

#### CITY OF SOUTH PASADENA CITY COUNCIL

#### AGENDA

# NOTICE AND CALL OF SPECIAL CITY COUNCIL CLOSED SESSION MEETING

**WEDNESDAY, OCTOBER 6, 2021 5:00 P.M.** 

City Manager's Conference Room, Second Floor, City Hall 1414 Mission Street, South Pasadena, CA 91030

NOTICE IS HEREBY GIVEN that I, Christina Muñoz, Acting Deputy City Clerk of the City of South Pasadena, California, HEREBY GIVE NOTICE AND CERTIFY that Mayor Diana Mahmud has called a SPECIAL CITY COUNCIL CLOSED SESSION MEETING to be held on Wednesday, OCTOBER 6, 2021 commencing at 5:00 PM, at the City of South Pasadena, City Hall, City Manager's Conference Room, Second Floor, 1414 Mission Street, South Pasadena, California, 91030.

#### **NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY**

The South Pasadena Special City Council Meeting Closed Session for <u>OCTOBER 6, 2021</u> will be conducted in-person from the City Manager's Conference Room, Second Floor, City Hall, 1414 Mission Street, South Pasadena. Pursuant to, Government Code section 54953, subdivision (e)(3), the City Council may also allow public participation to continue via live public comment conducted over ZOOM.

Please be advised that to ensure the health and safety of the public, staff, and City Council, as the meeting will be open to the public for the meeting and members of the public may attend and/or participate in the in-person meeting, all are kindly reminded to follow Los Angeles County Public Health and CDC regulations and guidelines that are in place and may be posted.

Public comment regarding items on the Closed Session agenda will be taken at the beginning of the meeting. The public will be released from the meeting so that the Council can convene closed session discussion of items allowed under the Government Code. Any reportable action taken in closed session will be reported by the City Attorney during the next open session meeting. A separate Zoom webinar link will be provided for the open session for the public to attend.

The Meeting will be available

- In Person Hybrid City Hall, City Manager's Conference Room, Second Floor, 1414 Mission St
- Via Zoom:

https://us06web.zoom.us/j/2264427248?pwd=aEFuSGszQ2I5WjJkemloTms0RTIVUT09

ID: 226 442 7248 Passcode: 1414 South Pasadena City Council

October 6, 2021

Public Comments participation may be made as follows:

- Written Comment submitted by no later than meeting day, 12:00 PM, deadline via the website.
- In Person Hybrid City Manager's Conference Room, Second Floor, 1414 Mission Street Via Zoom (see Public Comment Section below for instructions.)

To maximize public safety while still maintaining transparency and public access, members of the public can observe the public portion of the meeting via Zoom in one of the three methods below.

- 1. Go to the Zoom website, https://zoom.us/join and enter the Zoom Meeting information; or
- 2. Click on the following unique Zoom meeting link: https://us06web.zoom.us/j/2264427248?pwd=aEFuSGszQ2I5WjJkemloTms0RTIVUT09 or
- 3. You may listen to the meeting by calling: +1-669-900-6833 and entering the Zoom Meeting ID and Passcode when prompted.

For additional Zoom assistance with telephone audio, you may find your local number at: https://zoom.us/u/aiXV0TAW2

CALL TO ORDER: Mayor Diana Mahmud

**ROLL CALL:** Mayor Diana Mahmud

Mayor Pro Tem Michael Cacciotti Councilmember Jack Donovan Councilmember Jon Primuth

Councilmember Evelyn G. Zneimer

#### **CLOSED SESSION AGENDA ITEMS**

#### A. <u>PUBLIC EMPLOYMENT</u>- PERFORMANCE EVALUATION

(Government Code Section 54957)

Title: City Manager

#### B. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

(Government Code Section 54956.9(d)(1))

- 1. Valles v. COSP (LASC Case No. 20STCV16088)
- 2. Leung v. COSP (LASC Case No. 20STCV23315)
- State Farm Automobile Insurance Co. v. COSP (LASC Case No. 20STLC05633)
- 4. Smith v. City of South Pasadena (LASC Case No.19BBCV00118)

#### C. CONFERENCE WITH LEGAL COUNSEL- INITIATING LITIGATION

(Government Code Section 54956.9(d)(4))

Number of Cases: 2

#### THIS NOTICE IS HEREBY SIGNED AND DATED ON SEPTEMBER 29, 2021.

Christina Muñoz
Christina Muñoz
Acting Deputy City Clerk

#### **CERTIFICATION OF POSTING**

This Special City Council Closed Session Meeting agenda was duly posted for the meeting to be held on **OCTOBER 6, 2021**, on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City's website as required by law, on the date listed below.

I declare under penalty of perjury that I posted this notice of agenda for aforementioned said meeting on the date signed and written below, and that same also appears on the City's website as required by California law.

9/29/2021 Christina Muñoz

Date Christina Muñoz

Acting Deputy City Clerk



#### CITY OF SOUTH PASADENA CITY COUNCIL

# A G E N D A REGULAR MEETING WEDNESDAY, OCTOBER 6, 2021 AT 7:00 P.M.

#### CITY COUNCIL CHAMBERS 1424 MISSION STREET, SOUTH PASADENA, CA 91030

#### South Pasadena City Council Statement of Civility

As your elected governing board, we will treat each other, members of the public, and city employees with patience, civility and courtesy as a model of the same behavior we wish to reflect in South Pasadena for the conduct of all city business and community participation. The decisions made tonight will be for the benefit of the South Pasadena community and not for personal gain.

#### **NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY**

Pursuant to Government Code section 54953, subdivision (e)(3), the City Council may conduct its meetings remotely and may be held via video conference. Pursuant to government code, the City Council may participate remotely and not be physically present in the City Council Chambers. Until further notice and as such Executive Orders remain in effect, the City Council may also allow public participation to continue via live public comment conducted over ZOOM.

The South Pasadena City Council Meeting for October 6, 2021 will be conducted in-person from the Council Chambers, Amedee O. "Dick" Richards, Jr., located at 1424 Mission Street, South Pasadena.

Please be advised that pursuant to government code, and to ensure the health and safety of the public, staff, and City Council, as the Council Chambers will be open to the public for the meeting and members of the public may attend and/or participate in the in-person meeting, all are kindly reminded to follow Los Angeles County Public Health and CDC regulations and guidelines that are in place and may be posted. The In-person Hybrid meeting will be conducted live in the City Council Chambers.

#### The Meeting will be available

- In Person Hybrid City Council Chambers, 1424 Mission Street
- Live Broadcast via the website http://www.spectrumstream.com/streaming/south\_pasadena/live.cfm
- Via Zoom Webinar ID: 825 9999 2830

To maximize public safety while still maintaining transparency and public access, members of the public can observe the meeting via Zoom in one of the three methods below.

- 1. Go to the Zoom website, https://zoom.us/join and enter the Zoom Meeting information; or
- 2. Click on the following unique Zoom meeting link: https://us06web.zoom.us/i/82599992830or
- 3. You may listen to the meeting by calling: +1-669-900-6833 and entering the Zoom Meeting ID and Passcode when prompted.

For additional Zoom assistance with telephone audio, you may find your local number at: <a href="https://zoom.us/u/aiXV0TAW2">https://zoom.us/u/aiXV0TAW2</a>

CALL TO ORDER: Mayor Diana Mahmud

ROLL CALL: Mayor Diana Mahmud

Mayor Pro Tem Michael Cacciotti
Councilmember Jack Donovan
Councilmember Jon Primuth

Councilmember Evelyn G. Zneimer

PLEDGE OF ALLEGIANCE: Mayor Diana Mahmud

#### **CLOSED SESSION ANNOUNCEMENTS**

#### 1. CLOSED SESSION

**ANNOUNCEMENTS:** A Closed Session Agenda has been posted separately.

#### PUBLIC COMMENT AND SUGGESTIONS

The City Council welcomes public input. If you would like to comment on an agenda item, members of the public may participate by means of one of the following options:

#### Option 1:

Participate in-person at the City Council Chambers.

#### Option 2:

Participants will be able to "raise their hand" using the Zoom icon during the meeting, and they will have their microphone un-muted during comment portions of the agenda to speak for up to 3 minutes per item. (Note: For the purpose of best ensuring that all of the agenda items are considered at the Council Meeting, the Mayor may exercise the Chair's discretion, subject to the approval of the majority of the City Council, to limit public comment(s) to less than 3 minutes on any given agenda item).

#### Option 3

Email public comment(s) to ccpubliccomment@southpasadenaca.gov.

Public Comments received in writing <u>will not be read aloud at the meeting</u>, but will be part of the meeting record. Written public comments will be uploaded online for public viewing under Additional Documents. There is no word limit on emailed Public Comment(s). Please make sure to indicate:

- 1) Name (optional), and
- 2) Agenda item you are submitting public comment on.
- 3) Submit by no later than 12:00 p.m., on the day of the Council meeting.

NOTE: Pursuant to State law, the City Council may not discuss or take action on issues not on the meeting agenda, except that members of the City Council or staff may briefly respond to statements made or questions posed by persons exercising public testimony rights (Government Code Section 54954.2). Staff may be asked to follow up on such items.

#### **PUBLIC COMMENT**

#### 2. PUBLIC COMMENT - GENERAL

#### **PRESENTATIONS**

- 3. <u>INTRODUCTION OF STAFF</u>
- 4. PROCLAMATION CLEAN AIR DAY
- 5. PEACE OVER VIOLENCE DOMESTIC VIOLENCE AWARENESS MONTH

#### COMMUNICATIONS

#### 6. COUNCILMEMBERS COMMUNICATIONS

Time allotted per Councilmember is 3 minutes. Additional time will be allotted at the end of the City Council meeting agenda, if necessary.

- 7. <u>CITY MANAGER COMMUNICATIONS</u>
- 8. REORDERING OF, ADDITIONS, OR DELETIONS TO THE AGENDA

#### CONSENT CALENDAR

#### OPPORTUNITY TO COMMENT ON CONSENT CALENDAR

Items listed under the consent calendar are considered by the City Manager to be routine in nature and will be enacted by one motion unless a public comment has been received or Councilmember requests otherwise, in which case the item will be removed for separate consideration. Any motion relating to an ordinance or a resolution shall also waive the reading of the ordinance or resolution and include its introduction or adoption as appropriate.

#### 9. PRESENTATION OF CITY COUNCIL MEETING MINUTES.

#### Recommendation

It is recommended that the City Council approve the minutes as listed on the agenda and as presented.

10. APPROVAL OF PREPAID WARRANTS IN THE AMOUNT OF \$480,589.62; GENERAL CITY WARRANTS IN THE AMOUNT OF \$684,222.22; SUPPLEMENTAL ACH PAYMENTS IN THE AMOUNT OF \$20,378.81; TRANSFERS OUT IN THE AMOUNT OF \$72,591.41; VOIDS IN THE AMOUNT OF (\$2,650.00); PAYROLL IN THE AMOUNT OF \$614,821.84.

#### Recommendation

It is recommended that the City Council approve the Warrants as presented.

#### 11. POLICIES AND PROCEDURES UPDATE.

#### Recommendation

It is recommended that the City Council approve the contract with Management Partners for the development of comprehensive Finance Department Policies and Procedures ("the Manual").

