livermore.

In-kind contributions are allowed as part of the match only on the following limited basis:

- a. In-kind contributions cannot be used for more than half of the required match, in other words, they cannot represent more than 50 percent of the value of the grant award; and,
- b. The value of in-kind contributions, i.e., goods and services, must offset line item expenditures in the project budget and their value must be documentable with invoices or billing statements.

General Instructions for Preparing Grant Applications

All applicants, especially first-time applicants, are strongly encouraged to consult with the Community Development staff at Arts@cityoflivermore.net or 925.960.4400 well in advance of the application deadline if they have any questions about any requirements of the grants.

Please read and follow or answer carefully all instructions for and questions on the Application Form.

Standards for Preparing Applications

Please read the following carefully. Applicants are responsible for completing and submitting the correct number of copies of the full application and all required attachments by the deadline. Incomplete applications will not be accepted for Commission evaluation.

- a. Applicants must not modify the format of the application form or exceed the maximum length of any section of the form, except where otherwise noted.
- b. All required attachments (except pre-printed ones) must be typed or computer-prepared in a type size that is no smaller than 12 pt. Times/Times New Roman, or 10 pt. Arial/Helvetica.
- c. Complete all pages of the application form and all required attachments. (Use "N.A." if a section does not apply to your organization.) Provide information that is current as of the application deadline. Budget pages and budget notes must be complete.
- d. The original of the Application Form must be signed by the organization's executive director, managing director, president or board chair, or the applying artist.

Amending an Application

In general, grant applications will be reviewed in the condition in which they were delivered. However, if an organization's circumstances change significantly between the submission of its application and the subcommittee's evaluation of applications, the organization may request to amend its application, provided this does not result in a substantially new

application. Acceptance of application amendments is at the discretion of the Chair of the Commission for the Arts.

Application Reviews and Grant Awards

Project and Program Grants - Applications are first reviewed by the Community Development Department staff for eligibility and completeness. Eligible applications are then provided to the Project and Program Grants Subcommittee. Relying on the information provided in each application and its attachments, the Subcommittee will measure the strengths of the applications and work with program staff to develop proposed grant awards. This process may include an interview at the discretion of the Project and Program Grants Subcommittee. All applications will be evaluated using the Evaluation Form found in Appendix 1. Funding proposals are submitted with recommendations to the full Commission for the Arts. The Commission for the Arts reviews and makes final recommendations to the City Council. Grant awards become final only if and when the City Council approves them.

Mini Grants - Applications are first reviewed by Community Development Department staff for eligibility and completeness. Eligible applications are then provided to the Mini Grant Subcommittee. Relying on the information provided in each application and its attachments, the Subcommittee will measure the strengths of the applications and work with program staff to develop proposed grant awards. This process may include an interview at the discretion of the Mini Grant Subcommittee. All applications will be evaluated using the Evaluation Form found in Appendix 2. Funding proposals are submitted with recommendations to the full Commission for the Arts. The Commission for the Arts reviews and makes final approval.

Appeals

Grounds for Appeal

An applicant may file an appeal of a Subcommittee's recommendation only if it believes that one or more of the following circumstances has occurred and has affected the grant recommendation for the organization filing the appeal:

- a. The Commission for the Arts, or one of its Subcommittees committed a material breach of published grant review policies and procedures;
- b. Required application materials that were submitted by the deadline were omitted from the materials the Subcommittee considered during the review process; or
- c. A member of the Grant Subcommittee did not recuse her/himself even though s/he had a conflict of interest in relation to an applicant; as such term is defined under state law, which should have resulted in the panelist's recusal from evaluating the applicant or participating in a discussion of the applicant.

The Commission for the Arts will not consider appeals that are based on:

- a. Correcting applicant errors and omissions in the application or review process;
- b. Disagreements about the merits of the application relative to others the Subcommittee considered; or

- c. Events and/or organizational developments that occurred subsequent to the meeting.

Appeals Process

Applicants wishing to appeal must submit their appeals in written form to the Community Development Department within one business week after notification of application denial has been sent.

A special Appeals Panel consisting of members of the Commission of the Arts will weigh eligible appeals. The Appeals Panel will report its findings to the full Commission. If an applicant is dissatisfied with the Panel's resolution of its appeal, the applicant may address its appeal further to the full Commission, as long as the appeal is based on the Grounds for Appeal described above.

An applicant who disagrees with the Commission's recommendation to not fund its Project and Program Grant application may attend the City Council meeting and provide input to the Council when Council will consider the Commission's recommendation for that Project and Program Grant.

Public Nature of Application Material

Applications submitted for arts grants become the exclusive property of the City. At such time as the Commission for the Arts reviews an application it will become a matter of public record and shall be regarded as public records, with the exception of those elements in the application which are defined by the applicant as business or trade secrets and plainly marked as Confidential, Trade Secret, or Proprietary. The City shall not in any way be liable or responsible for the disclosure of any such application or portions thereof, if they are not plainly marked as Confidential, Trade Secret, or Proprietary or if the disclosure is required under the Public Records Act. Any application which contains language purporting to render all or significant portions of the application Confidential, Trade Secret, or Proprietary shall be regarded as non-responsive and, therefore, not eligible for review.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that an applicant submits is a trade secret. If a request is made for information marked Confidential, Trade Secret, or Proprietary, the City will provide the applicant who submitted the information with reasonable notice to allow the applicant to seek protection from disclosure by a court of competent jurisdiction.

Acknowledging City Support

Grant recipients must acknowledge the City's financial support in all appropriate materials and media. The acknowledgement should read, "Supported in part by a grant from the City of Livermore" or similar language, unless the City is a part of a list of supporters. In the latter case, the acknowledgement may say only City of Livermore. Grantees should display the City's logo whenever other sponsor logos are displayed, and in accordance with City logo use guidelines.

Eligibility Requirements

At the time of application, all grant applicants must meet the following eligibility requirements:

- The group and/or artist is in compliance with requirements pertaining to any previous grant it has received from the City.
- The group and/or artist have completed any previously funded project or program before they apply for a new grant.

Grant Awards

Past grant awards are no assurance of future awards. Recommendations and decisions are made fresh each year.

Grants are generally paid after the project or program is completed and upon receipt of the grantee's final report, on a form to be provided by the Commission for the Arts. In exceptional circumstances, grant monies may be issued in advance of a project or program. Applicants whose projects are dependent upon receiving monies in advance should submit documentation evidencing this fact to the Commission for the Arts.

Exclusions

Grants do not support:

1. Programs, projects or events not accessible to the public or that will be held outside Livermore;
2. Purchase of equipment or property, unless the equipment is required for the funded activity or project;
3. Events where fund-raising is the primary purpose;
4. Costs of receptions and social activities, except where they are an incidental and insignificant part of the project budget;
5. Deficit or debt reduction efforts;
6. Operating costs not directly related to carrying out the funded program or activity.

Work Samples

The Commission may request work samples on a case-by-case basis as part of the application. Work samples provide a valuable opportunity for the Commission to understand the quality of your project. Whenever possible, the work samples should illustrate what you propose to do in your project and show the quality of the work.

There is a limited time for the Commission to review the samples so it is to your advantage to cue your sample to the most relevant portion of the work. Keep in mind that the Commission may not see/hear the entire work sample, or they may fast forward if they desire. Whenever possible, provide samples of work done within the past two years.

Select samples that show your work to its best advantage, including image and sound clarity. In general, use excerpts from completed works but avoid montages. If your proposal is for a

work in progress, consider submitting an excerpt of the work in addition to an excerpt of a completed work.

After the grant review process, work samples will be discarded unless you request otherwise. For the return of your work samples, provide a self-addressed envelope with sufficient postage, and/or if necessary other arrangements can be made to return your work samples. The type of work sample required depends on the discipline that best fits your proposed project:

1. Dance: 2 continuous selections, each 2-4 minutes long. Put each selection on a separate memory stick, CD/DVD, or YouTube and cue to the beginning of each selection.
2. Literary Arts (publication): 3-5 publications (books, journals, magazines, etc.) from the past two years. One copy of each is sufficient. If appropriate, you may also include 7 copies of a manuscript excerpt. The excerpt must not exceed 20 double-spaced pages.
3. Literary Arts (readings): 1 selection of a continuous reading or staged interview 2-4 minutes long. Put on a memory stick, or CD/DVD, and cue to the beginning of the selection.
4. Literary Arts (publication & readings combined): Up to 2 publications or 1 manuscript excerpt prepared according to the instructions above, plus 1 selection of a continuous reading or interview, prepared according to the instructions above.
5. Media Arts, Film, and New Media: 2 selections on separate memory stick, CD, DVD, or YouTube. Cue each to the beginning of the selection. Each selection should be 2-4 minutes long.
6. Music: 2 continuous selections, each 2-4 minutes long. Put each selection on a separate CD or YouTube.
7. Theater/Musical Theater/Opera/Operetta: 2 continuous selections, each 2-4 minutes long. Put each selection on a separate memory stick, CD, DVD or YouTube and cue to the beginning of each selection.
8. Visual Arts: 1 set of 8 images, on CD. You may submit maquettes of relevant work-in-progress. Please call first if you wish to submit a maquette.
9. Heritage Projects: Photo documentation of heritage exhibit or re-enactment, research publications, descriptions of preservation activities, or news articles describing project implementations.
10. Interdisciplinary Arts and Multidisciplinary projects: Up to 2 selections of any appropriate combination of the above.
11. Infrastructure: Samples of work by any professional that you might engage to accomplish your goal.

How to Prepare Samples of Work for Submission

Except for manuscript excerpts, you need to provide only one copy of each sample. **Do not send originals or your only copy of work documentation.** Check that digital media works properly before you submit it.

CDs/DVDs

- Label each CD/DVD container with applicant's name, title of work and date.
- The description page should include the date/place of production and broadcast/release, if appropriate. If samples are still images, include an annotated list.

Other Media

If your work samples differ from the above, please consult with program staff to discuss alternatives before submitting. If your work sample is an interactive media work, be sure to include instructions for interacting with the sample.



CHAPTER 4

ARTS GIFT POLICY

The City of Livermore is committed to enhancing Livermore's art and cultural activities for all residents and to establish Livermore as the premier destination in the Tri-Valley region.

Definition of Public Artwork

The term **art** is used to describe a particular type of [creative](#) production generated by human beings, and the term usually implies some degree of [aesthetic](#) value. An artist makes a work of art for various purposes, such as creating an experience for others. There is no general agreed-upon definition of art, since defining the boundaries of "art" is subjective, but the [impetus](#) for art is often called human [creativity](#). Some examples as described in the Public Art Ordinance include:

- Artwork created for specific locations;
- Exhibitions, events, performances, temporary exhibits, and/or artwork installations located in a public space;
- Artwork produced through involvement of the community;
- Integration of art and architecture to enhance the design of urban or public spaces; and
- Collaboration of artists, architects or urban designers to create unique physical environments or features which integrates art into the urban fabric of the city.

Mediums include (but are not limited to) sculpture, murals, glass or water features, landscaping, uniquely designed or site specific paving, furniture and parts of buildings, sound and light works, organic form, works that may decompose or melt, memorabilia, or ceremonial objects related to civic activities.

The following items will not be considered as public artworks:

- Art objects which are mass-produced as public artwork,
- Reproduction of original artwork,
- Decorative, ornamental, or functional elements of a building which are designed by an architect as opposed to an artist commissioned for the purpose of creating an artwork, or
- Landscape architecture.

Gifts of Public Artwork Considered

The City will consider a donor's offer of an existing public artwork, commission of an artwork by a specific artist or artists, or to commission an artwork through a competitive public

process. “Artist” means a person who has an established reputation of artistic excellence in the visual, performance, literary, and/or media arts, as judged by peers, through a record of exhibitions, public commissions, sale of artworks, and/or educational attainment. Alternately, the City will consider a gift that is monetary for the purpose of acquiring public art for the community.

Review Process for Proposed Gifts

All proposed gifts will be referred to the City of Livermore Commission for the Arts. The Commission’s recommendation on the acceptance or rejection of proposed gifts will be referred to the City Council for final action.

If the City Council approves the acceptance of a gift, a formal agreement will be executed between the City and the donor and/or artist. This agreement will include costs, responsibilities, and schedule of all aspects of the project, including project funding, fabrication, installation, maintenance and budget requirements, transfer of title, donor’s and/or artist’s rights, project supervision, documentation, an identification plaque, City’s rights of ownership (including deaccessioning), and other requirements established by the City.

Review Criteria

The proposed artwork will be reviewed based a variety of factors, including, but not limited to the following:

- Conformance to the City’s Cultural Arts Master Plan. The proposed artwork must conform to the goals and strands identified in artsAlive!, the City’s Cultural Arts Master Plan.
- Aesthetic quality. Consideration will be given to the inherent quality of the proposed artwork as assessed by the criteria review of the Commission for the Arts.
- Relationship to the collection and the community. The proposed artwork will be analyzed for its potential relationship to the City’s present public art collection and whether it will enhance the aesthetic quality of the community.
- Compatibility. Conceptual compatibility and appropriateness of the proposed artwork to the surrounding built and/or natural environment will be factors or consideration, and will include scale, form, content, and design.
- Materials, fabrication, and installation. The Commission for the Arts will evaluate the existing artwork’s material or the artist’s proposed materials and their appropriateness as regards to structural and surface integrity, protection against theft, vandalism, public safety, and weathering, and an analysis of long-term maintenance needs. The Commission for the Arts will also evaluate the proposed method of installation and an evaluation of safety and structural factors involved in the installation.

Standards for Acceptance of a Gift

- Budget. Consideration will include an evaluation of the donor’s proposed budget and the artist’s ability to successfully complete the project within the proposed budget, and review to assess realistic estimates and comprehensiveness of the budget as it addresses all the costs of the proposal.

- Unrestricted gifts. Proposed gifts to the City will be clear and unrestricted unless otherwise agreed to in writing by the City.
- Unique artworks. Only one-of-a-kind artworks will be considered, with the exception of prints, photographs or other limited edition artworks of high quality.
- Cost of artwork. Acceptance is contingent upon receipt by the City of payment from the donor for all costs associated with the gift not covered by the donor directly, such as transportation, installation and maintenance, unless otherwise agreed to in writing by the City.
- Alterations to proposed artwork design. Any change to the design or concept made by the artist or donor of the gift must be reviewed by the Commission for the Arts and approved by the City Council.
- Review of fabrication and installation. Artworks accepted from maquettes or drawings will be subject to City review throughout fabrication and installation. Specific plans for the site design, installation, maintenance and protection will be submitted to the City for approvals.
- Ownership of accepted artwork. Gifts of public artwork that are accepted by the City will be owned by the City as part of its collection. In accepting an artwork into its collection, the City will not be bound by any agreement with a donor of artwork that restricts its ability to act in the City's best interests. Nothing in the acceptance of an artwork will prevent the City from approving subsequent disposal (removal, relocation, and/or sale) of such artwork if it serves the City's best interest to do so. If disposal is proposed, the Commission for the Arts will make a recommendation to the City Council for final action. The City will deaccession and sell or otherwise dispose of artworks in its collection in accordance with the limitations of the California Preservation Act (Civil Code 987) and the Visual Artist's Act of 1990 (17 U.S.C. 1064 and 113(d)).

PROPOSAL FOR A GIFT OF ARTWORK TO THE CITY OF LIVERMORE

To propose an artwork gift to the City of Livermore, please complete the following information and provide your signature at the bottom of this page. The completed form and other information should be submitted to:

Staff Liaison to the Commission for the Arts
City of Livermore
1052 S. Livermore Ave., Livermore, CA 94550
Email: arts@cityoflivermore.net
Questions: (925) 960-4400, (925) 960-4104 TDD

Donor Information

| | |
|----------|--------|
| Name: | Phone: |
| Address: | Email: |

If the Artwork is existing:

Title of artwork:

Artist:

Artwork medium/materials:

Maintenance procedure/schedule:

Current owner of artwork:

Date of artwork:

Current location of artwork:

Value of artwork: \$

Please attach photographs of the artwork. Attach any other information you would like the city to know about the artwork (for example, artist resume, examples of other artworks in other collections, press clippings, history of artwork).

If the artwork will be commissioned:

- Provide a written proposal with the following information:
- resume of the artist and photographs of his/her work;
 - details about the artwork that would be commissioned, including subject of the artwork, medium/materials, approximate size; and
 - sketch or maquette of the artwork.

I have read the City of Livermore Artwork Gift Policy.

Signature: _____ Date: _____



CHAPTER 5 DEVELOPER GUIDELINES

On January 14, 2008, the City Council adopted the following ordinance supporting the inclusion of public art throughout the City:

All new construction of residential, industrial, and commercial private developments shall be required to allocate one third of one percent (0.33%) of the construction costs of a development project (the amount to be determined by the Building Official) for acquisition and installation of Public Art in the development project. This ordinance also applies to substantial rehabilitation of a structure, which adds 25% or more square footage. In lieu of providing Public Art at the site, the developer, at its discretion, may contribute the amount to the Livermore Public Art Fund.

Requirements and Procedures to Install Public Art

The requirements and procedures for processing a request to install public art shall be as follows:

- a. If the developer chooses to provide artwork, an Application including a site plan showing the location of the artwork, complete with landscaping, lighting and other appropriate accessories to complement and protect the artwork, the artist's concept and representation, such as a drawing, photograph, or maquette of the artwork, must be submitted. Developers should indicate what medium or materials will be used and should also include maintenance plans for the artwork. Information on the artist chosen to create the art may also be attached.
- b. The Planning Division staff will review the proposal to ensure that the artwork is generally compliant with these Guidelines and other applicable city ordinances, e.g., a mural proposal will be reviewed to ensure that it does not infringe on the signage ordinance.
- c. To the maximum extent possible, processing the request to install public art shall be concurrent and coordinated with the project application.
- d. Proposals will be forwarded to the Commission for the Arts staff liaison by the Planning Division.

Commission for the Arts Approval Guidelines

The Commission for the Arts staff liaison will review the proposed project to ensure that the project does not include subject matter such as the apparent representation of violence, inappropriate nudity, denigration of individuals or cultures, or desecration of significant cultural symbols.

After review, the Commission for the Arts staff liaison will schedule the application to be reviewed by the Commission for the Arts

The Commission for the Arts will approve the proposed art, conditionally approve, or deny the request to install public art based upon these guidelines including the following criteria:

- a. The artwork shall be placed on public or private property which is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the public and clearly visible from adjacent public property, such as a street or other public thoroughfare or sidewalk.
- b. The application shall include a site plan showing the location of the artwork, complete with landscaping, lighting and other appropriate accessories to complement and protect the artwork.
- c. The composition of the artwork shall be of permanent-type of materials in order to be durable against vandalism, theft, and weather, and in order to require a low level of maintenance.
- d. The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.
- e. The artwork shall be designed and constructed by persons experienced in the production of such artwork and recognized by critics and by his or her peers as one who produces works of art.
- f. The artwork shall be a permanent, fixed asset to the property and be maintained for not less than 30 years.
- g. The artwork shall be maintained by the property owner in a neat and orderly manner acceptable to the City, unless the artwork is installed on property owned by the City, in which case the City shall maintain the artwork.

The Commission for the Arts may make recommendations to the developer for changes to the project proposal in order to maintain the City's artistic message as outlined in artsALIVE!, the City's Cultural Arts Master Plan.

When the project applicant has elected to acquire and install artwork, the building permit for the development project shall not be issued until the Commission for the Arts has approved the request to install public art, and the certificate of occupancy shall not be issued until the approved work of art has been installed. The developer shall enter into an agreement with the city, which shall be recorded against the property, to ensure that the public art is maintained for a minimum period of 30 years.

A developer may choose to include artwork that costs less than what is required for their project but must pay the remainder of the fee to the public art fund.

The project applicant may appeal any decision rendered hereunder by the Commission for the Arts to the City Council for final decision.

Contribution to the Public Art Fund

If a developer chooses to contribute to the Livermore Public Art Fund, the Community Development Department staff will calculate the public art fees and notify the Commission for the Arts staff liaison with this information.

Definition of Public Space

A Public Space is defined as a space, which is easily accessible and clearly visible for public view. The area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.

Permitted Types of Artwork

Types of artwork permitted as public art in Livermore include:

- Paintings-all media including both portable and permanently affixed works, such as murals.
- Sculpture-in the round, bas-relief, mobiles, fountains, kinetic or other, in any materials or combination of materials
- Other visual media-including but not limited to prints, drawings, stained glass, calligraphy, mosaics, photography, video, ceramics, fiber and textiles.
- Mixed media combination of forms and media such as collage, etc, other works of materials, disciplines and media which are of temporary duration, including installation of performance arts that are documented and archived.

Eligible Mediums

Eligible mediums include but are not limited to:

- Sculpture, painting, drawing, printmaking, photography, calligraphy, ceramics or clay, murals, stained glass, wood, metal
- Glass or water features
- Landscaping
- Uniquely designed or site specific paving
- Furniture and parts of buildings
- Sound and light works

Ineligible Mediums

Ineligible mediums include:

- Mass produced or standardized art objects, unless incorporated into an artwork by the project artist.
- Mechanical reproductions of original works of art

- Landscape and ornamental features designed by the architect builder without the commission of a professional visual artist.
- Organic form
- Works that may decompose or melt
- Memorabilia or ceremonial objects related to civic activities
- Directional elements and signage unless where integral to an overall concept created by a professional artist.

Submittal Requirements

The following documents must be submitted to the Commission for the Arts as part of consideration of the proposal for artwork:

- Landscape and site plans showing the proposed location and orientation of the artwork, its integration into the overall design of the project, and accessibility to the public.
- A statement of the in-place value of the proposed artwork.
- A sample, model, photograph, drawing, or other exemplar of the proposed artwork.
- A resume of the artist including slides or photographs of the artist's previous work.



APPENDICES



Project & Program Grant

City of Livermore
Community Development Department
Commission for the Arts

Application Form, Instructions, and Checklist

Applications are due on March 1 and September 1 each year

Completed grant applications must be:

- ❖ Delivered (in person or by commercial service such as FedEx, UPS, etc.) to the Community and Development Department c/o Commission for the Arts by 5 p.m. on March 1 and September 1, or
- ❖ Sent First Class or Priority Mail by the US Postal Service to be received at the City no later than March 1 and September 1.

Send or deliver applications to:

**City of Livermore
Community Development Department
Staff Liaison for the Commission for the Arts
1052 S. Livermore Avenue
Livermore, CA 94550**

This packet contains the Application Checklist and instructions for completing the application.

Applicant Name: _____

APPLICATION CHECKLIST - This Checklist is required and must be submitted as part of the completed Application. All Project & Program Grant applicants are required to submit the following:

One original set of the Application, collated in the following order:

- ☐ 1. Application Checklist (this page).
- ☐ 2. Start date: Do(es) the event(s) related to this project begin at least two (2) months after the application deadline?
- ☐ 3. Organizational Summary, signed by the organization's executive director, managing director, president, board chair, or other authorized officer of the organization, or by the applying artist.
- ☐ 4. If you are an organization, submit a list of current officers and Board members with their term of office.
- ☐ 5. If you are a 501(c)(3), submit a copy of your 501(c) (3) determination letter from IRS.
- ☐ 6. Application Form, beginning on page 1, continuing through the Project Budget Summary.
- ☐ 7. Notes to the Project Budget, and a detailed list of In-Kind contributions.
- ☐ 8. List of key project individuals, including principal artists and project managers, with a very brief job description (e.g., a self-explanatory job title) for each.
- ☐ 9. Resumes/biographies of key project individuals, generally one page each.
- ☐ 10. Up to four items in any combination of brochures, catalogues, performance programs, or similar organizational publications/materials; if available.
- ☐ 11. Up to four recent press reviews or articles, or similar independently generated published materials, if available. (*Note: Calendar listings are not suitable.*)
- ☐ 12. NOTE: During the review process you may be requested to submit samples of other work you have produced (work samples). See Chapter 3 – Grants for more information about work samples.

Standards for Preparing Applications

Please read the following carefully. Applicants are responsible for completing and submitting a full application package with all required attachments by the deadline. Incomplete applications will not be accepted for Commission evaluation.

- 1. Applicants must not modify the format of the application form or exceed the maximum length of any section of the form, except where otherwise noted.
- 2. All required attachments (except pre-printed ones) must be typed or computer-prepared in a type size that is no smaller than 12 pt. Times/Times New Roman, or 10 pt. Arial/Helvetica.
- 3. Complete all pages of the application form and all required attachments. (Use "N.A." if a section does not apply to your organization.) Provide information that is current as of the application deadline. Budget pages and budget notes must be complete.

Sample

Certification

If applicant is an organization:

I certify that the by-laws of this organization or a resolution of its governing body authorizes me to enter into legal agreements for the organization and to submit this application. To the best of my knowledge and belief, this organization meets the appropriate eligibility requirements. I have reviewed the information in this application and all attachments, and I certify that they are true and correct.

Authorized Officer's Signature

Date

Print Name of Officer signing this form

Title of Officer signing this form

- or -

If applicant is an individual artist:

To the best of my knowledge and belief, I meet the appropriate eligibility requirements. I have reviewed the information in this application and all attachments, and I certify that they are true and correct.

Artists Signature

Date

Print name of Artist signing this form

Sample

Application Form - Project & Program Grants

Deadline: Hand delivered or received via US Mail by 5:00 pm on March 1 or September 1

Submission Date: _____

Amount of Grant Request: \$_____ Total Project Budget: \$_____

Applicant/Organization: _____

Applicant/Organization's Address: _____

Applicant/Organization's Web site: _____

Preparer's Name and Title: _____

Preparer's Phone: _____ Preparer's E-mail: _____

Address (for formal notification): _____

Describe the art form of the project or program for which support is requested (i.e., Dance, Theater, Visual Arts, Heritage, Infrastructure, Media/Film/New Media, etc.):

Briefly describe the project or program for which support is requested:

Number of people intended to reach: Audience: _____ Participants: _____

For the purpose of this application, "audience" means the people who will attend the project or program; "participant" means someone who attends a workshop or class, or else has hands-on involvement in the project or program. If the project or program will have both audiences and participants as defined here, please enter both goals.

Date project or program is scheduled to begin: _____

Note: Project events may begin no earlier than two (2) months after the application deadline.

Date project or program is scheduled to end: _____

Application Form - Project & Program Grants

If needed, please use additional paper for this section.

1. State/describe your organization's mission or provide an artist's statement. Include the kind of arts work the organization or artist has done previously and does now. How does this work relate to the proposed project/program? If yours is not an arts organization, state briefly how the arts relate to its mission. (250 words or less)

2. Describe the project or program for which you are seeking the grant. Discuss the project's origins. Describe the venue/location, the implementation process, and the timeframe. Discuss the resources — people, money, etc. — you will need to implement the project, whether you already have those resources within your organization or, if not, how you plan to obtain them.

3. How will the requested grant be used in the planning and implementation of the project or program? (500 words or less.)

4. Describe how the program or project specifically addresses one or more of the main strands found in the Cultural Arts Master Plan, artsAlive! (Refer to the Cultural Arts Master Plan Executive Summary in the Public Art Policy Guideline manual.) (250 words or less.)

5. List the individual(s) or organization(s) you will be partnering with on this project. Be specific regarding the support, both financial and in-kind, they will be providing.

Sample

Application Form - Project & Program Grants

Project/Program Budget Worksheet (enter N/A if item does not apply. Attach Budget Notes if necessary.)

PROJECT SUPPORT (Do not include in-kind support)

| Earned Revenue | Amount | Notes |
|---------------------------------|-----------|-------|
| Ticket Sales/Admissions | \$ | |
| Tuition/Workshop fees | \$ | |
| Other: | \$ | |
| Subtotal: Earned Revenue | \$ | |

| Contributed Income | Amount | In-hand | Pending |
|---|-----------|-----------|-----------|
| Contributions (Individuals/Businesses) | \$ | \$ | \$ |
| Grants (Foundations/Government other than City) | \$ | \$ | \$ |
| City of Livermore (other than this grant request) | \$ | \$ | \$ |
| Other: | \$ | \$ | \$ |
| Subtotal: Contributed Income | \$ | \$ | \$ |

| | |
|---|-----------|
| Project & Program Grant Amount Requested | \$ |
|---|-----------|

| | |
|---|-----------|
| Total Project Support (Revenue + Income + Grant) | \$ |
|---|-----------|

PROJECT EXPENSE (Do not include in-kind expense)

| Personnel | Amount | Notes |
|----------------------------|-----------|-------|
| Artistic | \$ | |
| Production | \$ | |
| Administrative | \$ | |
| Other: (describe in Notes) | \$ | |
| Subtotal: Personnel | \$ | |

| General | Amount | Notes |
|----------------------------|-----------|-------|
| Venue Rental | \$ | |
| Materials and Supplies | \$ | |
| Marketing and Promotion | \$ | |
| Transportation | \$ | |
| Insurance | \$ | |
| Other: (describe in Notes) | \$ | |
| Subtotal: General | \$ | |

| | |
|---|-----------|
| Total Project Expenses (Personnel + General) | \$ |
|---|-----------|

| | |
|---|-----------|
| Project Surplus (Loss) (Total Support minus Total Expense) | \$ |
|---|-----------|

If Project Net is a negative value, explain in the Budget Notes how it will be covered.

Matching Funds

All Project and Program Grant applicants must provide at least a dollar-for-dollar (one-to-one) match for the grant award, no less than 50 percent of which must be a cash match. The cash match must be from sources other than the City of Livermore.

In-kind contributions are allowed as part of the match only on the following limited basis:

1. In-kind contributions cannot be used for more than half of the required match, in other words, they cannot represent more than 50 percent of the value of the grant award; and,
2. The value of in-kind contributions, i.e., goods and services, must offset line item expenditures in the project budget and their value must be documentable with invoices or billing statements.

In-kind contributions must be listed below or on a separate sheet attached to the Budget Notes.

| Source | Description | Fair Market Value |
|--------|-------------|-------------------|
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |
| | | \$ |

Requested Grant Amount: \$ _____

Cash Match Amount: \$ _____

In-kind Match Amount: \$ _____

Project and Program Grant Application Evaluation Criteria

Applicant: _____

Project: _____

| | Proposal Score |
|---|----------------|
| Commissioner Evaluation <i>(Items 1-6: maximum of 70 points)</i> | |
| Application Submission Completed by Staff <i>(Items 7-10 : maximum of 10 points)</i> | |
| Minimum Point Threshold to be Considered for Funding | 56 |

1. Applicant Evaluation (Maximum of 15) _____

- The applicant is qualified and has the capacity to produce this project/program.
- The applicant is able to achieve the stated goals and outcomes.
- The amount of dollars requested compared to the number of Livermore residents served is reasonable for this project/program.

2. Program Evaluation (Maximum of 15) _____

- The applicant possesses the credentials to provide a quality project/program.
- The project/program specifically addresses one or more of the main strands found in the Cultural Arts Master Plan.
- The project/program meets one or more of the Council's current cultural arts priorities and will be beneficial for Livermore's cultural arts community.

3. Funding/Budget (Maximum of 10) _____

- Project/program and administrative budgets are reasonable.

4. Alternative Funding Sources (Maximum of 10) _____

- The applicant has secured the required 1:1 matching funds at least 50% of which are from cash sources *other than* the City of Livermore.
- If applicable, will the applicant charge a fee and/or produce other income that may be used to support this project/program.
- The applicant has secured the funds necessary to complete the project or program.

5. Community Support and Collaboration (Maximum of 5) _____

- ♦ Does this applicant have overall program and financial support from Livermore residents?
 - ♦ Has the applicant secured partners within the Livermore community to achieve the project/program goals?
-
-

6. Marketing and Outreach (Maximum of 5) _____

- ♦ Does this applicant have a well thought out and workable marketing and outreach plan?
 - ♦ The project/program is accessible to the diverse population that is Livermore (lower income residents, disabled, the elderly, youth, cultural diversity, etc.).
-
-

TO BE COMPLETED BY STAFF

7. Application Process

- a. Has the application been completed according to the checklist? **Up to 10 points**
or,
 - b. were extra materials added to the application or insufficient information provided? **0 points**
-
-
-

8. Has the applicant previously applied for funding from the Commission for the Arts under the Project and Program Grants program? _____
When? _____

9. Has the applicant previously applied for funding under any other City Art program? Yes/No _____ If yes, when? _____

10. Did the applicant receive funding for prior applications? Yes/No _____

11. Did the applicant submit a Final Report for prior grants? Yes/No _____

Mini Grant Application and Review Guidelines

City of Livermore, Commission for the Arts

Mini Grants are designed to help individual artists, arts organizations and arts non-profits in Livermore to expand or improve their services or programs to increase access to the arts.

Both the Livermore City Council and Commission for the Arts appreciate the hard work and creativity of our local arts community. Because this program is funded with public dollars, the Mini Grant program can only support programs that take place within Livermore.

[Link to Mini Grant Application](#)

Application and Review Process

1. The City's Commission for the Arts will accept applications for grants of up to \$1,000 to support a variety of artistic endeavors within our community.
2. Complete applications that include the required attachments must be submitted by the first day of March, June, September or December, by 5:00 pm, to be considered for funding. Events funded by mini grants may commence no earlier than two (2) months after the application deadline.
3. Incomplete applications will not be forwarded to the Subcommittee for consideration. Staff will notify you if the application requires additional information.
4. To complete the application, download it to your computer and complete all pages of the application form and all required attachments. *(Use "NA" if a section does not apply to you.)* Provide information that is current as of the application deadline. After you complete the application, save it to your computer.
5. On the Budget Form, only provide budget information regarding the project that you are requesting funding for. We do not need to review the entire organization's budget.
6. The Application Form must be signed by the organization's executive director, managing director, president, board chair, or the applying artist. If you are an organization, you must submit a list of current officers and Board members with their term of office.
7. Applicants must not modify the format of the application form or exceed the maximum length of any section of the form, except where otherwise noted
8. There are two ways to submit the documentation.
 - a. You can email it to arts@cityoflivermore.net. Indicate Mini Grant Application and your organization's name in the subject line of the email. Email size is limited to 10MB. Divide into multiple files and email each separately if entire file is larger than 10MB; or
 - b. Deliver (via hand or mail) one copy at City Hall, 1052 S. Livermore Avenue. The application packet should be addressed to the Community Development Department, Mini Grant Application and must be received by 5:00 pm on the 1st of March, June, September, or December in order to be considered for funding that month.

Evaluation Process

After submission, the application will be reviewed by staff and if eligible will be forwarded to the Mini Grant Subcommittee of the Commission for the Arts. The Subcommittee will consider all eligible grants received by the deadline and will make their recommendation at the next regularly scheduled meeting. City Staff will contact you to confirm the date, time, and location of the meeting.

Acknowledgement of funding from Commission for the Arts

All Mini Grant applications must identify how they will acknowledge any funding they may receive from the Commission. This can be accomplished in publicity, advertising of the event and/or program-related materials. The acknowledgement should read, *"Supported in part by a grant from the City of Livermore's Commission for the Arts."*

Application Checklist

All Mini Grant applicants are required to submit the following

- ___ Application Form
- ___ Project Description Information
- ___ Signed Application Certification
- ___ Project Budget with descriptions (*do not include full agency budget*)

Attachments:

- ___ Resumes of key project individuals (*1 page per person*)
- ___ If you are an organization, a list of current officers and Board members with their term of office
- ___ If you are a non-profit organization, evidence of 501 (c)(3) status
- ___ *If available*, up to four items that describe your project such as a brochure, catalogue, performance program, press review, articles, or other publications.

NOTE: Work Samples may be requested by the Subcommittee during the review process. Staff will contact you if any of these materials are required.

If the Mini Grant Application is Approved

You will receive a letter and a contract for the Mini Grant funds. Return the signed contracts to the City as soon as possible to confirm your intent to receive funding.

Because the grants are funded with public dollars recipients are required to submit a Mini Grant Final Report describing the outcome of the project no later than 30 days after the event is completed. Email to arts@cityoflivermore.net. The Mini Grant Final Report [form](#) is available on the City's website and a sample is included in this appendix.

If you have any questions regarding how to complete this application or the review process please contact City Staff at (925) 960-4400 or email arts@cityoflivermore.net

Mini Grant Application Form

Submission Date: _____

Select Application Deadline *Events for funded activities may not begin earlier than two (2) months after the application deadline*

- ☐ March 1 (earliest event start date: May 1) ☐ Sept 1 (earliest event start date: Nov 1)
☐ June 1 (earliest event start date: Aug 1) ☐ Dec 1 (earliest event start date: Feb 2)

Amount of Grant Request: \$_____ Total Project Budget: \$_____

Project Title: _____

Applicant/Organization: _____

Applicant/Organization Address: _____

Applicant's Website: _____

Preparer's Name and Title: _____

Preparer's Phone: (____) _____ - _____ Preparer's Email: _____

Address: (for formal notification): _____

Briefly (in one to two sentences) describe how the grant funds will be utilized for your project. Note: A full description of the use of grant funds will be requested in Question 4.

Briefly describe (in one to two sentences) the nature of your project, including any event dates and venues. Note: A full description of your project will be requested in Question 2.

Sample

Mini-Grant Application Certification

If applicant is an organization:

I certify that the by-laws of this organization or a resolution of its governing body authorizes me to enter into legal agreements for the organization and to submit this application. To the best of my knowledge and belief, this organization meets the appropriate eligibility requirements. I have reviewed the information in this application and all attachments, and I certify that they are true and correct.

Authorized Officer's Signature

Date

Print Name of Officer signing this form

Title of Officer signing this form

- or -

If applicant is an individual artist:

To the best of my knowledge and belief, I meet the appropriate eligibility requirements. I have reviewed the information in this application and all attachments, and I certify that they are true and correct.

Artists Signature

Date

Print name of Artist signing this form

Mini Grant Application Project Description

All responses to be 500 words or less.

1. Describe the organization's or artist's experience and skill set for this project.
2. Summarize your project, including location, date(s), target audience/participants, and primary goals.
3. Describe how this project addresses the goals of the City's Cultural Arts Master Plan.
4. If funded, how will the grant proceeds be used?
5. If funded, how will you acknowledge funding from the City of Livermore Commission for the Arts? Grant recipients must acknowledge the City's financial support in all appropriate materials and media. Additionally, programs or other promotional materials crediting the City should be attached to the final grantee report upon project completion.

Sample

Commission for the Arts Mini Grant Budget Worksheet

Project Support *(Do not include in-kind support)*

| Earned Revenue | Amount | Notes |
|---------------------------------|--------|-------|
| Ticket Sales/Admission | | |
| Tuition/Workshop Fees | | |
| Other | | |
| Subtotal: Earned Revenue | 0 | |

| Contributed Income | Amount | In-Hand | Pending |
|--|--------|---------|---------|
| Contributions <i>(Individuals/Businesses)</i> | | | |
| Grants <i>(Foundations/Government other than City)</i> | | | |
| City of Livermore <i>(other than this grant request)</i> | | | |
| Other | | | |
| Subtotal: Contributed Income | \$0 | | |

| | |
|-----------------------------|--|
| Mini Grant Amount Requested | |
|-----------------------------|--|

| | |
|------------------------------|-----|
| Total Project Support | \$0 |
|------------------------------|-----|

Project Expense *(Do not include in-kind expense)*

| Personnel | Amount | Notes |
|----------------------------|--------|-------|
| Artistic | | |
| Production | | |
| Administrative | | |
| Other <i>(describe)</i> | | |
| Subtotal: Personnel | \$0 | |

| General | Amount | Notes |
|--------------------------|--------|-------|
| Venue Rental | | |
| Materials and Supplies | | |
| Marketing and Promotion | | |
| Transportation | | |
| Insurance | | |
| Other <i>(describe)</i> | | |
| Subtotal: General | \$0 | |

| | |
|------------------------------|-----|
| Total Project Expense | \$0 |
|------------------------------|-----|

| | |
|---|-----|
| Project Surplus (Loss) (Total Support minus Total Expense) | \$0 |
|---|-----|

Mini Grant Application Evaluation Criteria

Applicant: _____

Project or Program : _____

| | Proposal Score |
|---|----------------|
| Commissioner Evaluation (<i>Items 1-4: maximum of 50 points</i>) | |
| Application Submission Completed by Staff | |
| Minimum Point Threshold to be Considered for Funding | 25 |

1. Project or Program Evaluation (Maximum of 20) _____

- ♦ The applicant is qualified and has the capacity to produce this project/program.
 - ♦ The applicant is able to achieve the stated goals and outcomes.
 - ♦ The project/program specifically addresses one or more of the goals described in the Cultural Arts Master Plan.
- _____

2. Funding/Budget (Maximum of 10) _____

- ♦ Project/program and administrative budgets are reasonable.
- _____

3. Alternative Funding Sources (Maximum of 10) _____

- ♦ The applicant has secured other funds in either financial or in-kind support.
 - ♦ If applicable, will the applicant charge a fee and/or produce other income that may be used to support this project/program.
 - ♦ The applicant has secured the funds necessary to complete the project or program.
- _____

4. Community Support and Collaboration (Maximum of 10) _____

- ♦ Has the applicant secured partners within the Livermore community to achieve the project/program goals?
- ♦ The project/program is accessible to a diversity of Livermore residents? (lower income residents, disabled, the elderly, youth, cultural diversity, etc).

THIS SECTION TO BE COMPLETED BY CITY STAFF

5. Application Process

Has the application been completed according to the checklist? ____ Yes ____ No

6. Has the Applicant applied before under the Mini Grant Program?

If so, when? _____

7. Did the applicant receive recommendation for funding for prior applications?

8. Did the applicant submit a final report for prior project?

Commission for the Arts

Mini Grant – Grantee Final Report

Date: _____

Applicant/Organization: _____

Applicant's/Organization's Address: _____

Preparer's Name & Title: _____

Preparer's phone: _____

Preparer's email: _____

Address (for formal notification): _____

Describe completed project (including activity, date, and venue).

How were the goals of this project met?

Specifically, how did the Mini Grant funds support this project?

How was the City of Livermore's Commission for the Arts acknowledged in promotional materials? (Attach examples of this acknowledgment.)

Please share success stories about this project and photos from your event. (Add additional pages, if necessary.)

artsALIVE! Executive Summary

The community of Livermore, through its Commission for the Arts, has created this ambitious and visionary plan—artsALIVE!—to chart Livermore’s arts and cultural development in the coming ten years. The plan has been developed from the community’s expression of its cultural identity, needs, priorities, assets, aspirations and unique opportunities.