#### **CONSENT CALENDAR - CONTINUED**

12. AUTHORIZE THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MIG FOR CONTRACT PLANNING SERVICES.

#### Recommendation

It is recommended that the City Council authorize the City Manager to execute a Professional Services Agreement (PSA) with MIG for contract planning services that includes one senior-level planner to assist with managing and processing planning applications.

13. REQUEST FOR APPROVAL OF A CO-SPONSORSHIP AND FEE WAIVER OF "HOMECOMING 2021" HOSTED BY SOUTH PASADENA HIGH SCHOOL ASSOCIATED STUDENT BODY.

#### Recommendation

It is recommended that the City Council approve the South Pasadena High School Associated Student Body request for co-sponsorship of October 23, 2021, and waive associated fees.

14. RENAMING OF THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT TO THE COMMUNITY DEVELOPMENT DEPARTMENT AND ADOPTION OF RESOLUTION APPROVING A CLASSIFICATION AND SALARY RANGE FOR DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND CHANGING THE TITLE OF THE PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR.

#### RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA CHANGING THE NAME OF THE PLANNING AND COMMUNITY DEVELOPMENT DIEPARTMENT TO COMMUNITY DEVELOPMENT DEPARTMENT, CHANGING THE TITL OF THE PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR TO COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING THE POSITION OF DEPUTY COMMUNITY DEVELOPMENT DIRECTOR, AND ADOPTING NEW JOB DESCRIPTIONS AND SALARY RANGES

#### Recommendation

It is recommended that the City Council consider the following actions:

- 1. Rename the Planning and Community Development Department to Community Development Department; and
- 2. Adopt a resolution approving the classification and salary range for a new Deputy Community Development Director and change the title of the Planning and Community Development Director to Community Development Director.
- 3. Appropriate \$4,085 to Community Development/ Salaries Permanent Account 101-7011-7000-000 to cover the difference in cost for the new Deputy Community Development Director.

#### **CONSENT CALENDAR - CONTINUED**

15. ADOPTION OF A RESOLUTION CONTINUING THE PROCLAMATION OF A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS AS THE DIRECTOR OF EMERGENCY SERVICES, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY.

#### RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, CONTINUING ITS PROCLAMATION OF A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY THE MARCH 4TH DECLARATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF SOUTH PASADENA FOR THE PERIOD OF OCTOBER 6 THROUGH NOVEMBER 5, PURSUANT TO BROWN ACT PROVISIONS

#### Recommendation

It is recommended that the City Council approve the attached resolution continuing the proclamation of a local emergency due to the outbreak of COVID-19, authorizing the City Manager to take all necessary actions as the Director of Emergency Services, and authorizing remote teleconference meetings of the legislative bodies of the City.

16. AUTHORIZE THE THIRD AMENDMENT WITH STANTEC CONSULTING SERVICES, INC. EXTENDING THE AGREEMENT FOR SERVICES FOR ENGINEERING SUPPORT SERVICES RELATED TO THE GRAVES RESERVOIR PROJECT.

#### Recommendation

It is recommended that the City Council authorize the City Manager to execute the third contract amendment with Stantec Consulting Services, Inc. (Stantec) to extend the agreement for engineering support services related to the Graves Reservoir Project.

17. APPROVAL OF A MILLS ACT CONTRACT FOR PROPERTY LOCATED AT 917 PALM AVENUE (ASSESSOR'S PARCEL NUMBER 5313-008-024) PROJECT NO. 2382-MIL.

#### Recommendation

It is recommended that the City Council enter into a Mills Act contract with the property owners of 917 Palm Avenue, which is a contributor to the designated El Centro/Indiana/Palm Historic District.

#### **CONSENT CALENDAR - CONTINUED**

18. APPROVAL OF A MILLS ACT CONTRACT FOR PROPERTY LOCATED AT 1016 ORANGE GROVE AVENUE (ASSESSOR'S PARCEL NUMBER 5315-019-037) PROJECT NO. 2383-MIL.

#### Recommendation

It is recommended that the City Council enter into a Mills Act contract with the property owners of 1016 Orange Grove Avenue, which is Historic Landmark No. 57.

19. APPROVAL OF A MILLS ACT CONTRACT FOR PROPERTY LOCATED AT 807 BANK STREET (ASSESSOR'S PARCEL NUMBER 5314-019-021) PROJECT NO. 2397-MIL.

#### Recommendation

It is recommended that the City Council enter into a Mills Act contract with the property owners of 807 Bank Street, which is Historic Landmark No. 56.

#### **PUBLIC HEARING**

20. APPROVAL OF A HISTORIC LANDMARK DESIGNATION FOR PROPERTY LOCATED 1601 MARENGO AVENUE (ASSESSOR'S PARCEL NUMBER 5320-007-001) PROJECT NO. 2414-LMN.

#### Recommendation

It is recommended that the City Council conduct a public hearing and adopt a Resolution taking the following actions:

- 1. Find that the property at 1601 Marengo Avenue qualifies under criteria (1), (4), and (7) of the South Pasadena Municipal Code Section 2.63(b), for designation of a Historic Landmark; and
- 2. Designate the property at 1601 Marengo Avenue as a Historic Landmark (Historic Landmark No. 58) pursuant to South Pasadena Municipal Code Section 2.63(c)(9).

#### ACTION / DISCUSSION

21. CALTRANS SURPLUS PROPERTIES DISPOSITION UPDATE; ESTABLISHING AD HOC FOR IMPLEMENTATION PHASE; AUTHORIZING ISSUANCE OF REQUEST FOR PROPOSALS FOR PROPERTY INSPECTION AND REPAIR ESTIMATES; AND AUTHORIZING EVALUATION OF FUNDING OPTIONS FOR ACQUISITION AND REHABILITATION OF PROPERTIES

#### Recommendation

It is recommended that the City Council:

1. Consider establishing a City Council ad hoc Implementation Committee for the next phase of the California Department of Transportation (Caltrans) Surplus Properties Disposition; and

#### ACTION / DISCUSSION - CONTINUED

- 2. Authorize issuance of a Request for Proposals (RFP) for property inspection and repair estimate professionals for homes presently unoccupied homes, and homes being considered for acquisition when existing tenants choose not to purchase; and
- 3. Authorize evaluation of funding opportunities for acquisition and rehabilitation, and prepare a home and portfolio financial feasibility analysis to support the acquisition and rehabilitation of the Caltrans properties.

#### INFORMATION REPORTS

## 22. RECEIVE AND FILE REPORT ON UNARMED TRAFFIC ENFORCEMENT OFFICERS.

#### <u>Recommendation</u>

It is recommended that the City Council receive and file the report on Unarmed Traffic Enforcement Officers.

#### ADJOURNMENT

#### FOR YOUR INFORMATION

### FUTURE CITY COUNCIL MEETINGS (OPEN SESSION)

| October 8, 2021   | Special City Council meeting | Council Chamber | 2:00 p.m. |
|-------------------|------------------------------|-----------------|-----------|
| October 9, 2021   | Special City Council meeting | Council Chamber | 8:00 a.m. |
| October 20, 2021  | Regular City Council meeting | Council Chamber | 7:00 p.m. |
| November 03, 2021 | Regular City Council meeting | Council Chamber | 7:00 p.m. |

#### PUBLIC ACCESS TO AGENDA DOCUMENTS AND BROADCASTING OF MEETINGS

City Council meeting agenda packets, any agenda related documents, and additional documents are available online for public inspection on the City's website: https://www.southpasadenaca.gov/government/city-council-meetings/2021-council-meetings.

Regular meetings are live streamed via the internet at:

http://www.spectrumstream.com/streaming/south\_pasadena/live.cfm

#### AGENDA NOTIFICATION SUBSCRIPTION

If you wish to receive an agenda email notification please contact the City Clerk's Division via email at CityClerk@southpasadenaca.gov or call (626) 403-7230.

#### **ACCOMMODATIONS**

The City of South Pasadena wishes to make all of its public meetings accessible to the public. If special assistance is needed to participate in this meeting, please contact the City Clerk's Division at (626) 403-7230 or <a href="CityClerk@southpasadenaca.gov">CityClerk@southpasadenaca.gov</a>. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Notification at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

#### **CERTIFICATION OF POSTING**

I declare under penalty of perjury that I posted this notice of agenda for the meeting to be held on **October 6, 2021**, on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City's website as required by law, on the date listed below.

9/29/2021 Christina Muñoz

Date Christina Muñoz, Interim Deputy City Clerk



# CITY OF SOUTH PASADENA PROCLAMATION



# Declaring October 6, 2021, as "Clean Air Day"

**WHEREAS,** air pollution contributes to higher rates of cancer and heart and lung diseases, which adversely affect health; and

WHEREAS, California has some of the most polluted regions in the United States; and

**WHEREAS,** it is vital that we protect the health and well-being of our residents, visitors, and workforce; and

**WHEREAS,** emissions from vehicles, industry, and even household sources significantly affects the natural environment, air quality and well-being of residents, employees, and visitors of the City of South Pasadena; and

**WHEREAS,** individual actions such as not idling vehicles, walking or biking to work and school, carpooling, and conserving energy can directly improve air quality in our region; and

WHEREAS, everyone can play a role; and

**WHEREAS,** education about air quality can raise community awareness, encourage our community to develop better habits, and improve our community health; and

**WHEREAS,** Californians will be joining together across the state to clear the air on October 6, 2021; and

**WHEREAS,** The City of South Pasadena is committed to the health of our residents, workforce, visitors, and community at large;

*NOW, THEREFORE I, Diana Mahmud*, Mayor, on behalf of the City Council of the City of South Pasadena, hereby declare October 6, 2021, as "Clean Air Day" in the City of South Pasadena and encourage everyone to make every day Clean Air Day.

Diana Mahmud, Mayor

October 6, 2021

Date

Item No. 5



Building healthy relationships, families, and communities free from sexual, domestic, and interpersonal violence

Presented by Melodie Kruspodin

## Domestic violence statistics

More than 1 in 3 women have experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime

Nearly 8 million women are raped, physically assaulted, and/or stalked by a current or former intimate partner each year

Nationwide, an average of 3 women are killed by a current or former intimate partner every day

Approximately 26% of children under the age of 18 are exposed to domestic violence in their lifetime

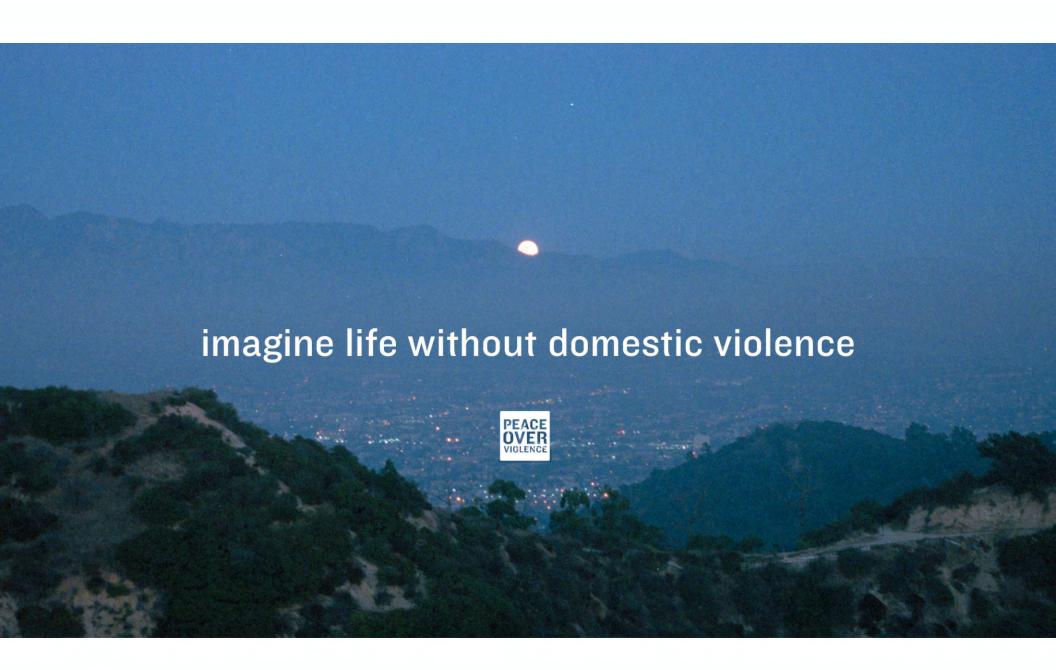
A study shows that the lifetime economic cost of intimate partner violence to the U.S. population is \$3.6 trillion

National Network to End Domestic Violence









## 24 Hour Rape and Battering Hotlines

LOS ANGELES

**NATIONAL** 

213 . 626 . 3393

800.656.HOPE

626. 793 . 3385

310.392.8381



ITEM NO. 9

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Christina Muñoz, Acting Deputy City Clerk

SUBJECT:

**Presentation of City Council Meeting Minutes** 

#### Recommendation

It is recommended that the City Council approve the minutes as listed on the agenda and as presented.

#### **Executive Summary**

Attached for the City Council's consideration and approval are meeting minutes for various dates as listed on the agenda and hereby included as attachments to this staff report.

#### **Fiscal Impact**

There is no direct Fiscal Impact to the approval of these City Council meeting minutes.

#### Attachments

Attached are the Minutes as listed.

- March 17, 2021 Regular Meeting
- June 16, 2021 Regular Meeting



#### CITY OF SOUTH PASADENA CITY COUNCIL - REGULAR MEETING

#### MINUTES WEDNESDAY, MARCH 17, 2021 AT 7:00 PM

#### CALL TO ORDER

A Regular Meeting of the South Pasadena City Council was called to order by Mayor Mahmud on Wednesday, March 17, 2021, at 7:41 p.m., in the Council Chamber, located at 1424 Mission Street, South Pasadena, California.

#### **ROLL CALL**

City Staff

Present Councilmembers Donovan, Primuth (arrived at 7:43 p.m.), and Zneimer; Mayor

via Zoom: Pro Tem Cacciotti and Mayor Mahmud

Absent: None

Maria Ayala, Chief City Clerk, announced a quorum.

Present: Attorney Andrew Jared (in attendance via Zoom); and Chief City Clerk Ayala were

Interim City Manager Sean Joyce (in attendance via Zoom); Assistant City

present at Roll Call.

#### PLEDGE OF ALLEGIANCE

Councilmember Donovan led the flag salute.

#### 1. Closed Session Announcements

#### A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Government Code §54956.9)

One Case: City of South Pasadena v. Dow Chemical, Inc.

Assistant City Attorney Jared reported Council received a briefing by outside counsel on the status of the case. No final action was taken.

City of South Pasadena City Council – Regular Meeting Minutes - March 17, 2021

#### B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Government Code §54956.8)

Properties: Caltrans-Owned Surplus Residential Properties within the SR-710

Corridor in South Pasadena

Agency Negotiators: Interim City Manager Sean Joyce

Negotiating Parties: Caltrans

Under Negotiation: Price and Terms

Assistant City Attorney Jared reported Council received a briefing regarding price and terms for Caltrans-owned surplus residential properties within the SR-710 Corridor in South Pasadena. No action was taken by City Council.

#### 2. Public Comments - General

Mayor Mahmud announced public comments are intended to address matters not on the agenda for the meeting. Citizens have the option of emailing or leaving a voice mail for the Council

Chief City Clerk Ayala announced the names of those who submitted public comment via e-mail:

- Clarence Au-Young
- Rabbi Jason Rosner
- Brandon and Andrea Fox
- Kevin and Cathy Coleman
- Mary Urquhart

Chief City Clerk Ayala played an audio recording of the public comments received via the City's public comment phone line:

- Betty Emirhanian Requested a public hearing to discuss the status of the Animal Commission.
- Andrea Fox Thanked Council and the Public Works Department for working with the community to set policy and obtain grant funding to improve traffic on Fremont Ave.
- Clarence Young Expressed concerns regarding increased private aircraft activity over South Pasadena.
- Bea Simpson Requested that City Council discuss the status of the Animal Commission.
- Beverly Bieber Expressed concerns regarding the status of the Animal Commission and the need for an entity to handle resident concerns.

#### **PRESENTATIONS**

Mayor Mahmud announced Item No. 3 would be heard after the Presentation items.

#### 4. Friends of the Library Proclamation

Mayor Mahmud read the proclamation commemorating the 71<sup>st</sup> anniversary of the founding of the Friends of the South Pasadena Public Library, Inc. and recognizing the organization for its enduring support of the South Pasadena Public Library and community, noting it's the Friends longstanding fundraising and volunteer support allowing the library to provide various programs and serve as the heart of the community.

#### 5. 2020 Commission Annual Reports & 2021 Commission Work Plans

Council received and filed the 2020 Commission Annual Reports and the 2021 Commission Work Plans for the following bodies:

- 1. Cultural Heritage Commission
- 2. Design Review Board
- 3. Mobility and Transportation Infrastructure Commission
- 4. Natural Resources and Environmental Commission
- 5. Planning Commission
- 6. Public Art Commission
- 7. Public Works Commission

#### **ACTION / DISCUSSION**

## 3. <u>Approve Sponsorship of Legislation (SB 381) Amending the Means by Which Caltransowned Properties Along the Former SR 710 Route are Disposed</u>

Interim City Manager Sean Joyce provided the staff report and Assistant to the City Manager Demirjian presented on SB 381 objectives.

Mayor Mahmud introduced Senator Anthony Portantino, who elaborated on the history of the bill and the intent of the legislation to protect tenants, protect historic preservation, and create local control.

Mayor Mahmud reported working with City staff as part of the 710 Corridor Subcommittee along with Councilmember Donovan to develop the following objectives: 1) Advocate for the interests of those presently occupying Caltrans-owned homes, 2) Add to the City's inventory of affordable units, 3) Assess the condition of vacant historic homes and develop strategies for their restoration, and 4) leverage City funding to meet these objectives.

Mayor Mahmud relayed that the California Transportation Commission (CTC) Executive Director with support from the CTC Chair suggested a transfer of responsibility for Caltransowned homes to the California Department of General Services, which typically has oversight over rental properties, if SB 381 does not pass. Mayor Mahmud expressed her concerns about

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021 additional delays including that if SB 381 passed and South Pasadena secured local control, control would rest with City Council or a body established by City Council comprised of residents, and tenants of the properties, and Council members or their representatives. In addition, SB 381 provides framework but an implementation plan would need to be developed and brought to Council for consideration.

Councilmember Zneimer requested to postpone the item to allow for public engagement and transparency. Mayor Mahmud clarified that SB 381 would not affect the prioritization of the rights of tenants to purchase their properties but rather would enable the City to be added to the top of the queue ahead of housing-related entities.

Councilmember Primuth asked to refocus the discussion back to questions for Senator Portantino. Council questions and comments included: the legislative process, local control, acquisition pricing, equity, policy and fiscal deadlines, and public input. Senator Portantino and his staff responded accordingly.

Chief City Clerk Ayala announced the names of those who submitted public comment via e-mail.

- Delaine Shane
- Sally Takeda
- Kim Carlson
- Mary Urquhart
- Linda Esposito
- Bianca Richards

Chief City Clerk Ayala played an audio recording of the public comments received via the City's public comment phone line:

- Richard Schneider Requested to postpone action on the item for additional community input.
- Angela Flores Requested to postpone action on the item for additional community input.
- Sam Burgess Requested to postpone action on the item for additional community input.
- Mark Gallatin Requested to continue the item for additional community input and consideration of all available options and asked to present the plan developed by the 710 subcommittee.
- Dean Serwin Expressed support for sponsorship of SB 381.
- Roberto Flores –Expressed support for the right of tenants to establish housing co-ops and collectively purchase their properties.
- Ed Donnelly Expressed support for sponsorship of SB 381.

Councilmember Primuth suggested a collaborative approach in determining the framework for local control.

Mayor Pro Tem Cacciotti concurred with Councilmember Zneimer's earlier comments regarding community input and stated the options: support the bill tonight and make later

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021

modifications, postpone action as requested in public comment and hold a community meeting and return the item to Council.

Councilmember Zneimer emphasized the need for community input and transparency before making a decision.

Mayor Mahmud recommended scheduling a community forum on March 29, 2021. She expressed concerns regarding the timing to enact the bill and requested a special meeting to vote on the item. Mayor Pro Tem Cacciotti clarified that the hearing on SB 381 would not be before April 15, 2021. Senator Portantino expressed his willingness to cohost the meeting to help Council to garner public input and decide on a direction.

Councilmember Donovan noted that this is an ongoing process, that there would be additional opportunities for public input, and stated his support for voting on the item and moving forward. Mayor Mahmud concurred and requested to schedule a special meeting to allow time for a support letter to be sent. Senator Portantino stated he would not send a bill to the Governor's desk that Council did not support.

Councilmember Zneimer supported scheduling of a meeting on March 29<sup>th</sup>. Mayor Mahmud reiterated Senator Portantino's statement that Council would be able to sponsor SB 381 and later amend the bill.

Councilmember Primuth suggested a motion to support the spirit of the bill and local control and to decide on the bill on the 29<sup>th</sup> following public input. Mayor Pro Tem Cacciotti made a motion to support the bill with amendments to be brought back to Council after the March 29<sup>th</sup> community meeting. Mayor Mahmud recommended rewording the motion to allow for the possibility that amendments may not be necessary. Mayor Pro Tem Cacciotti accepted the recommendation.

MOTION BY MAYOR PRO TEM CACCIOTTI, SECOND BY COUNCILMEMBER DONOVAN, CARRIED 4-0 (Councilmember Zneimer abstained), to:

1. Support SB 381 and allow the subcommittee and staff to explore implementation details with the community. Staff will work on property due diligence, economic analysis, property covenant, and long-term management of the properties. Community feedback and the implementation plan will be brought back to Council for approval at a date in the future.

#### **COMMUNICATIONS**

#### 6. Councilmembers Communications

Councilmember Donovan as the liaison to the Finance Commission and Parks & Recreation Commission noted the 2020-2021 budget on the agenda as well as the start of the Little League season.

Councilmember Zneimer reported attendance at a Hero Pay car caravan with participation from Pasadena and South Pasadena residents; and reported attendance at a Public Works Commission meeting where Measure W projects were discussed.