In 2004, the Livermore City Council recognized that the established and growing cultural arts organizations, artists and arts educators of the City made important contributions to the City’s quality of life, economic vitality, education system, and strong, diversifying communities. They created the Livermore Commission for the Arts and mandated the Commissioners to help the City “encourage programs for the cultural enrichment of the City; make recommendations to the City Council regarding local cultural arts needs, activities, facilities and programs, including needs for visual and performing arts facilities; receive input from the community on issues relevant to arts policies; develop and recommend to the City Council a 5-10 year cultural arts plan for the City, including goals, implementation strategies and financing methods; and review and approve public art.”

During its first meetings, the newly-created Livermore Commission for the Arts invested several months determining the shared values that brought the Commissioners to dedicate their time to the arts in Livermore. The resulting Belief and Mission Statements (see page 8) provide the organizing principals of this ambitious Cultural Arts Plan. The hope and expectation is that a lively conversation, and shared commitment to action, will continue among the leaders, residents and businesses who contribute to making Livermore the evolving, dynamic city it is and will continue to be for generations to come.

Strategies for Development of Livermore’s Arts and Culture

Four strands of engagement are proposed to further enhance Livermore’s art and cultural activities for all residents and to establish Livermore as the premier destination in the Tri-Valley region. Recommendations were created in response to community member input through interviews and workshops held in the development of this plan, and the Commissioners analysis of the City’s current needs and capacities for growth. These recommendations are supported by research, strategies and recommendations made in related City plans such as the Updated General Plan, Redevelopment Agency 5 Year Implementation Plan, Downtown Specific Plan, the Marketing Communications and Partnership Strategy and the Visioning process. The following are the proposed areas of action for the Livermore Commission for the Arts, the City Council, and those who care about the quality of life made visible through cultural arts engagement throughout the City:

- Strand 1: Promote the ***unique sense of place in Livermore***, including the creation of a Core Arts and Cultural District
- Strand 2: Ensure the ***visibility and vitality of cultural arts organizations, artists and arts educators for all residents and visitors to the City*** through facilitation of partnerships and support for organizational strengthening within the arts, culture and heritage communities
- Strand 3: Leverage the innate ability of arts engagement to create a sense of community and life-long learning by supporting ***a diverse range of publicly***

accessible opportunities for all residents, businesses and visitors to participate, with a special focus on youth

- Strand 4: Provide long-term, sustainable resources that enable the City to support the arts and culture community as a resource for all residents, visitors and businesses.

Strand 1: Promote the *unique sense of place in Livermore*, including the creation of a Core Arts and Cultural District.

The downtown core in Livermore is rapidly becoming the cultural hub of the City. Designation of the core as a Cultural District can serve to reinforce the City’s new marketing identity and encourage the retention and attraction of artists and arts-related businesses, thereby expanding and reinforcing the City’s economic development goals. The establishment of a Cultural District that is home to diverse public activities meets expectations integrated in the strands of this plan by expanding residents’ access to quality arts and cultural programming, serving visitors, and strengthening the arts and culture community ,

Specific recommendations associated with development of the Core over a planned period of implementation and on a resources-available model are to:

1. Create a Core Arts and Cultural District,
2. Develop and expand arts and cultural facilities and spaces in the core in the first 3 - 5 years and expand into other areas of the city in subsequent years as funding allows,
3. Support and provide seed funding for arts and cultural programming, with an emphasis on partnerships and accessibility (including widely dissemination marketing, free or affordable ticket pricing, diversity in offerings, time, and place of events),
4. Facilitate the provision of support services for arts, heritage and cultural organizations and related businesses (see more on this in Strand 2 below), and
5. Establish sustainable infrastructure and systems to manage and program the District, develop private funds, and provide other related services (more on this in Strand 4).

Strand 2: Ensure the *visibility and vitality of cultural arts organizations, artists and arts educators for all residents and visitors to the City* through facilitation of partnerships and support for organizational strengthening within the arts, culture and heritage communities.

Strengthening Livermore’s many arts and cultural organizations was a consistent theme emerging from community input and analysis done for this plan. While some of these organizations are long-standing and well-established, nearly all have small budgets and rely heavily on volunteer management. They identify common needs for better coordination, funding, marketing (including ticketing services and calendar information), an expanded, better trained volunteer base, and facilities or space.

When a nonprofit organization is strengthened, it is better equipped to fulfill its mission, thereby strengthening the overall environment for growing the arts and culture community.

Specific recommendations encourage two ways of supporting organizational strengthening toward better visibility and vitality for Livermore’s arts community: a) assisting individual organizations and b) fostering stronger community linkages among these organizations and between the arts and culture community and the wider community. Recognizing that implementation is dependent upon developing appropriate resources over time, it is recommendation that the City research and be alert to opportunities to:

- 1. Provide operating and project grants for organizations and individual artists,
- 2. Create or support an organizational strengthening program for nonprofit arts and culture organizations, and
- 3. Facilitate access to capital grants program for nonprofit cultural arts culture organizations.

Strand 3: Leverage the innate ability of cultural arts engagement to create a sense of community and life-long learning by supporting *a diverse range of publicly accessible opportunities* for all residents, businesses and visitors to participate, with a special focus on youth.

Rooted in the belief that art-making bonds communities, encourages individual expression, and celebrates the human spirit, the Commissioners and community forum participants demonstrated a strong consensus that ALL residents of Livermore have a right to experience the arts in their daily lives. This belief is embodied in the Public Art plan calling for works of art and opportunities for arts engagement in strategic Livermore locations. And it is reinforced in the recommendation to ensure wide public access to arts engagement for the many diverse communities of Livermore, including widely disseminated marketing, free or affordable ticket pricing, diversity in offerings, access for the disabled and the time and place of quality events.

*“Art introduces a whole new element for our business.”**

Deepening and expanding cultural participation among all segments of the community builds on the unique qualities of Livermore. Greater participation also provides many

* This is the first of several quotes inserted throughout the plan from various interviewees.

community benefits, such as adding value to the lives of individual residents, improving education, inviting life-long learning, promoting economic development, and supporting downtown revitalization.

The specific recommendations facilitating access for participation are to:

1. Convene youth service providers and organizers throughout the City to evaluate and create opportunities for youth access to the arts and arts learning in and outside of school settings, in families, and in the juvenile justice system,
2. Facilitate creation of a downtown arts and culture festival, building upon existing opportunities and seeking partnerships for new arts engagements,
3. Encourage cultural events and opportunities for youth and young adults, including seeking mechanisms for mini-grants to cultural arts organizations, artists and their public and private partners,
4. Enhance implementation of the public art program, building on the current program vision of the Commission for the Arts,
5. Create arts and culture education partnerships with the Livermore Valley Joint Unified School District and Livermore Area Recreation & Park District, and Las Positas Community College, and
6. Develop a communitywide arts and culture marketing program (this also supports Strand 2).

Strand 4: Provide **long-term, sustainable resources** that enable the City to support the arts, heritage and culture communities as a resource for all residents, visitors, and business.

A study of 11 nearby cities with characteristics similar to Livermore shows that on average these cities currently devote \$4.16 per citizen per year to support arts and cultural activities (Dublin is at \$10/citizen and Walnut Creek is at a high of \$27). In comparison, Livermore spent between \$11 and \$12 per citizen over the last three years. Livermore has the opportunity to establish itself as center for arts and cultural engagement that will attract and sustain residents, business and families committed to creative, safe, tolerant and innovative communities.

"I like the idea of a workplace giving program – I think it would fly."

Livermore has only recently begun to use arts and culture as part of its long-term economic development strategy and devote substantial resources to that end, primarily in the form of support for the new performing arts center. Those seeking to do business in Livermore can recognize that public and private investments in the City's arts infrastructure is a benefit to all. Commitment to cultural arts facilitates 1) improvements to the quality of education (improved education systems that attract employees with families), 2) development of a creative workforce invested in the community, and 3) caring communities that meet and grow at public arts events. A sufficient and sustainable level of support for Livermore's arts and culture is an essential component of successful implementation.

The specific resource development recommendations are to:

1. Adopt a private development cultural arts enhancement fee (Art in Public Places)
2. Consider increasing the City’s cultural arts staff, as funding is available
3. Create a united arts fund
4. Create a workplace giving program
5. Create a permanent endowment fund

Context and Planning Process

Livermore has a well-established and distinctive cultural identity. The city is home to an unusually large and diverse collection of cultural arts organizations and other cultural assets, including a symphony, opera, dance company, theater festival, chamber music series, performing arts center, poet laureate, organizations for visual arts, literary arts, vocal music, film, TV 30, heritage groups, arts educators, artisans and many individual artists. In addition, the community identifies with its Western heritage and its long history of agriculture including wine making, as well as the presence since the 1950’s of the prestigious Lawrence Livermore National Laboratory and Sandia National Laboratory, two of the world’s foremost scientific research facilities with more than 10,000 employees. Taken together, this combination of arts, culture, heritage, viticulture and science form a rich identity and way of life that is clearly acknowledged and celebrated by the community. artsALIVE! is based on this diverse and inclusive community sensibility of its own culture.

“Culture is how we live – the arts plan must reflect the changing nature of the community – ethnicity, culture, food, and our stories.”

The purpose of the planning process for artsALIVE! was to allow the community to define its own cultural future. This involved an intensive and interactive community input process in which stakeholders not only expressed their opinions but also reflected on Livermore’s identity and future options. The planning process included:

- Review of relevant plans and studies
- Community workshops, town hall meetings and interviews with stakeholders
- Comparative study of arts funding in comparable cities
- Development of a comprehensive plan
- Public review and analysis of the draft recommendations for final recommendation by the Livermore Commission for the Arts

Implementation

Implementation of this plan will occur as funds are available. As with all ambitious City plans, implementation must be flexible to allow the City and its implementing partners to respond to changing circumstances and new opportunities. It is recommended that the Commission reviews and makes annual recommendations to implement the plan. Some implementation costs can be estimated now while others must be defined in the future. Funding is anticipated through a variety of strategies outlined above, including a fee on private development. These funds would be augmented by private fundraising, volunteer services, and by the efforts and spending of partner agencies.

Connections to City Council and resident goals

Economic trends demonstrate that local economies depend greatly upon the creative and intellectual capital of their citizenry. To cultivate this capital, the City needs to nurture a cultural climate that will attract a creative and diverse workforce and to ensure that all residents have access to participate in arts and cultural activities. To this end, the Livermore City Council has made arts and culture a priority.

In their *Goals and Objectives for 2006-2008*, the Council has made a commitment to make Livermore a destination for cultural arts activities. The Council adopted its Downtown Specific Plan in February 2004, and created the Commission for the Arts later that year to support implementation of aspects of that plan. With vision, passion and dedication, the people of Livermore will be able to speak with additional pride of the beauty, humanity and natural harmony of the place they have chosen to call home. Their engagement with arts and arts learning will be a visible indication of their commitment to build on the innate possibilities of living in this unique community.

Livermore Commission for the Arts Belief and Mission Statements:

As the Livermore Commission for the Arts, we believe Livermore is a unique community of possibilities deeply rooted in a sense of history with a vision for the future. We believe that access to and engagement in the arts is essential to the continuing vitality of Livermore.

We value our natural environment, recognize our dependence on its gifts, and honor it through creative interactions.

We believe engagement in the arts enriches our community, enabling us to embrace and appreciate diversity and individual expression.

"We need to make people aware of opportunities and welcome them with open arms and be open to new ideas."

We invite all to participate in the arts and celebrate in our collective human experience.

The Livermore Commission for the Arts is committed to:

- Facilitating and convening partnerships and collaborations for the arts among city entities and community organizations, including mentoring, using creativity as a positive force and expanding the arts community in Livermore.
- Promoting the unique sense of place inherent in Livermore through developing a vibrant arts community.
- Ensuring publicly accessible arts events.
- Advocating the integration and presence of the arts in community design and other city activities.
- Developing and expanding opportunities for arts and cultural learning, growth and creativity for people of all ages, with an emphasis on children and youth.

"The arts really tie the community together."

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING LIVERMORE MUNICIPAL CODE CHAPTER 2.43, COMMISSION FOR THE ARTS, UPDATING THE MEMBERS AND DUTIES OF THE COMMISSION FOR THE ARTS, AND CHAPTER 12.51, ART IN PUBLIC PLACES PROGRAM, UPDATING THE ART IN PUBLIC PLACES PROGRAM PROCEDURES

The City Council created the Commission for the Arts (“Commission”) on July 12, 2004, in recognition of the continuing interest in the development and promotion of the arts in Livermore with the intent to provide a mechanism that would encourage long-range cultural arts planning for the community and encourage stronger cooperation, coordination, and partnership with local arts organizations.

The Commission’s role was to help the City “encourage programs for the cultural enrichment of the City; make recommendations to the City Council regarding local cultural art needs, activities, facilities and programs, including needs for visual and performing arts facilities; receive input from the community on issues relevant to public art policies; develop and recommend to the City Council a 5-10 year cultural art plan for the City, including goals, implementation strategies and financing methods; and review and approve public art.”

The City Council adopted a related ordinance to add Chapter 12.51 to Title 12 of the Livermore Municipal Code establishing an Art in Public Places Program. This ordinance established a public art requirement for new private developments, and a Public Art In-lieu Contribution for developments that choose not to include public art in their project. The Public Art In-lieu Contribution is currently at 1/3 of 1% of the project valuation.

Since the ordinance’s inception in 2007, eight pieces of public art have been installed and \$818,534 in in-lieu contributions have been collected, of which approximately \$102,150 has been used to fund various projects and programs throughout the City, and approximately \$520,025 has been proposed for Public Art funding priorities recommended by the Commission for the Arts with the setting of their annual Public Art priorities and budget development. This includes downtown murals, painting of utility boxes, and various Art in School programs.

While the Commission has been successful in implementing programs to further the arts, its focus has been on arts promotion and on the creation of Commission sponsored art and art programs.

The Commission has been successful in actively promoting the cultural enrichment of the City and arts awareness throughout the years which has led to overlapping roles and responsibilities between local arts organizations and the Commission, as well as confusion by the public as to the actual role of the Commission.

Staff proposes that changes be made to the Public Art Ordinance that will allow the Commission to focus on several key duties and responsibilities and eliminate those responsibilities that have led to confusion and conflict.

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

Section 1. *Amendment.* Chapter 2.43 Commission for the Arts of the Livermore Municipal Code is hereby amended to incorporate the following changes, as set forth in Exhibit A, attached hereto:

- a) The mission of the Commission for the Arts will focus on being an advisory body that establishes arts funding priorities for the City, reviews requests for Public Art funds and recommends funding levels, recommends updates to the Art in Public Places Policy and Procedures Manual, and reviews and recommends public art installations as part of the Art in Public Places requirement of the Arts in Public Places ordinance.
- b) Persons who hold board or officer positions on art groups that apply for Public Art funds from the City shall not be eligible to serve on the Commission. Non-officer members, persons not on the board, and performers, however, are eligible to be Commission members.

Chapter 12.51 Art in Public Places Program of the Livermore Municipal Code is hereby amended to incorporate the following changes, as set forth in Exhibit B, attached hereto:

- a) The Commission for the Arts will act as an advisory body that establishes arts funding priorities annually for City Council review and approval.
- b) Development applicants will submit an application for Public Art if they choose to provide public art and the staff liaison for the Commission for the Arts will coordinate a Commission review of the proposed public art. The Commission will use guidelines contained in the Ordinance, as well as in the Art in Public Places Policy and Procedures manual, when reviewing the proposed public art.
- c) An agreement will be recorded against the property to ensure that the Public Art is maintained for a minimum period of 30 years.
- d) Removal of the biannual convening of a task force to make recommendations to Council on the amount of the Public Art In-lieu contribution.

Section 2. *Environmental.* The passage of this ordinance is not a project according to the definition in the California Environmental Quality Act and, therefore, is not subject to the provisions requiring environmental review.

Section 3. *Severability.* If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.

Section 4. *Publication.* This ordinance shall be published once in a newspaper of general circulation of the city of Livermore within fifteen days after its adoption.

Section 5. *Effective Date.* This ordinance shall take effect 30 days after its adoption.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on January 25, 2016, by the following vote:

AYES: Council Members Spedowfski, Turner, Vice Mayor Gary, Mayor Marchand
NOES: None
ABSENT: Council Member Woerner
ABSTAIN: None

The ordinance was adopted at the regular meeting of the City Council held on February 8, 2016, by the following vote:


AYES: Council Members Spedowfski, Turner, Woerner, Vice Mayor Gary, Mayor Marchand
NOES: None
ABSENT: None
ABSTAIN: None


MAYOR, CITY OF LIVERMORE

ATTEST:

APPROVED AS TO FORM:


Susan Neer
City Clerk


Catrina Fobian
Assistant City Attorney

Dated: February 9, 2016

Chapter 2.43

COMMISSION FOR THE ARTS

Sections:

2.43.010 Members.

2.43.020 Duties and responsibilities.

2.43.010 Members.

The commission for the arts shall consist of nine members. Each member shall be appointed by the city council and must be a Livermore resident and be able to demonstrate an interest in and knowledge of the arts. In making appointments to the commission, the council shall also consider potential members with organizational, business or financial skills and members with an understanding of marketing techniques, as well as members who are representatives of local business or non-arts community groups. Potential members may not hold a board or officer position with any arts organization that applies for public art funds from the City. (Ord. 1918 § 1, 2010; Ord. 1786 § 2, 2006)

2.43.020 Duties and responsibilities.

The commission for the arts shall have the following duties and responsibilities:

A. Act in an advisory capacity to the city council regarding art issues brought before them by city staff or council.

B. Receive input from the community on issues relevant to arts policies.

C. Review and make recommendations regarding the use of public art funds in accordance with established procedures.

D. Develop and recommend to the council a five- to 10-year cultural arts plan for the city, including goals, implementation strategies and financing methods. The commission shall review the plan every five years and update it as necessary.

E. Make recommendations to council updating the policy and procedures manual describing the process and criteria to be used by the commission to select which programs and projects shall receive public art funds.

F. Commission for the arts members shall not currently be a board member or an officer of any group that would apply for funds for which the commission grants a recommendation.

G. Review and approve or make recommendations regarding public art, in accordance with established procedures. (Ord. 1786 § 2, 2006)

Chapter 12.51

ART IN PUBLIC PLACES PROGRAM

Sections:

- 12.51.010 Public art in new commercial, industrial and residential construction.
- 12.51.020 Definitions.
- 12.51.030 Requirement to provide public art or pay in-lieu contribution.
- 12.51.040 Livermore public art fund.
- 12.51.050 Permissible expenditures.
- 12.51.060 Processing.
- 12.51.070 Guidelines for public art.
- 12.51.080 Location and relocation of public art.
- 12.51.090 Endowments.
- 12.51.100 Cultural arts fee task force.
- 12.51.110 Sunset.

12.51.010 Public art in new commercial, industrial and residential construction.

A. Cultural and artistic assets should be included in private development projects because it is important that those projects contribute to the development of private property in a manner that benefits the public.

B. The visual and aesthetic quality of development projects has a significant impact on property values, the economic well-being of the city and its orderly development.

C. The city of Livermore's general plan establishes cultural and historical, recreational, park and open space land use policies. This chapter is consistent with the cultural and historic component of the city's general plan by providing an opportunity for the design of new projects to incorporate public art. It is also consistent with the goals and objectives of the revitalization strategy of the downtown specific plan.

D. This chapter is also consistent with the city of Livermore successor agency 2004-2009 five-year implementation plan, which has as one of its goals the development of an arts and culture component to make Livermore's downtown a "center for the arts." This can be readily accomplished by the installation of public art within the Livermore successor agency project area and by the support through funding and setting of priorities of cultural arts programming in the downtown.

E. The public's understanding, enjoyment and experience of cultural diversity will be increased by the variety of artistic projects and cultural arts programs to be provided in compliance with this chapter.

F. The public art provided pursuant to this chapter shall include, without limitation, the preservation of Livermore's historic, artistic, cultural and agricultural traditions.

G. The incorporation of public art into private development will create a unique sense of community as well as public identity and will enhance the visual and aesthetic quality of such developments for commercial, residential and visitor activity, particularly in the downtown. The funding of cultural arts programs throughout the city will greatly benefit the citizens of the city of Livermore and will foster economic revitalization in the city.

H. A cultural arts fee task force was convened by the city council during the summer of 2007, made up of members of the cultural arts council, community groups, the chamber of commerce and the commission for the arts, to discuss the appropriateness of the fee amount, the duration of the fee and to consider the possibility of alternate funding sources for public art, which such suggestions have been incorporated into this chapter. (Ord. 1971 § 1(E), 2012; Ord. 1836 § 1, 2008)

12.51.020 Definitions.

A. "Construction costs" means the total value of the development project as determined by the community and economic development department and indicated by the building official on the building application submitted to the department in order to obtain a building permit, or permits, for the development project. Building permit

Livermore Municipal Code
Chapter 12.51 ART IN PUBLIC PLACES PROGRAM

applications shall include, but not be limited to, all grading, building, plumbing, mechanical, and electrical permit applications for the project.

B. "Development" or "development project" means a project involving the construction of a new building or the rehabilitation, renovation, remodeling or improvement of an existing building. An existing industrial/commercial building that is added onto with a construction area greater than or equal to 25 percent of the original square footage of the building, as determined by the building official, shall also be subject to the requirements of this chapter. "Development" or "development project" as herein defined shall include any and all residential development over four units, commercial development, including office and retail uses or office and residential uses, and industrial or light industrial uses throughout the city of Livermore, subject to the following exemptions: remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity; seismic retrofit projects as defined by the Livermore Municipal Code; fire sprinkler installation projects as defined by the Livermore Municipal Code; all residential remodeling; all commercial alterations; the installation of any accessory structures; below market rate housing units and structures designated as historic pursuant to the Livermore general plan, the Livermore Development Code or the downtown specific plan. As of the effective date of the ordinance codified in this chapter, those projects for which applications are deemed complete shall also be exempt from this chapter.

C. "Nonprofit agency" shall mean a corporation organized under Internal Revenue Code Section 501(c)(3), in good standing with the California Department of Corporations and in compliance with any and all federal, state, and local licensing, reporting, and tax requirements.

D. "Program allocation" shall mean the dollar amount equal to one-third of one percent of the construction costs of a development project covered by this chapter.

E. "Public artwork" means works of art created by artists as unique and original works, in any medium including but not limited to painting, drawing, printmaking, photography, calligraphy, ceramic, sculpture, glass, liquid, water features, murals, light earthworks, conceptual and temporal pieces, functional elements if designed by a professional artist, and art that is integrated into a project's architecture. It may include space for exhibitions, displays or demonstrations and public performances. The artwork may be created through collaboration between the commission for the arts, the artist and the community.

F. "Public art fund" means a fund established and maintained by the city of Livermore for the purpose of funding public art and cultural programming consistent with the public art policy, and administered by the commission for the arts.

G. "Public art in-lieu contribution" shall mean that payment by an owner or developer into the public art fund in an amount that is in lieu of installation of public art on site.

H. "Public art policy" means that policy adopted by the city council and which directs and guides the commission for the arts relative to the implementation of the public art program.

I. "Public place" means any area on public or private property which is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk. (Ord. 2016 § 1(A), 2015; Ord. 1901 § 3 (Exh. A § 24), 2010; Ord. 1836 § 1, 2008)

12.51.030 Requirement to provide public art or pay in-lieu contribution.

A. Private developments shall devote an amount not less than the program allocation amount for acquisition and installation of public art in the development project, such amount to be determined by the building official. The

public art shall be installed on the development site in a location that allows the public art to be visible from a public right-of-way or from other public property.

B. In lieu of acquisition and installation of public artwork on the development site, an owner or developer, at its discretion, may deposit a public art in-lieu contribution in an amount equal to the program allocation into the Livermore public art fund established by LMC 12.51.040 for acquisition and installation of public art. The public art

Livermore Municipal Code
Chapter 12.51 ART IN PUBLIC PLACES PROGRAM

Page 66/75

in-lieu contribution shall be paid prior to the issuance of a building permit. Project applicants shall indicate on their entitlement application that they wish to make a public art in-lieu contribution.

C. Subject to the approval of the commission for the arts, an owner or developer may incorporate into the development public art that has a value lower than the program allocation, as determined by the commission for the arts, and pay a public art in-lieu contribution to the public art fund for the balance of the program allocation.

D. Deferred Fee Program. The city council may, by resolution, adopt administrative guidelines to provide a special fee deferral program in response to unprecedented conditions such as extraordinary economic changes. (Ord. 1879 § 7, 2009; Ord. 1836 § 1, 2008)

12.51.040 Livermore public art fund.

A. There is hereby created the Livermore public art fund to account for the public art in-lieu contributions made pursuant to LMC 12.51.030 and any and all other revenues appropriated or received for public art. The revenues in such fund shall be used solely for: (1) the acquisition, commission, design, installation, improvement, maintenance and insurance of public art; or (2) other expenses associated with implementation of the Livermore public art policy.

B. The Livermore public art fund shall be distributed annually as follows: no more than 10 percent of the annual Livermore public art fund shall be used as an administrative fee for processing the public art application, approving the public art, coordinating and developing cultural programs, monitoring, compliance, or any other administrative task related to the implementation of the Livermore public art policy.

C. The balance of the Livermore public art fund shall be distributed for public art as follows: (1) 80 percent designated for acquisition, commission, design, installation, improvement, maintenance and insurance of public art to be placed at locations determined by the city council; and (2) 20 percent designated for arts and cultural programming.

D. The commission for the arts shall recommend annually to the city council for approval a list of public art priorities to be used in the selection of applicants seeking public art funding consistent with the purpose of this section. The public art priorities shall be administered by the community and economic development department. (Ord. 1836 § 1, 2008)

12.51.050 Permissible expenditures.

Expenditures of funds may include, but are not limited to, the following uses:

A. The cost of the public art itself including the artist's fee for design, structural engineering and fabrication; transportation and installation of the work at the site; identification signs, if any; and mountings, anchorages, containments, pedestals, bases, or materials necessary for the proper presentation and installation of the art.

B. Waterworks, lighting and other objects which are an integral part of the artwork.

C. Walls, pools, landscaping or other architectural elements necessary for the proper aesthetic and structural placement of the artwork.

D. Maintenance and repair of public art funded through the art in public places fund.

E. The design, construction, operation and maintenance of art gallery space or cultural arts' display, demonstration and performance space to be utilized by individuals and nonprofit arts organizations for arts and cultural programming.

F. Building the functional capacity of eligible nonprofit organizations devoted to the development of arts and culture in Livermore.

G. Developing cultural programs for the enjoyment and appreciation of art, heritage and culture within the Livermore community.

H. Funding the design, construction, operation and/or maintenance of cultural and/or arts' facilities, either at the development or off site. (Ord. 1836 § 1, 2008)

12.51.060 Processing.

The requirements and procedures for the processing of a request to install public art shall be as follows:

- A. Upon submission of a project application subject to the requirement of the public art fee, the community and economic development department shall provide a copy of this chapter to the applicant and inform them of the requirement to submit an application form for public art if they choose to provide public art.
- B. When received, the community and economic development department shall forward the application form for public art to the staff liaison for the commission for the arts, indicating the valuation of the project calculated by the community and economic development department to determine building permit fees, if such valuation can be determined at the time of submittal. The staff liaison for the commission for the arts shall review the application for completeness and contact the applicant to coordinate a commission review of the proposed public art. The applicant shall enter into an agreement with the city, which shall be recorded against the property, to ensure that the public art is maintained for a minimum period of 30 years.
- C. To the maximum extent possible, processing of the request to install public art shall be concurrent and coordinated with the project application, if any, for the development project.
- D. The commission for the arts shall approve, conditionally approve or deny the request to install public art based upon these guidelines and guidelines contained in the art in public places policy and procedures manual. When the project applicant has elected to acquire and install an artwork, the building permit for the development project shall not be issued until the commission for the arts has approved the request to install public art, and the certificate of occupancy shall not be issued until the approved work of art has been installed.
- E. The project applicant may appeal any decision rendered hereunder by the commission for the arts to the city council for final decision. (Ord. 2016 § 1(A), 2015; Ord. 1836 § 1, 2008)

12.51.070 Guidelines for public art.

A. Guidelines for the approval and maintenance of public art shall be adopted by the city council, upon recommendation by the commission for the arts. Guidelines shall be adopted within 60 days of the effective date of the ordinance codified in this chapter.

B. The guidelines shall include standards for reviewing an application for the installation of public art in accordance with the following objectives:

- 1. The artwork shall be clearly visible and easily accessible to the public.
- 2. The art in public places application shall include a site plan showing the location of the artwork, complete with landscaping, lighting and other appropriate accessories to complement and protect the artwork.
- 3. The composition of the artwork shall be of a permanent type of materials in order to be durable against vandalism, theft and weather, and in order to require a low level of maintenance.
- 4. The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.
- 5. The artwork shall be designed and constructed by persons experienced in the production of such artwork and recognized by critics and by his or her peers as one who produces works of art.
- 6. The artwork shall be a permanent, fixed asset to the property.
- 7. The artwork shall be maintained by the property owner in a neat and orderly manner acceptable to the city, unless the artwork is installed on property owned by the city, in which case the city shall maintain the artwork. (Ord. 1836 § 1, 2008)

12.51.080 Location and relocation of public art.

A. The public art must remain on the project site for not less than 30 years from the original installation date. When and if the development project is sold within 30 years from the installation date, the public art must remain at the

Livermore Municipal Code
 Chapter 12.51 ART IN PUBLIC PLACES PROGRAM

development for which it was created and may not be claimed as the property of the seller or removed from the development or its location as approved by the commission for the arts. In the event that a property is to be demolished within said 30-year period, the owner must relocate the public art to another publicly accessible, permanent location that is approved in advance by the commission for the arts. In the event the property is redeveloped, the new project shall meet all of the requirements of this chapter and use the same approval process, or pay an amount equal to the remaining portion of the public art in-lieu contribution prorated over said 30-year period.

B. A property owner may petition the commission for the arts to relocate the public art to another publicly accessible location on the development project site.

C. In the case of removal of the public art for any reason prior to the expiration of the 30-year period, the developer or owner of the development project must notify the city at least 30 days in advance of the removal, and must replace the public art within six months of its removal, meeting all of the requirements of this chapter and using the same approval process, or pay an amount equal to the remaining portion of the public art in-lieu contribution prorated over said 30-year period.

D. Any removal, relocation, or replacement of the public art must be consistent with the California Preservation of Works of Art Act and the Federal Visual Artists' Rights Act and any other relevant law. The developer or owner shall execute a restrictive covenant in a form acceptable to the city attorney enforceable by the city, which shall be recorded against the project site and shall run with the land for a period of 30 years from the installation date.

E. In the event the public art is stolen, destroyed or vandalized within said 30-year period, the developer or owner must replace the public art within six months of its theft, destruction or vandalism, meeting all of the requirements of this chapter and using the same approval process, or pay an amount equal to the remaining portion of the public art in-lieu contribution prorated over said 30-year period. (Ord. 1836 § 1, 2008)

12.51.090 Endowments.

The art in public places fund shall also be used as a depository for endowments, bequests, grants or donations. Such sums may be expended as set forth in LMC 12.51.040 and 12.51.050 as recommended by the commission for the arts and approved by the city council. (Ord. 1836 § 1, 2008)

Glossary of Terms and Definitions

501(c) (3) – A nonprofit corporation organized under Internal Revenue Code Section 501(c) (3) in good standing with the California Department of Corporations and in compliance with any and all federal, state, and local licensing reporting and tax requirements.

artsALIVE! – Cultural Arts Master Plan.

Capital Improvement Plan (CIP) - Involves property acquisition, developer reimbursements, construction of public buildings, and rehabilitation and construction of major infrastructure, storm, water and sewer systems, transportation infrastructure, and other City infrastructure.

Cultural Arts District - Railroad Avenue on the north, Maple Street on the east, 4th Street on the south, and “P” Street on the west.

Deaccessioning of Artwork – To remove a work of art in order to install other works of art for any purpose identified in Chapter 2, Review and Deaccessioning of Artwork.

In-kind Support – A product or service, other than money.

Infrastructure – The basic facilities, personnel and activities needed for the functioning of an organization.

Maquette - A small preliminary model, i.e., as of a 3-dimensional object.

N.A. – Not applicable.

Public Art – Artistic works created for or located in part of a public space of facility and/or accessible to member of the public.

Public Art Subcommittee – Three (3) voting members of the Commission for the Arts will comprise any subcommittee. Members will be appointed by the Commission for the Arts Chairperson on a project-by-project basis and will remain on the subcommittee until the project is completed.

On a project-by-project basis, a subcommittee may also consist of voting and/or non-voting members that provide technical or creative expertise for the project, such as business, community, architectural, engineering or design consultants.

Any subcommittee will be considered an Ad Hoc Committee if appointed for a limited duration, limited purpose, and without attendance by any voting or non-voting outside member. Ad Hoc Committees are not subject to California Government Code 54950 (the Brown Act).

Public Art Fund - At the discretion of the developer, in lieu of providing artworks within the project, a developer may choose to contribute to the Public Art Fund in the amount equal to their public art requirement. A developer may choose to include artwork that costs less than what is required for their project but must pay the remainder of the fee to the Public Art Fund. The Public Art Fund will be distributed through a variety of grant programs overseen by the Commission for the Arts.

Public Art Register – A comprehensive list of the City’s existing artwork collection.

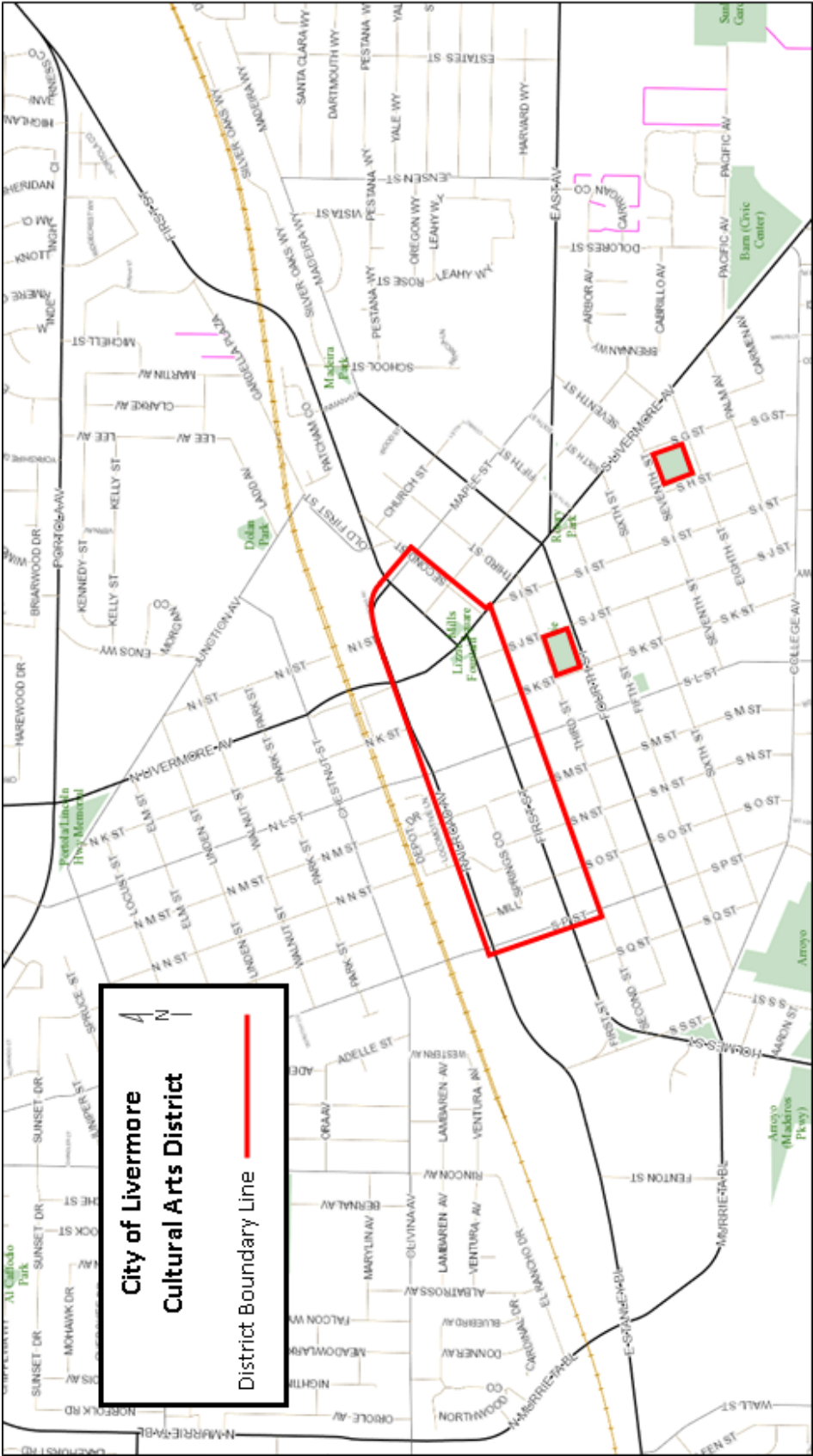
Public Space – Space which is easily accessible and clearly visible for public view; this includes, but is not limited to parks, streets, squares, promenades, public plazas and foyers.

RFP – Request for proposal

RFQ – Request for qualifications.

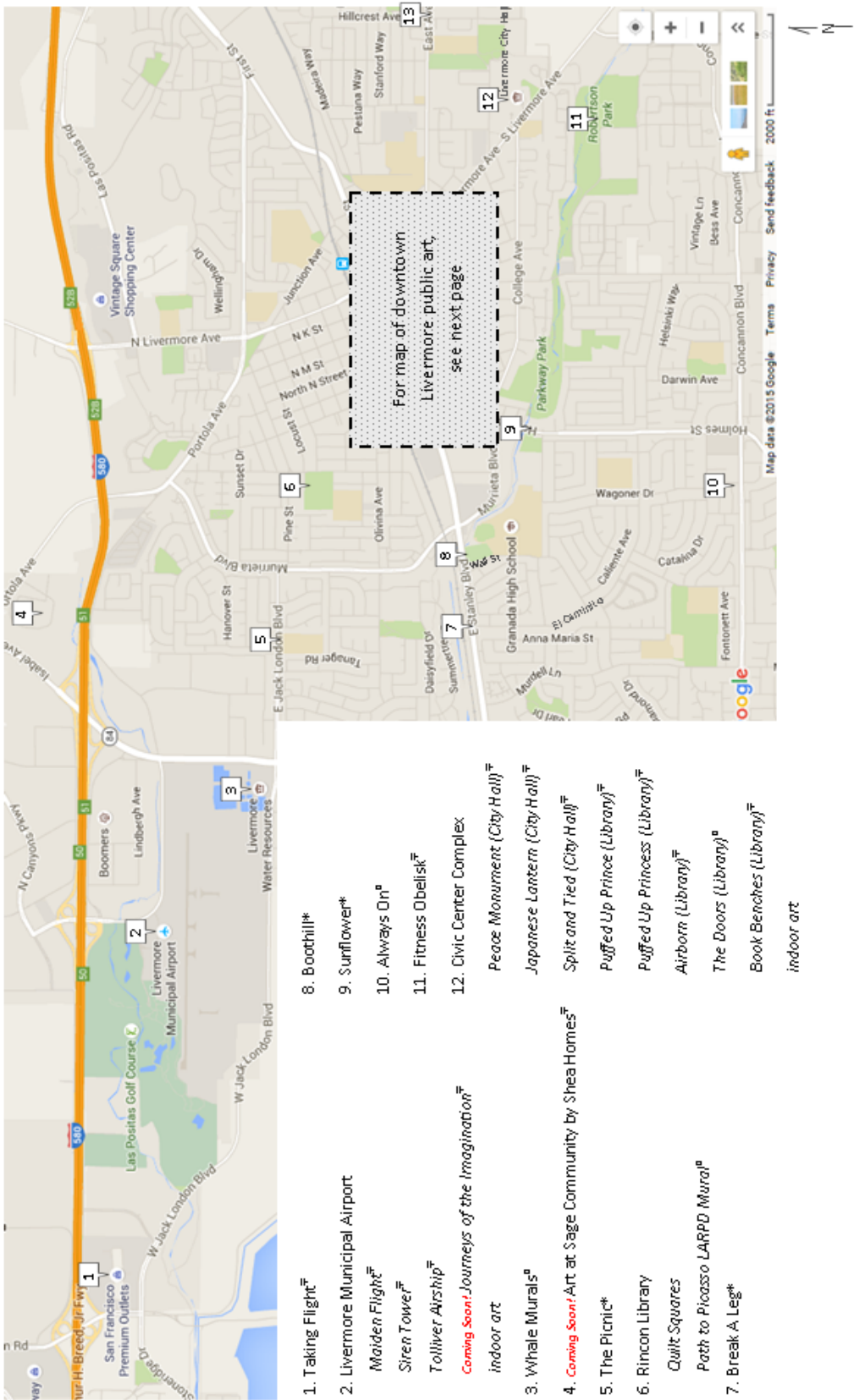
What is the Public Art Fund? - The Public Art Fund consists of revenues, which can include, but are not limited to, developer in-lieu fees, bequests, other donations, and funding acquired from other sources by the Commission for the Arts. At the discretion of the developer, in lieu of providing artworks within the project, a developer may choose to contribute to the Public Art Fund in the amount equal to their public art requirement. A developer may choose to include artwork that costs less than what is required for their project but must pay the remainder of the fee to the public art fund. The Public Art Fund will be distributed through a variety of grant programs overseen by the Commission for the Arts.