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021 Councilmember Primuth reported attendance at the March 8 Public Safety Commission (PSC) where the March 15 community forum on the selection of the Police Chief was organized. He noted the PSC was presented a report on the Police Department's homeless outreach; reported attendance at the March 16 Mobility Transportation Infrastructure Commission and noted the commission took the position against using Measure M funds for Rogan match projects on Fair Oaks Ave; and made a motion for a hearing to be held regarding the Animal Commission. Mayor Mahmud provided a second to schedule the hearing.

Mayor Pro Tem Cacciotti provided photos with comments on life in South Pasadena including: The Community Garden, Girl Scout cookie season, Dial-a-Ride, Senior Commission, and a volunteer weeding outside the Post Office. He thanked members of the Public Arts Commission; reported attendance at a Zoom webinar entitled "Effective City Council Oversight of Police Operations and Budget"; and thanked the Care group and others for hosting informational meetings while the City restructures the Police Department.

Mayor Mahmud reported participation in Lobby Day, sponsored by the Clean Power Alliance; Commented on speaking to a representative from the Governor's office regarding a bill allowing Community Choice Aggregation's customers to receive more benefits; testified in front of the Senate Environmental Quality Committee on SB 426 which allows the State Board to establish financial capability assistant guidelines to determine an appropriate stormwater permit compliance period; and made a motion to place an item to discuss an earlier start time for City Council Meetings on a future agenda. Mayor Pro Tem Cacciotti provided a second.

Mayor Mahmud requested Chief City Clerk Ayala display a flyer for a Bingo event sponsored by the South Pasadena Chinese-American Club (SPCAC) and the Chamber of Commerce; and thanked the SPCAC for hosting the event in support of the community.; and noted Council's attendance at the ribbon cutting ceremony for Republic of Lucha.

#### 7. City Manager Communications

Interim City Manager Sean Joyce made no comments.

#### 8. Reordering of, Additions, or Deletions to the Agenda

#### CONSENT CALENDAR

Mayor Pro Tem Cacciotti pulled Item No. 17. for discussion.

Mayor Mahmud announced Item Nos. 12, 19, and 20 were pulled to hear public comment.

MOTION BY MAYOR PRO TEM CACCIOTTI, SECOND BY COUNCILMEMBER ZNEIMER, CARRIED 5-0, to approve Consent Calendar Item Nos. 9, 10, 11, 13, 14, 15, 16, and 18.

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021

9. Approval of Prepaid Warrants in the amount of \$135,197.58; General City Warrants in the Amount of \$564,281.90; General City Warrant Voids in the Amount of (\$1,631.97); Payroll in the Amount of \$659,942.75; Transfers in the Amount of \$44,000.00

City Council approve the Warrants as presented.

#### 10. Planning Backfill Resources - Interim Associate Planner

City Council appropriate \$38,562 from undesignated general fund reserves to the following accounts: Part-time salaries 101-7010-7011-7010-000 \$35,310; Retirement 101-7010-7011-7100-000 \$2,740; Medicare 101-7010-7011-7170-000 \$512 for temporary staffing services to provide backfill temporary planning services for up to six months during the temporary leave of absence of the Associate Planner.

11. Renewal of Weed Abatement Service Agreement with the County of Los Angeles

Department of Agricultural Commissioner/Weights and Measures to Allow the County
to Inspect, Remove and Abate Weeds, Brush and Native Vegetation Declared to be an
Existing or Potential Fire Hazard on Unimproved Lots and Land within the City

City Council approve the renewal of a five-year General Service Agreement (GSA) with the County of Los Angeles Department of Agricultural Commissioner/Weights and Measures (County) to continue the process of weed and brush removal on privately owned unimproved properties within the City of South Pasadena (City).

13. <u>Amend Award of Contract to Phoenix Motorcars, LLC, in the amount of \$169,999 for the Purchase of a 2019 E450 Plug-in Vehicle for the Dial-A-Ride Program</u>

City Council:

- Amend the contract amount to Phoenix Motorcars, LLC from \$163,101 to the amount of \$169,999 to complete the purchase of a 2019 E450 Plug-in Vehicle for the Dial-A-Ride Program; and
- 2. Approve authorization of supplemental funds in the amount of \$6,898 from Proposition A fund account 205-0000-0000-5504.

## 14. <u>Authorization to Spend \$50,900 from the Arroyo Seco Golf Course Capital Fund for Tree Pruning and Weed Abatement Along the Trail and Driving Range</u>

City Council:

- 1. Approve the spending of \$39,500 for West Coast Arborists, Inc. for tree pruning and clearance along the trail and driving range; and
- 2. Approve the spending of \$11,400 for LandCare for weed abatement along the trail and driving range; and
- 3. Appropriate \$50,900 from the Arroyo Seco Golf Course Capital Fund.
- 15. Acceptance of Project Completion and Authorization to File a Notice of Completion for the Alpha Avenue and Camino Del Sol Street Improvement Project and Authorization to Release Retention Payment to Gentry Brothers, Inc. in the amount of \$76,723.44

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021 City Council:

- 1. Accept the Alpha Avenue and Camino Del Sol Street Improvement Project (Project) as complete; and
- 2. Authorize the recordation of the Notice of Completion (NOC) with the Los Angeles County Registrar-Recorder County Clerk; and
- 3. Authorize release of retention payment to Gentry Brothers, Inc. (Contractor), in the amount of \$76,723.44

# 16. Adoption of Resolution Nos. 7711 and 7712 Determining and Establishing an Appropriations Limit for Fiscal Year 2019-20 and Fiscal Year 2020-21 in Accordance with Article XIII B of the California Constitution

City Council:

- 1. Adopt Resolution No. 7711 revising the City of South Pasadena's (City) FY 2019-20 Appropriations Limit; and
- 2. Adopt Resolution No. 7712 setting the City of South Pasadena's (City) FY 2020-21 Appropriation Limit.

## 18. <u>Discretionary Fund Request from Mayor Mahmud in the Amount of \$200 for a Podium and Plaque for the Senior Center in Honor of Liliana Torres</u>

City Council approve the Discretionary Fund request by Mayor Mahmud, second by Councilmember Primuth, to allocate \$200 for the purchase of a podium and plaque for the Senior Center recognizing Liliana Torres, who recently retired after 33 years of employment with South Pasadena.

#### ITEMS PULLED FROM CONSENT

## 12. Award Contract to CivicStone, LLC to Determine, Prepare, and Implement a Surplus Property Acquisition and Rehabilitation Strategy in an Amount Not-to-Exceed \$180,000

Chief City Clerk Ayala announced the names of those who submitted public comment via e-mail:

- Delaine Shane
- Mary Urguhart
- Linda Esposito
- Bianca Richards

Chief City Clerk Ayala played an audio recording of the public comment received via the City's public comment phone line:

• Joanne Nuckols – Expressed concerns that the award of contract was premature and opposed use of Slater settlement funds for the contract.

MOTION BY MAYOR PRO TEM CACCIOTTI, SECOND BY COUNCILMEMBER DONOVAN, CARRIED 5-0, to authorize Interim City Manager Joyce to use the services of the contractor in preparation for the community forum and for the next council meeting with regard to this item.

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021

#### 17. Monthly Investment Reports for January 2021

Mayor Pro Tem Cacciotti made inquiries regarding the reports and Assistant City Manager Aguilar stated she would look into his questions and follow up with a memo response to Council.

Council reached a consensus to receive and file the monthly investment reports for January 2021.

19. Adoption of Resolution No. 7710 of the City Council of the City of South Pasadena Denouncing Hate Crimes and Rhetoric Against Asian Americans and Pacific Islanders, and Reaffirming Our Commitment to Ensure API Americans Feel Safe and Welcome

Mayor Mahmud noted the need to recognize and reinforce the community's solidarity with the Asian American and Pacific Islander community in light of recent events.

Chief City Clerk Ayala announced the names of those who submitted public comment via e-mail

- El Sereno Community Land Trust
- Care First South Pasadena

Chief City Clerk Ayala played an audio recording of the public comment received via the City's public comment phone line:

• Anne Bagasao – Thanked Council for the thoughtful and meaningful resolution and encouraged Council to commit to protecting Asian Americans and Pacific Islanders.

Mayor Pro Tem Cacciotti and Mayor Mahmud asked to note revisions to the resolution. MOTION BY MAYOR PRO TEM CACCIOTTI, SECOND BY COUNCILMEMBER DONOVAN, CARRIED 5-0, to adopt, as amended, Resolution No. 7710 entitled "A Resolution of the City Council of the City of South Pasadena Denouncing Hate Crimes and Rhetoric Against Asian Americans and Pacific Islanders and Reaffirming Our Commitment to Ensure API Americans Feel Safe and Welcome."

20. <u>Approval of an Agreement with nexusplex and the South Pasadena Chamber of Commerce for Citywide Local Business Marketing Program for a Not-to-Exceed Amount of \$50,000 and Approval of Appropriation of Funding</u>

Mayor Mahmud thanked Councilmembers Donovan and Primuth for their work on the agreement.

Mayor Mahmud inquired about the timeframe specified for performance and whether nexusplex would provide graphic design services for the proposed advertisements. Assistant to the City Manager Demirjian and consultant Steven Lawrence responded to questions accordingly.

Mayor Mahmud recommended changes to the contract payment conditions. Councilmember Primuth requested clarification on the basis of payment and stated his support for the original

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contract payment terms. Following Mayor Mahmud's response, Councilmember Donovan asked to clarify Councilmember Primuth's position. Per Councilmember Primuth's request, Assistant to the City Manager explained the contract payment terms.

Mayor Pro Tem Cacciotti suggested that the contractor present a status update to Council before the balance of the contract is paid. Mayor Mahmud mentioned previous public comments requesting additional accountability. Councilmember Primuth noted staggered payments as an accountability measure.

Chief City Clerk Ayala played an audio recording of the public comment received via the City's public comment phone line:

Josh Albrektson – Expressed appreciation for the Chamber of Commerce scope of work and questioned nexusplex's scope of work.
 Mayor Pro Tem Cacciotti highlighted contract terms requiring monthly reporting to City staff and/or City Council.
 MOTION BY MAYOR PRO TEM CACCIOTTI, SECOND BY COUNCILMEMBER DONOVAN, CARRIED 5-0, to appropriate \$50,000 from General Fund unassigned reserves to account 101-2010-2011-8170-000 (City Manager Professional Services) for the purpose of funding marketing efforts as described in the agreement.

#### **PUBLIC HEARING**

## 21. <u>First Reading and Introduction of an Ordinance to Amend Zoning Code Amendment to South Pasadena Municipal Code (SPMC) Chapter 36 (Zoning) Pertaining to Accessory Dwelling Units (ADUs)</u>

Planning and Community Development Director Hankamer and Interim Long-Range Planning and Economic Development Manager Bar-El presented the item.

Interim Long-Range Planning and Economic Development Manager Bar-El noted a change to the recommendation. Mayor Mahmud asked Chief City Clerk to confirm that the revisions and the accompanying memo are included in the Additional Docs in the agenda packet.

Councilmember Primuth inquired about the practical effect of the change recommended, fire restrictions, and historic standards. Interim Long-Range Planning and Economic Development Manager Bar-El and Planning and Community Development Director Hankamer responded to questions accordingly. Mayor Mahmud noted that Fire Chief Riddle is available for questions. Mayor Mahmud requested clarification and correction on a word missing from the staff report.