City of Livermore Cultural Arts District Map



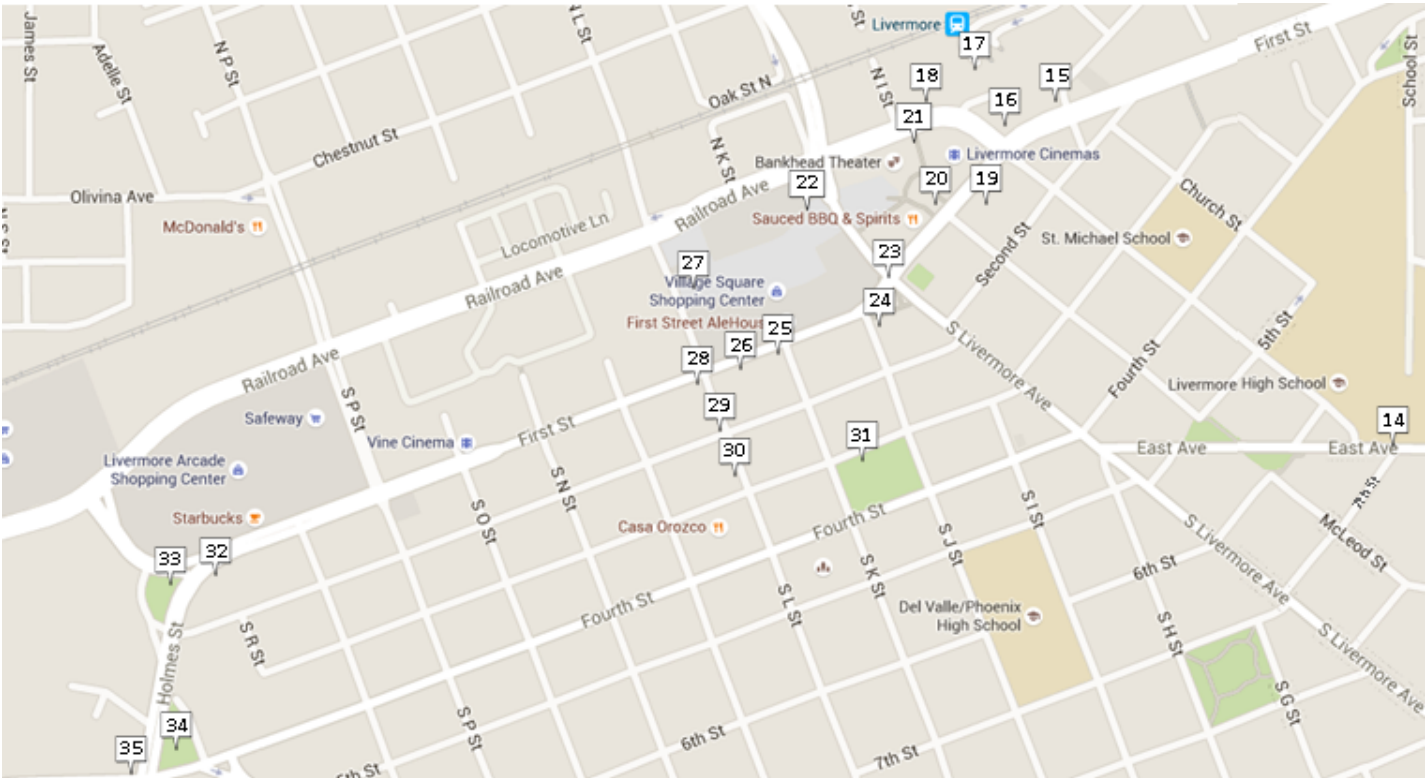
City of Livermore Public Art Site Map

Livermore Public Art Site Map



See www.cityoflivermore.net/arts for web photos and details.

City of Livermore Public Art Site Map (Inset)

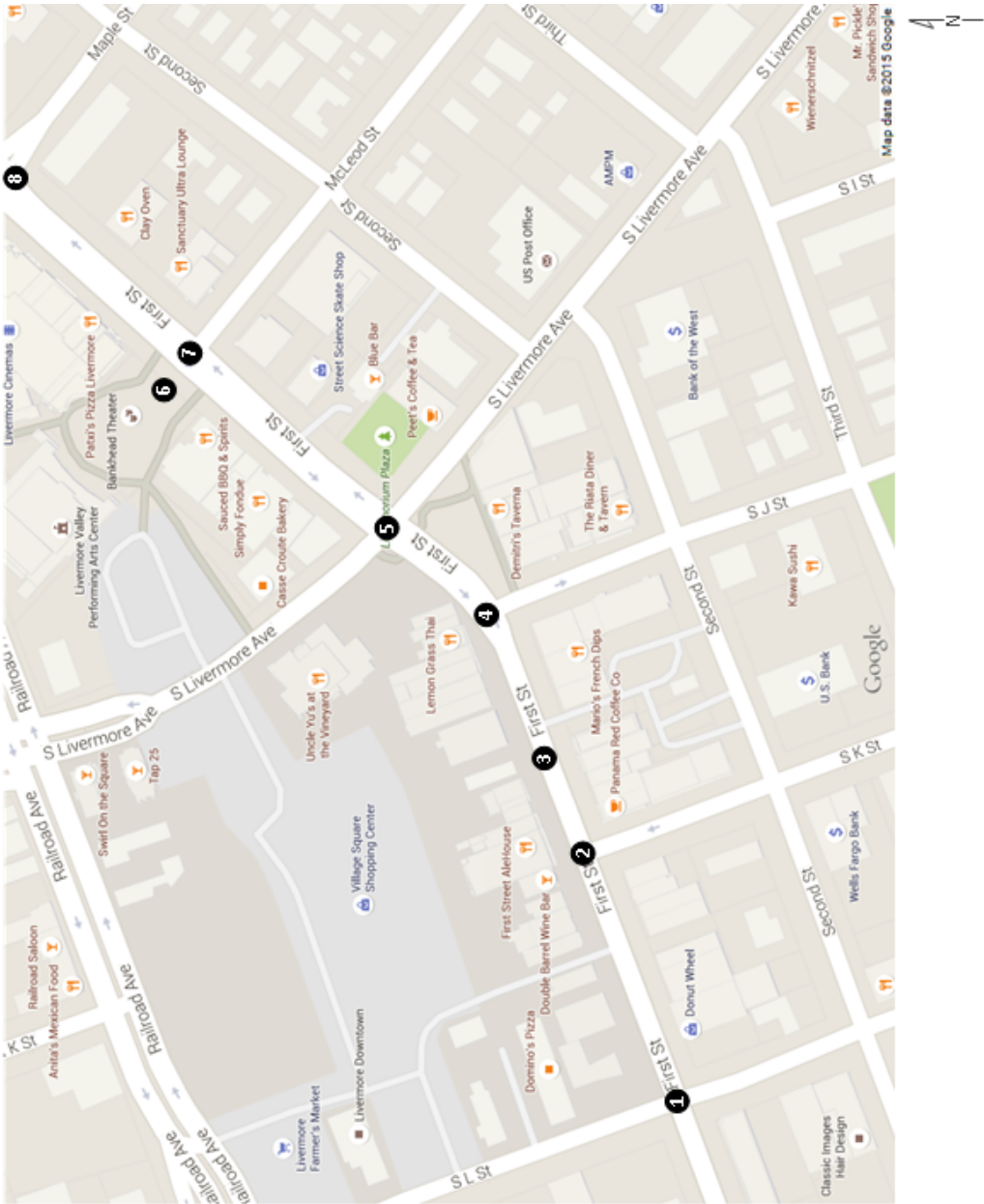


- | | | |
|--|--|--|
| 14. Under the Sea* | 22. Cowboy Boot* | 29. Hummingbird* |
| 15. Dream* | 23. First Street & S. Livermore Avenue | 30. Livermore Valley Heritage Mural ^o |
| 16. Diablo Dragonfly* | Blocked Out* | 31. Metal Sundial [≡] |
| 17. Path to Picasso LAVTA Mural ^o | Bearded Iris* | 32. Yellow Roses* |
| 18. The Wall* | Livermorium Recycling Bins ^o | 33. Circle of Peace [≡] |
| 19. Firehouse Mural ^o | Livermorium Park Benches ^o | 34. Totem Pole [≡] |
| 20. Bankhead Theater | 24. Wine Country Wall ^o | 35. Dog* |
| Faulkner Quote | 25. Lazy Daisy* | |
| Water Over Stone | 26. Amgen Bike Mural ^o | |
| Recycling Bins ^o | 27. Station Square Sculptures [≡] | |
| 21. Sunday with Jessie [≡] | 28. Catbots Come in Peace* | |

*= Utility Boxes
≡= Statuary
^o= Murals

Proposed Statuary Locations

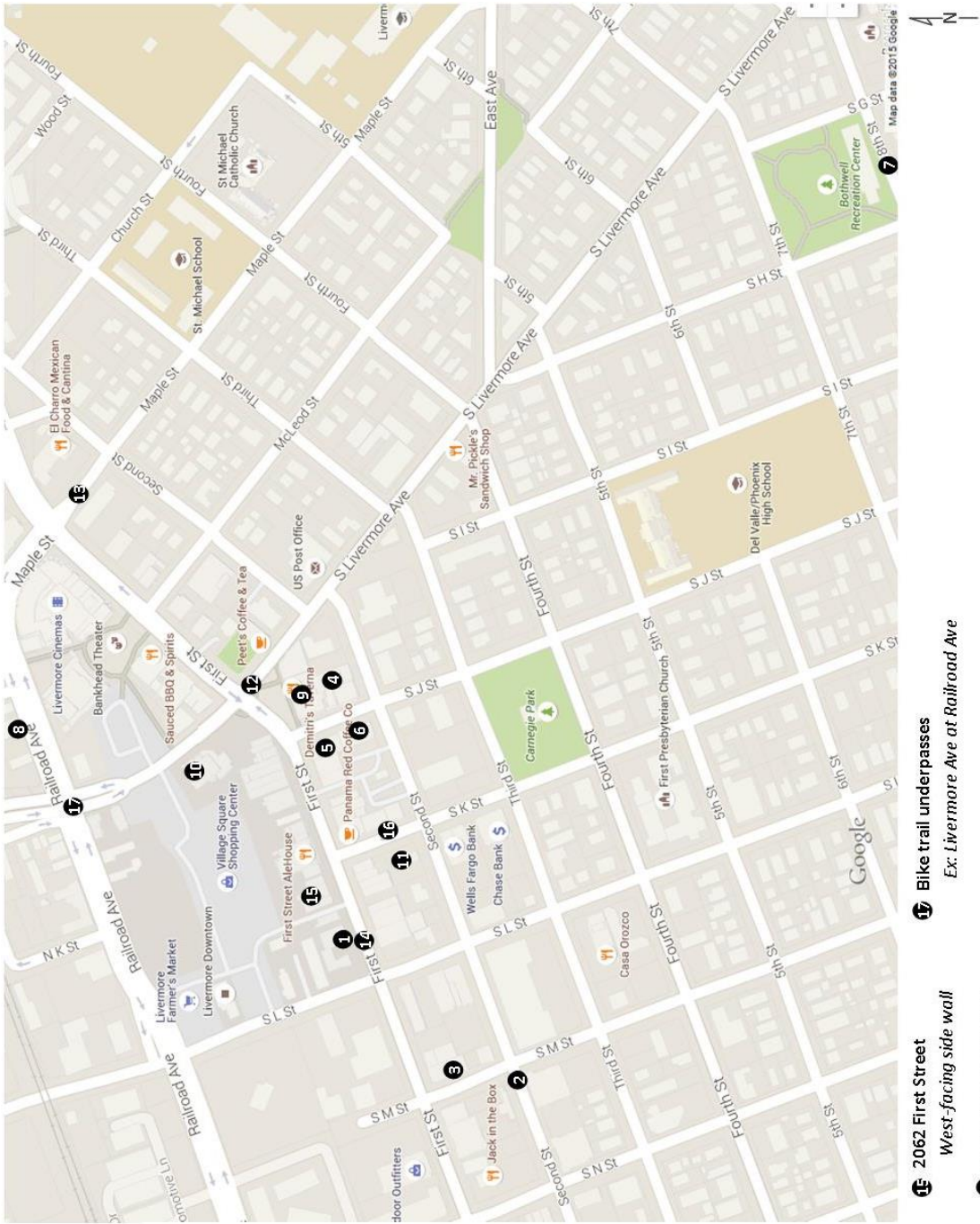
Proposed Statuary Locations



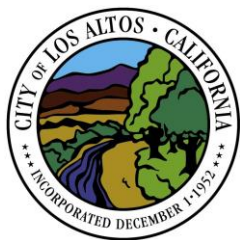
- 1 Intersection of First and L Streets**
Northeast corner, east of crosswalk
Southeast corner, west or east of crosswalk
- 2 Intersection First and K Streets**
Southeast corner, west of eastern crosswalk
Southeast corner, east of eastern crosswalk
North side of First, west of western crosswalk
North side of First, between crosswalks
- 3 First Street, north side between J and K**
North side of First, opposite Chamber of Commerce, replace potted plant
- 4 Intersection of First and J Streets**
North side of First, west of crosswalk
Southwest corner, east of crosswalk
Southwest corner, west of crosswalk
- 5 Intersection of First and S. Livermore Ave.**
Flagpole Plaza
Lizzie Fountain
- 6 Bankhead Theater**
Planter area in front of theater
Eastwalkway, raised planter circle
Eastwalkway, to Railroad Ave
- 7 Intersection of First and McLeod Streets**
North side of First, east of eastern crosswalk
Southeast corner, east of crosswalk
- 8 Intersection of First and Maple Streets**
Southwest corner, west of crosswalk
Northwest corner, west of crosswalk

Proposed Mural Locations

Proposed Mural Locations



- 1 2020 First Street
West-facing side wall
- 2 1891 Second Street
East-facing side wall
- 3 1917 First Street
West-facing side wall
- 4 2222 Second Street
East-facing side wall
- 5 2193 First Street
East-facing side wall
- 6 187 South J Street
West-facing back wall
- 7 2446 8th Street
Bothwell Arts Center
- 8 2252 Railroad Avenue
East-facing side wall
- 9 2235 First Street
Schenone Building, 2nd Floor
- 10 39 S. Livermore Avenue
Breezeway between Uncle Yu's and Livermore Village
- 11 2074 Second Street
East-facing side wall
- 12 119 S. Livermore Avenue
South-facing side wall
- 13 112 Maple Street
Northeast/east-facing side/back walls
- 14 2019 First Street
South-facing back wall
- 15 2062 First Street
West-facing side wall
- 16 160-186 South K Street
East-facing back wall
- 17 Bike trail underpasses
Ex: Livermore Ave at Railroad Ave



City Council Agenda Report

Meeting Date: April 30, 2024

Prepared By: Nick Zornes

Approved By: Gabe Engeland

Subject: Discussion regarding updated Development Impact Fees

COUNCIL PRIORITY AREA

- ☒ Business Communities
- ☒ Circulation Safety and Efficiency
- ☐ Environmental Sustainability
- ☒ Housing
- ☒ Neighborhood Safety Infrastructure
- ☒ General Government

RECOMMENDATION

Discussion regarding updated Development Services – Development Impact Fees based on the completed Study by Matrix Consulting Group and provide staff direction on returning to the next possible City Council Meeting.

FISCAL IMPACT

On June 27, 2023, the Los Altos City Council authorized Professional Services Agreement with Matrix Consulting Group in an amount not-to-exceed \$198,885.00 and up to 10% contingency funds not-to-exceed \$19,888.50 for a total of \$218,773.50. The current funds expended for this study are within the original contract amount.

ENVIRONMENTAL REVIEW

Pursuant to CEQA Guidelines Section 15273 this item is exempt from environmental review. CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies.

BACKGROUND

Development Impact Fees in California are governed by the Mitigation Fee Act, which includes AB1600 and AB602.

AB1600 specifies that there needs to be reasonable relationship or “nexus” between the fees collected and the services provided. To establish nexus the following must be analyzed:

- Purpose of Fee
- Impact Relationship
- Proportionality

- Benefit Relationship
- Use of Fee Revenue

On January 1, 2022, AB602 went into effect. The bill is applicable to all impact fees adopted or implemented after the effective date. The following are the main criteria of AB602:

- Prior to adoption of any new impact fee, the Nexus Study needs to be adopted (independently) at a Public Hearing with a 30-day notice.
- Nexus Study shall demonstrate and explain the service level accomplished by the fee.
- Impact Fees shall be proportionate and calculated on a square footage basis.

Additional key provisions and changes apart of AB602:

- Impact Fee schedule and Adopted Nexus Study shall be posted online.
- Impact Fees must be collected by the time of final inspection or certificate of occupancy.
- Members of the public or developer can contest the impact fee compliance with AB602 and AB1600.
- Impact Fee Nexus Studies are **only valid for 8 years maximum.**

Program 3.D: Evaluate and adjust impact fees.

The City will evaluate applying the park in-lieu and traffic impact fees on a per square foot basis rather than per unit to encourage the development of higher densities and smaller, more affordable housing units. Based on this evaluation, the City will modify impact fees in accordance with Assembly Bill 602 (AB 602) with completion of the comprehensive fee evaluation.

Responsible Body: Development Services Department, City Council

Funding Source: General Fund

Time Frame: Initiate comprehensive fee evaluation August 2023; complete comprehensive fee evaluation and modify fees December 2024

ANALYSIS

Through the course of this analysis, the project team evaluated impact fees based upon the current projected population impacts between 2024 and 2040. Based on the results, the maximum justifiable impact fees were calculated for Parks and Recreation, Police, General Government, Fire, Library, Transportation, and Commercial Linkage. As outlined in the Mitigation Fee Act, proportional costs associated with future infrastructure impacts, along with administrative overhead, were used to calculate the full cost of the impact fees presented.

It is important to note that AB602 states that residential (single-family and multi-family) should be calculated based upon proportional square footage, rather than per dwelling unit. For compliance with this regulation, all residential fees have been converted to a per square footage calculation.

The following subsections show the results of the updated impact fees calculated for the City.

Parks and Recreation Impact Fee

The City of Los Altos currently assesses the Parks and Recreation Impact as an in-lieu fee. This means that the developer has the option to either mitigate the parks impacts or pay the City a fee. Through this study the City is considering converting it from an in-lieu fee to a development impact fee based upon the proportional impact of new development. This fee would cover capital costs as well as the acquisition of land. The following table compares the city's current fees to the full cost fee calculated through this study.

| Category | Full Cost |
|-----------------|------------------|
| Single-Family | \$12.12/sqft. |
| Multi-Family | \$44.15/sqft. |

Public Art Development Fee

The City implemented a Public Art Development Fee in 2018. Unlike other impact fees, in lieu fees are only applicable if an applicant is unable to meet the public art installation requirements outlined within the City's General Plan and Municipal Code. Through this analysis, the project team calculated the full cost as a percentage of new construction valuation as the concept is the larger the project, proportionately the greater the public art impact, which is consistent with the City's current in-lieu fee calculation. The full calculation is shown as follows:

| Category | Full Cost |
|-----------------|-------------------------|
| All Development | 1% of Construction Cost |

Public Safety Impact Fee

The City is interested in establishing a Public Safety impact fee to help recover costs of Police and Fire facility and equipment within the city, which benefits both existing and future population. Through this analysis, the project team calculated the full cost to be as follows.

| Category | Full Cost |
|-------------------|------------------|
| Single-Family | \$0.09/sqft. |
| Multi-Family | \$0.34/sqft. |
| Commercial/Retail | \$1.22/sqft. |
| Office | \$1.62/sqft. |

General Government Impact Fee

The City is interested in establishing a General Government impact fee to help recover costs of City Hall, Library, and other General City Facilities, which benefits both existing and future population. Through this analysis, the project team calculated the full cost to be as follows.

| Category | Full Cost |
|-------------------|------------------|
| Single-Family | \$0.13/sqft. |
| Multi-Family | \$0.48/sqft. |
| Commercial/Retail | \$2.14/sqft. |
| Office | \$2.86/sqft. |

Transportation Impact Fee

The City currently charges a Transportation Impact Fee (TIF). However, this fee hasn't been updated since 2014. An updated TIF schedule has been calculated based on the historical level of investment in the citywide circulation network or existing facilities standard. The following table compares the city's current fees to the full cost fee calculated through this study.

| Category | Full Cost |
|-------------------|---------------|
| Single-Family | \$1.55/sqft. |
| Multi-Family | \$6.29/sqft. |
| Commercial/Retail | \$10.71/sqft. |
| Office | \$9.45/sqft. |

Commercial Linkage Fee

The City is interested in establishing a Commercial Linkage fee to help recover costs related to funding the need for affordable housing due to new commercial development. Through this analysis, the project team calculated the full cost to be as follows.

| Category | Full Cost |
|-------------------|-------------|
| Commercial/Retail | \$702/sqft. |
| Office | \$245/sqft. |

According to the analysis provided above and as enclosed in the comprehensive report provided by Matrix Consulting Group, the previously noted fees are the Full Cost Development Impact Fees allowable within the City of Los Altos. The above noted Development Impact Fees are provided after following rigorous requirements to establish essential nexus.

RECOMMENDATION

Based on the Comprehensive Nexus Study conducted by Matrix Consulting Group, City staff proposes establishing all Development Impact Fees at the Full Cost identified for each impact fee except for the Commercial Linkage Fee. Full implementation of this recommendation does necessitate subsequent action to modify existing Municipal Code chapters, which will be amended and brought back to the City Council to ensure the implementing Ordinance is consistent with the Development Impact Fee schedule.

| Parks and Recreation Impact Fee | |
|---------------------------------|-------------------------|
| Category | Full Cost |
| Single-Family | \$12.12/sqft. |
| Multi-Family | \$44.15/sqft. |
| Public Art Development Fee | |
| All Development | 1% of Construction Cost |
| Public Safety Impact Fee | |
| Single-Family | \$0.09/sqft. |
| Multi-Family | \$0.34/sqft. |
| Commercial/Retail | \$1.22/sqft. |
| Office | \$1.62/sqft. |

| General Government Impact Fee | |
|--|---------------|
| Single-Family | \$0.13/sqft. |
| Multi-Family | \$0.48/sqft. |
| Commercial/Retail | \$2.14/sqft. |
| Office | \$2.86/sqft. |
| Transportation Impact Fee | |
| Single-Family | \$1.55/sqft. |
| Multi-Family | \$6.29/sqft. |
| Commercial/Retail | \$10.71/sqft. |
| Office | \$9.45/sqft. |
| Commercial Linkage Fee | |
| Commercial/Retail | \$35.10/sqft. |
| Office | \$12.25/sqft. |
| *Commercial Linkage Fee is set at 5% of the Full Cost allowed. | |

ATTACHMENTS

1. Draft Development Impact Fee Nexus Study

Report on Development Impact Fee (DIF) Study

CITY OF LOS ALTOS, CALIFORNIA

DRAFT REPORT

April 2024

matrix 
consulting group

Table of Contents

| | |
|--|----|
| 1. Introduction and Executive Summary | 1 |
| 2. Legal Framework | 9 |
| 3. Projected Growth and Development | 12 |
| 4. Administrative Fee | 15 |
| 5. Parks and Recreation Impact Fee | 16 |
| 6. Public Art Development Fee | 21 |
| 6. Public Safety Impact Fee | 23 |
| 7. General Government Impact Fee | 28 |
| 9. Transportation Impact Fee | 33 |
| 10. Commercial Linkage Fee | 41 |
| Appendix A – Parks and Recreation Costs | 46 |
| Appendix B – Public Safety Infrastructure Costs | 48 |
| Appendix C – General Government Infrastructure Costs | 49 |
| Appendix D & E – Transportation Impact Fee Technical Report & Commercial Linkage Impact Fee Memo | 50 |

1. Introduction and Executive Summary

The **draft** report, which follows, presents the results of the Development Impact Fee Study conducted by the Matrix Consulting Group for the City of Los Altos.

Project Background and Scope of Work

The Matrix Consulting Group was retained by the City of Los Altos to update existing impact fees and develop a nexus for proposed impact fees. Within the state of California, impact fees are governed by the Mitigation Fee Act (AB1600) (Gov. Code §66000 et seq.) and AB602 which requires demonstrating the reasonable relationship that exists between the development activity and the proposed benefit. The City has not conducted a comprehensive review of its impact fees. The results of this study will allow the City to ensure that there is a nexus between future development and its proportionate impact on City infrastructure, as well, as update the fee amounts to be more reflective of those impact.

General Project Approach and Methodology

There are two typical methodologies utilized to calculate impact fees – service level standards and specific facility projections. For the purposes of this analysis the project team has utilized the more commonly accepted and recognized service level standards approach.

The service level standard approach is based on the creation and recognition of existing service level standards provided by the jurisdiction to the users of its services (residents, employees, students, etc.). As there is new development and growth in the community, there is the potential for the service level standard to decline if appropriate measures are not taken to retain that service level standard. Therefore, the service level standard calculates the impact of each individual on the City's infrastructure and applies it to future individuals and growth. If there is an increase in the service population, there would be a corresponding impact on infrastructure, and thereby a nexus for collection of impact fees. However, if there is no increased population or use of those services, impact fees would not be justifiable or applicable.

For the purposes of calculating impact fees, the project team reviewed a variety of data elements from the state, regional organizations, county, and City staff. The following points highlight the data reviewed through the course of this analysis:

- **Ordinances:** The project team reviewed the City's ordinances to ensure that there was the legal authority to assess and increase current impact fees.

- **General Plan, Facilities Assessment, Department Master Plans, and CIP Plans:** Data was reviewed from a variety of City specific documents regarding the potential growth in the community, the goals for the City and the departments, as well as future capital projects.
- **Growth and Projection Data:** Population, household, dwelling units, and employment information for current and future years was obtained from the California Department of Finance, Long Range Planning documents, and the Association of Bay Area Governments (ABAG).
- **Service Level Standards:** Information such as police facilities, fire facilities, and park needs were collected, reviewed, and applied for calculation regarding future impacts.
- **Revenues and Expenses:** Revenue collected for impact fees was reviewed to ensure compliance with reporting practices as well as to calculate an administrative overhead percentage. Expense information was reviewed for cost estimates for infrastructure as well as overhead allocation to the impact fees.

These components were utilized to develop and update impact fees for the City regarding Parks and Recreation, Police, General Government, Fire, Library, Transportation, and Commercial Linkage.

Summary of Results

Through the course of this analysis, the project team evaluated impact fees based upon the current projected population impacts between 2024 and 2040. Based on the results, the maximum justifiable impact fees were calculated for Parks and Recreation, Police, General Government, Fire, Library, Transportation, and Commercial Linkage. As outlined in the Mitigation Fee Act, proportional costs associated with future infrastructure impacts, along with administrative overhead, were used to calculate the full cost of the impact fees presented.

It is important to note that AB602 states that residential (single-family and multi-family) should be calculated based upon proportional square footage, rather than per dwelling unit. For compliance with this regulation, all residential fees have been converted to a per square footage calculation.

The following subsections show the results of the updated impact fees calculated for the City.

Parks and Recreation Impact Fee

The City of Los Altos currently assesses the Parks and Recreation Impact as an in-lieu fee. This means that the developer has the option to either mitigate the parks impacts or pay the City a fee. Through this study the City is considering converting it from an in-lieu fee to a development impact fee based upon the proportional impact of new development. This fee would cover capital costs as well as the acquisition of land. The following table compares the city's current fees to the full cost fee calculated through this study.

Table 1: Current vs. Full Cost – Parks and Recreation Impact Fee

| Category | Current Fee | Full Cost | Difference | % Cost Recovery |
|---------------|-----------------------|-----------|------------|-----------------|
| Single-Family | Modified ¹ | \$12.12 | N/A | N/A |
| Multi-Family | Modified ² | \$44.15 | N/A | N/A |

Due to the change in regulations and the City's current method of charging per unit for Single-Family and Multi-Family projects, a true comparison cannot be conducted.

Public Art Development Fee

The City implemented a Public Art Development Fee in 2018. Unlike other impact fees, in-lieu fees are only applicable if an applicant is unable to meet the public art installation requirements outlined within the City's General Plan and Municipal Code. Through this analysis, the project team calculated the full cost as a percentage of new construction valuation as the concept is the larger the project, proportionately the greater the public art impact, which is consistent with the City's current in-lieu fee calculation. The full calculation is shown as follows:

Table 2: Current vs. Full Cost – Cultural Arts in-Lieu Fee

| Category | Current Fee | Full Cost | Difference | Cost Recovery % |
|---|-------------|-----------|------------|-----------------|
| Public Art Development - % of Valuation | 1.00% | 1.00% | 0% | 100% |

The nexus analysis conducted justifies the City retaining its current practice of charging 1% of the project valuation as the in-lieu fee.

Public Safety Impact Fee

The City is interested in establishing a Public Safety impact fee to help recover costs of Police and Fire facility and equipment within the city, which benefits both existing and

¹ The current residential fees are charged are on a per unit basis for single-family at \$77,500.

² The current residential fees are charged are on a per unit basis for multi-family at \$48,800.

future population. Through this analysis, the project team calculated the full cost to be as follows.

Table 3: Proposed Public Safety Impact Fee

| Category | Full Cost |
|--------------------------------------|-----------|
| Residential (per square foot) | |
| Single-Family | \$0.09 |
| Multi-Family | \$0.34 |
| Commercial (per square foot) | |
| Commercial / Retail | \$1.22 |
| Office | \$1.62 |

Similar to other impact fees the full cost fee calculated through this study represents the maximum fee that the City can charge, inclusive of an allowable administrative fee outlined in the Mitigation Fee Act.

General Government Impact Fee

The City is interested in establishing a General Government impact fee to help recover costs of City Hall, Library, and other General City Facilities, which benefits both existing and future population. Through this analysis, the project team calculated the full cost to be as follows.

Table 4: Proposed General Government Impact Fee

| Category | Full Cost |
|--------------------------------------|-----------|
| Residential (per square foot) | |
| Single-Family | \$0.13 |
| Multi-Family | \$0.48 |
| Commercial (per square foot) | |
| Commercial / Retail | \$2.14 |
| Office | \$2.86 |

Similar to other impact fees the full cost fee calculated through this study represents the maximum fee that the City can charge, inclusive of an allowable administrative fee outlined in the Mitigation Fee Act.

Transportation Impact Fee

The City currently charges a Transportation Impact Fee (TIF). However, this fee hasn't been updated since 2014. An updated TIF schedule has been calculated based on the historical level of investment in the citywide circulation network or existing facilities standard. The following table compares the city's current fees to the full cost fee calculated through this study.

Table 5: Current vs. Full Cost – Transportation Impact Fee

| Category | Current Fee | Full Cost Fee | Difference | Cost Recovery % |
|---|-----------------------|---------------|------------|-----------------|
| Residential (per square foot) | | | | |
| Single-Family | Modified ³ | \$1.55 | N / A | N / A |
| Multi-Family | Modified ⁴ | \$6.29 | N / A | N / A |
| Commercial / Non-Residential (per square foot) | | | | |
| Commercial / Retail | \$12.05 | \$10.71 | \$0.79 | 107% |
| Office | \$9.99 | \$9.45 | \$0.10 | 101% |

Based upon the fees that can be compared, the City would need to reduce its non-residential transportation impact fees slightly to be in alignment with the maximum fee that the City can charge, inclusive of an allowable administrative fee outlined in the Mitigation Fee Act.

Commercial Linkage Fee

The City is interested in establishing a Commercial Linkage fee to help recover costs related to funding the need for affordable housing due to new commercial development. Through this analysis, the project team calculated the full cost to be as follows.

Table 6: Proposed Commercial Linkage Fee

| Category | Full Cost (per sq. ft.) |
|---------------------|-------------------------|
| Commercial / Retail | \$702 |
| Office | \$245 |

Similar to other impact fees, the full cost fee calculated through this study represents the maximum justifiable fee that the City can charge. It is important to note that this is the one fee category in which jurisdictions do not typically charge the maximum justifiable fee.

Summary

The City only currently assesses impact fees related to Parks and Recreation and Transportation. Through this nexus analysis, a nexus has been established for the City to consider implementing additional impact fees.

Implementation

The updated and proposed impact fees calculated through this study represent the maximum justifiable costs associated with the proportionate share and impact of new development within Los Altos. It is up to City staff, management, and Council to utilize

³ The current residential fees are charged are on a per unit basis for single-family at \$6,774.20.

⁴ The current residential fees are charged are on a per unit basis for multi-family at \$4,159.

the information in this report as a mechanism to determine if new development should bear the full cost, or if subsidized cost. The following subsections discuss the key aspects for impact fee implementation and updates, including: collection of fees, annual reporting requirements, refunds / credits / appeals, and annual updates.

Collection of Impact Fees

Section 66007 of the California Government Code outlines when impact fees should be paid for residential and multi-family. Impact fees for Residential projects should be generally assessed and paid upon the date of final inspection or issuance of certificate of occupancy, which occurs first. For Multi-family projects, fees can be paid in phases based upon the dwelling units, at the completion of each unit's final inspections, as long as it is at the final inspection or certificate of occupancy, whichever occurs last. There is no specific provision in the section regarding commercial, office, or industrial uses.

The section also does allow for collection of fees sooner if there is already an account established for impact fees and can be designated for public improvements.

Annual Impact Fee Reporting Requirements

Section 66006 of the California Government Code dictates that once per year, within 180 days of the close of the fiscal year, the City must make available to the public detailed information regarding impact fees. This detailed information, should at a minimum include:

- Impact Fee Description and Fund Number
- Impact Fee Amount
- Beginning and Ending balance of the account or fund.
- Amount of fees collected in the fiscal year and the total interest earned.
- Identification of project(s) on which the funds are being earmarked for.
- Identification of the approximate date on which the projects would commence.
- Identification of any interfund loans or transfers related to capital projects, and the amount of the transfer.
- Amount of any refunds or allocations made on behalf of the impact fee funds.

The above reports must be submitted and reviewed by City Council within 15 days of being posted publicly. Additionally, AB602 Section 65940.1 (a) requires that the nexus analysis and to corresponding impact fee amounts charged be made available publicly. Compliance with this part of the bill can be achieved by posting a written version of the analysis and fee schedule or providing a link to both on the City's website.

Refunds / Credits / Appeals / Waivers

Section 66001 of the California Government Code requires that every five years the City must make findings regarding the utilization of the impact fee revenue and / or proposed utilization of it within five years of collection. If such findings are not made within five years of impact fee collection, the City must refund the monies to the current record owner or owner of the lots or units.

As part of the adoption of the impact fee resolution, the City may choose to also identify circumstances or instances in which a developer could obtain credits, exemptions, or appeal fees. Fee credits are typically obtained in the case of redevelopment, for example, if a developer was to redevelop an existing 10 multi-unit complex into a 15 multi-unit complex, the developer retains credit for the 10 existing units and only pays impact fees on the 5 new units being added. This credit is only provided if the existing facility had already paid into impact fees. If the existing development had not paid any impact fees, there would be no credit applicable.

Impact fee resolution may also include a discussion regarding fee exemptions. If a development project is determined to have no documented impact on the facilities for which the impact fees are being imposed, then the project may be exempt from impact fees. The exemptions must not be granted by right and should be reviewed by City staff and Council to ensure that they are warranted and appropriate.

Any reductions in impact fees, or waivers or appeals regarding impact fees, would have to be determined by City staff and Council and would be granted depending upon the nature and proportion of the impact of the future / proposed development on future infrastructure needs. Depending upon the nature of the project and its documented impacts, there might be a more in-depth process necessary to ensure that all impact fees collected are fair, proportionate, and in compliance with the Mitigation Fee Act.

Annual Increases

The City's current ordinances governing the impact fees provide the City with the ability to increase impact fees annually based upon the Construction Cost Index (CCI). This is considered a best practice and ensures that increases in construction costs are included in the impact fees and proportionate share is passed onto new development.

The annual increase is not meant to be an infinite increase in fees. Per the Mitigation Fee Act and Assembly Bill 602 the nexus for the impact fees should be reevaluated every eight years to ensure that there is still an appropriate correlation between the current fee being charged and proposed development within the City.

The City's current ordinances governing the impact fees provide the City with the ability to increase impact fees annually based upon the Construction Cost Index (CCI). This is considered a best practice and ensures that increases in construction costs are included in the impact fees and proportionate share is passed onto new development.

The annual increase is not meant to be an infinite increase in fees. Per the Mitigation Fee Act and Assembly Bill 602 the nexus for the impact fees should be reevaluated every eight years to ensure that there is still an appropriate correlation between the current fee being charged and proposed development within the City.

2. Legal Framework

Impact Fees are a mechanism for new development to pay for their proportionate share of impact upon City owned facilities and infrastructure. The following subsections discuss the State's requirements for impact fees and the City's legal authority for assessing these fees.

State Legal Authority – AB1600

Development Impact Fees in California are governed the Mitigation Fee Act⁵, which includes AB1600 and AB602. At a high level, AB1600 specifies that there needs to be a reasonable relationship, or “nexus,” between the collection of fees and the new residential and non-residential development within a City's service area. It states that revenue can only be used to expand current facilities or purchase new facilities, infrastructure, and equipment. It also states that the revenue generated cannot be used to fund staffing, maintenance, or other operational costs.

To establish a nexus between new development and the need for new facilities or infrastructure, the legislation requires that certain criteria be met. The following points highlight each of the required criteria:

- **Purpose of Fee:** Outline specific types of facilities, infrastructure, equipment, and projects for which the impact fee will be utilized.
- **Impact Relationship:** In order to establish an impact relationship there needs to be a clear and reasonable relationship between the need for the public facility or infrastructure and the type of development project upon which the fee is imposed.
- **Proportionality:** The proportionality requirement states that the impact fee established must be directly related to the proportionate impact of the type of development project.
- **Benefit Relationship:** The benefit relationship requires that the use of the impact fee revenue and the type of development project upon which it is imposed is reasonable.
- **Use of Fee Revenue:** The revenue collected from the impact fees can only be used to fund the identified facility expansions, infrastructure improvements, or to purchase new equipment.

⁵ CA Govt Code § 66001

For each of the impact fees evaluated through this study, the individual chapter will discuss how the fee is able to meet the nexus criteria identified.

State Legal Authority – AB602

In January of 2022, Assembly Bill 602 (AB602) went into effect. This Bill is applicable to all impact fees adopted / implemented January 1, 2022, or later. The bill has three main criteria:

1. Prior to the adoption of new impact fees, a nexus study needs be adopted.
2. The nexus study needs to highlight existing service levels, the new service level, and an explanation of why the new service level is appropriate.
3. A fee levied on housing development must be proportionate to the square footage of proposed units unless findings are established on why square footage is not the appropriate metric. This ensures larger residential projects pay a higher portion of fees than smaller residential (i.e. ADU) projects.

Along with these three criteria, some other key provisions of the bill include:

- Impact fees must be posted online – along with the nexus analysis.
- All impact fees must be collected by the time of final inspection or certificate of occupancy issuance, whichever occurs later⁶.
- A member of the public and / or developer can submit evidence citing the inability of the impact fee to comply with AB602 and AB1600 (Mitigation Fee Act)⁷.
- Impact fees nexus studies must be updated every eight years.

Under directive from AB602, the State's Department of Housing and Community Development created templates for a nexus study and residential feasibility analysis. These resources establish a litmus test for cities to gauge their compliance.

This report will serve as the City's nexus analysis for its existing impact fees and will ensure that all criteria per AB602 are met and clearly outlined for proposed impact fees. For commercial linkage fees, a separate more detailed nexus analysis occurs based upon the proposed fees to be implemented, rather than the maximum fees calculated through the analysis.

⁶ Section 65940.1.(3)

⁷ Section 66019(d)(1).

City Legal Authority for Impact Fees

The City of Los Altos has the legal authority to charge for the impact fees identified as these fees are referenced in the municipal code or were adopted via resolution. The following table summarizes for each impact fee evaluated the relevant municipal code and key factors:

Table 7: Municipal Code Information on Impact Fees

| Impact Fee | Muni Code Chapter | Resolution / Ordinance | Notes / Key Factors |
|----------------------------|-------------------|------------------------|--|
| Parks and Recreation | Chapter 13.24 | 2019-04 | Fee amount determined by council resolution. |
| Public Art Development Fee | Chapter 3.52 | 2018-446 | Contribution fee should be 1% of the valuation with a maximum fee of \$200,000. |
| Public Safety | New | New | This is a new impact fee and at a minimum a resolution would be needed to establish authority to impose the fee. |
| General Government | New | New | This is a new impact fee and at a minimum a resolution would be needed to establish authority to impose the fee. |
| Fire | New | New | This is a new impact fee and at a minimum a resolution would be needed to establish authority to impose the fee. |
| Transportation | Chapter 3.48 | 05-286 | Fee amount determined by council resolution. |
| Commercial Linkage | New | New | This is a new impact fee and at a minimum a resolution would be needed to establish authority to impose the fee. |

The City's current impact fees are governed by Municipal Code and an ordinance / resolution. As many of the impact fees are being proposed as new fees, the City will need to consider adopting them through resolution and potentially updating their municipal code.

3. Projected Growth and Development

The primary criteria for determining the projected impact of new development for impact fees is the amount of projected increase in the City's population (residential and commercial). These projections then form the basis of impact fee calculations. In order to calculate the projected growth and development, as well as density requirements, the project team reviewed the following sources of data:

- **State of California Department of Finance:** Data from California's Department of Finance was utilized for 2023 estimates regarding total number of residential populations within the City.
- **Regional Projections:** Projection information based upon city and Association of Bay Area Governments (ABAG) documents was utilized for cost calculation and assumptions. General Plan and facilities master plan information was used to estimate future dwelling units, square footage growth, employment information, as well as facility needs.

The information from these sources was utilized to calculate the projected increase in population as well as resulting population densities. The following subsections discuss the population projections calculated and the population densities used to calculate the impact fees.

Population Projections

The basis for impact fees is predicated on sufficient population growth that results in a meaningful impact on City Infrastructure. The following table shows by category, the 2023 estimates, the 2040 estimates, and the overall projected increase:

Table 8: Population Growth Projection through 2040

| Category | 2023 Estimates | 2040 Estimates ⁸ | Total Projected Increase |
|-------------|----------------------|-----------------------------|--------------------------|
| Residential | 31,021 ⁹ | 32,960 | 1,939 |
| Commercial | 15,160 ¹⁰ | 15,315 | 155 |

Overall, the residential population is projected to grow by 1,900 residents over the next 16 years and the commercial population is expected to grow by 155 employees.

⁸ The 2040 estimates come from the ABAG

⁹ The residential estimate comes from the California Department of Finance 2023 population estimate.

¹⁰ The 2030 estimate is based on the 2020 ABAG estimate.

The numbers noted in these tables were used as the basis for all of the proportionate impact calculations through this study, with employment information utilized for calculations associated with non-residential projected growth.

Population Densities

In addition to the population projection information, the other set of data that is consistently utilized in the calculations is the density associated with residential and non-residential categories. The following subsections discuss the population density assumptions utilized in the calculation of all impact fees in this report.

Residential Population Density

Currently, Los Altos categorizes residential population into two types: Single Family homes and Multi-Family homes. Due to changes in the regulations, residential density per unit can no longer be used as the basis of impact fee calculation. Therefore, the project team worked to utilize existing information collected to generate the density based upon square footage per resident (similar to non-residential densities).

The project team utilized data from the American Census Bureau report to calculate the new density factor. The report estimates the number of units and the number of individuals residing in the unit. The following table shows the calculation for single-family and multi-family housing:

Table 9: Residential Density Calculation

| Category | # of Ppl in Units ¹¹ | # of Units ¹² | Avg Persons / Unit |
|---------------|---------------------------------|--------------------------|--------------------|
| Single-Family | 28,177 | 9,508 | 2.96 |
| Multi-Family | 2,637 | 1,379 | 1.91 |

As the table indicates, the average density for a single-family residence is almost 3 individuals compared to 2 individuals for multi-family. To convert the people per unit to a square footage per resident calculation, the average square footage for a residential unit (single and multi-family was needed). The following table shows this calculation:

Table 10: Residential Sq. Ft. Per Person Density Calculation

| Category | Avg Sq. Ft. | Avg Persons / Unit | Sq. Ft. Per person |
|---------------------------|---------------------|--------------------|--------------------|
| Single-Family Residential | 4,934 ¹³ | 2.96 | 1,665 |
| Multi-Family | 873 ¹⁴ | 1.91 | 457 |

¹¹ Table B25033 showing 5 year average US Census Data.

¹² Table B25032 showing 5 year average US Census Data.

¹³ The average single-family residential square footage is based on the average for the last five years for the City of Los Altos based upon permitting data.

¹⁴ The average square footage is based on the total sq. ft. of multi-family projects over the last five years, and the number of units. The overall average square footage per unit was 1,746. 50% of that was used, to reduce the extra sq. ft. associated with hallways, storage, elevators, lobby space, etc.

The average square footage per resident, or household density factor for single family is 1,665 and multi-family is 457. The density factor is then divided by the cost per capita calculation to derive the base impact fee.

Non-Residential / Commercial Density¹⁵

Similar to the residential density calculation, a calculation was performed for non-residential development within the City. The City utilizes two main commercial categories – Commercial / Retail¹⁶ and Office. The following table shows the density associated with each non-residential category type:

Table 11: Residential Population Density

| Category | Sq. Ft. Per ¹⁷ Employee |
|---------------------|---------------------------------------|
| Commercial / Retail | 400 |
| Office | 300 |

The density (square footage per employee) is multiplied by the cost per capita calculation to derive the base impact fee.

The following chapters utilize the assumptions included in this section to help project the proportionate impact of new development on the City's existing and proposed infrastructure.

¹⁵ The commercial linkage fee does also utilize a non-residential category of Hotels, but that is not applicable for the typical land use for Los Altos, so it was not utilized for any of the other impact fees. The linkage fee utilizes 1,000 sq. ft. per employee.

¹⁶ Commercial / Retail is also meant to be an all-encompassing category that includes all types of non-office, non-hotel, and non-industrial projects and could include grocery stores, retail shops, strip malls, services (i.e., hair, nail, fitness), etc. The City has the ability to more clearly define this in its resolution associated with impact fees.

¹⁷ The employment density of was utilized to be consistent with the commercial linkage fee analysis.

4. Administrative Fee

In accordance with regulations outlined in the Mitigation Fee Act, a citywide administrative fee was calculated for use in this analysis.

The project team took the three-year average of actual revenue for each impact fee fund and divided it by the citywide overhead cost calculated in the City's most recent cost allocation plan. The resulting values were then averaged, producing a citywide administrative fee. The following table shows the calculation:

Table 12: Administrative Fee Calculation

| Fund | 3 Yr. Avg | CAP OH | Admin % |
|-----------------------|--------------------|-----------------|--------------|
| Park In-Lieu | \$1,873,533 | \$13,792 | |
| Transportation Impact | \$131,340 | \$56,312 | |
| Total | \$2,004,873 | \$70,104 | 3.50% |

The calculated citywide administrative fee of 3.50% accounts for the support provided by City staff in the monitoring and reporting of impact fee funds. This percentage can then be added to individual calculated impact fees, resulting in a full cost impact fee.

5. Parks and Recreation Impact Fee

The City of Los Altos currently assesses a Park In-Lieu fee. An in-lieu fee is similar to an impact fee but is optional. Through this study, the City is proposing converting it to an impact fee to cover the cost of future needs for community centers, upgrades, as well as land acquisition. The following subsections discuss the growth assumptions and standards utilized, cost assumptions and components, impact fee calculation, ability to meet the nexus criteria, and a comparative survey of childcare impact fees.

Growth Assumptions

Parks and Recreation primarily serves the residential population within the City of Los Altos. While non-residents may utilize park facilities, for the strongest nexus, only residential population growth has been factored into this analysis. Future increased development would result in the need for expanded facilities, newer equipment, and new parks. The current recreation facilities benefit both existing and future development and to determine the proportionate share of existing and future development, the project team calculated the future service population for the City. The following table shows the current population, the future population, and the projected increase:

Table 13: Future Population Increase

| Category | Existing Population | 2040 Population | Population Increase |
|-------------|---------------------|-----------------|---------------------|
| Residential | 31,021 | 32,960 | 1,939 |

As the table indicates, the projected increase in the residential population is approximately 1,939, which reflects approximately a 6% increase compared to the existing population. Therefore, future development should bear approximately 6% of the costs.

The City's adopted standard per the Parks and Recreation Master Plan is 1.7 acres per 1,000 residents. In order for the City to retain this standard as the residential population increases, the City will need to acquire additional park acreage. The following table shows the proportionate number of acres needed to account for new residential growth:

Table 14: Proposed New Acres Needed Based Upon Acreage Standard

| Category | Amount |
|---|-------------------|
| Current Acreage Standard – per resident | 0.00157 acres |
| Projected Residential Growth | 1,939 residents |
| Total New Acres Required | 3.04 acres |

Based upon the standard of 0.00157 acres per resident and growth of 1,935 residents, the City will need to acquire an additional 3.04 acres to retain this standard.

Cost Components and Assumptions

Due to the projected increase in residential population, there will be an impact on the department's infrastructure, including the need to replace existing facilities, as well as capital projects. Additionally, there is the proposed cost of acquisition of land. The planning horizon for the impact fee is 16 years (2024 through 2040) and the department will need to replace existing facilities and upgrade its facilities during that span. A proportionate share of those upgrades should be borne by future development as future development will benefit from those facilities. The project team reviewed the City's documentation and calculated the annual cost of facility replacements, total cost for capital programs and anticipated cost for land acquisition. Detailed information is included in Appendix A and it is summarized in the following table:

Table 15: Parks Identified Costs

| Item | Total Cost |
|---------------------------|----------------------------|
| Replacement of Facilities | \$7,087,772 |
| P&R Capital Projects | \$7,411,000 |
| Acquisition of New Land | \$36,935,597 ¹⁸ |
| TOTAL COST | \$51,434,369 |

Overall, Parks and Recreation will require approximately \$51.4 million to meet the needs of existing and future populations of the City.

Impact Fee Calculations

As outlined in the cost component section, the \$51.4 million is not fully allocable to new development. Therefore, the project team utilized the growth projections in this chapter to determine the proportional amount associated with new development. The following table breaks down these same costs and shows the proportional amount to be borne by new development:

Table 16: Parks and Recreation Impact Costs to be Borne by New Development

| Category | Amount | Proportion | Total Cost |
|-------------------------------------|---------------------|------------|---------------------|
| Parks and Recreation Facility Costs | \$7,087,772 | 6% | \$425,266 |
| Parks & Recreation Capital Projects | \$7,411,000 | 6% | \$444,660 |
| Acreage Cost | \$36,935,597 | 100% | \$36,935,597 |
| TOTAL | \$51,434,369 | | \$37,805,523 |

¹⁸ The cost of land is based on the 3.04 acres need on a fair market value of \$12.1 million per acre of land. This was estimated based upon the city's most recent estimation in 2020 with an annual inflationary factor applied.

The total proposed parks and recreation infrastructure and land improvements to be borne by new development is approximately \$37.8 million. Of the \$51.4 million, \$37.8 million should be borne by the future population. This \$37.8 million is divided by the total projected population increase, to calculate the cost per capita, as shown in the following table:

Table 17: Projected Cost for New Development – Per Capita

| Category | Infrastructure Costs | Projected Population Increase | Cost / Capita |
|-------------|----------------------|-------------------------------|---------------|
| Residential | \$37,805,523 | 1,935 | \$19,497 |

The cost per capita from this table was converted into a cost per square foot based upon the density factors discussed in the projected growth and development chapter. The following table shows this calculation:

Table 18: Parks and Recreation Impact Fee Calculation

| Category | Cost Per Capita | Density | Impact Fee |
|---------------|-----------------|---------|----------------------------|
| Single-Family | \$19,497 | 1,665 | \$11.71 per sq. ft. |
| Multi-Family | \$19,497 | 457 | \$42.66 per sq. ft. |

As the table indicates, the cost per square foot varies from a low of \$11.71 for single-family homes (as they are typically larger) to a high of \$42.66 per sq. ft. for multi-family units. To calculate the full allowable fee, the 3.5% administrative fee is applied to the impact fee. The following table shows this calculation:

Table 19: Parks and Recreation Impact Fee Calculation Including Administrative Fee

| Category | Impact Fee | Admin Fee | Total Impact Fee |
|---------------|------------|-----------|----------------------------|
| Single-Family | \$11.71 | \$0.41 | \$12.12 per sq. ft. |
| Multi-Family | \$42.66 | \$1.49 | \$44.15 per sq. ft. |

The addition of the administrative fee captures the full cost associated with the proportionate impact of future development. The City currently charges its in-lieu fees for Parks and Recreation on a per dwelling unit basis. Therefore, it is difficult to accurately compare.

Under the updated impact fee, if the City had a new Single-Family home of 5,000 sq. ft. the fee would be \$60,600 compared to the City's current fee of \$77,500. While the City sees a decrease in the fee amount, the proposed impact fee provides the City with more flexibility in terms of application of the fee and the potential to recover those fees.

Nexus Criteria

As discussed in the legal framework section, in order for an impact fee to be implemented it must meet all five of the nexus criteria as established per the Mitigation Fee Act. The following table outlines each criterion point, and how the proposed Childcare Impact fee meets the criteria.

Table 20: Impact Fees Nexus Criteria - Childcare

| Criteria | Meet | Don't Meet |
|-----------------------------|---|------------|
| Purpose of Fee | The purpose of the fee would be to fund the development of new parks and recreation facilities and improving existing playground areas. | |
| Use of Fee Revenue | The City has capital improvement plans that outline the utilization of this fee revenue for current and future years to help ensure that there is appropriate expansion and development of parks and recreation facilities and areas to meet current and future resident needs. | |
| Benefit Relationship | The use of the impact fee revenue would be to develop new facilities or expand or improve existing facilities, which would be directly proportional to the increased wear and tear and use of parks and recreation facilities as there is new residential growth in the City. The increase in residential population is related to the number of dwelling units and the impact fee would be applicable to dwelling units. | |
| Impact Relationship | Based upon the current and proposed parks and recreation facility needs in the City, the addition of new residents would require the need for new and expanded facilities. | |
| Proportionality | The proposed impact fee would be per square foot depending upon the density of the housing units to capture the residential impacts as the primary mechanism for addition of residential population to the City is through increased dwelling units and the size of those units. | |

As the table demonstrates, the City is able to meet all five of the criteria necessary to continue to charge a Parks and Recreation Development Impact Fee.

Comparative Survey

As part of this impact fee analysis, the project team conducted a comparative survey of surrounding jurisdictions that charge a Parks and Recreation Impact Fee. The following

table compares the City's current fee and full cost for to other surveyed jurisdictions in the region:

Table 21: Comparative Survey – Parks and Recreation

| Jurisdiction | Single-Family | Multi-Family |
|-----------------------|----------------------------|----------------------------|
| Los Altos – Current | \$77,500 per unit | \$48,800 per unit |
| Los Altos – Full Cost | \$12.12 per sq. ft. | \$44.15 per sq. ft. |
| Mountain View | \$150-\$190 per sq. ft. | \$200 - \$310 per sq. ft. |
| Palo Alto | \$81,245 per unit | \$56,185 per unit |
| Campbell | \$30,340 per unit | \$21,460 per unit |
| Saratoga | \$32,433 per unit | \$21,562 per unit |
| Morgan Hill | \$5,369 - \$7,348 per unit | \$5,178 - \$7,114 per unit |

Mountain View is the only other jurisdiction that charges per square foot, and the City's full cost are significantly below Mountain View's rates. For the other jurisdiction's the City's current fee structure is more comparable and based on that the City is on the higher end with only Palo Alto charging higher fees. It is important to remember, per new legal regulation changes, the City must charge residential fees based on square footage, hence the conversion from per unit to per square foot.

6. Public Art Development Fee

The Public Art Development fee functions as an in-lieu fee, as private development has the option to either place public art on private property or contribute to the public art fund. Although in-Lieu fees differ from impact fees, they are typically regulated by similar principles and must adhere to the requirements of the Mitigation Fee Act. Distinct from other impact fees, in-lieu fees come into play only when an applicant cannot fulfill requirements specified in the City's General Plan and Municipal Code. In 2018, Los Altos introduced a Public Art Development Fee, with an in-lieu fee for applicant who do not meet the public art installation requirements. The subsequent sections explore the growth assumptions made, the cost components considered, the process for calculating in-lieu fees, the evaluation of compliance with nexus criteria, and a comparative analysis of Public Art Development Fees

Cost Components and Assumptions

In order to determine the annual cost associated with public art, the project team used information associated with the Public Art Fund's balance of costs available. The City has approximately a \$889,900 fund balance available for Public Art for future projects.

In-Lieu Fee Calculations

The Public Art Development fee is calculated as a percentage of project valuation for new development. The project team used the City's actual FY23 valuation, as the base for calculating the in-lieu fee. The total annual cost calculated was divided by the valuation, resulting in a percentage, the following table shows this calculation for valuation:

Table 22: In-Lieu Fee Calculation – Non-Residential Commercial Projects

| Cost Components | Amount |
|-----------------------|--------------|
| Annual Cost | \$889,900 |
| Total Valuation | \$92,274,751 |
| % of Valuation | 1% |

The 1% represents the maximum justifiable fee the City can charge.

Nexus Criteria

In-lieu fees are not subject to the same stringent nexus criteria as impact fees. However, there must be a proportionality and basis for the calculation of the in-lieu fee. In 2018,

Los Altos adopted the Public Art Development Fee ordinance, which outlines public art requirements for specific non-residential development projects. If the applicant cannot meet these requirements, they can opt to make a fiscal contribution to the public art fund “in an amount not less than half of one percent (1%) of construction costs”. The updated calculation would be similarly set up in which the developer has the option to install their own public art or pay towards the City’s public arts fund.

Comparative Survey

As part of this impact fee analysis, the project team conducted a comparative survey of surrounding jurisdictions who charge a Public Art In-Lieu Fee. The following table compares the City’s current fee and full cost for to other surveyed jurisdictions in the region:

Table 23: Comparative Survey – Cultural Art In-Lieu Fee

| Jurisdiction | Fee Amount |
|-----------------------|--|
| Los Altos – Current | 1% of valuation |
| Los Altos – Full Cost | 1% of valuation |
| | 1% of valuation for first \$128.06 million |
| Palo Alto | 0.9% of valuation above \$128.06 million |

Of the surveyed jurisdictions only Palo Alto charges a Public Art fee and its fee at 1% for projects less than \$128 million is similar to the City’s current and full cost fee calculated.

6. Public Safety Impact Fee

As part of the impact fee analysis, the City is proposing the creation of a consolidated Public Safety fee to cover the infrastructure costs related to Police and Fire. The City has one police station and two fire stations that it owns. The City operates its own Police department but contracts for Fire services. The following subsections discuss the growth assumptions utilized, cost components included, resulting impact fee calculation, ability to meet the nexus criteria, and a comparative analysis of the Fire portion of the Public Safety Impact Fee.

Growth Assumptions

The Police and Fire Departments serve both residential and commercial populations (employees). Future increased development would result in the need for expanded or relocated Fire stations, Police Stations, and additional equipment and vehicles. Since the primary goal of Police and Fire is to provide community protection and fire suppression services within the City, their services benefit both existing and future development. To determine the proportionate share of existing and future development, the project team calculated the future service population for the City. In addition, since an employee working within the city does not have the same tendency to use police and fire services as a resident, their impact was weight less. The following table shows the current population for each category, the proportionate weight, and the equivalent population:

Table 24: Future Weighted Service Population Calculation

| Category | Existing Population | Projected Increase | Weight Factor | Weighted Population Increase |
|--------------|---------------------|--------------------|-------------------|------------------------------|
| Residents | 31,021 | 1,930 | 100% | 1,939 |
| Employees | 15,160 | 155 | 20% ¹⁹ | 31 |
| Total | \$46,181 | 2,094 | | 1,970 |

The projected increase in the service population is roughly 1,970, which represents a 4% increase compared to the existing population. This means future development should bear 4% of the police and fire related impact costs.

Cost Components and Assumptions

Due to the projected increase in residential and non-residential population there will be an impact on the department's infrastructure. The planning horizon for the impact fee is

¹⁹ To calculate the employee weight factor, the project team utilized the proportion of police calls for service that are commercial relative to residential calls for service. A three-year average of calls from FY21, FY22, and F23 were used for the calculation.

16 years (2024 through 2040) and while the department intends to purchase some additional equipment and relocate facilities, it will also need to replace existing equipment and upgrade its facilities during that span. A proportionate share of those upgrades should be borne by future development as future development will benefit from that equipment and the facilities. The following table shows by cost category, the average annual cost, the number of planning years, and the resulting cost for 16 years:

Table 25: Total Projected Infrastructure Cost for 16 Years

| Category | Avg Annual Cost | Planning Horizon (Yr.) | Total Cost |
|------------------|------------------|------------------------|--------------------|
| Fire Stations | \$77,850 | 16 | \$1,245,600 |
| Police Stations | \$86,931 | 16 | \$1,390,900 |
| Police Equipment | \$257,452 | 16 | \$4,119,238 |
| Total | \$422,233 | | \$6,755,738 |

A detailed accounting of the average annual cost for Police and Fire has been included in Appendix A of this report. Additionally, the City conducted a Facilities Conditions Assessment, which identified additional improvements. The following table shows the improvement costs identified, as well as any capital expenditures for Police:

Table 26: Total Public Safety Capital-Related Expenditures

| Category | Capital Cost |
|---------------------------------------|--------------------|
| Fire Facility Conditions Assessment | \$1,080,030 |
| Police Facility Conditions Assessment | \$1,040,308 |
| Police Capital Projects | \$195,000 |
| Total | \$2,315,338 |

Therefore, in regard to Police and Fire, the City needs approximately \$9.1 million (\$6.8 million in facility and equipment and \$2.3 million in capital-related expenditures) to meet the needs of existing and future development.

In addition to the \$9.1 million in infrastructure costs, the other cost component to be considered is the administrative fee. As outlined in the prior section, a citywide administrative fee of 3.5% was calculated to account for support provided by City staff in the monitoring and reporting of impact fee funds.

Impact Fee Calculations

As the previous section calculated, the total infrastructure needs for the Police and Fire Department are approximately \$9.1 million. However, not all of this cost should be borne by the future population. Based upon the growth assumptions analysis, only 4% of these

costs should be borne by the future population as that is the anticipated future growth. The following table shows the calculation for costs to be borne by current and future residential populations:

Table 27: Projected Cost Calculation Between Existing and Future Populations

| Category | Infrastructure Costs | Proportion | Total Cost to Be Borne |
|--------------------|----------------------|------------|------------------------|
| Current Population | \$9,071,076 | 96% | \$8,708,233 |
| Future Population | \$9,071,076 | 4% | \$362,843 |

Of the \$9.1 million, only \$362,000 should be borne by the future population. This \$362,000 is proportionately split into residential and commercial growth based upon the calls for service, as shown in the following table:

Table 28: Projected Cost for New Development – Residential and Commercial

| Category | Total Cost to Be Borne | Proportion | Future Cost |
|--------------------|------------------------|------------|-------------|
| Residential Growth | \$362,843 | 80% | \$289,615 |
| Commercial Growth | \$362,843 | 20% | \$73,228 |

The future cost of \$362,843 is split between residential and commercial growth based upon the proportion of calls for service (20%) and approximately \$290,000 is residential related and \$73,000 commercial related. These costs were then converted into a cost per capita based upon the projected population:

Table 29: Projected Cost for New Development – Per Capita

| Category | Future Cost | Population | Cost / Capital |
|-------------|-------------|------------|----------------|
| Residential | \$289,615 | 1,939 | \$149 |
| Commercial | \$73,228 | 155 | \$472 |

The cost per capita of \$149 or \$472 was converted into cost per sq. ft. based upon the density factors discussed in the projected growth and development chapter. The following table shows this calculation:

Table 30: Public Safety Impact Fee Calculation

| Category | Cost Per Capita | Density | Impact Fee |
|----------------------------------|-----------------|---------|------------|
| Residential (per sq. ft.) | | | |
| Single-Family | \$149 | 1,665 | \$0.09 |
| Multi-Family | \$149 | 457 | \$0.33 |
| Commercial (per sq. ft.) | | | |
| Commercial / Retail | \$472 | 400 | \$1.18 |
| Office | \$472 | 300 | \$1.57 |

The cost per square foot for single-family projects is \$0.09. The fees for commercial vary from \$1.18 per square foot for commercial / retail properties to a high of \$1.57 per square foot for office. To calculate the full allowable fee, the 3.50% administrative fee is applied to the impact fee. The following table shows this calculation:

Table 31: Public Safety Impact Fee Calculation Including Administrative Fee

| Category | Impact Fee | Admin Fee | Full Cost Fee |
|----------------------------------|------------|-----------|---------------|
| Residential (per sq. ft.) | | | |
| Single-Family | \$0.09 | \$0.003 | \$0.09 |
| Multi-Family | \$0.33 | \$0.01 | \$0.34 |
| Commercial (per sq. ft.) | | | |
| Commercial / Retail | \$1.18 | \$0.04 | \$1.22 |
| Office | \$1.57 | \$0.05 | \$1.62 |

The addition of the administrative fee captures the full cost associated with the proportionate impact of future development.

The City does not currently charge a Public Safety impact fee. This is a new fee that would be proposed to be added to help new development pay for their proportionate impact.

Nexus Criteria

As discussed in the legal framework section, in order for an impact fee to be implemented it must meet all five of the nexus criteria as established per the Mitigation Fee Act. The following table outlines each criterion point, and how the proposed Public Safety Impact fee meets the criteria.

Table 32: Impact Fees Nexus Criteria – Public Safety

| Criteria | Meet | Don't Meet |
|-----------------------------|---|------------|
| Purpose of Fee | The purpose of the fee would be to upgrade existing Police and Fire stations, relocate, and reconstruct existing stations, as well as replace outdated public safety equipment. | |
| Use of Fee Revenue | Public Safety has detailed capital improvement plans that outline the utilization of this fee revenue for current and future years to help ensure that there is appropriate expansion of fire facilities and equipment to meet the public safety goals of the City. | |
| Benefit Relationship | The use of the impact fee revenue would be to rehabilitate existing police and fire stations, as well as ensure that stations are located in appropriate locations to allow for the most efficient response for service. New residents and employees receive benefits from increased equipment and more efficient response times. | |

| Criteria | Meet | Don't Meet |
|----------------------------|---|------------|
| Impact Relationship | The addition of new residents and employees would have an impact on the ability of police and fire stations to respond adequately, including in an efficient manner. Therefore, the cost associated with adding additional equipment or expanding facilities to accommodate additional staff to allow for responses would be borne by new residents or employees. | |
| Proportionality | The proposed impact fee is calculated based upon proportionality of projected growth with the greatest impact by residential areas, followed by commercial areas. The fees are calculated on a per square foot basis for residential and commercial properties as the impact is proportional to the space being occupied. | |

As the table demonstrates, the City is able to meet all five of the criteria necessary to implement a Public Safety Impact Fee.

Comparative Survey

As part of this impact fee analysis, the project team conducted a comparative survey of surrounding jurisdictions that charge a Public Safety Impact Fee. The following table compares the City's current fee and full cost to other surveyed jurisdictions in the region:

Table 33: Comparative Survey – Public Safety

| Jurisdiction | Single-Family | Multi-Family | Commercial | Office |
|-----------------------|--------------------|--------------------------|--------------------|--------------------|
| Los Altos – Full Cost | \$0.09 per sq. ft. | \$0.34 per sq. ft. | \$1.22 per sq. ft. | \$1.62 per sq. ft. |
| Palo Alto | \$1,336 per unit | \$1,070 per unit | \$0.75 per sq. ft. | \$0.75 per sq. ft. |
| Morgan Hill | \$2,648 per unit | \$1,634-\$2,182 per unit | \$0.32 per sq. ft. | \$0.38 per sq. ft. |

Only two of the other surveyed jurisdictions charge a Public Safety Impact fee. None of those jurisdictions charge residential projects based on square footage. The City's full cost for commercial fees is higher than both surveyed jurisdictions.

7. General Government Impact Fee

General Government refers to City Hall and other governmental infrastructure that is not covered through other impact fees (i.e. Police, Fire, Parks, Traffic, Storm Drain, etc.). The following subsections discuss the growth assumptions utilized, cost components included, resulting impact fee calculation, ability to meet the nexus criteria, and a comparative analysis of General Government fees.

Growth Assumptions

General Government consists of City Hall, Public Works facilities, and the Library. Staff located within these facilities and using that equipment provide services to current and future residents and employees. These services benefit both existing and future development. To determine the proportionate share of existing and future development, the project team calculated the future service population for the City. An employee working within the City does not have the same tendency to use City services as a resident, as such their impact and weight should be proportionately less. The following table shows the current population for each category, the proportionate weight, and the equivalent population increase:

Table 34: Future Weighted Service Population Calculation

| Category | Existing Population | Projected Increase | Weight Factor | Weighted Population Increase |
|--------------|---------------------|--------------------|-------------------|------------------------------|
| Residents | 31,021 | 1,939 | 100% | 1,939 |
| Employees | 15,160 | 155 | 24% ²⁰ | 37 |
| Total | 46,181 | 2,094 | | 1,976 |

The projected increase in the service population is roughly 1,976, which represents a 4% increase compared to the existing population. This means future development should bear 4% of general-government related impact costs.

Cost Components and Assumptions

Due to the projected increase in residential and non-residential population there will be an impact on the department's infrastructure. The planning horizon for the impact fee is 16 years (2024 through 2040) the City will need to replace or upgrade existing facilities during that span. A proportionate share of those upgrades should be borne by future

²⁰ To calculate the employee weight factor, the study assumes that employees are only in the City 40 hours out of the whole week or 40 hours out of 168 possible hours in a week.

development as future development will benefit from those facilities. The following table shows by cost category, the average annual cost, the number of planning years, and the resulting cost for 17 years:

Table 35: Total Projected Infrastructure Cost for 17 Years

| Category | Avg Annual Cost | Planning Horizon (Yr.) | Total Cost |
|-------------------------|------------------|------------------------|--------------------|
| City Hall | \$58,990 | 16 | \$943,841 |
| Public Works Facilities | \$55,275 | 16 | \$884,394 |
| Library Branches | \$213,918 | 16 | \$3,422,688 |
| Total | \$328,183 | | \$5,250,923 |

A detailed accounting of the average annual cost has been included in Appendix B of this report. Overall, in the next 16 years the City will require approximately \$5.3 million to meet the needs of the existing and future population of the City.

Beyond the \$5.25 million in infrastructure costs, the City has also identified \$8.1 million in capital projects, related to expansions of City Hall and creation of the Emergency Operations Center. Therefore, a total of \$13.35 million is needed to meet existing and future needs.

In addition to the \$13.35 million in infrastructure costs, the other cost component to be considered is the administrative fee. As outlined in the prior section, a citywide administrative fee of 3.5% was calculated to account for support provided by City staff in the monitoring and reporting of impact fee funds.

Impact Fee Calculations

As the previous section calculated, the total infrastructure needs for the City are approximately \$13.35 million. However, not all of this cost should be borne by the future population. Based upon the growth assumptions analysis, only 4% of these costs should be borne by the future population. The following table shows the calculation for costs to be borne by current and future residential populations:

Table 36: Projected Cost Calculation Between Existing and Future Populations

| Category | Infrastructure Costs | Proportion | Total Cost to Be Borne |
|--------------------|----------------------|------------|------------------------|
| Current Population | \$13,350,922 | 96% | \$12,816,885 |
| Future Population | \$13,350,922 | 4% | \$534,037 |

Of the \$13.35 million, only \$534,000 should be borne by the future population. This \$534,000 is proportionately split into residential and commercial growth based on the weighted support identified, as shown in the following table:

Table 37: Projected Cost for New Development – Residential Vs. Commercial

| Category | Total Cost to Be Borne | Proportion | Future Cost |
|--------------------|------------------------|------------|-------------|
| Residential Growth | \$534,037 | 76% | \$405,869 |
| Commercial Growth | \$534,037 | 24% | \$128,169 |

The future cost of \$534,037 is split between residential and commercial growth. These costs were then converted into a cost per capita based upon the projected population:

Table 38: Projected Cost for New Development – Per Capita

| Category | Future Cost | Population | Cost / Capita |
|-------------|-------------|------------|---------------|
| Residential | \$405,869 | 1,939 | \$209 |
| Commercial | \$128,169 | 155 | \$827 |

The cost per capita of \$209 or \$872 was converted into cost per sq. ft. based upon the density factors discussed in the projected growth and development chapter. The following table shows this calculation:

Table 39: General Government Impact Fee Calculation

| Category | Cost Per Capita | Density / Unit | Impact Fee |
|----------------------------------|-----------------|----------------|------------|
| Residential (per sq. ft.) | | | |
| Single-Family | \$209 | 1,665 | \$0.13 |
| Multi-Family | \$209 | 457 | \$0.46 |
| Commercial (per sq. ft.) | | | |
| Commercial / Retail | \$827 | 400 | \$2.07 |
| Office | \$827 | 300 | \$2.76 |

The cost per square foot for single-family residential developments is \$0.13 and for multi-family it is \$0.46. It is important to note for multi-family it would only be applicable to the square footage of the units, not the entire project. The fees for commercial vary from \$2.07 per square foot for commercial to a high of \$2.76 per square foot for office properties.

To calculate the full allowable fee, the 3.5% administrative fee is applied to the impact fee. The following table shows this calculation:

Table 40: General Government Impact Fee Calculation Including Administrative Fee

| Category | Impact Fee | Admin Fee | Full Cost Fee |
|----------------------------------|------------|-----------|---------------|
| Residential (per sq. ft.) | | | |
| Single-Family | \$0.13 | \$0.005 | \$0.13 |
| Multi-Family | \$0.46 | \$0.02 | \$0.48 |
| Commercial (per sq. ft.) | | | |
| Commercial / Retail | \$2.07 | \$0.07 | \$2.14 |
| Office | \$2.76 | \$0.10 | \$2.86 |

The addition of the administrative fee captures the full cost associated with the proportionate impact of future development.

The City does not currently charge a General Government Impact Fee. Through this nexus analysis, this new fee is being proposed to be added to the City's schedule.

Nexus Criteria

As discussed in the legal framework section, in order for an impact fee to be implemented it must meet all five of the nexus criteria as established per the Mitigation Fee Act. The following table outlines each criterion point, and how the proposed General Government Impact fee meets the criteria.

Table 41: Impact Fees Nexus Criteria – General Government Impact Fee

| Criteria | Meet | Don't Meet |
|-----------------------------|--|------------|
| Purpose of Fee | The purpose of the fee would be to upgrade existing City Hall, Public Works Facilities, Library Branches and City equipment. | |
| Use of Fee Revenue | The Public Works Department has detailed capital improvement plans that outline the utilization of this fee revenue for current and future years to help ensure that there is appropriate expansion of City facilities and equipment to meet the needs of the City. | |
| Benefit Relationship | The use of the impact fee revenue would be to rehabilitate existing facilities and equipment due to new development. New residents and employees receive benefits from improved access to infrastructure. | |
| Impact Relationship | The addition of new residents and employees would have an impact on the ability of the City to meet all the needs. Therefore, the cost associated with adding additional equipment or expanding facilities to accommodate additional staff to allow for appropriate handling of the new growth would be borne by new residents or employees. | |

| Criteria | Meet | Don't Meet |
|------------------------|---|------------|
| Proportionality | The proposed impact fee is calculated based upon proportionality of projected growth with the greatest impact by residential areas, followed by commercial areas. The fees are calculated on a per sq. ft. basis as the impact is proportionately based on space. | |

As the table demonstrates, the City is able to meet all five of the criteria necessary to implement a General Government Impact Fee.

Comparative Survey

As part of this impact fee analysis, the project team conducted a comparative survey of surrounding jurisdictions who charge a General Government Impact Fee. The following table compares the City's current fee and full cost to other surveyed jurisdictions in the region:

Table 42: Comparative Survey – General Government Impact Fee

| Jurisdiction | Single-Family | Multi-Family | Commercial | Office |
|-----------------------|--------------------|--------------------|--------------------|--------------------|
| Los Altos – Full Cost | \$0.13 per sq. ft. | \$0.48 per sq. ft. | \$2.14 per sq. ft. | \$2.86 per sq. ft. |
| Palo Alto | \$1,684 per unit | \$1,346 per unit | \$0.94 per sq. ft. | \$0.31 per sq. ft. |
| Morgan Hill | \$703 per unit | \$677 per unit | \$0.04 per sq. ft. | \$0.04 per sq. ft. |

Only two of the surveyed jurisdictions charge General Government Impact Fees. None of the other surveyed jurisdictions charge residential fees based upon square footage. For commercial fees, the City's full cost is higher than both of the other jurisdictions.

9. Transportation Impact Fee

The City of Los Altos currently charges a Transportation Impact Fee. The Matrix Consulting Group contracted with DKS Associates (DKS) to conduct the calculations associated with the Transportation Impact Fee. As this impact fee analysis was undertaken concurrently with the other impact fees, it was determined that a singular report could be developed, in which the analysis developed by DKS would be incorporated. The detailed technical report produced by DKS has been attached as Appendix D to this report. The subsequent sections explore the growth assumptions made, the cost components considered, the process for calculating impact fees, the evaluation of compliance with nexus criteria, and a comparative analysis of Transportation Impact Fees.

Growth Assumptions

The purpose of the Transportation Impact Fee is to maintain the existing level of investment in the citywide transportation network as growth occurs. The primary source of growth projections for transportation demand are dependent upon existing and future land use. The calculations for the existing and future land use quantities were based upon Santa Clara County Assessor data, the 6th Cycle Housing Element, and the currently adopted General Plan. The projection horizon for the analysis was 2022 through 2040. The following table shows the existing and projected forecast by land use type:

Table 43: Existing and Forecasted Land Use

| Category | Existing 2024 ²¹ | Growth 2023-2040 | Total 2040 |
|--|-----------------------------|------------------|------------|
| Residential (Dwelling Units) | | | |
| Single-Family | 10,096 | 438 | 10,534 |
| Multi-Family | 983 | 1,420 | 2,403 |
| Non-Residential (Building Square Feet)²² | | | |
| Commercial / Retail | 1,728,071 | 1,515,500 | 3,243,571 |
| Private School | 20,751 | | 20,751 |
| Public & Institutional | 488,320 | | 488,320 |

As the previous table indicates, a projected 1,858 additional dwelling units are expected to be added between 2024 and 2040, and approximately 1.5 million square feet in non-residential uses.

²¹ Existing Dwelling units and non-residential growth based upon Santa Clara County Assessor's data as of November 2023 and same for the non-residential land use.

²² Non-residential land uses- Census Bureau Longitudinal Employer-Household Dynamics Job Counts by NAICS Industry Sector 2017. Nonresidential building square feet based on employment estimates and density factors of 400, 450, 1000, and 1500 square feet per employee for commercial, office, industrial, and hotel respectively.

The land use projection information is utilized in conjunction with trip generation rates to determine the overall transportation demand. The methodology for Los Altos incorporates standard trip generation rates, which measure the desire for mobility by residents or workers to access homes, jobs, shopping, and other city services. The trip generation rates vary by the land use category and help justify the nexus between the type of development that would pay the fee and the cost of the transportation infrastructure associated with that development.

The standard trip generation rates, when multiplied by average trip lengths associated with each category of land use and the vehicle miles traveled (VMT), calculate an equivalent dwelling unit (EDU) factor. The EDU factor creates a common unit with which the transportation impact fee can be calculated. The following table shows the calculation of the EDU factor for each land use based upon the trip generation, unit type (dwelling unit – du or 1,000 square feet – KSF), trip length, percent new trips, and vehicle miles traveled:

Table 44: EDU Calculation by Land Use

| Category | ITE Land Use Code ²³ | Daily Trip Rate | Unit | Trip Length | Percent New Trips | VMT per Unit | EDU |
|---|---------------------------------|-----------------|------|-------------|-------------------|--------------|------|
| Residential (Dwelling Units) | | | | | | | |
| Single-Family | 210 | 9.43 | du | 7.90 | 100 | 74.50 | 1.00 |
| Multi-Family | 221 | 6.74 | du | 7.90 | 100 | 53.25 | 0.71 |
| Non-Residential (Building Square Feet) | | | | | | | |
| Commercial | 820 | 37.01 | KSF | 3.60 | 78 | 103.92 | 1.40 |
| Office | 710 | 10.84 | KSF | 8.8 | 96 | 91.25 | 1.23 |
| Private School | | 15.00 | KSF | 4.8 | 94 | 67.68 | 0.91 |
| Institutional | 590 | 72.05 | KSF | 3.9 | 88 | 247.28 | 3.32 |

The EDU factor calculated for single-family homes is 1.00, and 0.71 for multi-family homes. Alternatively, for non-residential projects, the calculation is based upon multiples of thousand square feet, so the EDU factor is 1.40 per KSF for Commercial and 1.23 for Office.

The EDU factors based on the traffic generation rates are applied to the existing and projected growth to calculate the projected growth EDUs associated with future development. The following table shows this calculation:

²³ Institute for Transportation Engineers (ITE) Trip Generation, 10th edition; ITE Trip Generation Handbook, 3rd Edition, Table E.9: Pass-By and Non-Pass-By Trips, Weekday PM Peak Period; SANDAG, Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region (2002); Jan de Roos, Planning and Programming a Hotel (The Scholarly Commons: Cornell University School of Hotel Administration, 2011).

Table 45: Conversion of EDU to Projected Units

| Category | EDU Factor | Existing | EDU Existing | Growth | EDU Growth | EDU Total 2040 |
|----------------------------------|------------|-----------|---------------|---------|--------------|----------------|
| Residential (Per du) | | | | | | |
| Single-Family | 1.00 | 10,096 | 10,096 | 483 | 483 | 10,534 |
| Multi-Family | 0.715 | 983 | 698 | 1,420 | 1,015 | 1,718 |
| Non-Residential (per KSF) | | | | | | |
| Commercial | 1.395 | 1,728.017 | 2,419 | 1,515.5 | 2,114 | 4,525 |
| Private School | 0.91 | 20.751 | 19 | | | 19 |
| Public & Institutional | 3.32 | 488.32 | 1,621 | | | 1,621 |
| TOTAL | | | 14,850 | | 3,567 | 18,417 |

As outlined in the table, the existing demand for transportation based upon EDU is approximately 14,850 compared to the projected overall demand of 18,417 in 2040. The existing demand represents 81% of the overall projected needs in 2040, and thereby the remaining 19% is associated with projected future development.

Cost Components and Assumptions

Similar to the other impact fees evaluated in this report, the Citywide Transportation Impact fee was based upon the existing inventory of different transportation related items within the City. The infrastructure inventory was then converted into an existing facility standard (unit per EDU) based upon the 57,772 existing total units within the City. The following table shows the conversion of the total citywide transportation infrastructure by infrastructure type, unit, total quantity, and the resulting existing facility standard per unit as calculated by DKS:

Table 46: Infrastructure Inventory and Existing Facility Standard

| Infrastructure Category | Unit | Total Quantity | EDU | Existing Facility Standard |
|-------------------------|---------------|----------------|--------|----------------------------|
| Roadway | Square Feet | 6,330,729 | 14,850 | 426.3 |
| Sidewalk | Square Feet | 607,530 | 14,850 | 40.9 |
| Curb & Gutter | Linear Feet | 112,918 | 14,850 | 7.6 |
| Median | Square Feet | 203,451 | 14,850 | 13.7 |
| Bicycle Path | Square Feet | 112,563 | 14,850 | 7.6 |
| Bicycle Lane | Linear Feet | 109,360 | 14,850 | 7.4 |
| Traffic Signal | Intersections | 13 | 14,850 | 0.001 |

The primary source of traffic related infrastructure in the city is related to square footage or roadways and sidewalks. In order to calculate the current cost standard associated with residential and non-residential units, the cost per unit was calculated for each of the infrastructure categories. The cost calculated per unit was based upon the following three factors:

1. **Construction Cost:** This is reflective of the actual construction costs associated with the capital project for the specific infrastructure but does not include temporary traffic control; and for roadways does not include the cost associated with street lighting, water pollution prevention, street furniture and drainage.
2. **Design and Management Cost:** This is calculated at 40% and is comprised of 20% for project design, 15% for construction engineering, and 5% for project management.
3. **Contingency:** A 20% contingency factor is incorporated into the calculation to account for any unexpected expenses or hurdles associated with the inventory construction projects.

The design & management and contingency factors are applied to the base construction cost per unit to calculate the total cost per unit. The following table shows the total cost per unit calculated by infrastructure type based as calculated by DKS:

Table 47: Infrastructure Cost Per Unit

| Infrastructure Category | Unit | Construction Cost | Design & Management | Contingency | Replacement Cost Per Unit |
|-------------------------|---------------|-------------------|---------------------|-------------|---------------------------|
| Roadway | Square Feet | \$53 | 40% | 20% | \$89 |
| Sidewalk | Square Feet | \$36 | 40% | 20% | \$60 |
| Curb & Gutter | Linear Feet | \$124 | 40% | 20% | \$209 |
| Median | Square Feet | \$48 | 40% | 20% | \$81 |
| Bicycle Path | Square Feet | \$36 | 40% | 20% | \$61 |
| Bicycle Lane | Linear Feet | \$9 | 40% | 20% | \$15 |
| Traffic Signal | Intersections | \$611,600 | 40% | 20% | \$1,027,488 |

The replacement cost per unit varies depending on the type of infrastructure category and the existing facility standard (units per EDU). The facility standard is multiplied by the replacement cost per unit to calculate the existing level of investment per EDU. The following table shows this calculation:

Table 48: Level of Investment by Infrastructure Type

| Infrastructure Category | Existing Facility Standard | Replacement Cost | Existing Level of Investment per EDU ²⁴ |
|----------------------------------|----------------------------|------------------|--|
| Roadway | 426.3 | \$89 | \$37,961 |
| Sidewalk | 40.9 | \$60 | \$2,474 |
| Curb & Gutter | 7.6 | \$209 | \$1,588 |
| Median | 13.7 | \$81 | \$1,114 |
| Bicycle Path | 7.6 | \$61 | \$462 |
| Bicycle Lane | 7.4 | \$15 | \$109 |
| Traffic Signal | 0.001 | \$1,027,488 | \$900 |
| TOTAL EXISTING INVESTMENT | | | \$44,608 |

²⁴ The existing level of investment per EDU is calculated based on exact values. For brevity, this values in the table are only shown to the tenth decimal or less.