Chief City Clerk Ayala announced the names of those who submitted public comment via e-mail:

- Anthony Dedousis
- Josh Albrektson
- Steven P. Dahl
- Darby Whipple

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Chief City Clerk Ayala played an audio recording of the public comments received via the City's public comment phone line:

- Josh Albrektson Expressed concern regarding the status of the Housing Element and urged Council to request a presentation from Planning and consultant Placeworks regarding Regional Housing Needs Allocation (RHNA) numbers.
- Mike Faggioli Spoke in support of conversion of existing space and expressed concern regarding unintentionally penalizing garage conversions.
- Darby Whipple Asked to postpone adoption of the ADU ordinance and urged Council to request a presentation on the full text of the ordinance.

Mayor Mahmud closed the public hearing at 11:26 p.m.

Councilmember Donovan requested clarification on the adoption of the ordinance process inquiring regarding the second reading. Assistant City Attorney Jared confirmed that the ordinance would return to Council for second reading and adoption.

Mayor Mahmud relayed her hesitance in delaying the ADU ordinance noting that the ordinance being considered is Phase I ADU, and inquired whether the Phase II ADU ordinance would be able to incorporate public comment from tonight's meeting. Director of Planning and Community Development Hankamer responded affirmatively and stated there will be more opportunities in the outreach process to provide public comment and input for he Phase II ADU ordinance.

Interim Long-Range Planning and Economic Development Manager Bar-El stated a forthcoming brochure would address community questions.

Councilmember Primuth referenced the preliminary review by Housing and Community Development (HCD) and questioned whether additional revisions may be needed. Director of Planning and Community Development Hankamer responded that the City is required to submit the ordinance to HCD within 60 days for official review and will address additional comments at that time.

MOTION BY MAYOR MAHMUD, SECOND BY COUNCILMEMBER ZNEIMER, CARRIED 5-0, to introduce an ordinance amending South Pasadena Municipal Code (SPMC) Section 36.350.200 (Residential Uses – Accessory Dwelling Units), as amended.

#### 22. Adoption of Fiscal Year 2020-2021

Due to technical difficulties, Item No. 22 was not able to be presented and will be heard at a future meeting.

#### **ADJOURNMENT**

The meeting was adjourned at 12 a.m.

City of South Pasadena City Council – Regular Meeting Minutes – March 17, 2021 Christina Muñoz Diana Mahmud Acting Deputy City Clerk Mayor

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## CITY OF SOUTH PASADENA CITY COUNCIL - REGULAR MEETING

## MINUTES WEDNESDAY, JUNE 16, 2021 AT 7:00 PM

#### **CALL TO ORDER:**

The Regular Meeting of the South Pasadena City Council was called to order by Mayor Mahmud on Wednesday, June 16, 2021, at 7:00 p.m. The meeting was held virtually, via Zoom, in accordance with Governor Newsom's Executive Order N-29-20. The City Council Chambers, 1424 Mission Street, South Pasadena, California.

## ROLL CALL PRESENT

Mayor Diana Mahmud

Mayor Pro Tem Michael Cacciotti Councilmember Jack Donovan Councilmember Jon Primuth

Councilmember Evelyn G. Zneimer

Lucie Colombo, City Clerk, announced a quorum.

CITY Arminé Chaparyan, City Manager; Andrew Jared, Assistant City Attorney; STAFF Lucie Colombo, City Clerk were present at Roll Call. Other staff members PRESENT: presented reports or responded to questions as indicated in the minutes.

#### PLEDGE OF ALLEGIANCE

The Flag Salute was led by Mayor Mahmud.

#### 1. Closed Session Announcements

None.

#### 2. Public Comment - General

Mayor Mahmud announced public comments are intended to address matters not on the agenda for the meeting. Members of the public have the option of emailing or participating via Zoom (audio) to address the City Council, as listed on the agenda.

Mayor Mahmud announced that email comments submitted are added to the record as "Additional Docs", and listed on the website. Note: These comments were not read aloud but the names of commenters are listed below.

Addressing the Council via written comment were:

- Victoria Tan
- Daphna Enzer
- Vic Pronvenzano
- Nichole Stepro
- Susan Phifer; Sean Saraf; Ed Park; Harry Cosmatos
- Heather Delman
- Colin Singer
- Lela Bissner
- Mark Gallatin

Addressing the Council via Zoom live comment were:

- Sherry Plotkin
- Lisa Henderson
- Mark Gallatin
- Sean Saraf
- Fredrick & Kay Findley
- Myron Quan

#### **PRESENTATIONS**

None.

#### **COMMUNICATIONS**

#### 3. Councilmembers Communications

Councilmember Donovan discussed a recent Finance Commission meeting and the recently installed little league sign.

Councilmember Primuth discussed a recent Public Safety Commission meeting; a recent Mobility and Transportation Infrastructure Commission meeting; and commented on an upcoming Caltrans Ad-Hoc Committee meeting.

Motion by Councilmember Primuth, second by Councilmember Zneimer, to direct staff to examine traffic mitigation on Meridian and Oak Street and provide four different options.

Councilmember Zneimer discussed a recent meeting of the South Pasadena Tournament of Roses Committee and an upcoming meeting of the Cultural Heritage Commission.

Mayor Pro Tem Cacciotti shared photos of life in the City of South Pasadena including: the Public Works Department performing work; a recent meeting regarding the Mills Act (property tax relief to owners of historic properties); a little league event; a gardener using an electronic leaf blower; a recent Goldline meeting; and a photo of the War Memorial Building being used as a cooling center.

Mayor Mahmud discussed a recent Library Board of Trustees meeting; noted that the South Pasadena Library is now open to the public; shared information on how to conserve water during the drought; commented on the upcoming expiration of the tenant eviction moratorium; and noted that the following women in the City were recently recognized:

- Carole Gallegos
- Merri Jill Finstrom
- Anne Bagasao
- Liz Calvert
- Sharon Garcia
- Patricia Loverme
- Pat Payne
- Sherry Plotkin
- Ellen Daigle
- Cambria Tortorelli

#### 4. City Manager Communications

City Manager Chaparyan provided an update on the ADU (Accessory Dwelling Units) processing improvements; discussed the reopening of City facilities; and noted that City facilities will be closed in observance of the 4<sup>th</sup> of July holiday.

#### 5. Reordering of, Additions, or Deletions to the Agenda

Mayor Mahmud noted that Item 7 will follow Item 9.

#### CONSENT CALENDAR

6. Approval of General City Warrants in the Amount of \$414,517.77; General City Warrant Voids in the Amount of (\$4,175.90); Transfers in the Amount of \$42,461.75; Payroll in the Amount of \$521,741.49.

It is recommended that the City Council approve the Warrants as presented.

7. Adoption of a Resolution Determining and Establishing an Appropriations Limit for Fiscal Year 2021-22 in Accordance with Article XIII B of the California Constitution

This item was moved to follow Item 9.

#### 8. Monthly Investment Reports for March & April 2021

It is recommended that the City Council receive and file the monthly investment reports for March and April 2021.

#### **COUNCIL ACTION AND MOTION**

Motion by Mayor Pro Tem Cacciotti, second by Councilmember Zneimer to approve Consent Calendar Item(s) 6 and 8, as presented.

Motion carried, 5-0.

#### **PUBLIC HEARING**

#### 9. Proposed Fiscal Year 2021-2022 Annual Budget

#### Recommendation

It is recommended that the City Council:

- 1. Review the proposed budget, receive public comments, and provide direction to staff regarding the budget for Fiscal Year 2021-2022.
- 2. Review designated General Fund Reserves and provide direction to staff regarding the designation or deletion of a previously designated reserve.
- 3. Authorize General Fund revenues in the amount of \$38,771 to offset negative fund balances in the following funds: 211, 215, 245, 249, and 260.
- 4. Approve the resolution, adopting the Fiscal Year 2021-2022 Annual Budget.

#### **COUNCIL ACTION AND MOTION**

A staff report was presented by City Manager Chaparyan and Department Heads.

Council inquiries for each department were as follows:

#### **Community Services**

Councilmember Zneimer inquired if Camp Med is restricted to only South Pasadena residents and inquired about repairs to the driving range.

Councilmember Primuth inquired about the upcoming pocket parks.

Mayor Pro Tem Cacciotti inquired about the canopy for the driving range fencing.

Mayor Mahmud inquired if Camp Med will host summer sessions and about summer recreation programs.

Community Services Director Pautsch answered questions and provided clarifications.

#### **Finance Department**

Councilmember Primuth discussed the progress made by the Finance Department.

Mayor Pro Tem Cacciotti inquired regarding the stipend for the City Treasurer and requested that the Finance Commission look into the stipends for all elected officials.

Councilmember Zneimer inquired if the City Council will receive discretionary funds for the upcoming fiscal year and inquired about the variety of services provided by the City Attorney.

Mayor Mahmud discussed the City Council discretionary funds policy and asked how new Councilmembers are affected by the carryover of funds from each fiscal year.

Interim Assistant City Manager Aguilar answered questions and provided clarifications.

#### Fire Department

Councilmember Zneimer inquired if the City plans to have an arson dog in the future.

Mayor Pro Tem Cacciotti inquired about the cost to replace vehicles in the Fire Department.

Fire Chief Riddle answered questions and provided clarifications.

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#### **Library Department**

Councilmember Zneimer inquired if the Library is working with the school district on volunteer hours and inquired regarding potential author events for children.

Mayor Mahmud inquired about increasing cultural recognitions in the future, such as LGBTQ.

#### **Management Services Department**

Councilmember Zneimer inquired if staff is looking into separating the City Clerk's Office from the Management Services Department.

City Manager Chaparyan noted that she will evaluate all departments prior to making changes and provide recommendations to the City Council.

Mayor Pro Tem Cacciotti discussed the use of AB2766 funds and stated that he would like the funds to be used for vehicles instead of computer equipment.

Interim Assistant City Manager Aguilar and Assistant to the City Manager Demirjian answered questions and provided clarifications.

#### **Planning & Community Development Department**

Council inquired regarding the timeline of key priority projects in the department such as the Housing Element, General Plan and Downtown Specific Plan Updates.

Councilmember Primuth discussed the current staffing levels and processing times for the department.

Councilmembers discussed having in-house positions perform additional work rather than consultants.

Planning and Community Development Director Hankamer answered questions and provided clarifications.

#### **Police Department**

Councilmembers discussed coordinating with Los Angeles County Board of Supervisors regarding mental health & crisis response.

Mayor Pro Tem Cacciotti discussed maintenance of Police vehicles and recommended that the department transition to electric vehicles.

Councilmember Primuth inquired about the Crisis Management Response Team

budget allocation and stated that it might be best to wait on this item until a program is in place.

Police Chief Solinsky answered questions and provided clarifications.

#### **Public Works**

Councilmember Primuth inquired about treatment system operation expenses.

Councilmembers inquired about SB1 funding.

Mayor Pro Tem Cacciotti inquired about the conditions of roads, sidewalks, and curbs and how much it would take to improve current conditions and suggested additional funds be allocated for street maintenance.

Councilmember Zneimer requested that the status of public works projects be posted on the City website and asked how much the City owes on the bond for the Graves Reservoir.

Mayor Mahmud asked if the Public Works Director still provides project updates to the Public Works Commission.

Mayor Pro Tem Cacciotti inquired about tree removal and the planting of new trees.

Public Works Director Abbas answered questions and provided clarifications.

Councilmembers discussed the use and fees charged for Eddie Park.

Mayor Mahmud opened the public hearing.

Addressing the City Council via written comment were:

- Bill Kelly
- PJ Lutz
- Bianca Richards

Addressing the City Council via Zoom audio was Sally Kilby.

With no other requests to speak, the public hearing was closed.

The City Council discussed the use of discretionary funds for Councilmembers and to have each Councilmember start off with an allocation of \$4,000.

Mayor Mahmud discussed the City's investment policy and whether it needs to be adopted today or at a later date.

Councilmembers discussed the current surplus listed in the budget and whether it should be allocated to anything and discussed the allocation of reserves.

Councilmembers discussed allocating additional funds for planting of new trees.

City Manager Chaparyan noted that the City Council will have an upcoming discussion about the Strategic Plan and cell tower revenue.

Councilmembers discussed the allocation of AB2766 funds to purchase computer equipment.

The City Council requested the following budget amendments:

- Allocate surplus of additional \$50,000 for new trees for a total of \$75,000.
- Reallocate funds from AB2766 for clean air vehicles in Police and Public Works in lieu of computer equipment.
- Allocate surplus of \$38,000 to previous budget.
- Removing \$150,000 from revenue for the Housing Element Grant
- Allocate \$229.000 in Measure W revenue
- Allocate additional \$40,000 for water distribution and \$45,000 for water production for overtime
- Create a new general fund reserve for cell tower revenue

Motion by Councilmember Primuth, second by Mayor Pro Tem Cacciotti, to approve Agenda Item 13 as amended.

Motion carried, 5-0.

### AGENDA ITEM TAKEN OUT OF ORDER

7. Adoption of a Resolution Determining and Establishing an Appropriations Limit for Fiscal Year 2021-22 in Accordance with Article XIII B of the California Constitution

It is recommended that the City Council:

1. Adopt a resolution revising the City of South Pasadena's (City) FY 2021-22 Appropriations Limit.

### **COUNCIL ACTION AND MOTION**

Interim Assistant City Manager Aguilar provided a brief staff report and responded to City Council inquiries.

Motion by Mayor Pro Tem Cacciotti, second by Councilmember Zneimer to approve Agenda Item 7, with budget revisions as identified.

Motion carried, 5-0.

| ACTION / DISCUSSION                   |  |
|---------------------------------------|--|
| None.                                 |  |
| INFORMATION REPORTS                   |  |
| None.                                 |  |
| ADJOURNMENT                           |  |
| Mayor Mahmud adjourned the Virtual Zo | oom meeting of the City Council at 11:11 PM. |
|                                       | Respectfully submitted:                      |
|                                       |  |
|                                       | Christina Muñoz,                             |
|                                       | Acting Deputy City Clerk                     |
|                                       | APPROVED:                                    |
|                                       |  |
|                                       | DIANA MAHMUD                                 |
|                                       | MAYOR  |
| Attest:                               |  |
|                                       |  |
| Christina Muñoz,                      |  |
| Acting Deputy City Clerk              |  |

City of South Pasadena City Council – Regular Meeting Minutes – June16, 2021



# City Council Agenda Report

ITEM NO. 10

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Kenneth L. Louie, Interim Finance Director

SUBJECT:

Approval of Prepaid Warrants in the Amount of \$480,589.62; General City Warrants in the Amount of \$684,222.22; Supplemental ACH Payments in the Amount of \$20,378.81; Transfers Out in the Amount of \$72,591.41; Voids in the Amount of (\$2,650.00); Payroll in the Amount of

\$614,821.84.

#### **Recommendation Action**

It is recommended that the City Council approve the Warrants as presented.

### **Fiscal Impact**

| Prepaid Warrants:                     |                    |
|---------------------------------------|--------------------|
| Warrant                               | \$<br>0            |
| ACH                                   | \$<br>480,589.62   |
| Voids                                 | \$<br>0            |
| General City Warrants:                |                    |
| Warrant # 313173-313269               | \$<br>296,402.97   |
| ACH                                   | \$<br>387,819.25   |
| Voids                                 | \$<br>(2,650.00)   |
| Payroll Period Ending 09/12/2021      | \$<br>614,821.84   |
| Wire Transfers Out – To (LAIF)        | \$<br>0            |
| Wire Transfers In – From (LAIF)       | \$<br>0            |
| Wire Transfers (RSA)                  | \$<br>0            |
| Wire Transfers Out – To (Acct # 2413) | \$<br>72,591.41    |
| Wire Transfers Out – To (Acct # 1936) | \$<br>0            |
| Supplemental ACH Payment              | \$<br>20,378.81    |
| RSA:                                  |                    |
| Prepaid Warrants                      | \$<br>0            |
| General City Warrants                 | \$<br>0            |
| Total                                 | \$<br>1,869,953.90 |

#### **Commission Review and Recommendation**

This matter was not reviewed by a Commission.

### **Legal Review**

The City Attorney has not reviewed this item.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### Attachments:

- 1. Warrant Summary
- 2. Prepaid Warrant List
- 3. General City Warrant List
- 4. Supplemental ACH Payments
- 5. Voids
- 6. Payroll

# **ATTACHMENT 1 Warrant Summary**

| City of South Pasadena                |                |            |                             |
|---------------------------------------|----------------|------------|-----------------------------|
| Demand/Warrant Register Recap by fund | Fund No.       | Date<br>A  | 10.06.2021<br><b>mounts</b> |
|                                       |                | Prepaid    | Written                     |
| General Fund                          | 101            | =          | 320,062.69                  |
| Insurance Fund                        | 103            | =          | 999.90                      |
| Street Improvement Program            | 104            | -          | 11,756.25                   |
| Facilities & Equip.Cap. Fund          | 105            | -          | 8,817.60                    |
| Programs and Projects                 | 107            | -          | 43,159.45                   |
| Local Transit Return "A"              | 205            | -          | 1,730.17                    |
| Local Transit Return "C"              | 207            | -          | 30,241.70                   |
| TEA/Metro                             | 208            | -          | 18,100.00                   |
| Sewer Fund                            | 210            | -          | 32,060.64                   |
| CTC Traffic Improvement               | 211            | =          | , <u>-</u>                  |
| Street Lighting Fund                  | 215            | -          | 1,898.87                    |
| Public,Education & Govt Fund          | 217            | _          | ,, <u>-</u>                 |
| Clean Air Act Fund                    | 218            | _          | =                           |
| Business Improvement Tax              | 220            | _          | 42,200.00                   |
| Gold Line Mitigation Fund             | 223            | -          | -                           |
| Mission Meridian Public Garage        | 226            | _          | 804.13                      |
| Housing Authority Fund                | 228            | _          | -                           |
| State Gas Tax                         | 230            | _          | 2,563.50                    |
| County Park Bond Fund                 | 232            | -<br>-     | 446.75                      |
| Measure R                             | 233            | -          | 31,773.00                   |
| Measure M                             | 236            | -          | 2,165.00                    |
| Road Maint & Rehab (SB1)              | 237            | -          | 2,105.00                    |
| MSRC Grant Fund                       | 238            | -<br>-     | -                           |
|                                       |                |            | -                           |
| Measure W<br>Measure H                | 239            | =          | -                           |
|                                       | 241            | =          | - 0.70.00                   |
| Prop C Exchange Fund                  | 242            | -          | 8,076.00                    |
| Bike & Pedestrian Paths               | 245            | =          | -                           |
| BTA Grants                            | 248            | =          | -                           |
| Golden Street Grant                   | 249            | =          | -                           |
| Capital Growth Fund                   | 255            | =          |                             |
| CDBG                                  | 260            | -          | 7,981.00                    |
| Asset Forfeiture                      | 270            | -          | -                           |
| Police Grants - State                 | 272            | -          | -                           |
| Homeland Security Grant               | 274            | -          | -                           |
| Park Impact Fees                      | 275            | -          | -                           |
| HSIP Grant                            | 277            | -          | -                           |
| Arroyo Seco Golf Course               | 295            | =          | -                           |
| Sewer Capital Projects Fund           | 310            | =          | -                           |
| Water Fund                            | 500            | -          | 119,385.57                  |
| Water Efficinency Fund                | 503            | -          | -                           |
| 2016 Water Revenue Bonds Fund         | 505            | -          | -                           |
| SRF Loan - Water                      | 506            | -          | -                           |
| Water & Sewer Impact Fee              | 510            | -          | -                           |
| Public Financing Authority            | 550            | 480,589.62 | -                           |
| Payroll Clearing Fund                 | 700            | =          | -                           |
|                                       |                |            | =                           |
|                                       | Column Totals: | 480,589.62 | 684,222.22                  |
| Recap by fund                         | Fund No.       | Α          | mounts                      |
|                                       |                | Prepaid    | Written                     |
| RSA                                   | 227            | - m:       |                             |

| Recap by fund | Fund No.  | Α                      | mounts       |
|---------------|---|------------------------|--------------|
| RSA           |   | Prepaid                | Written      |
| NoA           | 221   | -                      | -            |
|               | RSA Report Totals:  | -                      | -            |
|               | City Report Totals:   | _                      | 1,164,811.84 |
|               | Payroll Period End<br>Wire Transfer Out<br>Wire Transfer In -<br>Wire Transfer - RS | - To LAIF<br>From LAIF | 614,821.84   |
|               | Wire Transfer Out<br>Wire Transfer Out  |                        | 72,591.41    |
|               | Supplemental ACH<br>Voids - Prepaid   | l Payments             | 20,378.81    |
|               | Voids - General W   | arrant                 | (2,650.00)   |
|               | Grand Report Total:   | <u> </u>               | 1,869,953.90 |

Diana Mahmud, Mayor

Kenneth L. Louie, Interim Finance Director

# ATTACHMENT 2 Prepaid Warrant List

### Checks by Date - Detail by Check Date

User: ealvarez

Printed: 9/28/2021 9:03 AM



| <b>Check Amount</b> | Check Date   | Vendor Name                       | Vendor No     | Check No |
|---------------------|--|-----------------------------------|---------------|----------|
|                     | Reference  | Description                       | Invoice No    | /        |
|                     | 09/09/2021   | Wells Fargo Bank                  | WFBK1020      | ACH      |
| 75,593.76           |  | Water Revenue Bonds 2013 - Inter- | SOPASAWTR2013 |          |
| -4.14               | eposit   | Water Revenue Bonds 2013 - Fund   | SOPASAWTR2013 |          |
| 405,000.00          |  | Water Revenue Bonds 2013 - Princ  | SOPASAWTR2013 |          |
| - 1 <del></del>     |  |                                   |               |          |
| 480,589.62          | is ACH Check for Vendor WFBK1020:  | Total                             |               |          |
|                     |  |                                   |               |          |
| 400,500,62          | T . 1.6 0/0/2021   |                                   |               |          |
| 480,589.62          | Total for 9/9/2021:  |                                   |               |          |
|                     |  |                                   |               |          |
|                     |  |                                   |               |          |
| 480,589.62          | Papart Total (1 chacks)  |                                   |               |          |
|                     | report total (1 checks).   |                                   |               |          |
| 480                 | is ACH Check for Vendor WFBK1020:  Total for 9/9/2021:  Report Total (1 checks): |                                   |               |          |