The \$44,608 represents the total existing investment per EDU made by the City. If the City were to maintain its existing standards of investment the \$44,608 would be the maximum justified level of investment from new development.

While \$44,608 is the current standard, the Transportation Impact Fee (TIF) may not be higher than what is necessary to fund the proposed project list. The following table shows the unfunded capital costs that could be potentially funded through the Transportation Impact Fee.

Table 49: Transportation Improvements Cost Summary

| Category | Estimated Costs |
|-----------------------------------|---------------------|
| Bicycle and Pedestrian Safety | \$16,105,000 |
| Intersection Capacity Improvement | \$476,890 |
| New Bike Facilities | \$5,540,022 |
| New Pedestrian Facilities | \$4,350,465 |
| TOTAL | \$26,472,377 |

The projected estimated costs for transportation improvements for the City are \$26.5 million. The City assumes that approximately 100% of these projects will be completed through the 20 year planning horizon (by 2040).

In addition to the \$33.7 million in infrastructure costs, similar to all of the other impact fees, an administrative fee was calculated for the Transportation Impact Fee. We assumed an administrative fee at a rate of 3.5%, similar to other impact fees.

Impact Fee Calculations

As the previous section calculated, the total infrastructure needs to be funded through the citywide Transportation Impact Fee is \$26.5 million. The infrastructure costs are divided by the projected growth of EDUs between 2023 through 2040 to derive the base cost per EDU. The following table shows the calculation for the impact fee per EDU:

Table 50: Impact Fee Calculation Per EDU

| Category | Amount |
|--|-----------------------------|
| Transportation Impact Fee Funding Required | \$26,472,377 |
| Growth EDU | 3,567 |
| Impact Fee per EDU | \$7,422²⁵ |

²⁵ Calculation is based on exact values, even though rounded values are shown.

As the table shows, the transportation impact fee per EDU is \$7,422. This impact fee per EDU is converted into the transportation impact fee based upon the EDU factor calculated in the growth assumptions of this section. The following table shows this calculation:

Table 51: Citywide Transportation Impact Fee Calculation

| Category | Impact Fee Per EDU | EDU Factor | Transportation impact Fee |
|------------------------|--------------------|--------------|----------------------------|
| Residential | | | |
| Single-Family | \$7,422 | 1.00 per du | \$7,422 per du |
| Multi-Family | \$7,422 | 0.71 per du | \$5,305 per du |
| Non-Residential | | | |
| Commercial | \$7,422 | 1.40 per KSF | \$10.35 per sq. ft. |
| Office | \$7,422 | 1.23 per KSF | \$9.13 per sq. ft. |

As the table indicates, the full cost transportation impact fee varies from a low of \$9.13 per square feet for office to a high of \$7,422 for single-family properties. Per AB602, the residential fees must be converted to a per square foot basis. The following table shows this calculation based upon the average size of the projects:

Table 52: Citywide Transportation Impact Fee Residential Conversion to Square Footage

| Category | Impact Fee Per Dwelling Unit | Avg Size (Sq. Ft.) | Cost Per Sq. Ft. |
|---------------|------------------------------|--------------------|------------------|
| Single-Family | \$7,422 | 4,934 | \$1.50 |
| Multi-Family | \$5,305 | 873 | \$6.08 |

The administrative fee of 3.50% was added to the calculations to determine the full cost associated with Transportation impacts. The following table shows the transportation impact fee, the administrative fee, and the resulting full cost fee:

Table 53: Citywide Transportation Impact Fee – Full Cost

| Category | TIF | Admin Fee | Full Cost TIF |
|---|---------|-----------|---------------|
| Residential (per square foot) | | | |
| Single-Family | \$1.50 | \$0.05 | \$1.55 |
| Multi-Family | \$6.08 | \$0.21 | \$6.29 |
| Commercial / Non-Residential (per square foot) | | | |
| Commercial / Retail | \$10.35 | \$0.36 | \$10.71 |
| Office | \$9.13 | \$0.32 | \$9.45 |

The following table compares the City's current fee to the full cost fee calculated through the analysis and the resulting difference per unit:

Table 54: Citywide Transportation Impact Fee – Current vs. Full Cost

| Category | Current Fee | Full Cost Fee | Difference |
|--------------------------------------|-------------|---------------|------------|
| Residential (per square foot) | | | |
| Single-Family | \$6,774 | \$1.55 | N / A |
| Multi-Family | \$4,159 | \$6.29 | N / A |

| Category | Current Fee | Full Cost Fee | Difference |
|---|-------------|---------------|------------|
| Commercial / Non-Residential (per square foot) | | | |
| Commercial / Retail | \$12.05 | \$10.71 | \$1.34 |
| Office | \$9.99 | \$9.45 | \$0.54 |

Due to the change in the fee structure for residential the current and full cost are not comparable. The City is over-recovering based on the updated nexus analysis for commercial fees.

Nexus Criteria

As discussed in the legal framework section, in order for an impact fee to be implemented it must meet all five of the nexus criteria as established per the Mitigation Fee Act. The following table outlines each criterion point, and how the Transportation Impact Fees meets the criteria.

Table 55: Impact Fees Nexus Criteria - Parks & Recreation Impact Fees

| Criteria | Meet | Don't Meet |
|-----------------------------|---|------------|
| Purpose of Fee | The purpose of the fee is to expand the citywide multimodal transportation network to accommodate increased demand from new development. | |
| Use of Fee Revenue | The City has a list of detailed projects upon which the projected Transportation Impact Fee could be utilized. The City has the right to modify the project list, adding or replacing projects as long as they are consistent with the nexus analysis and are capital projects, part of the citywide transportation network and are related to enhancement, upgrades, and expansion of existing and future transportation infrastructure. | |
| Benefit Relationship | The use of the impact fee revenue would be to for expansions to the multimodal transportation network that supports citywide circulation. New residents and employees receive benefit from these transportation project improvements. | |
| Impact Relationship | The addition of new residents and employees would have an impact on the ability of the city's existing transportation system to meet all of their needs. Therefore, the cost associated with adding additional transportation infrastructure or improving existing transportation infrastructure would be proportionately borne by new residents or employees. | |

| Criteria | Meet | Don't Meet |
|------------------------|---|------------|
| Proportionality | The impact fee is calculated based upon proportionality of vehicle miles traveled based upon the type of land use category and converted to an equivalent dwelling unit (EDU) factor. It takes into account the existing level of investment and that the impact fee does not exceed that existing level of investment. The fees are calculated per a per sq. ft. basis for all properties to ensure that there is a proportional impact. | |

As the table demonstrates, the City is able to meet all five of the criteria necessary to continue to charge a Transportation Impact Fee.

Comparative Survey

As part of this impact fee analysis, the project team conducted a comparative survey of surrounding jurisdictions that charge a Transportation Impact Fee. The following table compares the City's current fee and full cost to other surveyed jurisdictions in the region:

Table 56: Comparative Survey – Transportation Impact Fee

| Jurisdiction | Single-Family | Multi-Family | Commercial | Office |
|-------------------------|--------------------|--|----------------------------|----------------------------|
| Los Altos – Current Fee | \$6,774 per unit | \$4,159 per unit | \$12.05 per sq. ft. | \$9.99 per sq. ft. |
| Los Altos – Full Cost | \$1.55 per sq. ft. | \$6.29 per sq. ft. | \$10.71 per sq. ft. | \$9.45 per sq. ft. |
| Mountain View | \$6,120 per unit | \$3,428 per unit | \$6.53 per sq. ft. | \$6.53 per sq. ft. |
| Palo Alto | | \$9,754.23 per Net New PM Peak Hour Trip | | |
| Menlo Park | \$18,864 per unit | \$6,358 per unit | \$12.77 per sq. ft. | \$21.91 per sq. ft. |
| Los Gatos | \$6.10 per sq. ft. | \$6.96 per sq. ft. | \$22.39 per sq. ft. | \$19.73 per sq. ft. |
| Morgan Hill | \$4,289 per unit | \$1,673-\$2,658 per unit | \$4,829 per Peak Hour Trip | \$4,829 per Peak Hour Trip |

Jurisdictions charge the transportation impact fee in a variety of ways. The City's current and full cost fees seem to be in alignment with Menlo Park's commercial fees, but Mountain View's office fees. For the residential fees Los Gatos is the only other jurisdiction that charges per square foot, and its single-family residential is much higher than the City's full cost, but its multi-family fee is in alignment with the City's full cost fee.

10. Commercial Linkage Fee

The City of Los Altos is proposing the creation of a Commercial Linkage Fee for affordable housing. The Matrix Consulting Group contracted with Strategic Economics to conduct the calculations associated with the Commercial Linkage Impact Fee. As this impact fee analysis was undertaken concurrently with the other impact fees, it was determined that a singular report could be developed, in which the analysis developed by Strategic Economics would be incorporated. The detailed technical memorandum produced by Strategic Economics has been attached as Appendix E to this report. The subsequent sections explore the process for calculating impact fees, the evaluation of compliance with nexus criteria, and a comparative analysis of Commercial Linkage Fees.

Cost Components and Assumptions

The purpose of the commercial linkage fee is to impose a fee on new development for its impact on creating the need for affordable housing in the community. The commercial linkage fee nexus analysis calculates the linkage between new jobs and affordable housing needed, as well as the gap between what employees can afford and the cost to build new housing. The first component of this analysis is to estimate the number of households that would be eligible for affordable housing, and then determine the housing affordability gap.

There were three main prototypes of development utilized – office, retail, and hotel. For each prototype, the square footage of development assumed was 100,000 sq. ft., and an average employment density by prototype was used to calculate the estimated number of workers in each prototype. The number of workers in each prototype was converted into new households based on the average number of workers per household. The following table shows this calculation:

Table 57: Estimated Average # of New Households Required

| Commercial Prototype | Sq Ft. / Worker | Prototype Sq. Ft. | # of Workers in Prototype | Workers per Household ²⁶ | New Households Required |
|----------------------|-----------------|-------------------|---------------------------|-------------------------------------|-------------------------|
| Hotel | 1,000 | 100,000 | 100 | 1.7 | 59 |
| Office | 300 | 100,000 | 333 | 1.7 | 196 |
| Retail | 400 | 100,000 | 250 | 1.7 | 147 |

The next step in the assumptions is estimating the weighted average wage for each commercial prototype based on the distribution of occupations and their associated wage levels. Detailed information was gathered from the Bureau of Labor Statistics for

²⁶ The 1.7 is based on a 5 year average of US Census American Community Survey information for Santa Clara County.

the San Jose-Sunnyvale-Santa Clara region for the different occupancy types and the proportion of employees in each category. This was multiplied by the average workers per household to generate the average annual wage per household. The following table shows the weighted average annual wage by prototype:

Table 58: Weighted Average Annual Wage by Prototype

| Commercial Prototype | Weighted Avg. Annual Wage | Workers per Household ²⁷ | Avg Annual Wage Per Household |
|----------------------|---------------------------|-------------------------------------|-------------------------------|
| Hotel | \$54,581 | 1.7 | \$92,788 |
| Office | \$128,940 | 1.7 | \$219,198 |
| Retail | \$48,728 | 1.7 | \$82,838 |

Retail has the lowest average annual wage due to the mix of industries and occupations in that category and their associated salaries, followed by Hotel and then Office. The number of new households were then sorted into extremely low income, very low income, low income, moderate, and above moderate income. Affordable housing is needed for extremely low to moderate income categories. While the results of this analysis did not identify demand from extremely low income worker households associated with new commercial development, it is understood that there are worker households in Santa Clara County that require extremely low income housing. The following table shows by prototype the number of households requiring affordable housing:

Table 59: Affordable Housing Needs by Prototype

| Commercial Prototype | Total # of Households ²⁸ | Households Requiring Affordable Housing |
|----------------------|-------------------------------------|---|
| Hotel | 56 | 54 |
| Office | 193 | 72 |
| Retail | 147 | 143 |

The majority of new employee households associated with Hotel and Retail uses will require affordable housing compared to less than 50% of employees associated with Office uses. The next step in the process is determining the housing affordability gap by income group. Households with incomes in the very low range were assumed to live in rental housing. Households in the low and moderate ranges were assumed to live in a mix of rental and ownership housing. Strategic Economics evaluated the cost of development, average affordable rent, average supportable debt, and sale prices of homes. The following table summarizes the average gap by income level that exists.

²⁷ The 1.7 is based on a 5 year average of US Census American Community Survey information for Santa Clara County.

²⁸ This value is different as it only includes households for which wage data was available.

Table 60: Average Affordability Gaps

| Income Level | Rental Gap | Ownership Gap – Townhome | Ownership Gap – Condo | Average Gap ²⁹ |
|-----------------|------------|--------------------------|-----------------------|---------------------------|
| Very Low Income | \$516,945 | N / A | N / A | \$516,945 |
| Low-Income | \$392,301 | \$412,606 | \$502,402 | \$424,903 |
| Moderate Income | \$182,973 | \$139,528 | \$300,187 | \$201,415 |

As the table indicates, the largest gap is for the very low income, followed by low income, and then for the moderate income. This information was converted into the total affordability gap by prototype based on the proportion of households in each income category within the prototype. The total affordability gap was calculated by multiplying the average gap per income category by the percentage of applicable households and the relevant worker density. The following table shows this calculation:

Table 61: Total Affordability Gap by Prototype³⁰

| Prototype / Income Level | # of Households | Average Gap | Total Affordability Gap |
|--------------------------|-----------------|-------------|-------------------------|
| Hotel | | | \$24,999,218 |
| Very Low Income | 27 | \$516,945 | \$14,359,055 |
| Low | 21 | \$424,903 | \$9,475,878 |
| Moderate | 6 | \$201,415 | \$1,164,285 |
| Office | | | \$24,489,446 |
| Very Low Income | 7 | \$516,945 | \$3,699,742 |
| Low | 33 | \$424,903 | \$14,301,896 |
| Moderate | 32 | \$201,415 | \$6,487,808 |
| Retail | | | \$70,195,031 |
| Very Low Income | 114 | \$516,945 | \$58,906,734 |
| Low | 24 | \$424,903 | \$10,291,560 |
| Moderate | 5 | \$201,415 | \$996,737 |

Due to the highest proportion of very low income housing related to retail, it has the largest affordability gap compared to Office and Hotel. This total affordability gap was used to calculate the maximum impact fee calculations.

Impact Fee Calculations

The impact fee is calculated as a per square foot fee. The average affordability gap per household is multiplied by the number of households needed to determine the overall affordability gap per prototype. The following table shows the maximum calculated fees:

²⁹ The average gap is calculated based 50% on the rental gap, 25% on Townhome and 25% on Condo.

³⁰ Due to showing values as rounded, the numbers do not exactly match, but the calculations are based on exact values.

Table 62: Maximum Commercial Linkage Fee

| Commercial Prototype | Number of Worker Households | Total Affordability Gap | Prototype Sq. Ft. | Max Fee Per Sq. Ft. |
|----------------------|-----------------------------|-------------------------|-------------------|---------------------|
| Hotel | 56 | \$24,999,218 | 100,000 | \$250 |
| Office | 193 | \$24,489,446 | 100,000 | \$245 |
| Retail | 147 | \$70,195,031 | 100,000 | \$702 |

The commercial linkage fee ranges from a low of \$245 per sq. ft. for office to a high of \$702 per square foot for retail. This represents the maximum justifiable fee that can be assessed.

Nexus Criteria

As discussed in the legal framework section, in order for an impact fee to be implemented it must meet all five of the nexus criteria as established per the Mitigation Fee Act. The following table outlines each criterion point, and how the proposed Commercial Linkage Impact Fees meets the criteria.

Table 63: Impact Fees Nexus Criteria – Commercial Linkage Fees

| Criteria | Meet | Don't Meet |
|-----------------------------|--|------------|
| Purpose of Fee | The purpose of the fee would be for new development to offset the need for affordable housing in the City. | |
| Use of Fee Revenue | The City can utilize the revenue to help fund affordable housing projects within the City to meet the needs generated by new development. | |
| Benefit Relationship | The use of the impact fee revenue would be to for affordable housing that is directly needed as a result of new commercial development. | |
| Impact Relationship | The addition of new commercial development adds new jobs to the region and creates additional demand for housing. Therefore, the cost associated with the new households and their affordable needs would be proportionately borne by new development. | |
| Proportionality | The proposed impact fee is calculated based on per a per sq. ft. basis for commercial properties, as the larger the development the greater the need for affordable housing for new employees. | |

As the table demonstrates, the City is able to meet all five of the criteria necessary to propose to charge a Commercial Linkage Impact Fee.

Comparative Survey

As part of this impact fee analysis, the project team conducted a comparative survey of surrounding jurisdictions that charge a Commercial Linkage Fee. The following table compares the City's maximum justifiable fee for Los Altos to other surveyed jurisdictions in the region:

Table 64: Comparative Survey – Commercial Linkage Fee Maximum Justifiable Fee (Per Sq. Ft.)

| Jurisdiction | Hotel | Retail | Office |
|-----------------------|-------|--------|--------|
| Los Altos – Full Cost | \$250 | \$702 | \$245 |
| San Jose | \$62 | \$178 | \$138 |
| Milpitas | \$62 | \$177 | \$138 |
| Sunnyvale | \$76 | \$295 | \$114 |
| Santa Clara | \$129 | \$268 | \$143 |
| Palo Alto | \$177 | \$295 | \$264 |
| Menlo Park | \$154 | \$264 | \$255 |

Due to the unique nature of these fees, alternative comparable jurisdictions were utilized. Overall, the City's maximum justifiable fees for Office are in alignment with other jurisdictions. It's retail fee is on the higher end, due to the proportionality of income, as well as the methodology to choose to fund the gap generated by new development entirely through new development.

It is important to note that most jurisdictions do not set these fees at the maximum justifiable rate. For example, San Jose's adopted fees range from \$3 per sq. ft. to \$5 per sq. ft. Mountain View and Palo Alto have the highest fees, which range from \$26 to \$77 per sq. ft. or \$16 to \$33 per sq. ft. for offices.

Appendix A – Parks and Recreation Costs

The following table provide information regarding Parks and Recreation Facility costs. All quantity, cost per unit calculations, and lifecycle information was provided and confirmed by the City of Los Altos' staff.

Table 65: Parks and Recreation Facility Costs

| Facility Name | Sq. Ft. | Real Property Value | Lifecycle (yrs) | Annual Cost | # of Years | Projected Cost |
|---------------------------|---------|---------------------|-----------------|-------------|------------|--------------------|
| Youth Center | 5940 | \$1,121,129 | 50 | \$22,423 | 16 | \$358,761 |
| Gilbert Smith House | 2427 | \$516,434 | 50 | \$10,329 | 16 | \$165,259 |
| Concessions / Restrooms | 600 | \$104,166 | 50 | \$2,083 | 16 | \$33,333 |
| Concessions / Restrooms | 600 | \$154,298 | 50 | \$3,086 | 16 | \$49,375 |
| Hillview Community Center | 3920 | \$817,000 | 50 | \$16,340 | 16 | \$261,440 |
| School Restroom Building | 330 | \$140,554 | 50 | \$2,811 | 16 | \$44,977 |
| Daycare Center | 1668 | \$464,620 | 50 | \$9,292 | 16 | \$148,678 |
| McKenzie Restroom | 132 | \$58,181 | 50 | \$1,164 | 16 | \$18,618 |
| Shoup Park | 11100 | \$3,467,869 | 50 | \$69,357 | 16 | \$1,109,718 |
| Restroom Shoup Park | 312 | \$103,276 | 50 | \$2,066 | 16 | \$33,048 |
| History Museum | 9163 | \$3,467,453 | 50 | \$69,349 | 16 | \$1,109,585 |
| Egan Gymnasium | 10000 | \$3,842,453 | 50 | \$76,849 | 16 | \$1,229,585 |
| Blach Gymnasium | 10000 | \$3,842,453 | 50 | \$76,849 | 16 | \$1,229,585 |
| Restroom Park | 376 | \$81,135 | 50 | \$1,623 | 16 | \$25,963 |
| Nature HSE | 3077 | \$753,025 | 50 | \$15,061 | 16 | \$240,968 |
| Restroom | 341 | \$252,048 | 50 | \$5,041 | 16 | \$80,655 |
| Grant Park Center | 4280 | \$1,303,545 | 50 | \$26,071 | 16 | \$417,134 |
| Classroom Building | 4796 | \$1,080,121 | 50 | \$21,602 | 16 | \$345,639 |
| Concessions / Restrooms | 390 | \$332,963 | 50 | \$6,659 | 16 | \$106,548 |
| Concessions / Restrooms | 447 | \$246,565 | 50 | \$4,931 | 16 | \$78,901 |
| TOTAL | | | | | | \$7,087,772 |

In addition to Facility Costs, the project team also collected information on the CIP projects. The following table shows by project, the total costs:

Table 66: Parks and Recreation CIP Costs

| Project Name | Total Value |
|---|-------------------|
| Annual Pathway Rehab | \$1,050,000 |
| Designated Picnic Area | \$70,000 |
| Drainage & Drinking Fountains | \$180,000 |
| Hillview Dog Park | \$1,075,000 |
| Grant Park Facility (Electrical, Hot Water, & HVAC) | \$1,000,000 |
| Rebuild Grant Park Basketball Court | \$200,000 |
| McKenzie Dog Park | \$550,000 |
| Shoup Park Playground | \$1,070,000 |
| Marymead Playground | \$550,000 |
| McKenzie Playground | \$725,000 |
| Hillview Fitness Equipment | \$145,000 |
| Hetch Hetchy Trail Vegetation & Tree Removal | \$275,000 |
| Historic Apricot Orchard Irrigation Installation | \$75,000 |
| Community Garden - LACC | \$28,000 |
| Halsey House Rehabilitation | \$50,000 |
| Garden House | \$285,000 |
| Caretaker House Demolition | \$60,000 |
| LACC Laundry Hookup | \$23,000 |
| TOTAL | \$7,411,00 |

Appendix B – Public Safety Infrastructure Costs

The following table provide information regarding Public Safety Facility and Equipment costs. All quantity, cost per unit calculations, and lifecycle information was provided and confirmed by the City of Los Altos' staff.

Table 67: Public Safety Equipment & Facility Costs

| Facilities | Quantity | Price | Lifecycle | Annual Cost | # of Years | Total |
|--|----------|-------------|-----------|-------------|------------|--------------------|
| Vehicles | 21.00 | \$60,500 | 7 | \$8,642.86 | 16 | \$2,904,000 |
| Handheld Radios | | \$471,000 | 7 | \$67,285.71 | 16 | \$1,076,571 |
| Emergency Generator | 1.00 | \$100,000 | 15 | \$6,666.67 | 16 | \$106,667 |
| Speed Awareness Portable / Trailer Monitor | 2.00 | \$10,000 | 10 | \$1,000.00 | 16 | \$32,000 |
| Police Dept | 1.00 | \$4,346,563 | 50 | \$86,931 | 16 | \$1,390,900 |
| Fire Station - 10 almond ave. | 1.00 | \$2,950,625 | 50 | \$59,013 | 16 | \$944,200 |
| Fire Station - 765 fremont ave. | 1.00 | \$941,875 | 50 | \$18,838 | 16 | \$301,400 |
| TOTAL | | | | | | \$6,755,738 |

In addition to Facility Costs, the project team also collected information on the CIP projects as well as Facilities Conditions Assessment (FCA). The following table shows by project, the total costs:

Table 68: Public Safety CIP and FCA Costs

| Project Name | Total Value |
|---------------------------------------|--------------------|
| 999 Fremont (Police Substation) | \$110,000 |
| Police Station Redevelopment | \$50,000 |
| Police Dept AC Units | \$15,000 |
| Police Dept Security Upgrades | \$20,000 |
| Police Station FCA | \$1,040,308 |
| Fire Station - 10 almond ave. (FCA) | \$883,044 |
| Fire Station - 765 fremont ave. (FCA) | \$196,986 |
| TOTAL | \$2,315,338 |

Appendix C – General Government Infrastructure Costs

The following table provide information regarding General Government costs. All quantity, cost per unit calculations, and lifecycle information was provided and confirmed by the City of Los Altos' staff.

Table 69: Public Safety Equipment & Facility Costs

| Facilities | Price | Lifecycle | Annual Cost | # of Years | Total |
|----------------------------------|-------------|-----------|-------------|------------|--------------------|
| Municipal Service Center - Admin | \$1,097,844 | 50 | \$21,957 | 16 | \$351,310 |
| Warehouse | \$995,114 | 50 | \$19,902 | 16 | \$318,436 |
| Garage | \$520,244 | 50 | \$10,405 | 16 | \$166,478 |
| Equipment Shed | \$150,528 | 50 | \$3,011 | 16 | \$48,169 |
| City Hall | \$2,949,502 | 50 | \$58,990 | 16 | \$943,841 |
| Woodland Library | \$1,520,456 | 50 | \$30,409 | 16 | \$486,546 |
| Civic Center - Los Altos Library | \$9,175,443 | 50 | \$183,509 | 16 | \$2,936,142 |
| TOTAL | | | | | \$5,250,922 |

In addition to Facility Costs, the project team also collected information on the CIP projects. The following table shows by project, the total costs:

Table 70: Public Safety CIP and FCA Costs

| Project Name | Total Value |
|---|--------------------|
| City Hall Emergency Operations Center | \$2,950,000 |
| MSC Fuel - Dispensing Station OH Canopy | \$100,000 |
| City Hall Expansion into Los Altos Youth Center | \$5,050,000 |
| TOTAL | \$8,100,000 |

Appendix D & E – Transportation Impact Fee Technical Report & Commercial Linkage Impact Fee Memo

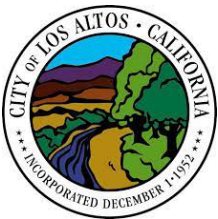
The following pages include the DKS Technical Report provided for the Transportation Impact Fee and the Strategic Economics Memo provided for the Commercial Linkage fee.

TRANSPORTATION IMPACT FEE NEXUS REPORT

APRIL 2024

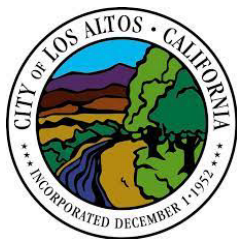
PREPARED FOR:

CITY OF LOS ALTOS



1970 BROADWAY, SUITE 740, OAKLAND, CA 94612 • 510.763.2061 • DKSASSOCIATES.COM

PREPARED FOR CITY OF LOS ALTOS



PREPARED BY DKS ASSOCIATES



IN COORDINATION WITH MATRIX CONSULTING

DRAFT

TABLE OF CONTENTS

INTRODUCTION AND BACKGROUND 5

 SUMMARY OF FINDINGS 5

EXISTING AND FUTURE LAND USE QUANTITIES..... 6

TRANSPORTATION DEMAND FACTORS..... 7

TRANSPORTATION IMPROVEMENTS 10

 COMPLETE STREETS MASTER PLAN PROJECTS 10

 REVIEW OF PROJECTS FROM THE 2014 TRAFFIC IMPACT FEE PROGRAM 10

 SUPPLEMENTAL FUNDING SOURCES 10

EXISTING CITYWIDE MULTIMODAL TRANSPORTATION INFRASTRUCTURE 12

 INVENTORY OF CITYWIDE TRANSPORTATION INFRASTRUCTURE 12

 EXISTING LEVEL OF INVESTMENT AND MAXIMUM JUSTIFIABLE FEE FOR THE
TRANSPORTATION IMPACT FEE..... 12

 TRANSPORTATION IMPROVEMENTS AND COST PER DUE..... 15

FEE SCHEDULE..... 16

 RECOMMENDED FEE SCHEDULE 17

 Residential Fees per Square Foot.....17

 Calculation of Fees for Specialized Land Uses.....18

 COMPARABLE FEE RATES 18

 PROJECTS SUBJECT TO THE FEE PROGRAM..... 19

 REVENUE PROJECTIONS AND USE..... 20

APPENDIX 21

 SECTION 1. EXISTING LAND USE 23

 SECTION 2. FUTURE LAND USE 24

 SECTION 3. TRANSPORTATION IMPROVEMENTS..... 25

 SECTION 3. INFRASTRUCTURE UNIT COSTS AND INVENTORY 26

LIST OF FIGURES

FIGURE 1: CITYWIDE TRANSPORTATION NETWORK 13

LIST OF TABLES

TABLE 1: EXISTING AND FORECASTED DEVELOPMENT7

TABLE 2: DWELLING UNIT EQUIVALENT (DUE) RATES PER DWELLING UNIT OR THOUSAND
SQUARE FEET OF NON-RESIDENTIAL LAND USE8

TABLE 3: TRANSPORTATION DEMAND BY DWELLING UNIT EQUIVALENTS (DUES)9

TABLE 4: TRANSPORTATION IMPROVEMENT PROJECTS..... 11

TABLE 5: TRANSPORTATION INFRASTRUCTURE UNIT COSTS (\$2024)..... 14

TABLE 6: EXISTING FACILITY STANDARD & LEVEL OF INVESTMENT 15

TABLE 7: TRANSPORTATION IMPROVEMENT COST PER DWELLING UNIT EQUIVALENT 16

TABLE 8: RECOMMENDED FEE SCHEDULE BY LAND USE 17

TABLE 9: CALCULATION OF RESIDENTIAL FEES PER SQUARE FOOT 17

TABLE 10: TRANSPORTATION IMPACT FEES IN COMPARABLE JURISDICTIONS 19

TABLE 11: MAXIMUM REVENUE PROJECTION 20

INTRODUCTION AND BACKGROUND

This report documents the update of the Transportation Impact Fee (TIF) for the City of Los Altos, California. The updated fee program will fund all eligible transportation improvements based on a reasonable relationship to transportation demand impacts from new development. Eligible projects represent an expansion of the citywide multimodal transportation infrastructure. This report presents the results of the fee calculations along with supporting documentation for the nexus study prepared by DKS Associates.

SUMMARY OF FINDINGS

California local agencies may adopt impact fees under authority granted by the Mitigation Fee Act (the Act), contained in Sections 66000 to 66025 of the California Government Code. This report presents the key findings required by the act for adopting or increasing a development fee with respect to the following reasonable relationships¹:

Project effects– There must be a reasonable relationship established between new development and the need for public facilities.

- This finding is based on the need to supply adequate transportation network improvements to offset transportation demand associated with new development.

Benefit – There must be a reasonable relationship between new development and the use of fee revenue for public facilities to accommodate that development.

- This finding is based on the use of fee revenue for expansions to the multimodal transportation network that supports citywide circulation.

Proportionality – There must be a reasonable relationship between the amount of the fee and the portion of public facilities cost associated with new development.

- This finding is based on the cost of planned improvements to citywide multimodal transportation infrastructure per unit of new development and ensuring that this cost per unit is not greater than the level of investment in existing infrastructure for existing development.

In addition to the above findings, the Act also requires findings regarding the purpose of the fee and a description of the public facilities to be funded by the fee:

- The purpose of the fee is to expand the citywide multimodal transportation network to accommodate increased demand from new development. The multimodal improvements to be funded by the fee are described under “Transportation Improvements”.

¹ California Government Code, section 66001(a)(3), 66001(a)(4), and 66001(b)

The proposed TIF also meets newer statutory requirements, including preparation of a nexus study and calculation of residential fees by square footage. The following additional findings are made:

- a) The existing level of service is the historical level of investment made per unit of development to fund the City's multimodal transportation network. This level of investment will not be exceeded by the proposed fee.
- b) The purpose of the fee is to expand the City-wide multimodal transportation network to accommodate increased demand from new development.
- c) The funds collected by the proposed fee will be used to deliver the projects described under "Transportation Improvements".
- d) The reasonable relationship between the fee's use and the type of development project is derived from the relative levels of transportation demand associated with each land use category.
- e) The need for public facilities to be funded by the proposed fee has been documented by the adopted planning documents that serve as the source for the transportation improvements list.

EXISTING AND FUTURE LAND USE QUANTITIES

The proposed fee program is based on the demand for transportation infrastructure associated with new development. This section documents the additional transportation demand from new development in terms of "dwelling unit equivalents" (DUEs), a measure of transportation demand across both residential and nonresidential land use categories that is based on trip characteristics.

Existing land use by category has been quantified by summarizing spatial data on zoning and information such as square footage by parcel from the Santa Clara County Assessor. A detailed description of the methods used to quantify existing land use may be found in the Appendix, Section 1.

The quantity of future residential land use has been derived from the City's adopted 6th Cycle Housing Element, projected to the horizon year of 2040. Note that Accessory Dwelling Units (ADUs) have not been included in the residential growth as these will be exempt from the TIF per City policy.

Non-residential growth has been derived from the City's currently adopted general plan buildout quantities for commercial land use. Although the general plan assumes some capacity for land use intensification on private school sites and public and institutional lands, the potential for redevelopment of these parcels is not certain. Therefore, the non-residential growth projection has been based on the capacity of commercial parcels only. Moreover, the quantity of expected commercial growth is conservatively assumed to be half the hypothetical maximum buildout

quantity. More detail on the derivation of future land use quantities can be found in the Appendix, Section 2.

Table 1 summarizes the existing and forecasted growth by type of land use. Note that due to the uncertainty surrounding potential redevelopment of existing private school and institutional sites, the quantity of future land use that would be subject to the TIF has been limited to expected commercial growth.

TABLE 1: EXISTING AND FORECASTED DEVELOPMENT

| LAND USE | EXISTING (2021) ^a | GROWTH (2022-2040) ^b | TOTAL 2040 |
|--|---------------------------------|------------------------------------|---------------|
| RESIDENTIAL (DWELLING UNITS) | | | |
| SINGLE FAMILY ^c | 10,096 | 438 | 10,534 |
| MULTI-FAMILY ^d | <u>983</u> | <u>1,420</u> | <u>2,403</u> |
| TOTAL | 11,079 | 1,857 | 12,936 |
| NONRESIDENTIAL (BUILDING SQUARE FEET) | | | |
| RETAIL/COMMERCIAL | 1,728,071 | 1,515,500 | 3,243,571 |
| PRIVATE SCHOOL | 20,751 | | 20,751 |
| PUBLIC & INSTITUTIONAL | 488,320 | | 488,320 |
| TOTAL | 1,728,071 | 1,515,500 | 3,243,571 |

^a Existing residential based on Santa Clara County Assessor's parcel data as of November 2023. Existing nonresidential land use derived from current zoning and Santa Clara County Assessor's parcel data as of November 2023.

^b Residential growth based on site inventory and net new rezone sites from the Los Altos Housing Element (estimated ADUs not included). Residential growth quantities have been extrapolated to 2040. Non-residential growth based on buildout quantities of commercial development in current general plan land use element.

Sources: City of Los Altos, General Plan land use and zoning spatial data file with Santa Clara County Assessor's parcel data, December 1, 2023; City of Los Altos, 6th Cycle Housing Element 2023-2031, August 2023, Table III-1, p. 16; City of Los Altos, General Plan 2002-2020, Table LU-4, p.20.

TRANSPORTATION DEMAND FACTORS

Scaling factors based on relative levels of transportation demand are applied to the different types of land use to create a common land use unit. These common units or Dwelling Unit Equivalents (DUEs) are equivalent to the transportation demand generated by one single family residential unit. The DUE rates are used to proportionately scale the fee across different land use categories after basic fee levels are calculated.

TABLE 2: DWELLING UNIT EQUIVALENT (DUE) RATES
PER DWELLING UNIT OR THOUSAND SQUARE FEET OF NON-RESIDENTIAL LAND USE

| LAND USE | ITE LAND USE (CODE) | AVG. WEEKDAY TRIP RATE | PERCENT NEW TRIPS ^a | TRIP LENGTH FACTOR ^b | DEMAND FACTOR ^b | DWELLING UNIT EQUIVALENT RATE |
|------------------------------------|--------------------------------|------------------------|--------------------------------|---------------------------------|----------------------------|-------------------------------|
| SINGLE-FAMILY | Single Family Homes (210) | 9.43 | 100 | 7.9 | 74.50 | 1.00 |
| MULTI-FAMILY | Multifamily Mid-rise (221) | 6.74 | 100 | 7.9 | 53.25 | 0.71 |
| COMMERCIAL/RETAIL | Shopping Center (820) | 37.01 | 78 | 3.6 | 103.92 | 1.40 |
| PRIVATE SCHOOL ^d | High School ^c | 15.00 | 94 | 4.8 | 67.68 | 0.91 |
| INSTITUTIONAL ^d | Library (590) | 72.05 | 88 | 3.9 | 247.28 | 3.32 |
| OFFICE ^d | General Office (710) | 10.84 | 96 | 8.8 | 91.58 | 1.23 |
| INDUSTRIAL ^d | General Light Industrial (110) | 4.87 | 98 | 9.0 | 42.95 | 0.58 |

^a Includes diverted trips.

^b Trip length and VMT factors provide a relative measure of transportation demand among land uses, and a reasonable method for allocating improvement costs across land use categories to calculate the impact fee. Based on factors commonly used in planning studies. Absolute values for Los Altos may differ.

^c Trip generation rate per square foot from SANDAG (2002).

^d Rates for private school, institutional, office, and industrial uses are given for informational purposes only (growth DUEs in Table 3 derived from commercial uses only).

Sources: Institute for Transportation Engineers (ITE), *Trip Generation, 11th Edition*; San Diego Association of Governments (SANDAG), *Brief Guide of Vehicular Trip Generation Rates, April 2002*.

TABLE 3: TRANSPORTATION DEMAND BY DWELLING UNIT EQUIVALENTS (DUEs)

| LAND USE | EXISTING DUEs (2021) | GROWTH DUEs (2023-2040) | TOTAL DUEs (2040) |
|-----------------------------------|-------------------------|----------------------------|----------------------|
| RESIDENTIAL | | | |
| SINGLE FAMILY | 10,096 | 438 | 10,534 |
| MULTI-FAMILY | <u>703</u> | <u>1,015</u> | <u>1,717</u> |
| SUBTOTAL | 10,799 | 1,452 | 12,251 |
| NONRESIDENTIAL | | | |
| RETAIL/COMMERCIAL | <u>2,411</u> | <u>2,114</u> | <u>4,525</u> |
| PRIVATE SCHOOL | 19 | - | 19 |
| PUBLIC & INSTITUTIONAL | <u>1,621</u> | = | <u>1,621</u> |
| SUBTOTAL | 4,050 | 2,114 | 6,165 |
| TOTAL | 14,849 | 3,567 | 18,415 |
| SHARE | 81% | 19% | 100% |

Sources: Table 1 and Table 2.

The DUE rates and travel demand factors are calculated using the daily trip rates from the 11th Edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers (ITE). The details of this calculation are shown in Table 2. The DUE rates are applied to the quantities of land use growth shown in Table 1 to arrive at growth in DUEs as shown in Table 3.

TRANSPORTATION IMPROVEMENTS

This section summarizes the projects needed to expand the transportation network to accommodate growth. Table 4 summarizes the improvements identified to expand the citywide circulation network to maintain the City’s historical level of investment. Most of the projects are derived from the *Los Altos Complete Streets Master Plan*, which the city adopted in 2022.

A map and detailed list of projects may be found in the Appendix, Section 3. Note that project cost estimates have been escalated to 2024 dollars.

COMPLETE STREETS MASTER PLAN PROJECTS

Although over 260 individual projects were identified in the Complete Streets Master Plan (CSMP), only those projects that added new capacity or functionality to the citywide circulation network would be funded by the proposed TIF update. Projects that were not specifically located or defined and those that lacked cost estimates were not included.

REVIEW OF PROJECTS FROM THE 2014 TRAFFIC IMPACT FEE PROGRAM

Projects from the *2014 Traffic Impact Fee Program* that have not been completed to date were reviewed as candidates for TIF funding. The 2014 nexus study identified five corridor traffic calming projects and three intersection or roadway capacity improvements. Improvements for the traffic calming corridors were not specifically identified in the 2014 nexus study and a generic cost per mile was assumed. Since specific bicycle and pedestrian improvements along these same corridors have been proposed in the Complete Streets Master Plan, the 2014 traffic calming corridor projects are assumed to be superseded by the more recent proposals and have not been carried forward. Of the three intersection and roadway capacity improvements listed in the 2014 TIF, two have been completed. Costs to complete the remaining project, signalization of the intersection of North San Antonio Road and Loucks Avenue, have been carried forward.

SUPPLEMENTAL FUNDING SOURCES

Although TIF funding may be supplemented with funding from other sources to deliver the project list, none of this supplemental funding has been secured at this time. A review of the City’s five-year Capital Improvement Program (CIP) shows that the general fund and TIF revenues are assumed to provide the largest share of funding for bicycle and pedestrian infrastructure projects. The most prominent supplemental funding source in the most recent CIP was expected to be from Transportation Development Act Article III grants, which are expected to provide for about half a percent of the five-year expenditure plan for bicycle and pedestrian projects. Therefore, the fee calculation does not assume any supplemental funding sources. Also note that the current TIF fund balance is effectively zero and thus is not available to offset the cost of the project list.

TABLE 4: TRANSPORTATION IMPROVEMENT PROJECTS

| CATEGORY | UNFUNDED CAPITAL COSTS (\$2024) |
|--|--|
| BICYCLE AND PEDESTRIAN SAFETY | \$16,105,000 |
| INTERSECTION CAPACITY IMPROVEMENT | \$476,890 |
| NEW BIKE FACILITIES | \$5,540,022 |
| NEW PEDESTRIAN FACILITIES | \$4,350,465 |
| SUBTOTAL | \$26,472,377 |
| CURRENT TIF FUND BALANCE ^a | \$0 |
| ALLOCATED COST FOR FEE CALCULATION | \$26,472,377 |

^a Fund balance as of June 30, 2023.

Source: City of Los Altos, *Complete Streets Master Plan: An Active Transportation Framework (2022)*, Tables 16-18, pp. 180-193; City of Los Altos, *Annual Report on the Traffic Impact Fee and the Park in-Lieu Fee for Fiscal Year Ended June 30, 2023*; TJKM Transportation Consultants, *City of Los Altos Traffic Impact Fee Program, 2014*.

EXISTING CITYWIDE MULTIMODAL TRANSPORTATION INFRASTRUCTURE

This section presents the City’s standard for multimodal transportation infrastructure based on the existing level of investment in that infrastructure. This standard is used to set the maximum justifiable TIF.

INVENTORY OF CITYWIDE TRANSPORTATION INFRASTRUCTURE

An inventory was taken of the multimodal transportation network in Los Altos that connects residential neighborhoods, retail and employment centers, and other destinations across the city. Streets and other transportation infrastructure that only provide access to individual residential properties and do not provide connectivity between neighborhoods are not included in this inventory. The inventory was used to quantify the investment the city has made to date in its citywide transportation network.

The citywide multimodal transportation infrastructure was quantified using street centerline Geographic Information System (GIS) data, the map of streets by classification published in the City’s general plan circulation element, and online aerial photographs. The transportation network is defined as arterials and collectors that provide connectivity among different neighborhoods in Los Altos and to regional destinations. This network includes the arterial and connector roadways from curb-to-curb (vehicle travel lanes, bicycle lanes, and on street parking), as well as adjacent sidewalks, medians, traffic signals, and off-street paths.

As mentioned above, the network excludes local streets used primarily for access to individual properties within residential neighborhoods. In addition, infrastructure on El Camino Real (State Route 82) and Foothill Expressway were also excluded as these facilities are maintained by Caltrans and Santa Clara County, respectively. Figure 1 shows a map of the City’s existing citywide transportation network that is eligible for improvement or expansion projects funded by the proposed fee.

EXISTING LEVEL OF INVESTMENT AND MAXIMUM JUSTIFIABLE FEE FOR THE TRANSPORTATION IMPACT FEE

Total unit costs for transportation infrastructure are provided in Table 5. Additional details on the unit costs may be found in the Appendix, Section 3. Quantities for each component of the inventory and estimated historical level of investment per DUE are summarized in Table 6. The proposed TIF may not be higher than this existing facilities standard.

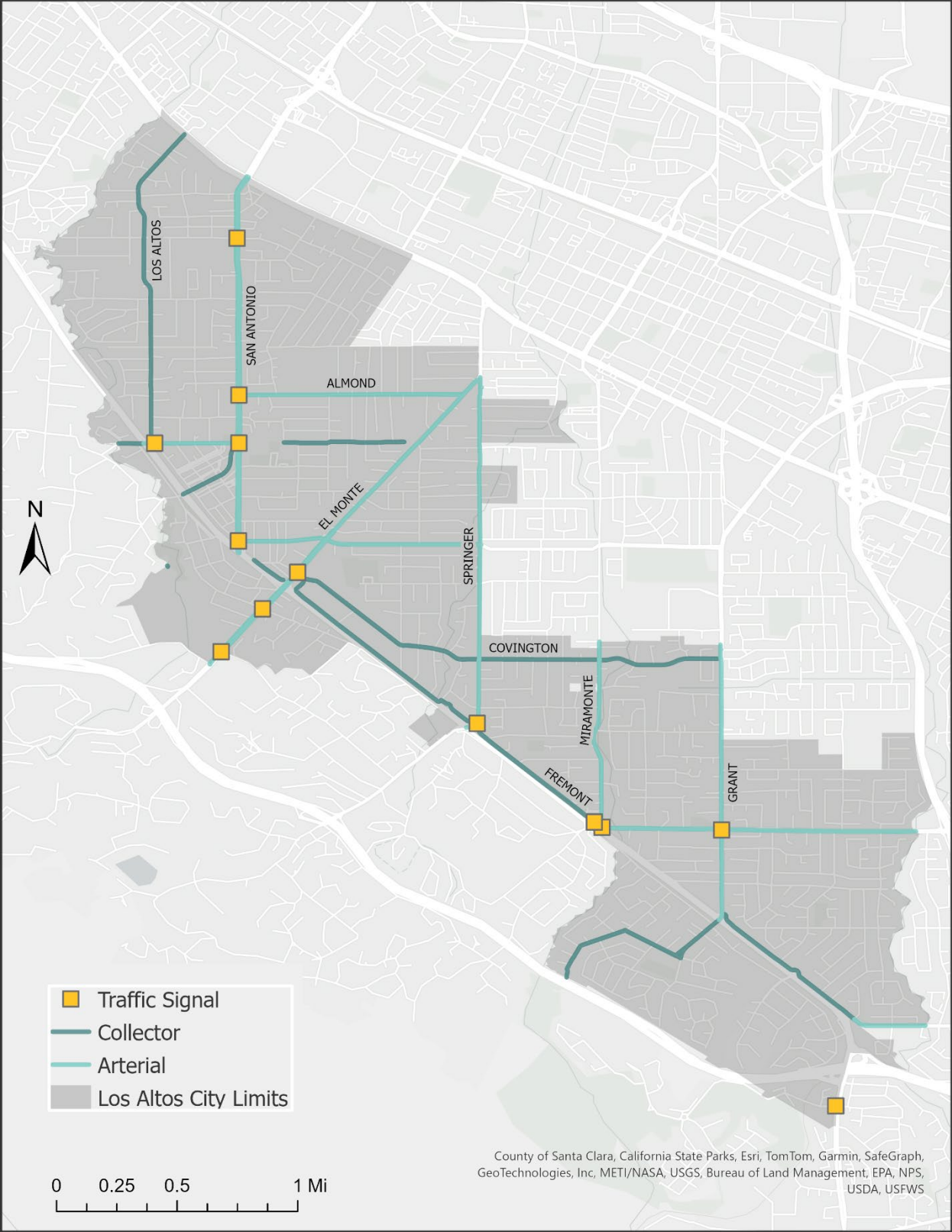


FIGURE 1: CITYWIDE TRANSPORTATION NETWORK

TABLE 5: TRANSPORTATION INFRASTRUCTURE UNIT COSTS (\$2024)

| INFRASTRUCTURE TYPE | UNIT | CONSTRUCTION COST | DESIGN & MANAGEMENT COST ^a | CONTINGENCY | TOTAL UNIT COST ^{b, d} |
|---------------------|--------------|-------------------|---------------------------------------|-------------|---------------------------------|
| ROADWAY | Square Foot | \$53 | 40% | 20% | \$89 |
| SIDEWALK | Square Foot | \$36 | 40% | 20% | \$60 |
| CURB & GUTTER | Linear Foot | \$124 | 40% | 20% | \$209 |
| MEDIAN | Square Foot | \$48 | 40% | 20% | \$81 |
| BICYCLE PATH | Square Foot | \$36 | 40% | 20% | \$61 |
| BICYCLE LANE | Linear Foot | \$9 | 40% | 20% | \$15 |
| TRAFFIC SIGNAL | Intersection | \$611,600 | 40% | 20% | \$1,027,488 |

a) Percent of total before contingency. Includes 20% for project design, 15% for construction engineering, and 5% for project management.

b) Construction Cost*(1+Design Management%) * (1+ Contingency%).

c) Cost of street lighting, water pollution prevention, street furniture and drainage not included in unit cost

Source: DKS Associates

TABLE 6: EXISTING FACILITY STANDARD & LEVEL OF INVESTMENT

| INFRA-STRUCTURE TYPE | QUANTITY | UNITS | EXISTING DWELLING UNIT EQUIVALENTS (DUES) | EXISTING FACILITY STANDARD (UNITS PER DUE) | REPLACE-MENT COSTS PER UNIT | EXISTING LEVEL OF INVESTMENT (\$ PER DUE) |
|----------------------|-----------|----------------|---|--|-----------------------------|---|
| ROADWAY | 6,330,729 | square feet | 14,849 | 426.3 | \$89 | \$37,961 |
| SIDEWALK | 607,530 | square feet | 14,849 | 40.9 | \$60 | \$2,474 |
| CURB & GUTTER | 112,918 | linear feet | 14,849 | 7.6 | \$398 | \$1,588 |
| MEDIAN | 203,451 | square feet | 14,849 | 13.7 | \$81 | \$1,114 |
| BICYCLE PATH | 112,563 | square feet | 14,849 | 7.6 | \$61 | \$462 |
| BICYCLE LANE | 109,360 | linear feet | 14,849 | 7.4 | \$15 | \$109 |
| TRAFFIC SIGNAL | 13 | Intersect-ions | 14,849 | 0.001 | \$1,027,488 | \$900 |
| | | | | | Total | \$44,608 |

Note: All dollars in 2024 \$.

Sources: Table 3 and Table 5.

TRANSPORTATION IMPROVEMENTS AND COST PER DUE

The required projects identified to maintain the existing level of investment to accommodate future growth are summarized in Table 4. A detailed listing of transportation improvements or projects is provided in the Appendix, Section 2. Dividing the cost of the transportation improvements by the expected growth in DUEs results in the cost per DUE or recommended fee level as shown in Table 7.

TABLE 7: TRANSPORTATION IMPROVEMENT COST PER DWELLING UNIT EQUIVALENT

| | |
|--|--------------|
| | |
| ALLOCATED TRANSPORTATION IMPROVEMENT COSTS | \$26,472,377 |
| GROWTH (2024-2040) IN DWELLING UNIT EQUIVALENTS (DUES) | 3,567 |
| COST PER DUE (TRANSPORTATION IMPROVEMENT FEE PER DUE) | \$7,422 |

Sources: Table 3 and Table 4.

FEE SCHEDULE

This section summarizes the planned transportation improvements along with associated costs to demonstrate a reasonable relationship between new development and the use of fee revenues to accommodate that development.

The City may adopt any fee level below the maximum justified fees, considering economic development policy, other policy considerations, and fee levels charged by comparable jurisdictions (see Table 10). The City may also adopt fees with varying levels of discount by land use category based on reasonable policy considerations. For example, the city might more deeply discount industrial fees to encourage industrial development as part of an economic development policy or might exempt affordable housing projects to support housing goals.

The allocated cost of the transportation capital improvements list totals \$26,472,377. The full list of projects and estimated costs is provided in the Appendix, Section 3. The estimated cost to build out the capital improvement program is summarized in Table 4. Only capital projects eligible for funding through the TIF program are included. The included projects would improve, enhance, and/or expand the city’s existing transportation system.

The basic fee per DUE described in the preceding section can be scaled according to relative transportation demand rates to arrive at fee schedules by type of land use. The factors scaling the fee by transportation demand (DUE rates) have been calculated using daily trip generation rates, as explained under the section titled, “Transportation Demand Factors”.

Also note that the City may impose an administrative charge on the adopted fee schedule and that the fee schedule may be annually adjusted for inflation.

RECOMMENDED FEE SCHEDULE

The recommended fee schedule shown in Table 8 is the cost per DUE to deliver the planned transportation improvement projects and is below the maximum justifiable fee (i.e., the historical level of investment).

TABLE 8: RECOMMENDED FEE SCHEDULE BY LAND USE

| LAND USE | IMPROVEMENT COST PER DWELLING UNIT EQUIVALENT | DWELLING UNIT EQUIVALENT PER UNIT | FEE | UNIT |
|--------------------------------------|---|--|----------|-----------------------|
| SINGLE-FAMILY RESIDENTIAL | \$7,422 | 1.00 | \$7,422 | per dwelling unit |
| MULTI-FAMILY RESIDENTIAL | \$7,422 | 0.71 | \$5,305 | per dwelling unit |
| COMMERCIAL/RETAIL | \$7,422 | 1.40 | \$10,354 | per 1,000 square feet |
| OFFICE | \$7,422 | 1.23 | \$9,130 | per 1,000 square feet |

Sources: Table 3 and Table 7

RESIDENTIAL FEES PER SQUARE FOOT

Per AB 602 (2021), residential fees adopted after July 1, 2022, must be charged proportionally to the size of the dwelling unit. Fees per DUE are divided by the average size of single family and multifamily units to arrive at a fee per residential square foot. The average size of single family and multi family dwelling units is derived from the five years of building permit data in Los Altos. Note that the square footage should be based on the physical coverage of the living quarters of the residential unit (i.e., does not reflect yard, garage, or public areas in multifamily units). The resulting residential fees per square foot are summarized in Table 9.

TABLE 9: CALCULATION OF RESIDENTIAL FEES PER SQUARE FOOT

| | TOTAL TIF PROGRAM FEES | AVERAGE SIZE (SQUARE FEET) | TIF PROGRAM FEES PER SQUARE FOOT |
|---|---------------------------|-------------------------------|-------------------------------------|
| SINGLE FAMILY DWELLING UNITS | \$7,422 | 4,934 | \$1.50 |
| MULTI FAMILY DWELLING UNITS | \$5,305 | 873 | \$6.08 |

Source: City of Los Altos Residential Permit Data, 2019-2023.

CALCULATION OF FEES FOR SPECIALIZED LAND USES

Fees for development projects that do not correspond to one of the given generic land use categories may be determined by multiplying the fee per single family dwelling unit by the appropriate DUE rate and the quantity of specialized land use. The DUE rate is calculated with the applicable average weekday trip generation rate using the following formula:

$$\text{DUE Rate} = \frac{\text{Average weekday trips per unit of specialized land use}}{\text{Average weekday trips per single family dwelling unit}}$$

The transportation impact fees are given by:

$$\text{Fee per single family dwelling unit} \times \text{DUE rate} \times \text{specialized land use quantity}$$

Example: Fees for self-storage project

Average daily trip generation rates:

Single family dwelling unit = 9.43 trips per dwelling unit (DUE)

Mini warehouse or self-storage = 1.45 trips per thousand square feet (KSF)

$$\text{DUE Rate} = 1.45/9.43 = 0.15 \text{ DUE/KSF}$$

$$\text{Fee per KSF of mini warehouse} = 0.15 \text{ DUE/KSF} \times \$7,422/\text{DUE} = \$1,113 \text{ per KSF}$$

COMPARABLE FEE RATES

When adopting an updated fee schedule, the City may wish to consider the level of fees charged by nearby jurisdictions as well as the current transportation impact fees being collected in Los Altos. Table 10 shows the fees charged by several peer jurisdictions as well as the current fee level for Los Altos.

TABLE 10: TRANSPORTATION IMPACT FEES IN COMPARABLE JURISDICTIONS

| JURISDICTION (UPDATE YEAR) | PER PEAK PM HOUR TRIP | SINGLE FAMILY RESIDENTIAL PER UNIT ^a | MULTIFAMILY RESIDENTIAL PER UNIT ^a | OFFICE (PER KSF) | COMMERCIAL/ RETAIL (PER KSF) |
|--|--------------------------|--|---|---------------------|------------------------------------|
| CUPERTINO | \$6,862 | \$6,797 | \$4,215 | \$19,150 | 10,940 |
| MENLO PARK | \$19,054.98 | \$18,864.43 | \$6,358.18 | \$21,910 | \$12,770 ^b |
| MOUNTAIN VIEW | \$3,537 ^c | \$6,120 | \$3,428 | \$6,530 | \$6,530 |
| PALO ALTO | \$9,754.23 | N/A | N/A | N/A | N/A |
| SANTA CLARA | N/A | \$1,507.60 | \$670.05 | \$1,740 | \$5,800 |
| CURRENT LOS ALTOS FEES ^a | N/A | \$6,774 | \$4,159 | \$9,994 | \$12,409 |
| PROPOSED LOS ALTOS FEES | N/A | \$7,422 | \$5,305 | \$10,354 | \$9,130 |

^{a)} For average sized dwelling unit.

^{b)} The City of Menlo Park has only adjusted Retail fees for 2023.

^{c)} The City of Mountain View charges other low-trip generating uses for am and pm peak hour trips.

Sources:

Cupertino: *City of Cupertino Engineering Fee Schedule 2022*. **Menlo Park:** *City of Menlo Park Transportation Impact Fees 2023*. **Mountain View:** *Mountain View Development Fee Schedule 2023-2024*. **Palo Alto:** *FY24 Municipal Fee Schedule*, Charleston/Arastradero special zone discounted fees not shown. **Santa Clara:** *City of Santa Clara Municipal Fee Schedule 2023*, specific plan area fees for East Tasman are not shown. **Los Altos:** *City of Los Altos Proposed 2023-2024 Fees*.

PROJECTS SUBJECT TO THE FEE PROGRAM

Any development project that would generate net new daily travel demand would be subject to the TIF. As a matter of policy the city has exempted all Accessory Dwelling Units (ADUs) from the TIF. The City Council may also choose to exempt specific affordable housing projects from all or a portion of the fee. Any such exemptions will reduce the amount of revenue expected to be collected and require additional supplemental funding sources to fully deliver the project list.

In addition, the TIF program will be subject to the requirements of California Government [Code Section 66005.1](#), which requires a discounted fee rate reflecting lower automobile trip generation rates for qualifying housing developments. To qualify a development must be located within a half mile of a transit station (as defined in California Government Code Section 65460.1), include convenience retail uses a half mile of the housing, and limit parking spaces. Although there is not currently a transit station meeting the statutory requirement in Los Altos, this statute may become applicable at some point in the future.

REVENUE PROJECTIONS AND USE

The amount of revenue that can be collected under the new TIF program will depend on the fee levels ultimately adopted by the City as well as the growth that occurs over the planning horizon. Table 11 summarizes the estimated maximum revenue to that could be collected by the updated TIF program if the recommended fee levels are adopted.

TABLE 11: MAXIMUM REVENUE PROJECTION

| LAND USE | TIF FEES | | EXPECTED GROWTH | | REVENUE ESTIMATE |
|---------------------------|----------|-----------------------|-----------------|-------|------------------|
| SINGLE FAMILY RESIDENTIAL | \$7,422 | per dwelling unit | 438 | units | \$3,248,261 |
| MULTI-FAMILY RESIDENTIAL | \$5,305 | per dwelling unit | 1,420 | units | \$7,531,976 |
| COMMERCIAL/ RETAIL | \$10,354 | per 1,000 square feet | 1,516 | KSF | \$15,692,140 |
| Total | | | | | \$26,472,377 |

Sources: Table 1 and Table 8.

APPENDIX



1970 BROADWAY, SUITE 740, OAKLAND, CA 94612 • 510.763.2061 • DKSASSOCIATES.COM

CONTENTS

SECTION 1. EXISTING LAND USE

SECTION 2. FUTURE LAND USE

SECTION 3. TRANSPORTATION IMPROVEMENTS

SECTION 3. INFRASTRUCTURE UNIT COSTS AND INVENTORY

DRAFT

SECTION 1. EXISTING LAND USE

DRAFT

EXISTING LAND USE QUANTITIES

INTRODUCTION

This memorandum documents the steps used to calculate quantities of existing land use in Los Altos, CA. The existing land use quantities will be used as an input to the update of the city's transportation impact fee.

DATA SOURCES

Spatial and tabular data received from the City of Los Altos included the following:

- CityOfLosAltos_AssessorDataNov2023.xlsx – tabular data including APN, total square footage, and number of situses among other data fields (30,075 records)
- FY2024q1_sccparcels.gdb – geodatabase of all parcels in Santa Clara County (501,360 records) including APN among other attributes.
- FY2024q1_SCCAirParcels.gdb – geodatabase of all legal parcels in Santa Clara County that may occupy the same physical parcel boundaries (38,355 records)
- LandUseCurrent.shp – includes APN, current land use code, and current land use description for each physical parcel within Los Gatos (12,236 records)

CALCULATION STEPS

1. Select features from FY2024q1_SCCAirParcels that fall within Los Altos and export to a new feature class FY2024Q1_SCCAirParcels_LosAltos (699 records).
2. Join LandUseCurrent feature class to AssessorData on APN, resulting in joined table for all physical parcels that do not have air parcels. Export attribute table to spreadsheet for further processing.
3. Spatially join Los Altos air parcel feature class to the current land use feature class.
4. Join the spatial join created in Step 3 to the Assessor's data. Export the resulting attribute table to spreadsheet for further processing.
5. Summarize data in spreadsheet:
 - a. Summarize data from physical parcels and air parcels separately and then add together to get total quantities
 - b. Non-residential land use is summarized by total square footage by land use type
 - c. Residential land use is summarized by count of APNs for single family residential and by the sum of situses for multifamily residential and planned communities (should planned communities be counted as single family units?).

RESULTS

TABLE 1: QUANTITIES OF EXISTING NON-RESIDENTIAL LAND USE (SQUARE FEET)

| LAND USE | PHYSICAL APNS | AIR PARCELS | TOTAL |
|------------------------|---------------|-------------|-----------|
| COMMERCIAL/RETAIL | 1,335,605 | 392466 | 1,728,071 |
| PRIVATE SCHOOL | 20,751 | 0 | 20,751 |
| PUBLIC & INSTITUTIONAL | 488,320 | 0 | 488,320 |

Source: Santa Clara County Assessor's parcel data (November 2023) and existing land use by parcel from City of Los Altos.

TABLE 2: QUANTITIES OF EXISTING RESIDENTIAL LAND USE (SQUARE FEET)

| UNIT TYPE | PHYSICAL APNS | AIR PARCELS | TOTAL |
|---------------------|---------------|-------------|--------|
| SINGLE FAMILY UNITS | 10,096 | - | 10,096 |
| MULTI FAMILY UNITS | 422 | 243 | 665 |
| PLANNED COMMUNITY | 267 | 51 | 318 |

Source: Santa Clara County Assessor's parcel data (November 2023) and existing land use by parcel from City of Los Altos.

SECTION 2. FUTURE LAND USE

DRAFT

LAND USE FORECASTS

INTRODUCTION

The amount of land use growth is a key input to transportation impact fee calculations. Since Los Altos is currently working on updating its general plan elements, reliable projections of future growth are not readily available. The following data sources were reviewed to determine if they provide a reasonable alternative source for this purpose.

- Socioeconomic inputs used in travel demand modeling for Plan Bay Area 2050 (PBA 2050), the Regional Transportation Plan/Sustainable Community Strategy (RTP/SCS).
- 6th Cycle Housing Element Update: 2023-2031 for the City of Los Altos (adopted January 2023)
- Los Altos 2002 General Plan Land Use Element

In general, the PBA 2050 inputs were not found to be suitable for use in calculating an impact fee. These socioeconomic forecasts were prepared for regional travel demand forecasts, and often are not granular enough to reflect local planning policy and existing conditions at a neighborhood geographic level. In contrast, the Housing Element Update and general plan land use element reflect current local policy and were therefore selected as the source for residential and non-residential growth.

RESIDENTIAL LAND USE

The PBA 2050 housing unit forecasts show fewer single-family dwelling units (SFDUs) than currently exist and a large increase in MFDUs, implying significant redevelopment (see Table 1). Even assuming additional housing growth beyond the housing element buildout numbers for 2031, the regional forecast seems out of alignment with local policy and land inventory. Therefore, the housing element buildout numbers were selected as the source for residential growth.

TABLE 1: EXISTING AND FORECAST RESIDENTIAL LAND USE

| DWELLING UNITS | EXISTING 2023 ^a | HOUSING ELEMENT BUILDOUT NUMBERS ^b | HOUSING ELEMENT GROWTH EXTRAPOLATED TO 2040 | 2040 TOTAL IMPLIED BY HOUSING ELEMENT | PBA 2050 (ESTIMATED FOR 2040) ^c |
|----------------|----------------------------|---|---|---------------------------------------|--|
| SFDU | 10,414 | 389 | 438 | 11,241 | 8,535 |
| MFDU | 665 | 1,262 | 1,420 | 3,347 | 11,483 |
| TOTAL | 11,079 | 1,651 | 1,857^a | 14,587 | 20,018 |

^a Total for extrapolated residential units does not add due to rounding.

Sources: ^a Santa Clara County Assessor's parcel data on square footage and current zoning land use designations as of November 2023. ^b City of Los Altos. 6th Cycle Housing Element 2023-2031, Table III, -1, p. 16. Numbers represent buildout totals for extremely low, very low, low, moderate, and above moderate-income levels and exclude ADUs. Above moderate units are classified as SFDUs, and all other income categories are classified as MFDUs. ^c Metropolitan Transportation Commission land use inputs (interpolation of 2035 and 2050 forecasts for Los Altos TAZs by DKS Associates).

NON-RESIDENTIAL LAND USE

The PBA 2050 inputs were reviewed for suitability as a source of non-residential growth. This data source provides a base year (2015) and forecast year estimates for employment by NAICs category for each Transportation Analysis Zone (TAZ) for forecast years 2035 and 2050. The PBA 2050 employment forecasts include significant numbers of industrial and even some agricultural employment where none currently exists or is zoned for. Interpolating between 2035 and 2050 results in total employment of 29,988, representing an 188% increase from the 10,482 jobs in Los Altos reported for 2021 in the Census LEHD.

Given the unexpected employment categories and uncertainty in converting jobs to square footage of non-residential use, the existing general plan land use element is preferred as the currently applicable local policy document. General plan buildout quantities can be compared to existing quantities to arrive at an estimate of remaining non-residential growth potential, as shown in Table 2.

TABLE 2: NON-RESIDENTIAL LAND USE (THOUSAND SQUARE FEET)

| LAND USE | EXISTING 2023 ^A | GENERAL PLAN BUILDOUT ^B | REMAINING GROWTH |
|--------------------------|----------------------------|------------------------------------|------------------|
| COMMERCIAL/RETAIL | 1,728 | 4,759 | 3,031 |
| PRIVATE SCHOOL | 21 | 449 | 428 |
| PUBLIC AND INSTITUTIONAL | 488 | 1,717 | 1,229 |

Sources: a) DKS Associates. Existing Land Use Technical Memorandum (January 2024); b) Los Altos. General Plan 2002 Land Use Element. Table LU-4, p. 20.

SECTION 3. TRANSPORTATION IMPROVEMENTS

DRAFT

| Project_Name | Roadway | From | To | Description | Category | Source | Cost_2024 | Net_TIF |
|-------------------------------------|-------------------------------------|---------------------|------------------------------|--|-----------------------------------|----------|--------------|--------------|
| N San Antonio Road at Loucks Avenue | N San Antonio Road at Loucks Avenue | | | Install traffic signal | Intersection capacity improvement | 2014 TIF | \$ 476,890 | \$ 476,890 |
| North San Antonio Road | North San Antonio | Almond | El Camino Real | Install Class IV bike lanes | New bike facilities | CSMP | \$ 360,750 | \$ 360,750 |
| Foothill/Edith | Foothill Expressway | Edith | Sant Joseph | Install Class IV bike lanes | New bike facilities | CSMP | \$ 1,096,558 | \$ 1,096,558 |
| Covington/El Monte | Covington | El Monte | Grant | Class IIB | New bike facilities | CSMP | \$ 334,180 | \$ 334,180 |
| El/Jardin | El Monte | Jardin | Foothill | Class IV | New bike facilities | CSMP | \$ 593,756 | \$ 593,756 |
| Miramonte/Portland | Miramonte | Portland | Fremont | Class IIB | New bike facilities | CSMP | \$ 192,128 | \$ 192,128 |
| San/Edith | San Antonio | Edith | Almond | Class I | New bike facilities | CSMP | \$ 39,856 | \$ 39,856 |
| A/Miramonte | A | Miramonte | Fremont | Class II | New bike facilities | CSMP | \$ 5,110 | \$ 5,110 |
| Edith/Cielito | Edith | Cielito | End - Edith | Class III | New bike facilities | CSMP | \$ 204,391 | \$ 204,391 |
| Loucks/Los Altos | Loucks | Los Altos | San Antonio | Class III | New bike facilities | CSMP | \$ 118,547 | \$ 118,547 |
| Grant/Covington | Grant | Covington | El Sereno | Class IV | New bike facilities | CSMP | \$ 23,505 | \$ 23,505 |
| Jordan/Los Altos | Jordan | Los Altos | El Camino Real | Class III | New bike facilities | CSMP | \$ 39,856 | \$ 39,856 |
| Main/San Antonio | Main | San Antonio | State | Class II | New bike facilities | CSMP | \$ 19,417 | \$ 19,417 |
| Hillview/Eleanor | Hillview | Eleanor | Gordon | Class III | New bike facilities | CSMP | \$ 102,196 | \$ 102,196 |
| Almond/Gordon | Almond | Gordon | El Monte | Class IV | New bike facilities | CSMP | \$ 77,669 | \$ 77,669 |
| Fremont/Foothill | Fremont | Foothill | Lisa | Class IIB | New bike facilities | CSMP | \$ 386,299 | \$ 386,299 |
| Miramonte/Eastwood | Miramonte | Eastwood | Portland | Class I | New bike facilities | CSMP | \$ 59,273 | \$ 59,273 |
| Fremont/Springer | Fremont | Springer | Altos Oaks | Class IIB | New bike facilities | CSMP | \$ 32,703 | \$ 32,703 |
| Lyell/San Antonio | Lyell | San Antonio | End of Road | Class III | New bike facilities | CSMP | \$ 626,459 | \$ 626,459 |
| Main/State | Main | State | 1st | Class III | New bike facilities | CSMP | \$ 102,196 | \$ 102,196 |
| Pepper/San Antonio | Pepper | San Antonio | Eleanor | Class III | New bike facilities | CSMP | \$ 78,691 | \$ 78,691 |
| Hawthorne/San Antonio | Hawthorne | San Antonio | Eleanor | Class III | New bike facilities | CSMP | \$ 72,559 | \$ 72,559 |
| Portola/Jordan | Portola | Jordan | Dixon | Class III | New bike facilities | CSMP | \$ 41,900 | \$ 41,900 |
| Hawthorne/Eleanor | Hawthorne | Eleanor | Clark | Class III | New bike facilities | CSMP | \$ 38,834 | \$ 38,834 |
| Portola/Jordan | Portola | Jordan | Delphi | Class III | New bike facilities | CSMP | \$ 225,852 | \$ 225,852 |
| Saint/Foothill | Saint Joseph | Foothill | Noel | Class IV | New bike facilities | CSMP | \$ 53,142 | \$ 53,142 |
| University/Quinnhill | University | Quinnhill | Anita | Class III | New bike facilities | CSMP | \$ 31,681 | \$ 31,681 |
| Jordan/250' from El Camino | Jordan | 250' from El Camino | 115' from El Camino | property frontage | New pedestrian facilities | CSMP | \$ 173,732 | \$ 173,732 |
| San Antonio/Sherwood | San Antonio | Sherwood | El Camino Real | sidewalk, angled parking | New pedestrian facilities | CSMP | \$ 188,040 | \$ 188,040 |
| Sherwood/San Antonio | Sherwood | San Antonio | El Camino Real | non-compliant sidewalk | New pedestrian facilities | CSMP | \$ 26,571 | \$ 26,571 |
| Fremont/Permanente Creek | Fremont | Permanente Creek | Lisa | vegetation clearance | New pedestrian facilities | CSMP | \$ 386,299 | \$ 386,299 |
| Springer/Berry | Springer | Berry | Los Altos city limit (N of C | sidewalk gap closure | New pedestrian facilities | CSMP | \$ 288,192 | \$ 288,192 |
| Campbell/Rosita | Campbell | Rosita | Covington | sidewalk gap closure | New pedestrian facilities | CSMP | \$ 326,004 | \$ 326,004 |
| Alicia/Almond | Alicia | Almond | Jardin | sidewalk gap closure | New pedestrian facilities | CSMP | \$ 244,247 | \$ 244,247 |
| N/Edith | N. Gordon Way | Edith | Almond | school routes | New pedestrian facilities | CSMP | \$ 329,070 | \$ 329,070 |
| Truman/Oak | Truman | Oak | Fremont | sidewalk gap closure | New pedestrian facilities | CSMP | \$ 253,445 | \$ 253,445 |
| Grant/Preston | Grant | Preston | Foothill Expy | east side sidewalk, include bus stop and ADA upgrade | New pedestrian facilities | CSMP | \$ 161,469 | \$ 161,469 |
| Springer/Todd | Springer | Todd | Cuesta | coordination with City of MV | New pedestrian facilities | CSMP | \$ 834,938 | \$ 834,938 |
| Altamead/School | Altamead | School | Grant | school connections | New pedestrian facilities | CSMP | \$ 173,732 | \$ 173,732 |
| Oak/Grant | Oak | Grant | 50' W of Marinovich | tree preservation,traffic calming project | New pedestrian facilities | CSMP | \$ 90,954 | \$ 90,954 |
| Saint/Robles Ranch | Saint Joseph | Robles Ranch | Granger | sidewalk gap closure | New pedestrian facilities | CSMP | \$ 94,020 | \$ 94,020 |
| Jordan/Marich | Jordan | Marich | Portola | 310' sidewalk gap | New pedestrian facilities | CSMP | \$ 309,653 | \$ 309,653 |
| Los/Mariposa | Los Altos Ave | Mariposa | Yerba Santa | school route | New pedestrian facilities | CSMP | \$ 188,040 | \$ 188,040 |

| Project_Name | Roadway | From | To | Description | Category | Source | Cost_2024 | Net_TIF |
|--|--|---------------------|-----------------|--|-------------------------------|--------|------------|------------|
| Cristo/Foothill | Cristo Rey | Foothill | City Limit | sidewalk gap closure | New pedestrian facilities | CSMP | \$ 282,060 | \$ 282,060 |
| St Joseph Avenue/ Foothill Expressway/Grant Rd | St Joseph Avenue/ Foothill Expressway/Grant Rd | | | Intersection modifications including curb extensions, bike skip boxes, removal of right turn slip lane, curb ramps, pedestrian refuge island, high visibility crosswalks, and addition of LPI to signal timings. | Bicycle and pedestrian safety | CSMP | \$ 640,766 | \$ 640,766 |
| St Joseph Avenue/ Eva Avenue | St Joseph Avenue | St Joseph Avenue | Eva Avenue | High visibility crosswalk markings and curb ramps, unsignalized | Bicycle and pedestrian safety | CSMP | \$ 143,074 | \$ 143,074 |
| Foothill Expressway/El Monte Avenue | Foothill Expressway | Foothill Expressway | El Monte Avenue | Bike skip boxes, bike boxes, green bike lane approach, removal of right-turn slip lane, high visibility crosswalks, advance yield/stop lines, LPI to signal timings | Bicycle and pedestrian safety | CSMP | \$ 431,265 | \$ 431,265 |
| Fremont Avenue/Truman Avenue | Fremont Avenue | Fremont Avenue | Truman Avenue | curb extensions, bike skip boxes, advance yield/stop lines, raised crossing, pedestrian scale lighting, RRFB, unsig. | Bicycle and pedestrian safety | CSMP | \$ 291,257 | \$ 291,257 |
| Covington Road/ Miramonte Avenue | | | | removal of right turn lane, advance yield/stop, | Bicycle and pedestrian safety | CSMP | \$ 59,273 | \$ 59,273 |
| State Street/Main Street | | | | curb extension, high visibility crosswalk, advance yield/stop, stop signal analysis, unsignalized | Bicycle and pedestrian safety | CSMP | \$ 26,571 | \$ 26,571 |
| 1st Street/San Antonio Road/Cuesta Drive | | | | curb extension, bike bxes, remove right turn slip lane, high visibility crosswalk, advance yield/stop, curb ramp, | Bicycle and pedestrian safety | CSMP | \$ 271,840 | \$ 271,840 |
| Alto Oaks Drive/Fremont Avenue | | | | curb extension, high visibility crosswalk, advance yield/stop, | Bicycle and pedestrian safety | CSMP | \$ 180,886 | \$ 180,886 |
| Covington Road/Riverside Avenue | | | | curb extension, advance yield/stop, | Bicycle and pedestrian safety | CSMP | \$ 155,337 | \$ 155,337 |
| Covington Road/Campbell Avenue | | | | null | Bicycle and pedestrian safety | CSMP | \$ 51,098 | \$ 51,098 |
| Cuesta Drive/Gabilan Street | | | | curb ramp, raised crossing, RRFB, | Bicycle and pedestrian safety | CSMP | \$ 182,930 | \$ 182,930 |

| Project_Name | Roadway | From | To | Description | Category | Source | Cost_2024 | Net_TIF |
|-------------------------------------|---------|------|----|---|-------------------------------|--------|--------------|--------------|
| Edith Avenue/Gordon Way | | | | curb extension, advance yield/stop,standard crosswalk, | Bicycle and pedestrian safety | CSMP | \$ 263,665 | \$ 263,665 |
| El Monte Avenue/Almond Avenue | | | | curb extension, traffic calming | Bicycle and pedestrian safety | CSMP | \$ 204,391 | \$ 204,391 |
| El Monte Avenue/Cuesta Drive | | | | curb extension, sidewalk or pedway, bike skip boxes, high visibility crosswalk, advance yield/stop, curb ramp, LPI | Bicycle and pedestrian safety | CSMP | \$ 414,914 | \$ 414,914 |
| El Monte Monte Avenue/Clark Avenue | | | | curb extension, modify intersection, bike skip boxes, high visibility crosswalk, advance yield/stop, curb ramp,refuge island, RRFB | Bicycle and pedestrian safety | CSMP | \$ 1,082,251 | \$ 1,082,251 |
| El Monte Avenue/Springer Road | | | | modify skewed intersection, bike skip boxes, traffic calming, removal right turn slip, | Bicycle and pedestrian safety | CSMP | \$ 1,430,738 | \$ 1,430,738 |
| El Monte Avenue/University Avenue | | | | curb extension, bike skip boxes, bike boxes/green lane approach, traffic calming, high visibility crosswalk, advance yield/stop, curb ramp, refuge island, HAWK | Bicycle and pedestrian safety | CSMP | \$ 656,096 | \$ 656,096 |
| Fremont Avenue/Miramonte Avenue | | | | bike skip, bike boxes, right slip removal, high visibility, yield/stop, LPI | Bicycle and pedestrian safety | CSMP | \$ 238,116 | \$ 238,116 |
| Hawthorne Avenue/El Monte Avenue | | | | curb radius reduction, modify skewed intersection, bike skip, high vis, curb ramp | Bicycle and pedestrian safety | CSMP | \$ 890,123 | \$ 890,123 |
| Fremont Avenue/A Street | | | | bike slip, bike boxes, high vis, yield/stop, LPI | Bicycle and pedestrian safety | CSMP | \$ 181,908 | \$ 181,908 |
| N San Antonio Drive/Sherwood Avenue | | | | bike skip, high vis, yield/stop, refuge island | Bicycle and pedestrian safety | CSMP | \$ 142,052 | \$ 142,052 |
| Springer Road/Fremont Avenue | | | | modify skewed intersection, bike skip, curb radius reduction, high vis, yield/stop | Bicycle and pedestrian safety | CSMP | \$ 915,672 | \$ 915,672 |
| Springer Road/Cuesta Drive | | | | curb extension, bike skip boxes, traffic calming, remove right turn slip, high visibility, advance yield/stop, curb ramp, lighting, | Bicycle and pedestrian safety | CSMP | \$ 416,958 | \$ 416,958 |

| Project_Name | Roadway | From | To | Description | Category | Source | Cost_2024 | Net_TIF |
|-----------------------------------|--------------|-------------|---------------|---|-------------------------------|--------|--------------|--------------|
| W Edith Avenue/4th Street | | | | modify intersection, bike skip boxes, high visibility crosswalk,advance yield/stop, curb ramp, RRFB | Bicycle and pedestrian safety | CSMP | \$ 1,050,570 | \$ 1,050,570 |
| Fremont Avenue/Fallen Leaf Lane | | | | curb extension, high visibility, advance yield/stop, lighting, RRFB, yield to peds sign | Bicycle and pedestrian safety | CSMP | \$ 693,908 | \$ 693,908 |
| 1st Street/Main Street | | | | LPI | Bicycle and pedestrian safety | CSMP | \$ 55,186 | \$ 55,186 |
| Almond Avenue/Fornway Court | | | | curb radius reduction, bike skip, hihg vis, yield/stop, curb ramp, RRFB | Bicycle and pedestrian safety | CSMP | \$ 226,874 | \$ 226,874 |
| Altos Oaks Drive/Miramonte Avenue | | | | traffic calming, high vis | Bicycle and pedestrian safety | CSMP | \$ 76,647 | \$ 76,647 |
| Grant Road/Bryant Avenue | | | | curb radius reduction, bike skip, bike boxes, high vis, yield/stop, curb ramp, refuge island, lighting, LPI | Bicycle and pedestrian safety | CSMP | \$ 223,808 | \$ 223,808 |
| Grant Road/Altamead Drive | | | | curb extension, bike skip, high vis, yield/stop, | Bicycle and pedestrian safety | CSMP | \$ 220,742 | \$ 220,742 |
| Homestead Road/Fallen Leaf Lane | | | | bike skip, traffic calming, high vis, refuge island, lighting | Bicycle and pedestrian safety | CSMP | \$ 195,194 | \$ 195,194 |
| Miramonte Avenue/A Street | | | | curb extension, sidewalk or pedway, bike skip, right slip removal, yield/stop | Bicycle and pedestrian safety | CSMP | \$ 281,038 | \$ 281,038 |
| Portland Avenue/Miramonte Avenue | | | | traffic calming, high vis, curb ramp | Bicycle and pedestrian safety | CSMP | \$ 153,293 | \$ 153,293 |
| Fremont Avenue and Grant road | | | | Remove right turn slip | Bicycle and pedestrian safety | CSMP | \$ 102,196 | \$ 102,196 |
| Jordan Low Priority Bikeway | Jordan | San Antonio | Marich | Class III | New bike facilities | CSMP | \$ 57,230 | \$ 57,230 |
| Saint Joseph Low Priority Bikeway | Saint Joseph | Noel | Scott/Laver | Class IIB | New bike facilities | CSMP | \$ 95,042 | \$ 95,042 |
| Saint Joseph Low Priority Bikeway | Saint Joseph | Scott/Laver | City Limit | Class III | New bike facilities | CSMP | \$ 154,315 | \$ 154,315 |
| Fremont Low Priority Bikeway | Fremont | Lisa | To City Limit | Class IV | New bike facilities | CSMP | \$ 126,723 | \$ 126,723 |
| Miramonte Low Priority Bikeway | Miramonte | City Limit | Eastwood | Class IIB | New bike facilities | CSMP | \$ 105,261 | \$ 105,261 |
| University Low Priority Bikeway | University | El Monte | Quinnhill | Class III | New bike facilities | CSMP | \$ 43,944 | \$ 43,944 |
| San Antonio Avenue/ Loucks Avenue | | | | | Bicycle and pedestrian safety | CSMP | \$ 312,718 | \$ 312,718 |
| San Antonio Road/ Main Street | | | | | Bicycle and pedestrian safety | CSMP | \$ 700,040 | \$ 700,040 |
| Miramonte Avenue/ Berry Avenue | | | | | Bicycle and pedestrian safety | CSMP | \$ 223,808 | \$ 223,808 |
| Main Street/ Foothill Expressway | | | | | Bicycle and pedestrian safety | CSMP | \$ 500,758 | \$ 500,758 |
| San Antonio Road/ Hillview Ave | | | | | Bicycle and pedestrian safety | CSMP | \$ 619,305 | \$ 619,305 |
| Foothill Expressway/ Springer Rd | | | | | Bicycle and pedestrian safety | CSMP | \$ 1,197,732 | \$ 1,197,732 |

SECTION 3. INFRASTRUCTURE UNIT COSTS AND INVENTORY

DRAFT

| Transportation Infrastructure Costs (2024) | | | | | |
|--|---------------------|--------------|------------------------------|----------------|----------------|
| City of Los Altos Impact Fee | | | | | |
| # | Infrastructure Type | Unit | Total Unit Cost ¹ | Total Quantity | Total Cost |
| 1 | Roadway | Square Foot | \$ 89 | 6,330,729 | \$ 563,688,088 |
| 2 | Sidewalk | Square Foot | \$ 60 | 607,530 | \$ 36,743,400 |
| 3 | Curb & Gutter | Linear Foot | \$ 209 | 112,918 | \$ 23,580,032 |
| 4 | Median | Square Foot | \$ 81 | 203,451 | \$ 16,543,018 |
| 5 | Bicycle Path | Square Foot | \$ 61 | 112,563 | \$ 6,864,542 |
| 6 | Bicycle Lane* | Linear Foot | \$ 15 | 109,360 | \$ 1,616,778 |
| 7 | Traffic Signal | Intersection | \$ 1,027,488 | 13 | \$ 13,357,344 |
| Sum | | | | | \$ 662,393,203 |

¹ See Unit Cost Tables for detailed information

| Transportation Infrastructure Unit Costs (2024) Town of Los Altos Impact Fee | | | | | | |
|---|----------------------|--------------|------------------------|---------------------------------------|-------------|------------------------------|
| # | Infrastructure Type | Unit | Construction Cost (\$) | Design & Management Cost ¹ | Contingency | Total Unit Cost ² |
| 1 | Roadway ³ | Square Foot | \$ 53 | 40% | 20% | \$ 89 |
| 2 | Sidewalk | Square Foot | \$ 36 | 40% | 20% | \$ 60 |
| 3 | Curb & Gutter | Linear Foot | \$ 124 | 40% | 20% | \$ 209 |
| 4 | Median | Square Foot | \$ 48 | 40% | 20% | \$ 81 |
| 5 | Bicycle Path | Square Foot | \$ 36 | 40% | 20% | \$ 61 |
| 6 | Bicycle Lane | Linear Foot | \$ 9 | 40% | 20% | \$ 15 |
| 7 | Traffic Signal | Intersection | \$ 611,600 | 40% | 20% | \$ 1,027,488 |

¹ Percent of total before contingency. Includes 20% for project design, 15% for construction engineering, and 5% for project management

² Construction Cost*(1+Design Management%)*(1+ Contingency%)

³ Cost of street lighting, water pollution prevention, street furniture and drainage not included in unit cost

DKS Associates

Planning Cost Estimate

1970 Broadway Ste 740, Oakland CA 94612

Project Number

- ☒ Click here if the project schedule for this project is to be 50 days or more; also click here if
☐ Click here if this project is a surface treatment or overlay project.