# **ATTACHMENT 3 General City Warrant List**

### Checks by Date - Detail by Check Date

User: ealvarez

Printed: 9/29/2021 9:42 AM



| Check Amount | Check Date<br>Reference            | Vendor Name<br>Description                                      | Vendor No<br>Invoice No | Check No |
|--------------|------------------------------------|---|-------------------------|----------|
|              |                                    | Accountemps (Robert Half Internati                              | ACTM3010                | ACH      |
| 680.00       |                                    | P&B Dept. Accounting & Financial Serv                           | 58308299                |          |
| 3,400.00     |                                    | P&B Dept. Accounting & Financial Serv                           | 58330641                |          |
| 3,400.00     |                                    | P&B Dept. Accounting & Financial Serv                           | 58377574                |          |
| 3,400.00     |                                    | P&B Dept. Accounting & Financial Serv                           | 58419198                |          |
| 10,880.00    | s ACH Check for Vendor ACTM3010:   | Total for the   |                         |          |
|              | 10/06/2021                         | Airgas USA LLC  | AIR6010                 | ACH      |
| 295.50       |                                    | _   |                         | АСП      |
| 285.59       | 2021                               | Annual PO for Oxygen Supplies - Augus                           | 9982527709              |          |
| 285.59       | this ACH Check for Vendor AIR6010: | Total fo  |                         |          |
|              | 10/06/2021                         | Acorn Technology Services                                       | ATGC8530                | ACH      |
| 23,561.55    |                                    | Acorn September 2021 IT Services                                | 95038                   |          |
| 23,561.55    | is ACH Check for Vendor ATGC8530:  | Total for t   |                         |          |
|              | 10/06/2021                         | Atlantia Dadiatalanhana Ina                                     | ATRDIO                  | ACH      |
| 812.67       | 10/00/2021                         | Atlantic Radiotelephone, Inc. Satellite Phone Card - 1,000 MIN. | 1000113442              | АСП      |
| 012.07       |                                    | Satellite I holic Card - 1,000 MIN.                             | 1000113442              |          |
| 812.67       | this ACH Check for Vendor ATRDIO:  | Total fo  |                         |          |
|              | 10/06/2021                         | Baker & Taylor Entertainment                                    | BAK0366                 | ACH      |
| 242.99       |                                    | DVDs/ CDs   | H56341380               |          |
| 110.04       |                                    | DVDs/ CDs   | H56341390               |          |
| 55.34        |                                    | DVDs/ CDs   | H56428230               |          |
| 11.41        |                                    | DVDs/ CDs   | H56502740               |          |
| 11.41        |                                    | DVDs/ CDs   | H56503410               |          |
| 21.20        |                                    | DVDs/ CDs   | H56521330               |          |
| 57.88        |                                    | DVDs/ CDs   | H56535130               |          |
| 12.38        |                                    | DVDs/ CDs   | H56535210               |          |
| 38.01        |                                    | DVDs/ CDs   | H56560260               |          |
| 122.37       |                                    | DVDs/ CDs   | H56574790               |          |
| 107.45       |                                    | DVDs/ CDs   | H56652180               |          |
| 12.39        |                                    | DVDs/ CDs   | H56707050               |          |
| 8.26         |                                    | DVDs/ CDs   | H56708400               |          |
| 22.30        |                                    | DVDs/ CDs   | H56814810               |          |
| 80.16        |                                    | DVDs/ CDs   | H56821330               |          |
| 536.70       |                                    | DVDs/ CDs   | H56875440               |          |
| 11.41        |                                    | DVDs/ CDs   | H56889290               |          |
| 12.38        |                                    | DVDs/ CDs   | H56934400               |          |
| 33.07        |                                    | DVDs/ CDs   | H56935460               |          |
| 14.88        |                                    | DVDs/ CDs   | H56940640               |          |
| 38.03        |                                    | DVDs/ CDs   | H56987470               |          |
| 9.91         |                                    | DVDs/ CDs   | H56988780               |          |
| 1,569.97     | his ACH Check for Vendor BAK0366:  | Total for   |                         |          |
|              | 10/06/2021                         | Badge Frame, Inc.   | BFWB4011                | ACH      |

| Check No | Vendor No<br>Invoice No    | Vendor Name<br>Description   | Check Date<br>Reference                     | Check Amount          |
|----------|----------------------------|--|---|-----------------------|
| -        | 37938                      | Memorial Recognition Plaque for  |   | 377.13                |
|          | 37,30                      | Wemena recognition raque for   | Buyton suigue                               |                       |
|          |                            | Tota   | al for this ACH Check for Vendor BFWB4011:  | 377.13                |
| ACH      | CAEN9297                   | Carollo Engineers  | 10/06/2021                                  |                       |
|          | FB12505                    | City's Integrated Water & Wastew                                       | _   | 567.40                |
|          | FB12505                    | City's Integrated Water & Wastew                                       | =   | 8,995.85              |
|          | FB13374<br>FB13374         | City's Integrated Water & Wastew City's Integrated Water & Wastew      | _   | 2,479.89<br>22,580.04 |
|          | 1013374                    | City's integrated water & wastew                                       | act right than 07/31/2021                   |                       |
|          |                            | Total  | al for this ACH Check for Vendor CAEN9297:  | 34,623.18             |
| ACH      | CDW5246                    | CDW Government LLC   | 10/06/2021                                  | 1.707.00              |
|          | 8125200<br>D564402         | Credit Memo 4 CDW Microsoft Surface Pros &                             | Adaha Dra                                   | -1,786.08<br>9,546.13 |
|          | D578126                    | 3 MS GSA Office STD 2019   | Adobe F10                                   | 835.17                |
|          | D693893                    | 4 MS Surface Comp Business Pro   | 3Vr   | 1,216.68              |
|          | F508712                    | 40 Licenses for Adobe Pro  | 311.  | 16,240.40             |
|          | G453649                    | Qty # 4 MS Surface Pro Docks   |   | 689.50                |
|          | H204365                    | Credit Memo  |   | -689.50               |
|          | H512723                    | CDW Microsoft Pro Signa Type C   | over  | 590.63                |
|          | J333351                    | Adobe Pro PhotoShop  |   | 297.56                |
|          | J738215                    | 28 Faronics Deep Freeze ENT MN   | VT RNWY                                     | 742.28                |
|          |                            | То   | tal for this ACH Check for Vendor CDW5246:  | 27,682.77             |
| ACH      | CHA3010                    | SPCC Corp dba South Pasader  | na Chamber c 10/06/2021                     |                       |
|          | 7862                       | SP Chamber of Commerce BIT F   |   | 42,200.00             |
|          |                            | To   | otal for this ACH Check for Vendor CHA3010: | 42,200.00             |
| ACH      | CHWP2010                   | Colantuono, Highsmith & Wha  | tley,PC 10/06/2021                          |                       |
|          | 48744                      | General Services - July 2021   |   | 10,000.00             |
|          | 48745                      | Labor & Employment - July 2021   |   | 2,156.00              |
|          | 48746                      | Litigation- July 2021  |   | 147.00                |
|          | 48747                      | Tax & Assesment- July 2021<br>Water & Utilities - July 2021            |   | 122.50                |
|          | 48748<br>48749             | Special Projects - July 2021   |   | 5,463.50<br>12,842.55 |
|          | 48750                      | Litigation - July 2021   |   | 416.50                |
|          | 48751                      | Litigation - July 2021   |   | 5,272.35              |
|          | 48752                      | Litigation - July 2021   |   | 24.50                 |
|          | 48753                      | Litigation - July 2021   |   | 3,841.19              |
|          | 48754                      | Litigation - July 2021   |   | 4,455.88              |
|          | 49065                      | UUT for August 2021  |   | 205.56                |
|          |                            | Tota   | l for this ACH Check for Vendor CHWP2010:   | 44,947.53             |
| ACH      | CWNC2501                   | Carl Warren & Company  | 10/06/2021                                  |                       |
|          | CWC-2014709                | Liability Claims Administration  |   | 69.30                 |
|          | CWC-2014710                | Liability Claims Administration  |   | 69.30                 |
|          | CWC-2014711                | Liability Claims Administration  |   | 9.90                  |
|          | CWC-2014712                | Liability Claims Administration  |   | 19.80                 |
|          | CWC-2014713                | Liability Claims Administration  |   | 59.40                 |
|          | CWC-2014714                | Liability Claims Administration  |   | 29.70                 |
|          | CWC-2014715<br>CWC-2014716 | Liability Claims Administration l<br>Liability Claims Administration l |   | 29.70<br>39.60        |
|          | CWC-2014717                | Liability Claims Administration I                                      |   | 59.40                 |
|          | CWC-2014717<br>CWC-2014718 | Liability Claims Administration 1                                      |   | 168.30                |
|          | CWC-2014719                | Liability Claims Administration  |   | 19.80                 |
|          | CWC-2014720                | Liability Claims Administration  |   | 49.50                 |
|          | CWC-2014721                | Liability Claims Administration  |   | 29.70                 |