Infrastru Roadway

Date of t Jul. 9, 2022

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/1/2024 |
| Revised by | DKS |

Prepared DKS

| No. | Description | Quantity | Units | Unit Cost | Total |
|-----|--|----------|-------|-----------|----------|
| 1 | Clearing and Grubbing | 1.00 | SF | \$0.61 | \$ 0.61 |
| 2 | Remove Existing Pavement (Obliteration) | 1.00 | SF | \$10.30 | \$ 10.30 |
| 3 | Roadway Excavation (2' depth) | 0.07 | CY | \$190.00 | \$ 14.07 |
| 4 | Finish Grading within Right of Way | 1.00 | SF | \$0.41 | \$ 0.41 |
| 5 | Class 2 Aggregate Base (18") | 0.06 | CY | \$196.00 | \$ 11.76 |
| 6 | Asphalt Concrete (6")(Type A, assume 150 lbs/CF) | 0.04 | Ton | \$280.00 | \$ 10.50 |
| 7 | Mobilization | 1 | LS | \$ 4.80 | \$ 4.80 |

| | | |
|--|----|-------|
| CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL (TO NEAREST 1,000) | \$ | 48.00 |
| Total Contract Items | \$ | 53.00 |

DKS Associates

Planning Cost Estimate

1970 Broadway Ste 740, Oakland CA 94612

Project Number

- ☒ Click here if the project schedule for this project is to be 50 days or more; also click here if
- ☐ Click here if this project is a surface treatment or overlay project.

Infrastructure Sidewalk

Date of Estimate Jul. 9, 2022

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/2/2024 |
| Revised by | DKS |

Prepared by DKS

| No. | Description | Quantity | Units | Unit Cost | Total |
|-----|------------------------------------|----------|-------|------------|----------|
| 1 | Clearing and Grubbing | 1.00 | SF | \$0.67 | \$ 0.67 |
| 2 | Finish Grading within Right of Way | 1.00 | SF | \$0.41 | \$ 0.41 |
| 3 | Concrete Sidewalk | 1.00 | SF | \$30.37 | \$ 30.37 |
| 5 | Curb Ramp | 0.0002 | EA | \$5,000.00 | \$ 1.00 |
| 6 | Mobilization | 1 | LS | \$ 3.20 | \$ 3.20 |

CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL (TO NEAREST 1,000) 32

Total Contract Items \$ 36

DKS Associates

Planning Cost Estimate

1970 Broadway Ste 740, Oakland CA 94612

Project Number

- ☒ Click here if the project schedule for this project is to be 50 days or more; also click here if
☐ Click here if this project is a surface treatment or overlay project.

Infrastructure Curb and Gutter

Date of Estimate Jul. 9, 2022

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/2/2024 |
| Revised by | DKS |

Prepared by DKS

| No. | Description | Quantity | Units | Unit Cost | Total |
|-----|-----------------|----------|-------|-----------|--------|
| 1 | Curb and Gutter | 1 | LF | \$112.90 | \$ 113 |
| 2 | Sawcut Gutter | 1 | LF | | \$ - |
| 3 | Mobilization | 1 | LS | \$11.30 | \$ 11 |

CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL (TO NEAREST 1,000) \$ 113

Total Contract Items \$ 124

DKS Associates

Planning Cost Estimate

1970 Broadway Ste 740, Oakland CA 94612

Project Number

- ☒ Click here if the project schedule for this project is to be 50 days or more; also click here if
☐ Click here if this project is a surface treatment or overlay project.

Infrastructure Median

Date of Estimate Jul. 9, 2022

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/2/2024 |
| Revised by | DKS |

Prepared by DKS

| No. | Description | Quantity | Units | Unit Cost | Total |
|-----|-----------------------------|----------|-------|-----------|-------|
| 1 | Median (Island) Paving | 1.00 | SF | \$17.00 | \$ 17 |
| 2 | Class 2 Aggregate Base (6") | 1.00 | SF | \$4.00 | \$ 4 |
| 3 | Curb | 0.20 | LF | \$112.90 | \$ 23 |
| 4 | Mobilization | 1 | LS | \$ 4.40 | \$ 4 |

| | | |
|--|----|----|
| CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL (TO NEAREST 1,000) | \$ | 44 |
| Total Contract Items | \$ | 48 |

DKS Associates

Planning Cost Estimate

1970 Broadway Ste 740, Oakland CA 94612

Project Number

- ☒ Click here if the project schedule for this project is to be 50 days or more; also click here if
☐ Click here if this project is a surface treatment or overlay project.

Infrastructure Bicycle Path (Shared Use Path)

Date of Estimate Jul. 9, 2022

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/2/2024 |
| Revised by | DKS |

Prepared by DKS

| No. | Description | Quantity | Units | Unit Cost | Total |
|-----|---|----------|-------|-----------|----------|
| 1 | Clearing and Grubbing | 1.00 | SF | \$0.61 | \$ 0.61 |
| 2 | Remove Existing Pavement (Obliteration) | 1.00 | SF | \$10.30 | \$ 10.30 |
| 3 | Roadway Excavation (1.5') | 0.06 | CY | \$190.00 | \$ 11.40 |
| 3 | Finish Grading within Right of Way | 1.00 | SF | \$0.41 | \$ 0.41 |
| 4 | Class 2 Aggregate Base (4") | 0.02 | CY | \$196.00 | \$ 2.94 |
| 5 | Hot Mix Asphalt (Type A) (4")(assume 150 lbs./CF) | 0.03 | Ton | \$280.00 | \$ 7.00 |
| 6 | Mobilization | 1 | LS | \$ 3.30 | \$ 3.30 |

CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL (TO NEAREST 1,000) \$ 33

Total Contract Items \$ 36

DKS Associates

Planning Cost Estimate

1970 Broadway Ste 740, Oakland CA 94612

Project Number

- ☒ Click here if the project schedule for this project is to be 50 days or more; also click here if
☐ Click here if this project is a surface treatment or overlay project.

Infrastructure Bicycle Lane (Class II)

Date of Estimate July 9, 2022

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/1/2024 |
| Revised by | DKS |

Prepared by DKS

| No. | Description | Quantity | Units | Unit Cost | Total |
|-----|--------------------------|----------|-------|-----------|---------|
| 1 | Remove existing striping | 1.00 | LF | \$2.30 | \$ 2.30 |
| 2 | Striping | 1.00 | LF | \$4.78 | \$ 4.78 |
| 3 | Signage | 0.0008 | EA | \$562.75 | \$ 0.43 |
| 4 | Mobilization | 1 | LS | \$ 0.80 | \$ 0.80 |

CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL (TO NEAREST 1,000) \$ 8

Contract Items \$ 9

DKS Associates**Planning Cost Estimate**

1970 Broadway Ste 740, Oakland CA 94612

Project Number☒ Click here if the project schedule for this project is to be 50 days or more; also click☐ Click here if this project is a surface treatment or overlay project.**Infrastructure** Traffic Signal for One Intersection

Date of E Jul. 9, 2022

Prepared DKS

| | |
|---------------|----------|
| Revision No. | 1 |
| Revision Date | 3/1/2024 |
| Revised by | DKS |

| No. | Description | Quantity | Units | Unit Cost* | Total |
|-----|--|----------|-------|--------------|------------|
| 1 | Furnish & Install Cabinet and Controller on New Foundation | 1 | EA | \$50,000.00 | \$ 50,000 |
| 2 | Furnish and Install Fiber Switch In Controller | 1 | EA | \$2,500.00 | \$ 2,500 |
| 3 | Terminate fiber optic cable in cabinet | 1 | EA | \$2,500.00 | \$ 2,500 |
| 4 | Splice 12 Strand SMFO Cable to trunk cable | 1 | EA | \$1,000.00 | \$ 1,000 |
| 5 | Furnish & Install Opticom EVP system in | 1 | EA | \$7,500.00 | \$ 7,500 |
| 6 | Furnish & Install Opticom Card Rack | 1 | EA | \$1,000.00 | \$ 1,000 |
| 7 | Furnish & Install Opticom Detector | 4 | EA | \$1,200.00 | \$ 4,800 |
| 8 | Furnish & Install VIVDS System, incl. cameras, comms manager, and SDLC hub | 1 | EA | \$35,000.00 | \$ 35,000 |
| 9 | Furnish & Install CCTV Camera | 1 | EA | \$5,000.00 | \$ 5,000 |
| 10 | Furnish & Install Detector Handhole | 4 | EA | \$500.00 | \$ 2,000 |
| 11 | Furnish & Install Detector Loops (6'x6') | 8 | EA | \$2,000.00 | \$ 16,000 |
| 12 | Furnish & Install LED Countdown Pedestrian | 8 | EA | \$1,000.00 | \$ 8,000 |
| 13 | Furnish & Install Polara Navigator Pedestrian | 8 | EA | \$1,500.00 | \$ 12,000 |
| 14 | Furnish & Install Polara CCU in Cabinet | 1 | EA | \$4,500.00 | \$ 4,500 |
| 15 | Furnish & Install SNS on Mast Arm | 4 | EA | \$2,000.00 | \$ 8,000 |
| 16 | Furnish & Install LED Luminaire | 4 | EA | \$1,500.00 | \$ 6,000 |
| 17 | Furnish & Install Photoelectric Control Unit | 1 | EA | \$500.00 | \$ 500 |
| 18 | Furnish & Install Pull Box #5 | 4 | EA | \$1,000.00 | \$ 4,000 |
| 19 | Furnish & Install Pull Box #6 | 2 | EA | \$1,200.00 | \$ 2,400 |
| 20 | Furnish & Install Fiber Optic Splice Vault | 1 | EA | \$1,250.00 | \$ 1,250 |
| 21 | Furnish and install 2" conduit with backfill | 100 | LF | \$120.00 | \$ 12,000 |
| 22 | Furnish and install 3" conduit with backfill | 1000 | LF | \$125.00 | \$ 125,000 |
| 23 | Furnish and install 4" conduit with backfill | 100 | LF | \$130.00 | \$ 13,000 |
| 24 | Furnish & Install Type 1-B 4' Pole and | 4 | EA | \$3,500.00 | \$ 14,000 |
| 25 | Furnish & Install Type 1-B 10' Pole and | 4 | EA | \$6,500.00 | \$ 26,000 |
| 26 | Furnish & Install Type 28-5-100 Pole and | 4 | EA | \$26,000.00 | \$ 104,000 |
| 27 | Furnish & Install Signal Head Mount Type SV- | 4 | EA | \$800.00 | \$ 3,200 |
| 28 | Furnish & Install Pedestrian Signal Head | 4 | EA | \$1,000.00 | \$ 4,000 |
| 29 | Furnish & Install #14 Conductors | 7000 | LF | \$2.00 | \$ 14,000 |
| 30 | Furnish & Install #10 Conductors | 1500 | LF | \$2.50 | \$ 3,750 |
| 31 | Furnish & Install #8 Conductors | 600 | LF | \$3.00 | \$ 1,800 |
| 32 | Furnish & Install #6 Conductors | 50 | LF | \$4.00 | \$ 200 |
| 33 | Furnish & Install #2 Conductors | 1000 | LF | \$5.00 | \$ 5,000 |
| 34 | Furnish & Install Detector Lead-in Cables | 250 | LF | \$3.00 | \$ 750 |
| 35 | Furnish & Install EVP Cable (Opticom Model | 500 | LF | \$3.00 | \$ 1,500 |
| 36 | Furnish & Install CCTV Cable (CAT6) | 100 | LF | \$3.00 | \$ 300 |
| 37 | Furnish & Install VIVDS Cable (3-wire) | 500 | LF | \$3.00 | \$ 1,500 |
| 38 | Furnish & Install 12-strand Fiber Optic Cable | 300 | LF | \$5.00 | \$ 1,500 |
| 39 | Furnish & Install Trace Cable (#10) | 300 | LF | \$2.50 | \$ 750 |
| 40 | Mobilization | 1 | LS | \$ 55,600.00 | \$ 55,600 |

*N 12th Street unit costs are from 2020, Oak Ave/Crystal Springs Rd unit costs are from 2023

| | | |
|--|----|---------|
| CONTRACT ITEMS LESS MOBILIZATION AND TEMP TRAFFIC CONTROL, ESC TO 2024 AT 3% (TO NEAREST 1,000) | \$ | 556,000 |
| Total Contract Items | \$ | 611,600 |



MEMORANDUM

To: Nick Zornes, Development Services Director, City of Los Altos
Khushboo Ingle, Vice President, Matrix Consulting Group

From: Derek W. Braun, Principal
Madeleine Galvin, Associate

Date: April 11, 2024

Project: Los Altos Development Impact Fee Study and Cost Allocation Plan

Subject: Commercial Linkage Fee Nexus Analysis

I. INTRODUCTION AND METHODOLOGY

The City of Los Altos is conducting a comprehensive fee study, development impact fee study, and cost allocation plan. As part of this effort, Strategic Economics led analysis of the maximum justifiable commercial linkage fee that could be charged to new development projects. This memo documents the methodology, results, and maximum justifiable linkage fee.

A commercial linkage fee is a type of impact fee that charges new commercial development for its role in creating new demand for affordable housing. The maximum justifiable fee is based on the finding of a “rational nexus” between the new employment associated with commercial development, and the accompanying need for affordable housing for new worker households. There are two main parts to the analysis:

1. The nexus analysis establishes the linkage between new jobs and the needed affordable housing.
2. The production cost affordability gap (production cost) analysis quantifies the shortfall between what employee households can afford and the costs to build new housing.

The results of the nexus findings and the production cost analysis establish the maximum fees that can be charged on new commercial development projects.

The Nexus Concept

Many commercial developments are associated with jobs that pay wages that are insufficient to afford local housing costs. A nexus study determines the justifiable commercial linkage fee that might be charged on development based on the need for affordable housing that new development projects create. To establish this relationship, a nexus analysis quantifies any increase in demand for affordable housing that accompanies new commercial development, and the additional funding required to address the uptick in demand. The increase in demand is a result of the net gain in employment directly attributable to the new commercial space that is built.

The magnitude of the nexus, and hence the maximum justifiable fee, depends on the number and types of jobs created and the prevailing cost of providing housing for the new worker households. The ability of the new workers to pay for housing costs is linked to their occupations (and hence salaries). Some of the new workers will have household incomes below the market prices for new homes and would qualify for income-restricted affordable housing. This study quantifies the demand for housing created at several household income levels and estimates the production cost affordability gap between what worker households can afford to pay (to rent or to buy) and the actual costs of building new housing.

Methodology and Report Organization

To perform the nexus analysis, Strategic Economics used an established methodology described below to calculate the relationship between new commercial development and household incomes of employees, which then determines the employees' need for affordable housing. These steps provide the rationale for calculating the maximum justified commercial linkage fee that could be levied on future commercial development. An overview of the methodology and contents of this memo is provided below. There are ten steps to calculate the maximum nexus fees, which are covered in Section II, Section III, and Section IV of this memo. However, most jurisdictions do not implement the maximum fee levels. To determine the ultimate fee level, there are multiple policy considerations to consider, including market factors, the commercial linkage fees enacted in similar communities, and the cumulative burden of impact fees on new development. These policy issues are presented in Section V.

STEPS 1-6: COMMERCIAL LINKAGE FEE NEXUS ANALYSIS (SEE SECTION II)

Step 1. Define commercial “land use prototypes” that represent broad categories of new commercial development in Los Altos.

The purpose of defining prototypes is to estimate future employment linked to various categories of commercial space. The land use prototypes are used to estimate the amount of employment associated with commercial development. At the direction of the City of Los Altos, three land use prototypes were selected for the nexus analysis, based on common categories of commercial real estate in the city: Office, Retail, and Hotel. These categories also represent future potential development land use types for the city.

Each land use prototype was assumed to be 100,000 square feet in floor area. This number was chosen not because it is necessarily typical of new commercial development, but rather as a means of simplifying the calculations in the steps below. The prototype size plays no role in impacting the conclusions of the analysis.

Step 2. Estimate the number of workers that will work in the new commercial space.

Strategic Economics estimated the employment density for each prototype based on national survey data on employment density for commercial land uses, along with other sources. The employment density was expressed as the number of square feet of building area per worker.¹ For example, a

¹ The analysis takes into account the effects of physical distancing and remote work on employment density by estimating slightly higher assumptions of square feet per employee in office buildings than were typical before the COVID-19 pandemic and by incorporating recently published data, when available, on current employee densities by commercial use type.

building prototype of 100,000 square feet and employing 100 workers would have an employment density of $100,000 / 100 = 1,000$ square feet per worker.

Step 3. Estimate the number of new households represented by these new workers.

Since there are multiple wage earners in a household, the number of new workers must be translated into a number of households. This adjustment was based on the average number of wage-earners per worker household for Santa Clara County (1.70), estimated from the U.S. Census Bureau American Community Survey 5-Year Estimates, 2018-2022.

Step 4. Estimate wages of new workers.

The first step in calculating employee wages is to identify industries that are typically associated with each prototype. Using industry data from the U.S. Bureau of Labor Statistics' Quarterly Census of Employment and Wages (QCEW), industries that are associated with each land use category were identified. The next step was to identify all the occupations that are associated with each industry based on data provided by the U.S. Bureau of Labor Statistics (BLS). The national BLS occupational matrix was then calibrated to match the county's employment mix by weighting the national employment distribution to reflect the distribution of employment by industry within Santa Clara County. Finally, the average wage by worker was calculated using data on average annual wages by occupation in the San Jose-Sunnyvale-Santa Clara Metropolitan Statistical Area from the Bureau of Labor Statistics.

Step 5. Estimate household income of worker households.

Worker wage estimates from the previous step were then converted to household incomes. This step assumed that the income of the second wage-earner is similar to the wage of the first wage-earner. According to the U.S. Census Bureau American Community Survey 5-Year Estimates, 2018-2022, there are 1.70 wage-earners per worker household in Santa Clara County. Individual worker wages were therefore multiplied by 1.70 to represent household incomes.

Step 6. Calculate the number of households that would be eligible for affordable housing, divided into relevant income categories.

The average household size in Santa Clara County is 3.0 persons, based on the US Census, American Community Survey 5-Year Estimates, 2018-2022. Thus, the income groups were defined for a household size of three persons and based on standard household income categories used in California. The income categories analyzed include very low-, low-, and moderate-income households.²

STEPS 7-9: CALCULATION OF THE HOUSING AFFORDABILITY GAP (SEE SECTION III)

The production cost affordability gap represents the difference between what households can afford to pay for housing and the development cost of new housing, as both for sale and rental. The production cost analysis identified the gap for one rental prototype (midrise multifamily) for very low-, low-, and moderate-income households, and two for-sale housing prototypes (multifamily condos and townhomes) for low-, and moderate-income households.

² The occupation and wage analysis found no extremely low-income households. These households are defined as earning less than 30 percent of area median income.

Step 7. Estimate affordable rents and housing prices for households in the targeted income groups.

The affordable rent levels and for-sale housing prices were estimated for each of the worker household income categories described above. Households with incomes in the very low-income range were assumed to occupy rental housing. Households in the low- and moderate-income ranges were assumed to require a combination of rental and for-sale housing. The respective rents and sales prices that are affordable to these households were based on the income limits used by the California Department of Housing and Community Development for Santa Clara County.

Step 8. Estimate the development cost of new housing.

Strategic Economics estimated the typical development costs of new units in rental apartment, condo apartment, and townhome developments using construction cost information documented in Tax Credit Allocation Committee applications for projects in Santa Clara County and development cost assumptions collected for recent studies in other Bay Area cities.

Step 9. Calculate the production cost affordability gap.

The production cost affordability gap was calculated for each of the three income categories. Very low-income households were assumed to be renters, so the gap was the difference between the cost of developing new rental housing and what those households can afford to pay, based on the income limits at this affordability level. Since low-income and moderate-income households are expected to include a mix of renters and homeowners, the overall gap per household for these income categories was calculated as the average of the rental gap and the average ownership gap for townhomes and condominiums.

To estimate the total affordability gap for each commercial land use prototype, the total number of very low-, low-, and moderate-income new worker households for each prototype was multiplied by the corresponding affordable housing gap figure.

STEP 10: CALCULATION OF MAXIMUM LINKAGE FEES (SEE SECTION IV)**Step 10. Calculate maximum justifiable commercial linkage fees for each prototype.**

For each category of land use, the maximum fee per square foot is the total affordability gap calculated in Step 9 divided by the floor area of the land use prototype (100,000 square feet for each).

POLICY CONSIDERATIONS FOR ESTABLISHING A COMMERCIAL LINKAGE FEE (SECTION V)

Section V of this report contains a brief presentation of policy considerations jurisdictions should scrutinize before enacting a commercial linkage fee. Typically, a commercial linkage fee is set at a level significantly below the maximum justifiable fee determined in the nexus study since new development may not be capable of supporting the fee while remaining financially feasible. Thus, considerations for setting appropriate fee levels include the impact of fees on the total development costs of typical commercial projects. Since Los Altos must compete against other communities for development activity, the City should also be cognizant of similar linkage fees charged in nearby or comparable cities as well as the amount the commercial linkage fee will increase overall existing municipal fees.

II. COMMERCIAL LINKAGE FEE NEXUS ANALYSIS

This section describes each step of the nexus analysis in detail, including Steps 1 through 6 outlined in the previous section.

Step 1: Commercial Prototypes

This study examined the jobs-housing linkage for three commercial land use prototypes, which are described below. These prototypes were selected because they are the most common categories of commercial real estate in Los Altos, based on a review of recently built, planned, and proposed projects.³

1. **Office:** Includes professional and business services offices, medical/dental office, and limited office-based research and development.
2. **Retail:** Includes retail stores, eating and drinking places (cafes, restaurants, bars, etc.), and personal and financial services such as salons, dry cleaners, and retail banks.
3. **Hotel:** Includes full-service hotels, limited-service hotels, motels, and other lodging.

The nexus analysis was calculated based on a 100,000 square foot building, but the actual development projects that are likely to occur in Los Altos will vary in size. Since the fee is calculated on a per-square-foot basis, the fee would be proportional to the size of the development project.

Step 2: Number of Workers

For each building prototype, an average employment density was applied based on a combination of national survey data for existing commercial buildings, a review of other recently completed linkage fee nexus studies, consideration of recent trends in employment densities, and consideration of the likely mix of industries, activities, and jobs in commercial spaces in Los Altos. Figure 1 summarizes the available research on employment density by building type that formed the basis for establishing average employment density assumptions for the nexus model.

Figure 2 shows the worker density assumptions for each commercial land use prototype, measured by the average number of square feet per worker. A lower number of square feet per worker implies a higher worker density, which leads to a higher estimate of worker households. For each prototype, Strategic Economics selected an employee density number in the middle of the range; this is a more conservative approach to avoid overestimating the maximum linkage fee amount. The density factors represent the average density for the prototypes; individual projects and buildings may have a greater or lower worker density than the average.

The employee density factor was multiplied by the prototype's floor area (100,000 square feet) to calculate the total number of workers in each commercial prototype. The density assumption was then used to generate the total number of direct workers occupying the commercial space in each prototype.

³ Some commercial developments will lie outside the three major categories of land use analyzed in this study. Examples of such land uses include industrial projects, assisted living facilities, and child care centers. Jurisdictions may still charge a commercial linkage fee on these land uses provided that the applicant for the development supplies estimates of jobs and wages that accompany the new development.

- **Hotel:** The average employment density assumption for visitor accommodations is 1.0 workers per room (or 1,000 square feet per worker). This density represents a hotel development that is higher quality than average, but not considered “luxury” and with limited on-site services and amenities.
- **Office:** The average density assumption for office is 300 square feet per worker. This assumption accounts for declines in employee densities since the COVID-19 pandemic.
- **Retail:** Worker density varies widely for this category depending on the specific use (food service, grocery stores, dry goods retail, and services all have different average densities). Worker densities are typically higher for independent retailers and tenants in smaller-scale neighborhood centers and urban locations than in large-scale big box retail (around 600 square feet per worker). For this reason, Strategic Economics used a slightly higher density number of 400 square feet per worker.

FIGURE 1. EXAMPLES OF EMPLOYMENT DENSITY DATA AND SOURCES

| Employment Density by Commercial Prototype | Source |
|--|---|
| Hotel | |
| 0.7 to 0.96 workers per 1,000 square feet | Energystar Portfolio Manager, 2015 |
| 1.5 workers per full-service hotel room | Vallen and Vallen, "Chapter 1: The Traditional Hotel Industry," Check-In, Check-Out, 2012 |
| Office* | |
| 289 square feet per worker | "Regional Office Insights", CBRE, 2023 |
| 392 square feet per worker | "How will employee workspace needs change post-Coronavirus?", JLL, 2020 |
| 350 square feet per worker | "Jobs Housing Fit Report", City of San Francisco Planning, 2020 |
| 194 square feet per worker | "Space Matters", Cushman & Wakefield, 2017 |
| Retail: | |
| 350 square feet per worker | "Jobs Housing Fit Report", City of San Francisco Planning, 2020 |
| 605 square feet per worker | A.C. Nelson, "Reshaping Metropolitan America," 2013 |

Note:

*Office densities shifted dramatically during the COVID-19 pandemic when many workers started working from home. Recent office data reflect a shift back to higher worker densities, however these figures are still in flux as companies individually determine their remote work policies and new real estate needs.

Source: Strategic Economics, 2024.

FIGURE 2. EMPLOYMENT DENSITY BY PROTOTYPE

| Commercial Prototype | Square Feet Per Worker | Prototype Square Footage | Number of Workers in Prototype |
|----------------------|------------------------|--------------------------|--------------------------------|
| Hotel | 1,000 | 100,000 | 100 |
| Office | 300 | 100,000 | 333 |
| Retail | 400 | 100,000 | 250 |

Source: Strategic Economics, 2024.

Step 3: Number of Worker Households

Based on the total number of workers directly employed in the prototypes, Strategic Economics estimated the total number of worker households. The number of worker households was calculated by dividing the number of workers by the average number of wage-earners per household in Santa Clara County. Based on data from the U.S. Census American Community Survey 5-Year Estimates, 2018-2022, there is an average of 1.70 workers per household in Santa Clara. The calculation of total new worker households is shown in Figure 3 below, ranging from 59 for hotel to 196 for office.

FIGURE 3. NUMBER OF WORKER HOUSEHOLDS BY PROTOTYPE

| Commercial Prototype | Number of Workers in Prototype | Workers per Household | New Households Required |
|----------------------|--------------------------------|-----------------------|-------------------------|
| Hotel | 100 | 1.7 | 59 |
| Office | 333 | 1.7 | 196 |
| Retail | 250 | 1.7 | 147 |

Source: American Community Survey, 2022; Strategic Economics, 2024.

Step 4: Worker Wages

The first step in calculating employee wages is to establish a list of the industries associated with each prototype (as defined by the North American Industry Classification System, or “NAICS”). Using industry data from Quarterly Census of Employment and Wages (QCEW), industries were associated with each land use prototype. Figures 4 through 6 below list the industries associated with each prototype.

FIGURE 4. DEFINITION OF INDUSTRIES FOR OFFICE PROTOTYPE

| NAICS Code | Description | Percent of Total Workers in Prototype |
|------------|---|---------------------------------------|
| 5415 | Computer Systems Design and Rel Services | 28.7% |
| 5417 | Scientific Research and Development Svc | 8.6% |
| 5613 | Employment Services | 7.9% |
| 3345 | Electronic Instrument Manufacturing | 6.7% |
| 5413 | Architectural and Engineering Services | 6.1% |
| 5511 | Management of Companies and Enterprises | 4.7% |
| 5310 | Real Estate | 4.2% |
| 5416 | Management & Technical Consulting Svc | 3.8% |
| 5220 | Credit Intermediation and Related Activities | 3.8% |
| 5182 | Data Processing and Related Services | 3.8% |
| 6211 | Offices of Physicians | 3.3% |
| 5412 | Accounting and Bookkeeping Services | 3.2% |
| 6212 | Offices of Dentists | 3.2% |
| 5411 | Legal Services | 2.4% |
| 6213 | Offices of Other Health Practitioners | 1.9% |
| 5170 | Telecommunications | 1.4% |
| 5312 | Offices of Real Estate Agents & Brokers | 1.2% |
| 5239 | Other Financial Investment Activities | 1.1% |
| 5230 | Securities, Commodity Contracts, and Other Financial Investments and Related Activities | 1.0% |
| 5611 | Office Administrative Services | 0.7% |
| 5418 | Advertising and Related Services | 0.5% |
| 5614 | Business Support Services | 0.4% |
| 5241 | Insurance Carriers | 0.4% |
| 5121 | Motion Picture and Video Industries | 0.4% |
| 5414 | Specialized Design Services | 0.4% |
| 5222 | Nondepository Credit Intermediation | 0.3% |
| 5331 | Lessors, Nonfinancial Intangible Assets | 0.1% |
| 5251 | Insurance and Employee Benefit Funds | 0.0% |
| 5122 | Sound Recording Industries | 0.0% |
| Total | | 100.0% |

Source: United States Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2022; Strategic Economics, 2024.

FIGURE 5. DEFINITION OF INDUSTRIES FOR RETAIL PROTOTYPE

| NAICS Code | Description | Percent of Workers in Prototype |
|------------|--|---------------------------------|
| 7225 | Restaurants and Other Eating Places | 55.8% |
| 4450 | Food and Beverage Retailers | 14.2% |
| 7223 | Special Food Services | 7.7% |
| 4441 | Building Material and Supplies Dealers | 4.9% |
| 8121 | Personal Care Services | 4.8% |
| 4411 | Automobile Dealers | 4.6% |
| 4413 | Auto Parts, Accessories, and Tire Stores | 1.5% |
| 8129 | Other Personal Services | 1.4% |
| 7224 | Drinking Places (Alcoholic Beverages) | 1.3% |
| 8123 | Drycleaning and Laundry Services | 0.9% |
| 5321 | Automotive Equipment Rental and Leasing | 0.7% |
| 4453 | Beer, Wine, and Liquor Stores | 0.6% |
| 5322 | Consumer Goods Rental | 0.4% |
| 8122 | Death Care Services | 0.4% |
| 4442 | Lawn & Garden Equipment/Supplies Stores | 0.4% |
| 4412 | Other Motor Vehicle Dealers | 0.4% |
| Total | | 100.0% |

Source: United States Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2022; Strategic Economics, 2024.

FIGURE 6. DEFINITION OF INDUSTRIES FOR HOTEL PROTOTYPE

| NAICS Code | Description | Percent of Total Workers in Prototype |
|------------|------------------------|---------------------------------------|
| 7211 | Traveler Accommodation | 100.0% |
| Total | | 100.0% |

Source: United States Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2022; Strategic Economics, 2024.

The next step was to identify all the occupations that are associated with each industry based on data provided by the U.S. Bureau of Labor Statistics (BLS). The best available data is at the national level; state level industry-occupation data exist but do not include all relevant industries. The national BLS occupational matrix is calibrated to match the county's employment mix by weighting the national employment distribution to reflect the distribution of employment by industry within Santa Clara County. Finally, the average wage by worker was calculated using data on average annual wages by occupation in the San Jose-Sunnyvale-Santa Clara Metropolitan Statistical Area (the smallest geographic level at which wage data are available) from the Bureau of Labor Statistics.

Figure 7 below summarizes the results of these calculations, computing the average weighted wages⁴ for each prototype. As shown, office employees have the highest average wage of the three prototypes,

⁴ The weighted average wage accounts for the proportion of jobs in each occupational category.

reflecting a greater mix of higher salary occupations in that use. The lowest average annual wages are in the retail category. Due to the level of detail associated with the data on occupational wages, the full occupation mix in each land use prototype is shown in Appendix A at the end of the memo.

FIGURE 7. AVERAGE ANNUAL WAGE BY PROTOTYPE

| Commercial Prototype | Weighted Average Annual Wage* |
|-----------------------------|--------------------------------------|
| Hotel | \$54,581 |
| Office | \$128,940 |
| Retail | \$48,782 |

Note: *Average wages are weighted to account for the proportion of jobs in each occupational wage category.

Source: United States Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2022; United States Bureau of Labor Statistics, Occupational Employment and Wage Estimates, 2022; Strategic Economics, 2024.

Step 5: Household Incomes

Based on the employee wage calculations discussed above, household incomes were estimated for each land use prototype. As a standard assumption for nexus studies, the average worker wage was multiplied by the number of wage-earners per household to calculate annual household income. According to the U.S. Census Bureau American Community Survey 5-Year Estimates, 2018-2022, the average number of wage-earners per household in Santa Clara County is 1.7. The average annual wage per employee within each occupation was multiplied by 1.7 to determine annual average household income.

Step 6: Household Income Categories

Employee households were then categorized as very low-, low-, moderate-, or above moderate-income based on standard income definitions based on their percentage of the Area Median Income (AMI).

According to the U.S. Census Bureau American Community Survey 5-Year Estimates, 2018-2022, the average household size in Santa Clara County is 2.9. To reference the available income tables, this was rounded to 3, the nearest whole number. The income categories for very low-, low-, and moderate-income households were therefore based on the household size of three persons, using the income thresholds shown in Figure 8. Note that this analysis uses 2024 income thresholds to match up with the production cost calculations which were also based on 2024 income figures.

FIGURE 8. AMI LEVELS FOR 3-PERSON HOUSEHOLDS IN SANTA CLARA COUNTY, 2024

| Income Category | Annual Income Limit |
|-------------------------|----------------------------|
| Extremely Low (30% AMI) | \$48,150 |
| Very Low (50% AMI) | \$80,300 |
| Low (80% AMI) | \$123,400 |
| Moderate (120% AMI) | \$195,800 |

Source: California Department of Housing and Community Development, 2024; Strategic Economics, 2024.

Using the income categories described above, the new worker households were sorted into income groups. As shown in Figure 9 below, the distribution of workers within each income group varies markedly between the prototypes. The majority of employment in the retail land use is in the very low-income group, while the majority of hotel workers are split between the very low- and the low-income

groups. Employment in the office land use tends to be distributed more in the higher-income groups, with the majority falling into the above moderate-income group. According to the results of this analysis, the primary affordable housing need associated with these prototypes is at the very low-income, low-income, and moderate-income levels. While the results of this analysis did not identify demand from extremely low-income worker households associated with new commercial development, it is understood that there are worker households in Santa Clara County that require extremely low-income housing.

FIGURE 9. NUMBER OF WORKER HOUSEHOLDS BY INCOME CATEGORY

| Commercial Prototype | Number of Households (a) (b) | Percentage of Households |
|--|-------------------------------------|---------------------------------|
| Hotel | | |
| Extremely Low (30% AMI) | 0 | 0% |
| Very Low (50% AMI) | 27 | 47% |
| Low (80% AMI) | 21 | 38% |
| Moderate (120% AMI) | 6 | 10% |
| Above Moderate (c) | 3 | 5% |
| Households Requiring Affordable Housing | 54 | 95% |
| Total Households | 56 | 100% |
| Office | | |
| Extremely Low (30% AMI) | 0 | 0% |
| Very Low (50% AMI) | 7 | 4% |
| Low (80% AMI) | 33 | 17% |
| Moderate (120% AMI) | 32 | 16% |
| Above Moderate (c) | 121 | 63% |
| Households Requiring Affordable Housing | 72 | 37% |
| Total Households | 193 | 100% |
| Retail | | |
| Extremely Low (30% AMI) | 0 | 0% |
| Very Low (50% AMI) | 114 | 77% |
| Low (80% AMI) | 24 | 16% |
| Moderate (120% AMI) | 5 | 3% |
| Above Moderate (c) | 4 | 3% |
| Households Requiring Affordable Housing | 143 | 97% |
| Total Households | 147 | 100% |

Note:

- The methodology used to estimate worker household incomes relies on identifying the weighted averages of a large number of occupations present in each land use prototype. According to the results of this analysis, the primary affordable housing need associated with these prototypes is at the very low-income, low-income, and moderate-income levels. While this methodology does not estimate demand from extremely low-income worker households associated with new commercial development, it is understood that there are worker households in Santa Clara County that require extremely low-income housing.
- The number of households identified in this analysis reflects those for which wage data is available through the Occupational Employment and Wage Statistics dataset for the metropolitan region, accessed through the Bureau of Labor Statistics.
- Worker households earning above 120% AMI are expected to be able to afford market-rate rental or ownership housing, and therefore they are not incorporated in the affordability gap calculation.

Source: Strategic Economics, 2024.

III. PRODUCTION COST AFFORDABILITY GAP

This section summarizes the approach to calculating the production cost affordability gap and the results of the analysis (steps 7, 8 and 9).

Methodology

The method used to calculate the difference between what very low-, low-, and moderate-income households can afford to pay for housing and the development cost of building new housing units is the production cost affordability gap. From the nexus methodology section at the beginning of this report, calculating the housing affordability gap involves the following steps 7 through 9:

7. Estimating affordable rents and housing prices for households in the targeted income groups.
8. Estimating development costs of building new housing units, based on current cost and market data.
9. Calculating the difference between what renters and owners can afford to pay for housing and the cost of development of rental and ownership units to arrive at the “affordability gap” based on the production cost of new housing.

Step 7: Estimating Affordable Rents and Sales Prices

The first step in calculating the production cost affordability gap is to determine the amount that households at the targeted income levels can afford to pay for housing. As introduced in Step 6, for eligibility purposes, most affordable housing programs define very low-income households as those earning 31 to 50 percent of area median income (AMI), low-income households as those earning between 51 and 80 percent of AMI, and moderate-income households as those earning between 81 and 120 percent of AMI.⁵

Households with incomes in the very low range were assumed to live in rental housing. Households in the low and moderate ranges were assumed to live in a mix of rental and ownership housing. While the nexus analysis identified some new worker households that would fall above the moderate-income range (above 120 percent of AMI), Strategic Economics did not calculate an affordability gap for this group because it is expected they would find housing at market rates.

Figure 10 shows the maximum monthly rents and supportable debt for rental housing based on the annual income limits for each income categorization determined by the California Department of Housing and Community Development. Renters were assumed to pay a maximum of 30 percent of their gross monthly income on total housing costs for the housing to be considered “affordable.” The maximum rent was then identified after deducting utility costs from monthly income. It was assumed that one-to-three person households occupy these units, which range from studios to two-bedroom apartments. In order to calculate the production cost gap, the affordable rents were converted to supportable debt. The supportable debt represents the one-time value of the rental revenue stream,

⁵ Very low-income households were assumed to be at 50% AMI; Low-income households were assumed to be at 80% AMI. Moderate-income households were assumed to be at 120% AMI.

incorporating assumptions about operating expenses, reserves, vacancy and collection loss, and mortgage terms.

FIGURE 10. AFFORDABLE RENTS AND SUPPORTABLE DEBT BY UNIT TYPE

| | Studio | 1-BR | 2-BR | Weighted Average |
|---------------------------------|-----------|-----------|-----------|------------------|
| Maximum Affordable Rents | | | | |
| Very Low Income (50%) | \$1,429 | \$1,635 | \$1,810 | \$1,623 |
| Low-Income (80%) | \$2,268 | \$2,593 | \$2,887 | \$2,579 |
| Moderate-Income (120%) | \$3,676 | \$4,201 | \$4,697 | \$4,186 |
| Supportable Debt | | | | |
| Very Low Income (50%) | \$88,661 | \$115,466 | \$138,201 | \$113,855 |
| Low-Income (80%) | \$197,935 | \$240,211 | \$278,579 | \$238,499 |
| Moderate-Income (120%) | \$381,306 | \$449,802 | \$514,389 | \$447,827 |

Source: California Department of Housing and Community Development, 2024; Strategic Economics, 2024.

Note: The weighted average assumes a unit mix of 34% studios, 33% 1-bedrooms, and 33% 2-bedrooms.

Figure 11 shows the maximum sales prices for homeowners based on the annual income limits for each income categorization determined by the California Department of Housing and Community Development. Homeowners were assumed to pay a maximum of 30 percent of gross monthly income on total housing costs. The maximum affordable price for for-sale housing was then calculated based on the total monthly mortgage payment that a homeowner could afford, using typical mortgage loan assumptions for income-restricted ownership housing, as well as other housing cost assumptions such as homeowner's association (HOA) fees. It was assumed that one to four person households occupy these units. Due to varying HOA costs, the maximum sales price varies slightly between the two ownership prototypes, townhomes and condo units.

FIGURE 11. AFFORDABLE SALES PRICES BY PROTOTYPE AND UNIT TYPE

| | Townhome | | | Condo | | | |
|------------------------|-----------|-----------|------------------|-----------|-----------|-----------|------------------|
| | 2-BR | 3-BR | Weighted Average | Studio | 1-BR | 2-BR | Weighted Average |
| Low-Income (80%) | \$256,439 | \$283,349 | \$269,894 | \$226,883 | \$252,961 | \$262,235 | \$257,598 |
| Moderate-Income (120%) | \$513,549 | \$572,395 | \$542,972 | \$393,386 | \$443,272 | \$476,354 | \$459,813 |

Source: Strategic Economics, 2024.

Note: The weighted average for both the condo and townhome ownership prototypes assumes an even split between unit types.

Step 8: Estimating Housing Development Costs

The next step in calculating the housing affordability gap is to estimate the cost of developing new housing units to address the housing need. Strategic Economics estimated development costs for three prototypes: for-sale townhomes and condos, and a rental apartment development. Development costs were estimated using construction costs from California Tax Credit Allocation Committee (CTCAC) applications from the past three years in neighboring jurisdictions in Santa Clara County (see Figure 12).

FIGURE 12. CTCAC PROJECT APPLICATION DEVELOPMENT COSTS

| Application Number | Cost per Unit | Units | Total Residential Sq Ft | Average Unit Sq Ft | Cost per Sq Ft |
|--------------------|------------------|------------|-------------------------|--------------------|----------------|
| 21-056 | \$752,547 | 47 | 30,404 | 647 | \$1,163 |
| 21-453 | \$861,731 | 89 | 71,345 | 802 | \$1,075 |
| 23-550 | \$943,032 | 174 | 122,590 | 705 | \$1,339 |
| 23-430 | \$742,843 | 198 | 139,670 | 705 | \$1,053 |
| 22-462 | \$467,298 | 150 | 74,828 | 499 | \$937 |
| 21-629 | \$996,527 | 58 | 53,386 | 920 | \$1,083 |
| Average | \$793,996 | 119 | 82,037 | 713 | \$1,108 |

Source: California Tax Credit Allocation Committee, 2024; Strategic Economics, 2024.

These estimates were also informed by development cost assumptions used in recent pro forma analyses in nearby cities. The estimates were adjusted to reflect the different costs of developing each prototype represented in this study, as townhomes tend to have significantly lower construction costs per square foot of residential area compared to higher density housing types. The estimated development costs for each of the tested prototypes are shown below in Figure 13.

FIGURE 13. DEVELOPMENT COST ASSUMPTIONS BY PROTOTYPE AND UNIT TYPE

| Unit Type | Cost per Unit | Cost per Square Foot |
|--------------------|---------------|----------------------|
| Multifamily Rental | | |
| Studio | \$380,000 | \$950 |
| 1-BR | \$570,000 | \$950 |
| 2-BR | \$950,000 | \$950 |
| Townhome | | |
| 2-BR | \$650,000 | \$650 |
| 3-BR | \$715,000 | \$650 |
| Condo | | |
| Studio | \$380,000 | \$950 |
| 1-BR | \$570,000 | \$950 |
| 2-BR | \$950,000 | \$950 |

Source: Strategic Economics, 2024.

Step 9: Calculating the Housing Affordability Gap

The final step is to calculate the production cost affordability gap, or the difference between what renters and owners can afford to pay and the total cost of developing new units. The purpose of this calculation is to help determine the fee amount that would be necessary to cover the cost of developing housing for very low-, low-, and moderate-income households. The calculation does not assume the availability of any other source of housing subsidy because not all housing is built with public subsidies, and tax credits and tax-exempt bond financing are highly competitive programs that will not always be available to developers of modest housing units.

Figures 14 and 15 show the production cost affordability gap calculation for the rental prototype and the two ownership prototypes respectively.

- For the rental prototype, the gap was defined as the difference between the per-unit cost of development and the supportable debt per unit. The supportable debt was calculated based on the net operating income generated by an affordable monthly rent, incorporating assumptions about operating expenses (including property taxes, insurance, etc.), reserves, vacancy and collection loss, and mortgage terms.
- For the ownership housing prototypes, the gap was calculated as the difference between the per-unit cost of development and the affordable sales price for each income level. The methodology to calculate the maximum affordable sales price was informed by the requirements of the Alta Housing Below Market Rate Purchase program, which administers the sale of affordable homes for the City of Los Altos. To calculate the maximum affordable sales price, Strategic Economics assumed the mortgage to be 30-year fixed rate, with an interest rate of 6.7 percent, which is a typical rate at the time of research (February 2024). The owner was assumed to make a three percent down payment, as required by the purchase program. Other monthly housing costs include homeowners' association dues, property taxes, homeowners' insurance, interior property insurance, and premiums for private mortgage insurance.

Note that for each prototype, the gaps shown for each income level are the weighted average of the specific gaps for each unit type in the prototype.

FIGURE 14. AFFORDABILITY GAP CALCULATION FOR RENTAL HOUSING BY INCOME GROUP

| | Supportable Debt | Development Costs | Affordability Gap |
|------------------------|------------------|-------------------|-------------------|
| Very Low Income (50%) | \$113,855 | \$630,800 | \$516,945 |
| Low-Income (80%) | \$238,499 | \$630,800 | \$392,301 |
| Moderate-Income (120%) | \$447,827 | \$630,800 | \$182,973 |

Source: Strategic Economics, 2024.

FIGURE 15. AFFORDABILITY GAP CALCULATION FOR OWNERSHIP HOUSING BY INCOME GROUP

| | Affordable Sales Price | Development Cost | Affordability Gap |
|------------------------|------------------------|------------------|-------------------|
| Townhome | | | |
| Low-Income (80%) | \$269,894 | \$682,500 | \$412,606 |
| Moderate-Income (120%) | \$542,972 | \$682,500 | \$139,528 |
| Condo | | | |
| Low-Income (80%) | \$257,598 | \$760,000 | \$502,402 |
| Moderate-Income (120%) | \$459,813 | \$760,000 | \$300,187 |

Source: Strategic Economics, 2024.

The average affordability gap for each income group was then calculated by averaging the rental gap and the average ownership gap for townhomes and condominiums, shown in Figure 16. Since it was assumed that all households in the very low-income group are renters, the average affordability gap for that income category is simply the rental gap.

FIGURE 16. AVERAGE AFFORDABILITY GAP FOR VERY LOW-, LOW-, AND MODERATE-INCOME HOUSEHOLDS

| Income Level | Rental Gap | Ownership Gap - Townhome | Ownership Gap - Condo | Average Gap |
|------------------------|------------|--------------------------|-----------------------|------------------|
| Very Low Income (50%) | \$516,945 | N/A | N/A | \$516,945 |
| Low-Income (80%) | \$392,301 | \$412,606 | \$502,402 | \$424,903 |
| Moderate-Income (120%) | \$182,973 | \$139,528 | \$300,187 | \$201,415 |

Note: The “average gap” for the low-income and moderate-income categories is the average of the rental gap and an average of the ownership gaps, such that the resulting average gap is a 50/50 blend of the rental and ownership gaps.
Source: Strategic Economics, 2024.

IV. MAXIMUM LINKAGE FEES

This section builds on the findings of the previous analytical steps to calculate the maximum justified linkage fees for each commercial prototype.

Step 10: Maximum Fee Calculation

To derive the maximum nexus-based fee for each land use prototype, the housing affordability gap amounts (see previous section) were applied to the number of worker households in each respective income category (Figure 9). The number of very low-, low-, and moderate-income households associated with each land use prototype was used to calculate the total affordability gap (Figure 17). The above moderate-income households were included in the number of worker households shown in Figure 17, but there is no affordability gap for this group and the group does not contribute to the total affordability gap. Finally, the total gap for each land use prototype was divided by 100,000 square feet to calculate a maximum fee per square foot of commercial building area.

As shown in Figure 17, the maximum fee results (rounded to the nearest dollar) are \$250 per square foot for hotel, \$245 per square foot for office, and \$702 per square foot for retail.

The calculated linkage fees are driven by the high cost of housing development, leading to large affordability gaps particularly for very low- and low-income households. The maximum fee calculation is highest for retail because of the relatively low worker wage levels in the industries associated with that development type, combined with a moderate employee density. Hotel uses also employ a large share of lower wage workers, but have a much lower employee density, resulting in a much lower maximum fee. Finally, office uses have a lower number of lower wage workers, but have the highest employment density, resulting in a maximum fee that is lower than retail/restaurants/services but higher than hotel.

The maximum fees shown in Figure 16 are not the recommended fees for adoption. They are the preliminary nexus-justified fees that represent the maximum that Los Altos could charge to mitigate affordable housing demand related to commercial development.

FIGURE 17. MAXIMUM COMMERCIAL LINKAGE FEE

| Commercial Prototype | Number of Worker Households* | Average Gap (per Household) | Total Affordability Gap | Prototype Square Feet | Max Fee per Sq Ft |
|----------------------|------------------------------|-----------------------------|-------------------------|-----------------------|-------------------|
| Hotel | 56 | \$443,454 | \$24,999,217 | 100,000 | \$250 |
| Office | 193 | \$126,571 | \$24,489,446 | 100,000 | \$245 |
| Retail | 147 | \$478,963 | \$70,195,031 | 100,000 | \$702 |

Note: The number of worker households includes above moderate-income households. However, these households are assumed to have an affordability gap of zero and, therefore, do not affect the calculations of the total affordability gap and the maximum fee.

Source: Strategic Economics, 2024.

V. COMMERCIAL LINKAGE FEES IN PEER CITIES AND OTHER POLICY CONSIDERATIONS

The previous section presented the maximum commercial linkage fees for each land use based on the nexus study. These fees are the maximum justifiable fee that Los Altos can charge to mitigate the affordable housing need created by new commercial development. However, for most jurisdictions, other factors are considered when enacting the commercial linkage fees, and, as a result, the fees are almost always set at a level significantly below the maximum amount that is justified by the nexus study.

One consideration is the impact of the fee on the financial feasibility of future development projects. This can be tested using a pro forma model to understand the financial impacts of the fee on different types of development commonly built in the city. Oftentimes this model examines the cumulative burden of impact fees on the financial feasibility of new development, as many cities impose multiple types of fees that can become a significant portion of project costs when considered together.

Another consideration in determining the appropriate fee level is the fee level set by peer cities. This is important because impact fees can play a role in determining where a developer decides to build. Thus, a higher commercial linkage fee or cumulative impact fee burden can deter developers from pursuing projects in a municipality. Figure 18 shows the maximum justifiable and adopted fee levels in other cities in Santa Clara County, with comparison to Los Altos.

Given that the purpose of the fee is to generate revenue for future affordable housing development, it is important to establish the fee at a level that will enable new commercial development to proceed in Los Altos.

FIGURE 18. PEER CITIES' MAXIMUM JUSTIFIABLE AND ADOPTED FEE LEVELS

| City | Year Nexus Study Completed | Maximum Fee Per Square Foot | | | Current Adopted Fee per Square Foot | | |
|-------------------|----------------------------|-----------------------------|----------|----------|-------------------------------------|------------------|--------------------|
| | | Hotel | Retail | Office | Hotel | Retail | Office |
| San Jose | 2020 | \$61.60 | \$176.70 | \$137.70 | \$5.00 | \$0.00 | \$3.00 |
| Milpitas | 2020 | \$61.60 | \$176.70 | \$137.70 | \$8.00 | \$4.00 | \$8.00 |
| Sunnyvale | 2014 | \$76.22 | \$295.23 | \$113.99 | \$6.00 | \$6.00 | \$12.00 |
| Santa Clara | 2017 | \$128.70 | \$268.00 | \$142.70 | \$5.56 | \$5.56 | \$22.22 |
| Mountain View (a) | Unknown | Unknown | Unknown | Unknown | \$2.00 to \$3.50 | \$2.00 to \$3.50 | \$16.00 to \$33.00 |
| Palo Alto | 2015 | \$177.00 | \$295.00 | \$264.00 | \$26.00 | \$26.00 | \$77.00 |
| Menlo Park | 2016 | \$154.00 | \$265.00 | \$255.00 | \$11.75 | \$11.75 | \$21.65 |
| Los Altos (b) | 2024 | \$250 | \$702 | \$245 | TBD | TBD | TBD |

Notes:

(a) The applicable fee in Mountain View varies depending on project size.

(b) Maximum justifiable fee levels are relatively high in Los Altos for three primary reasons: 1) housing construction costs significantly increased in recent years, resulting in a larger gap between below market rate rents/prices (and associated supportable debt) versus the cost of building new housing units, 2) increased mortgage rates reduced the amount a lower income household can pay for new below market rate housing, further widening the gap, and 3) the Los Altos analysis accounts for the entirety of the production cost affordability gap that must be filled from all sources of subsidy, while some studies instead use a methodology focused solely on the portion of the gap typically funded by local sources.

Source: Strategic Economics, 2024.

APPENDIX: DISTRIBUTION OF JOBS AND WAGES BY OCCUPATION CATEGORY FOR EACH LAND USE, AS INCORPORATED IN THE NEXUS ANALYSIS

FIGURE 19. DISTRIBUTION OF JOBS AND WAGES BY OCCUPATION CATEGORY, HOTEL

| Code | Occupation Category | Percent of Employment | Average Occupation Wage |
|------|--|-----------------------|-------------------------|
| 11 | Management Occupations | 6% | \$158,358 |
| 13 | Business and Financial Operations Occupations | 2% | \$112,327 |
| 15 | Computer and Mathematical Occupations | 0% | \$145,069 |
| 17 | Architecture and Engineering Occupations | 0% | \$136,102 |
| 19 | Life, Physical, and Social Science Occupations | 0% | \$112,136 |
| 21 | Community and Social Service Occupations | 0% | \$61,237 |
| 23 | Legal Occupations | 0% | \$166,712 |
| 25 | Educational Instruction and Library Occupations | 0% | \$63,227 |
| 27 | Arts, Design, Entertainment, Sports, and Media Occupations | 0% | \$70,662 |
| 29 | Healthcare Practitioners and Technical Occupations | 0% | \$79,787 |
| 31 | Healthcare Support Occupations | 0% | \$65,744 |
| 33 | Protective Service Occupations | 3% | \$59,825 |
| 35 | Food Preparation and Serving Related Occupations | 22% | \$45,974 |
| 37 | Building and Grounds Cleaning and Maintenance Occupations | 27% | \$54,797 |
| 39 | Personal Care and Service Occupations | 7% | \$28,541 |
| 41 | Sales and Related Occupations | 3% | \$68,108 |
| 43 | Office and Administrative Support Occupations | 19% | \$51,974 |
| 45 | Farming, Fishing, and Forestry Occupations | 0% | \$49,886 |
| 47 | Construction and Extraction Occupations | 0% | \$76,193 |
| 49 | Installation, Maintenance, and Repair Occupations | 6% | \$62,297 |
| 51 | Production Occupations | 3% | \$47,903 |
| 53 | Transportation and Material Moving Occupations | 1% | \$40,217 |
| | All Occupations | 100% | \$79,867 |

Source: Strategic Economics, 2024.

FIGURE 20. DISTRIBUTION OF JOBS AND WAGES BY OCCUPATION CATEGORY, OFFICE

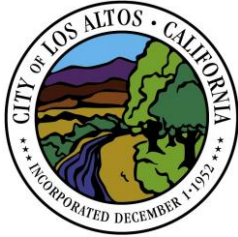
| Code | Occupation Category | Percent of Employment | Average Occupation Wage |
|------|--|-----------------------|-------------------------|
| 11 | Management Occupations | 15% | \$148,401 |
| 13 | Business and Financial Operations Occupations | 14% | \$100,620 |
| 15 | Computer and Mathematical Occupations | 32% | \$131,435 |
| 17 | Architecture and Engineering Occupations | 5% | \$96,357 |
| 19 | Life, Physical, and Social Science Occupations | 2% | \$72,577 |
| 21 | Community and Social Service Occupations | 0% | \$80,279 |
| 23 | Legal Occupations | 2% | \$124,201 |
| 25 | Educational Instruction and Library Occupations | 0% | \$51,322 |
| 27 | Arts, Design, Entertainment, Sports, and Media Occupations | 1% | \$66,324 |
| 29 | Healthcare Practitioners and Technical Occupations | 4% | \$91,649 |
| 31 | Healthcare Support Occupations | 0% | \$46,450 |
| 33 | Protective Service Occupations | 0% | \$72,657 |
| 35 | Food Preparation and Serving Related Occupations | 0% | \$45,974 |
| 37 | Building and Grounds Cleaning and Maintenance Occupations | 1% | \$56,353 |
| 39 | Personal Care and Service Occupations | 0% | \$33,218 |
| 41 | Sales and Related Occupations | 5% | \$75,678 |
| 43 | Office and Administrative Support Occupations | 16% | \$54,932 |
| 45 | Farming, Fishing, and Forestry Occupations | 0% | \$21,486 |
| 47 | Construction and Extraction Occupations | 1% | \$45,952 |
| 49 | Installation, Maintenance, and Repair Occupations | 2% | \$59,715 |
| 51 | Production Occupations | 1% | \$34,046 |
| 53 | Transportation and Material Moving Occupations | 0% | \$41,008 |
| | All Occupations | 100% | \$70,483 |

Source: Strategic Economics, 2024.

FIGURE 21. DISTRIBUTION OF JOBS AND WAGES BY OCCUPATION CATEGORY, RETAIL

| Code | Occupation Category | Percent of Employment | Average Occupation Wage |
|------|--|-----------------------|-------------------------|
| 11 | Management Occupations | 4% | \$144,520 |
| 13 | Business and Financial Operations Occupations | 1% | \$102,732 |
| 15 | Computer and Mathematical Occupations | 0% | \$144,160 |
| 17 | Architecture and Engineering Occupations | 0% | \$108,607 |
| 19 | Life, Physical, and Social Science Occupations | 0% | \$62,504 |
| 21 | Community and Social Service Occupations | 0% | \$77,156 |
| 23 | Legal Occupations | 0% | \$136,102 |
| 25 | Educational Instruction and Library Occupations | 0% | \$63,227 |
| 27 | Arts, Design, Entertainment, Sports, and Media Occupations | 0% | \$74,707 |
| 29 | Healthcare Practitioners and Technical Occupations | 1% | \$105,678 |
| 31 | Healthcare Support Occupations | 0% | \$53,093 |
| 33 | Protective Service Occupations | 0% | \$67,717 |
| 35 | Food Preparation and Serving Related Occupations | 62% | \$43,269 |
| 37 | Building and Grounds Cleaning and Maintenance Occupations | 1% | \$54,795 |
| 39 | Personal Care and Service Occupations | 3% | \$33,922 |
| 41 | Sales and Related Occupations | 16% | \$76,112 |
| 43 | Office and Administrative Support Occupations | 4% | \$50,727 |
| 45 | Farming, Fishing, and Forestry Occupations | 0% | \$18,707 |
| 47 | Construction and Extraction Occupations | 0% | \$60,200 |
| 49 | Installation, Maintenance, and Repair Occupations | 1% | \$52,851 |
| 51 | Production Occupations | 2% | \$40,815 |
| 53 | Transportation and Material Moving Occupations | 6% | \$46,919 |
| | All Occupations | 100% | \$73,569 |

Source: Strategic Economics, 2024.



City Council Agenda Report

Meeting Date: April 30, 2024

Initiated By: City Council

Prepared By: Manny A. Hernandez, Parks & Recreation
Director

Approved By: Gabriel Engeland, City Manager

Subject: City Council to create a process to select the City of Los Altos representative on the Sourcewise Advisory Council

COUNCIL PRIORITY AREA

- ☐ Business Communities
- ☐ Circulation Safety and Efficiency
- ☐ Environmental Sustainability
- ☐ Housing
- ☐ Neighborhood Safety Infrastructure
- ☒ General Government

RECOMMENDATION

Staff recommends that City Council create a process to select a representative to be on the Sourcewise advisory council. Staff recommends City Council select one of the following processes to select a representative.

1. Council nominate and select a representative.
2. Senior Commission recommend a representative to City Council.
3. Direct staff to create an application process to recommend a representative or City Council.

Once the representative is selected, through one of the process identified by City Council, staff will bring a resolution back to City Council to appoint that selection to the Sourcewise Advisory Council seat that is currently vacant from the City of Los Altos. Staff will then update Sourcewise of the representative appointed.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION

- Does City Council wish to appoint a City of Los Altos representative to the Sourcewise Advisory Council?
- What will the process of selecting a Sourcewise Advisory Councilmember be?

FISCAL IMPACT

None

ENVIRONMENTAL REVIEW

This action does not qualify as a “Project” as defined in California Government Code Section 15378(b) of the Guidelines for California Environmental Quality Act (CEQA).

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION/ANALYSIS

Sourcewise is a 501 (c)(3) nonprofit organization that collaborates with Santa Clara County, state and local networks to provide access to programs and information on support services for the aging population. The purpose of the Council is to advise Sourcewise and its Board of Directors about the needs of older adults and disabled persons in the county, to advocate on behalf of the most vulnerable and those of greatest need within the community, and to inform the community of resources and services available through Sourcewise. Sourcewise was previously known as the Council on Aging for Silicon Valley.

The Advisory Council operates under the authority of the federal Older Americans Act and the state Older Californians Act. Community organizations, county districts and local agencies within Santa Clara County are represented on this 37-seat advisory council.

Advisory council members will report on events and needs within their communities and take back to their communities what they’ve learned through their council participation. Members also serve on committees of the Council that advocate for specific needs, such as transportation, legislation, or health.

Advisory council members are actively involved in the development, implementation, and monitoring of the Area Plan, which assesses unmet needs and identifies service goals and objectives. Members are also included in the evaluation of applications for grants for services such as nutrition, legal aid, and adult day care.

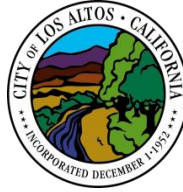
City staff has looked into past involvement in the Sourcewise Advisory Council and there was previous Los Altos representation 5 years ago. This representation was a member of the Los Altos Senior Advisory Commission. After that commissioner’s term, no other representative from the City attended Sourcewise Advisory Council meetings.

It is not required for advisory council members to be residents of the City but should be part of or actively engage with senior coordinating councils in their communities. They should also actively engage with advocacy organizations, elected officials, and the general public for the purpose of increasing awareness of issues of concern to older adults and disabled persons.

Sourcewise advisory council member terms are three years, beginning July 1st, and may renew for one additional term. The advisory council meetings currently take place via Zoom on the 1st Monday of each month, between 12pm and 2pm. Los Altos Senior Commission meetings are the 1st Monday of each month at 3:30pm.

ATTACHMENTS

1. None



City of Los Altos 2024 Tentative Council Agenda Calendar
MAY 14, 2024

Closed Session (6:00 p.m.): THREAT TO PUBLIC SERVICES OR FACILITIES - Pursuant to Government Code Section 54957
Study Session: TBD

SPECIAL ITEMS:

- Proclamation Recognizing Jewish Heritage Month
- Margaret Thompson Essay Contest Winners

CONSENT:

- Execute the County-wide HHW Agreement and AB939 Agreement
- Adopt Micro-Trenching city standard detail
- Adopt the MTC Housing Law Resolution (OBAG 3)
- Animal Control Services Agreement

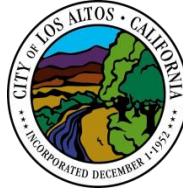
DISCUSSION:

- Remote Participation Policy

PUBLIC HEARING:

- Adopt a Resolution authorizing the increase of Solid Waste Rates
- Introduce Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 1.M: SB9 Implementation; and consideration of the Planning Commission's April 18, 2024 recommendation with minor modifications to draft text amendments PASSED unanimously. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing. Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda.



City of Los Altos 2024 Tentative Council Agenda Calendar

MAY 28, 2024

Closed Session: TBD

Study Session (6:00 p.m.): Discussion on CIPs

SPECIAL ITEMS:

- Proclamation Recognizing Historical Preservation Award

CONSENT:

DISCUSSION:

- Award of Non-Profit and Community Grants

PUBLIC HEARING:

- Adoption of Dev Impact Fee Nexus Study

Remaining 2024 City Council agenda calendar items are pending and will be published at a later date.

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing. Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda.

| PROGRAM | SUB PROJECT | INITIATION DATE | HEU COMPLETION DATE | STATUS |
|--|--|-------------------|---------------------------|--------------------|
| Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs). | Budget & Hire Planning Technician | | December 31, 2022 | COMPLETED |
| Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs). | Amend ADU Ordinance based upon HCD's letter | | 6 months or less | IN-PROGRESS |
| Program 6.G: Housing mobility | Allow more than one JADU (at least two per site) | | with ADU Ordinance Update | IN-PROGRESS |
| Program 3.H: Amend design review process and requirements. | Eliminate 3rd Party Architectural Review | | February 28, 2023 | COMPLETED |
| Program 3.H: Amend design review process and requirements. | Dismiss Design Review Commission | | February 28, 2023 | COMPLETED |
| Program 3.L: Eliminate the requirement of story poles. | | | March 31, 2023 | COMPLETED |
| Program 2.E: Conduct annual ADU rental income surveys. | Budget & Hire Housing Manager | March 31, 2023 | | COMPLETED |
| Program 4.J: Facilitate alternate modes of transportation for | Adopt VMT Policy & | | June 30, 2023 | COMPLETED |
| Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs). | RFP-Permit Ready ADU Plans | | July 31, 2023 | COMPLETED |
| Program 1.H: Facilitate housing on City-owned sites. | Financial Analysis | July 1, 2023 | December 31, 2023 | IN-PROGRESS |
| Program 3.D: Evaluate and adjust impact fees. | | August 1, 2023 | December 31, 2024 | IN-PROGRESS |
| Program 1.H: Facilitate housing on City-owned sites. | Release RFP | December 31, 2023 | | DEVELOPING RFI/RFP |
| Program 6.C: Target housing development in highest resource areas. | Initial Outreach | | September 31, 2023 | |
| Program 6.D: Promote Housing Choice (Section 8) rental assistance program. | | | September 31, 2023 | |
| Program 2.A: Continue to implement and enhance inclusionary housing requirements. | | | December 31, 2023 | ONGOING |
| Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee. | Housing in-lieu fee. | | December 31, 2023 | COMPLETED |
| Program 2.F: Water and Sewer Service Providers. | | | December 31, 2023 | COMPLETED |
| Program 3.B: Modify building height in mixed-use zoning districts. | Downtown Districts | | December 31, 2023 | COMPLETED |

| | | | | |
|--|---|--|--------------------|------------------|
| Program 3.E: Ensure that the density bonus ordinance remains consistent with State law. | | | December 31, 2023 | ONGOING |
| Program 3.H: Amend design review process and requirements. | Code Amendments | | December 31, 2023 | COMPLETED |
| Program 3.K: Standardize multimodal transportation requirements. | Bicycle Storage and Charging Regulations | | December 31, 2023 | COMPLETED |
| Program 3.K: Standardize multimodal transportation requirements. | Remove CSC Review of Housing Developments | | December 31, 2023 | COMPLETED |
| Program 4.C: Allow Low Barrier Navigation Centers consistent with AB 101. | | | December 31, 2023 | COMPLETED |
| Program 4.D: Allow transitional and supportive housing consistent with State law. | | | December 31, 2023 | COMPLETED |
| Program 4.E: Allow employee/farmworker housing consistent with State law. | | | December 31, 2023 | COMPLETED |
| Program 4.F: Reasonably accommodate disabled persons' housing needs. | | | December 31, 2023 | COMPLETED |
| Program 6.B: Maintain and expand an inventory of affordable housing funding sources. | Prepare Inventory. | | December 31, 2023 | |
| Program 6.E: Prepare and distribute anti-displacement information. | | | December 31, 2023 | |
| Program 1.A: Rezone for RHNA shortfall. | | | January 31, 2024 | COMPLETED |
| Program 1.G: Rezone housing sites from previous Housing Elements. | | | January 31, 2024 | COMPLETED |
| Program 3.G: Amend Conditional Use Permits findings applicable to housing developments. | | | March 31, 2024 | COMPLETED |
| Program 3.I: Allow residential care facilities consistent with State law. | | | January 31, 2024 | COMPLETED |
| Program 3.J: Explicitly allow manufactured homes consistent with State law. | | | January 31, 2024 | COMPLETED |
| Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family. | | | September 31, 2024 | COMPLETED |
| Program 1.B: Facilitate higher density housing in the Commercial Thoroughfare (CT) District. | | | January 31, 2024 | COMPLETED |

| | | | | |
|--|--|-------------------|-------------------|-------------|
| Program 1.C: Allow housing in the Office Administrative (OA) District. | | | January 31, 2024 | COMPLETED |
| Program 1.E: Update the Loyola Corners Specific Plan. | | | January 31, 2024 | COMPLETED |
| Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs). | Adopt-Permit Ready ADU Plans | | December 31, 2024 | IN-PROGRESS |
| Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements. | Downtown Parking Plan | | December 31, 2024 | IN-PROGRESS |
| Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements. | Comprehensive Parking Ordinance Update | | December 31, 2024 | COMPLETED |
| Program 3.B: Modify building height in mixed-use zoning districts. | Neighborhood (CN) District | | December 31, 2024 | COMPLETED |
| Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza. | | | December 31, 2024 | COMPLETED |
| Program 3.M: Modify parking requirements for emergency shelters consistent with State law. | | | December 31, 2024 | COMPLETED |
| Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee. | Commercial linkage fee. | December 31, 2025 | | IN-PROGRESS |
| Program 1.D: Allow housing on certain Public and Community Facilities District sites and facilitate housing on religious institution properties. | | | December 31, 2025 | |
| Program 6.G: Housing mobility | Allow housing on all religious sites within the City | | December 31, 2025 | |
| Program 1.F: Rezone Village Court parcel. | | | January 31, 2024 | COMPLETED |
| Program 4.H: Provide additional density bonuses and incentives for housing that accommodates special needs groups. | | | December 31, 2025 | |
| Program 4.I: Allow senior housing with extended care facilities in multi-family and mixed-use zoning districts. | | | December 31, 2025 | |
| Program 1.I: Incentivize Downtown lot consolidation. | | | July 31, 2026 | |

| | | | | |
|---|--|--|--------------------|------------------|
| Program 4.G: Assist seniors to maintain and rehabilitate their homes. | | | July 31, 2026 | |
| Program 6.C: Target housing development in highest resource areas. | Follow-up Outreach | | September 31, 2026 | |
| Program 1.H: Facilitate housing on City-owned sites. | Entitlement Review | | December 31, 2026 | |
| Program 3.N: Modify standards in the R3 zoning districts. | | | December 31, 2026 | COMPLETED |
| Program 4.J: Facilitate alternate modes of transportation for residents. | Capital Improvement Project for above head pedestrian crossing signals on San Antonio Road near Downtown Los Altos | | December 31, 2027 | |
| Program 5.F: Incentivize the creation of play areas for multi-family housing projects. | | | December 31, 2027 | |
| Program 1.K: Participate in regional housing needs planning efforts. | | | Ongoing | |
| Program 1.L: General Plan amendments. | | | Ongoing | |
| Program 1.M: SB 9 implementation. | | | Ongoing | |
| Program 1.N: Facilitate and monitor pipeline housing projects. | | | Ongoing | |
| Program 2.C: Assist in securing funding for affordable housing projects. | | | Ongoing | |
| Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs). | | | Ongoing | |
| Program 2.E: Conduct annual ADU rental income surveys. | Annual Survey | | Annually | ONGOING |
| Program 4.A: Support efforts to fund homeless services. | | | Ongoing | |
| Program 4.B: Continue to participate in local and regional forums for homelessness, supportive, and transitional housing. | | | Ongoing | |
| Program 5.A: Monitor condominium conversions. | | | Ongoing | |

| | | | | |
|--|----------------------------------|--|---------|--|
| Program 5.B: Continue to administer the City's affordable housing programs. | | | Ongoing | |
| Program 5.C: Restrict commercial uses from displacing residential neighborhoods. | | | Ongoing | |
| Program 5.D: Implement voluntary code inspection program. | | | Ongoing | |
| Program 5.E: Help secure funding for housing rehabilitation and assistance programs. | | | Ongoing | |
| Program 6.A: Assist residents with housing discrimination and landlord-tenant complaints. | | | Ongoing | |
| Program 6.B: Maintain and expand an inventory of affordable housing funding sources. | Inform, Evaluate Apply/Submit | | Ongoing | |
| Program 6.F: Affirmatively market physically accessible units. | | | Ongoing | |
| Program 7.A: Promote energy and water conservation and greenhouse gas reduction through education and awareness campaigns. | | | Ongoing | |
| Program 7.B: Monitor and implement thresholds and statutory requirements of climate change legislation. | | | Ongoing | |

MEMORANDUM

TO: Mayor Weinberg and Members of the Los Altos City Council
FROM: Jolie Houston, City Attorney
RE: Legislative Update on AB 43 (Traffic Safety)
DATE: April 9, 2024

Assembly Bill 43 (AB 43) pertaining to traffic safety was approved by the Governor on October 8, 2021. (Attached) According to AB 43, Phase 1 became effective on January 1, 2022, and Phase 2 will become effective no later than June 30, 2024. Veh.Code §22358.7(c). AB 43 creates an exception to an Engineering and Traffic Survey (ETS) requirement for “Business Activity Districts” and provides the City of Los Altos (City) with greater flexibility in setting and reducing speed limits. An ETS is still required in most circumstances to reduce or otherwise change a local speed limit.

BACKGROUND

Under existing state law, there is a 25-mph speed limit established for business districts,¹ residence districts,² schools, and senior centers, unless a different speed is determined by a local authority (hereinafter City) or the Department of Transportation (DOT). Veh.Code §22352(b). There is also a standard 15 mph speed limit for railway crossings, alleys, and highway crossings with obstructed views without yield signs, stop signs, or traffic signals. Veh.Code §22352(a).

¹ Veh.Code §235 defines a business district as “that portion of a highway and the property contiguous thereto (a) upon one side of which highway, for a distance of 600 feet, 50 percent or more of the contiguous property fronting thereon is occupied by buildings in use for business, or (b) upon both sides of which highway, collectively, for a distance of 300 feet, 50 percent or more of the contiguous property fronting thereon is so occupied. A business district may be longer than the distances specified in this section if the above ratio of buildings in use for business to the length of the highway exists.”

² Veh.Code §515 defines a residence district as “that portion of a highway and the property contiguous thereto, other than a business district, (a) upon one side of which highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures, or (b) upon both sides of which highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures. A residence district may be longer than one-quarter of a mile if the above ratio of separate dwelling houses or business structures to the length of the highway exists.”

The City may increase or decrease these prima facie speed limits by ordinance as determined by an ETS. Veh.Code §22357(a). The City may also set speed limits for other city streets where a 65-mph limit would otherwise be applicable using an ETS. Veh.Code §22358(a).

The purpose of an ETS is to analyze prevailing speeds, collision records, pedestrian and bicycle activity, residential density, and roadside conditions. Veh.Code §627. A city may then round speed limits to the nearest five miles per hour of the 85th percentile of the free-flowing traffic. Veh. Code § 22358.6. The ETS methodology has been criticized in the past because the 85th percentile may not actually be the speed that is safe for all road users. AB 43 revised the definition of an ETS to allow for consideration for vulnerable pedestrian groups including children, seniors, persons with disabilities, users of personal assistive mobility devices, and the unhoused. Veh.Code §627.

Generally, the City is required to produce a current engineering and traffic survey when an individual is charged with violating the basic speed law with evidence obtained through radar. *People v. DiFiore* (1987) 197 Cal.App.3d Supp. 36. An ETS should be regularly conducted once every five (5) years by a city, but an ETS may be extended beyond five (5) years if a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred. Veh.Code §40802. Should the City fail to conduct an ETS based on this timeline, an individual found to be speeding using radar could assert the defense that the area is an unlawful “speed trap.” Veh.Code §40802; *People v. Miller* (1979) 90 Cal.App.3d Supp. 35.

AB 43 ANALYSIS

"

Prior to AB 43, the City was required to use an ETS to set the speed limit at the 85th percentile rounded to the nearest 5 mph as described above. Veh.Code §22358.6. AB 43 still requires an ETS to determine the 85th percentile speed in most circumstances but introduces some flexibility regarding how an ETS can be interpreted and in what circumstance an ETS is no longer required.

PHASE 1 (Now in effect)

Round Down. After completing an ETS to identify the 85th percentile, the City may adopt an ordinance that allows it to round down whenever rounding to the nearest 5 mph is required; if for example the 85th percentile is 54 mph, the City can round down to 50 mph. Veh.Code §22358.6.

Choice of ETS. After completing an ETS to identify the 85th percentile, the City may also elect not to follow the new ETS. Veh.Code §22358.8. By ordinance, the City may instead retain the current speed limit or restore the immediately prior speed limit established by an older ETS if a registered engineer evaluates the highway and determines that no additional general-purpose lanes have been added since the prior ETS. Veh.Code §22358.8(a). The speed limit may be reduced by no more than 5-mph from the current or prior speed limit. Veh.Code §22358(b). Only warning citations may be issued for violations exceeding the speed limit by 10-mph or less for the first 30 days that the lower speed limit is in effect. Veh.Code §22358.8(c). This speed limit will not constitute a “speed trap.” Veh.Code §40802(c)(2)(B).

Business Activity Districts. Without an ETS to identify the 85th percentile and without the risk of creating a “speed trap,” the City may by ordinance declare a 20 or 25 mph speed limit for a streets contiguous to a “Business Activity District.” Veh.Code §22358.9; Veh.Code §40802(c)(2)(B)(ii). A Business Activity District is a new land use category for central or neighborhood downtowns, urban villages, and zoning designations that prioritize commercial land uses at the downtown or neighborhood scale and meet certain conditions. Id. This new land use category is not the same as but may overlap with a business district as previously discussed, which usually has a 25-mph speed limit pursuant to Vehicle Code section 22352(b). A Business Activity District must have four or fewer traffic lanes and meet three of the following four conditions:

- a. Commercial/Retail: At least 50% of the property adjoining the highway consists of retail or commercial dining that opens directly onto sidewalks adjacent to the highway.
- b. Parking: There are parking spaces located along the highway.
- c. Signage: Traffic signals or stop signs are located at least every 600 feet.
- d. Crosswalks: Crosswalks are marked and controlled by traffic control devices.

By ordinance, the City may declare a 20 or 25-mph speed limit for a Business Activity District. Signs must be posted and there must be a 5-mph buffer immediately prior to and after the Business Activity District. For example, if the Business Activity District has a speed limit of 20 mph, then the speed limit immediately prior and after the Business Activity District must be 25-mph. Veh.Code §22358.9(a)(2)(B). Only warning citations may be issued for violations exceeding the speed limit by 10-mph or less for the first 30 days that the lower speed limit is in effect.

PHASE 2 (Available June 30, 2024 or when state officials create an online portal to adjudicate an infraction, whichever is sooner)

Safety Corridors. After completing an ETS to identify the 85th percentile, the City may designate up to one-fifth of their streets as “safety corridors” based on the number of serious injuries and fatalities related to vehicles, pedestrians, bicycles, school proximity and vulnerable populations. Veh.Code §22358.7. The City may adopt an ordinance and issue findings to reduce the speed limit in a Safety Corridor by an additional 5 mph from the 85th percentile.

The Department of Transportation (DOT) defines a safety corridor as a roadway segment where the highest number of serious injuries and fatality crashes occur. California Manual on Uniform Traffic Control Devices p.136, Table 2B-105(CA) Safety Corridor Definition Requirement (Attached). The geographic extent of the safety corridor may be determined by non-engineering staff and proactive measures may be used as indicators, but a licensed professional engineer must sign off on the safety corridor using an ETS. The DOT recommends using three to five years of the most recent crash data to determine a safety corridor based on fatal and serious injury data to identify where a minimum of 25% of the fatal and serious injury crashes occur. Data may come from an ETS and the California Highway Patrol’s Statewide Integrated Traffic Records System. Safety corridors will not constitute a “speed trap.” Veh.Code §40802(c)(2)(B)(ii).

Vulnerable Groups. After completing an ETS to identify the 85th percentile, the City will also be able to reduce the speed limit on portions of highway adjacent to lands or facilities that generate high concentrations of bicyclists or pedestrians, as well as vulnerable groups such

as children, seniors, persons with disabilities, and the unhoused. Veh.Code §22358.7(a)(2). The City may reduce the speed limit an additional 5-mph from the 85th percentile speed if the portion of the highway is within a distance of 1320 feet of specified land uses, transit factors, pedestrian and bicycle infrastructure, demographic factors, and local data as specified in the California Manual on Uniform Traffic Control Devices p.136, Table 2B-106(CA) p.262. This designation will also not constitute a “speed trap.” Veh.Code §40802(c)(2)(B)(ii).

CONCLUSION

AB 43 modifies how an ETS can be interpreted when the City sets speed limits and introduces another alternative methodology to set speed limits for Business Activity Districts, Safety Corridors, and Vulnerable Groups, if these areas meet the specified criteria. If the City Council wishes to take further action, the City Council may agendaize this for a public discussion and/or direct this matter to the Complete Streets Commission for review.