| (<br>( | Invoice No<br>CWC-2014722<br>CWC-2014723 | Description  Liability Claims Administration Fee | Reference                                 |                    |
|--------|--|--|---|--------------------|
| (      |  | Elacinity Claims Flamming and Fig.               |   | 29.70              |
| C      | 00 201.,20                               | Liability Claims Administration Fee              |   | 29.70              |
|        | CWC-2014724                              | Liability Claims Administration Fee              |   | 108.90             |
|        | CWC-2014725                              | Liability Claims Administration Fee              |   | 9.90               |
| (      | CWC-2014726                              | Liability Claims Administration Fee              |   | 138.60             |
|        | CWC-2014727                              | Liability Claims Administration Fee              |   | 29.70              |
|        |  | Total fo   | or this ACH Check for Vendor CWNC2501:    | 999.90             |
| ACH I  | DDLP8010                                 | Dr. Detail Ph.D                                  | 10/06/2021                                |                    |
|        | 2392                                     | Fleet Cleaninig of Dial-a-Ride Vehic             |   | 1,190.00           |
| 2      | 2405                                     | Pressure Wash of Library Front Patio             |   | 270.00             |
| 2      | 2411                                     | Fleet Cleaninig of Dial-a-Ride Vehic             |   | 975.00             |
|        |  | Total  | For this ACH Check for Vendor DDLP8010:   | 2,435.00           |
| ACH I  | DEL4000                                  | Dell Marketing L.P.                              | 10/06/2021                                |                    |
|        | 10432579316                              | Change Order 02-02: SAN and Serve                | er Purchase                               | 1,322.64           |
|        | 10432579316                              | Change Order 02-02: SAN and Serve                |   | 7,494.96           |
|        |  | 3  |   |                    |
|        |  | Tota   | l for this ACH Check for Vendor DEL4000:  | 8,817.60           |
| ACH E  | ECC9000                                  | E.C.Construction                                 | 10/06/2021                                |                    |
| 1      | 15                                       | Monterey Rd. St. Improvement Proje               | ect Retention                             | 8,076.00           |
| 1      | 15                                       | Monterey Rd. St. Improvement Proje               |   | 15,881.00          |
| 1      | 15                                       | Monterey Rd. St. Improvement Proje               | ect Retention                             | 31,773.00          |
| 1      | 15                                       | Monterey Rd. St. Improvement Proje               | ect Retention                             | 18,100.00          |
|        |  | Tota   | I for this ACH Check for Vendor ECC9000:  | 73,830.00          |
| ACH I  | HQAB8100                                 | Hi Quality Auto Body Inc.                        | 10/06/2021                                |                    |
|        | 17596                                    | Police Dept. Auto Body Repairs Unit              |   | 2,462.75<br>240.00 |
| 1      | 17746                                    | Police Dept. Auto Body Repairs Unit              | .# 1002                                   |                    |
|        |  | Total f  | or this ACH Check for Vendor HQAB8100:    | 2,702.75           |
| ACH I  | INCG6011                                 | Interwest Consulting Group                       | 10/06/2021                                |                    |
| 7      | 72011                                    | Traffic and Transportation Support S             | ervices - Au                              | 640.00             |
|        |  | Total  | for this ACH Check for Vendor INCG6011:   | 640.00             |
| ACH J  | JHMS8020                                 | JHM Supply                                       | 10/06/2021                                |                    |
| 2      | 260228/1                                 | Irrigation Supplies                              |   | 407.44             |
| 2      | 262078/1                                 | Irrigation Supplies                              |   | 317.27             |
| 2      | 262920/1                                 | Irrigation Supplies                              |   | 111.79             |
| 2      | 267359/1                                 | Irrigation Supplies                              |   | 223.22             |
| 2      | 267360/1                                 | Irrigation Supplies                              |   | 14.67              |
| 2      | 268940/1                                 | Parts to repair chlorine mixer at Garf           | ield Reservo                              | 175.89             |
|        |  | Total  | for this ACH Check for Vendor JHMS8020:   | 1,250.28           |
| ACH J  | JNOR                                     | Janis Ortega                                     | 10/06/2021                                |                    |
| 1      | 116718                                   | Refund due to Class Cancellation                 |   | 140.00             |
|        |  | 1  | Total for this ACH Check for Vendor JNOR: | 140.00             |
| ACH L  | LCW7456                                  | Liebert Cassidy Whitmore                         | 10/06/2021                                |                    |
| 1      | 1520218                                  | Personnel Matters - 05/2021                      |   | 38.00              |
| 1      | 1520220                                  | Personnel Matters - 05/2021                      |   | 190.00             |
|        | 1520221                                  | Personnel Matters - 05/2021                      |   | 38.00              |
| 1      | 1522317                                  | Personnel Matters - 05/2021                      |   | 152.00             |
| 1      | 1522318                                  | Personnel Matters - 05/2021                      |   | 76.00              |

| Check No | Vendor No                          | Vendor Name   | Check Date                                   | Check Amount           |
|----------|------------------------------------|---|--|------------------------|
|          | Invoice No                         | Description   | Reference                                    | 20.00                  |
|          | 202980                             | Personnel Matters - 07/2021                                       |  | 39.00                  |
|          | 202981<br>202982                   | Personnel Matters - 07/2021<br>Personnel Matters - 07/2021        |  | 5,880.00               |
|          | 202982                             | Personnel Matters - 07/2021 Personnel Matters - 07/2021           |  | 2,851.50<br>3,391.50   |
|          | 202983                             | reisonnei Matters - 0//2021                                       |  |                        |
|          |                                    |   | Total for this ACH Check for Vendor LCW7456: | 12,656.00              |
| ACH      | MART8031                           | SoSound Entertainment   | 10/06/2021                                   |                        |
|          | 07.27.2021-R                       |   | Park A/V Package 07.27.2021 (Reissue)        | 1,300.00               |
|          | 08.08.2021-R                       | Concerts in the Park Audio / So                                   | ound Package 08.08.2021 (Re-Issue)           | 1,350.00               |
|          |                                    | T   | otal for this ACH Check for Vendor MART8031: | 2,650.00               |
| ACH      | MNBL8170                           | Crestline Software, LLC dba                                       | a MuniBilling 10/06/2021                     | 040.10                 |
|          | 13522<br>13522                     | Lock Box - August 2021<br>Absorb Charges - August 2021            |  | 848.10                 |
|          | 13522                              | Water Billing Services - Septem                                   | shar 2021                                    | 10,303.78<br>24,682.14 |
|          | 13600                              | Postage - August 2021   | 1001 2021                                    | 3,868.95               |
|          | 13600                              | Inserts for Planning Department                                   | t  | 1,798.00               |
|          |                                    | т   | otal for this ACH Check for Vendor MNBL8170: | 41,500.97              |
| A CIT    | OVDD0011                           |   |  | 11,500.57              |
| ACH      | OVDR8011                           | OverDrive Inc.<br>eBooks / Audiobooks                             | 10/06/2021                                   | 2,305.85               |
|          | 01148CO21330587<br>01148CO21330590 | eBooks / Audiobooks   |  | 3,171.52               |
|          | 01148CO21357880                    | eBooks / Audiobooks   |  | 452.11                 |
|          | 01148CO21357892                    | eBooks / Audiobooks   |  | 2,586.05               |
|          | 01148CO21359445                    | eBooks / Audiobooks   |  | 798.28                 |
|          | 01148CO21361710                    | eBooks / Audiobooks   |  | 228.00                 |
|          | 01148CO21364675                    | eBooks / Audiobooks   |  | 183.39                 |
|          |                                    | Т   | otal for this ACH Check for Vendor OVDR8011: | 9,725.20               |
| ACH      | POSU8132                           | Prudential Overall Supply   | 10/06/2021                                   |                        |
|          | 52503110                           | Scraper Mat Cleaning Services                                     | Street Division 08/17/2021                   | 3.87                   |
|          | 52503110                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52503110                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52503110                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52503110                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52503111<br>52503111               | Uniform Cleaning Services Street<br>Uniform Cleaning Services Sev |  | 28.57<br>9.65          |
|          | 52503111                           | Uniform Cleaning Servicess Str                                    |  | 9.65                   |
|          | 52503111                           | Uniform Cleaning Services Stre                                    |  | 11.45                  |
|          | 52503111                           | Uniform Cleaning Services Fac                                     | 6 6  | 14.38                  |
|          | 52503112                           | Uniform Cleaning Services Wat                                     | •  | 26.55                  |
|          | 52503112                           | Uniform Cleaning Services Wat                                     | ter Distribution 08/17/2021                  | 32.05                  |
|          | 52503113                           | Scraper Mat Cleaning Services                                     |  | 6.24                   |
|          | 52503113                           | Scraper Mat Cleaning Services                                     | Water Distribution 08/17/2021                | 6.23                   |
|          | 52505194                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52505194                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52505194                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52505194                           | Scraper Mat Cleaning Services                                     |  | 3.87                   |
|          | 52505194<br>52505195               | Scraper Mat Cleaning Services<br>Uniform Cleaning Services Sev    |  | 3.87<br>9.65           |
|          | 52505195                           | Uniform Cleaning Services Stre                                    |  | 11.45                  |
|          | 52505195                           | Uniform Cleaning Services Fac                                     |  | 14.38                  |
|          | 52505195                           | Uniform Cleaning Services Stre                                    |  | 28.57                  |
|          | 52505195                           | Uniform Cleaning Servicess Str                                    |  | 9.65                   |
|          | 52505196                           | Uniform Cleaning Services Wat                                     |  | 26.55                  |
|          | 52505196                           | Uniform Cleaning Services Wat                                     | ter Distribution 08/24/2021                  | 34.69                  |
|          | 52505197                           | Scraper Mat Cleaning Services                                     | Water Production 08/24/2021                  | 6.24                   |

| Check No | Vendor No            | Vendor Name  | Check Date                             | Check Amount  |
|----------|----------------------|--|--|---------------|
| -        | Invoice No           | Description  | Reference                              |               |
|          | 52505197             | Scraper Mat Cleaning Services Water l  |  | 6.23          |
|          | 52507204             | Scraper Mat Cleaning Services Street l   |  | 3.87          |
|          | 52507204             | Scraper Mat Cleaning Services Street l   |  | 3.87          |
|          | 52507204             | Scraper Mat Cleaning Services Faciliti   |  | 3.87          |
|          | 52507204             | Scraper Mat Cleaning Services Sewer  |  | 3.87          |
|          | 52507204             | Scraper Mat Cleaning Services Street   |  | 3.87          |
|          | 52507205             | Uniform Cleaning Services Sewer Div  |  | 9.65          |
|          | 52507205<br>52507205 | Uniform Cleaning Servicess Street Tre<br>Uniform Cleaning Services Facility Di |  | 9.65<br>14.38 |
|          | 52507205             | Uniform Cleaning Services Street Ligh  |  | 11.45         |
|          | 52507205             | Uniform Cleaning Services Street Mai   |  | 28.57         |
|          | 52507206             | Uniform Cleaning Services Water Dist   |  | 32.05         |
|          | 52507206             | Uniform Cleaning Services Water Proc   |  | 26.55         |
|          | 52507207             | Scraper Mat Cleaning Services Water 1  |  | 6.24          |
|          | 52507207             | Scraper Mat Cleaning Services Water I  |  | 6.23          |
|          | 52509254             | Scraper Mat Cleaning Services Street l   |  | 3.87          |
|          | 52509254             | Scraper Mat Cleaning Services Street   |  | 3.87          |
|          | 52509254             | Scraper Mat Cleaning Services Street l   |  | 3.87          |
|          | 52509254             | Scraper Mat Cleaning Services Faciliti   |  | 3.87          |
|          | 52509254             | Scraper Mat Cleaning Services Sewer  |  | 3.87          |
|          | 52509255             | Uniform Cleaning Services Street Ligh  |  | 11.45         |
|          | 52509255             | Uniform Cleaning Services Facility Di  | •                                      | 14.38         |
|          | 52509255             | Uniform Cleaning Services Sewer Div  | ision 09/07/2021                       | 9.65          |
|          | 52509255             | Uniform Cleaning Services Street Mair  | ntenance 09/07/2021                    | 28.57         |
|          | 52509255             | Uniform Cleaning Servicess Street Tre  | e Maint. 09/07/2021                    | 9.65          |
|          | 52509256             | Uniform Cleaning Services Water Production                                     |  | 26.55         |
|          | 52509256             | Uniform Cleaning Services Water Dist   | ribution 09/07/2021                    | 32.05         |
|          | 52509257             | Scraper Mat Cleaning Services Water I  | Production 09/07/2021                  | 6.24          |
|          | 52509257             | Scraper Mat Cleaning Services Water l  | Distribution 09/07/2021                | 6.23          |
|          |                      | Total fo   | r this ACH Check for Vendor POSU8132:  | 659.12        |
| ACH      | RED8995              | Red Wing Business Advantage Ac   | count 10/06/2021                       |               |
|          | 989-1-49690          | Public Works Footware Voucher Progr  | am (Hugo Houston)                      | 250.00        |
|          | 989-1-49799          | Public Works Footware Voucher Progr  | am (Rick Hernandez)                    | 250.00        |
|          | 989-1-50742          | Public Works Footware Voucher Progr  | am (Ruben Vargas)                      | 250.00        |
|          | 989-1-51177          | Public Works Footware Voucher Progr  | ` '                                    | 234.25        |
|          | 989-1-51243          | Public Works Footware Voucher Progr  | am (RichardArriola)                    | 223.24        |
|          | 995-1-51638          | Public Works Footware Voucher Progr  | am (Ryan Garcia)                       | 221.72        |
|          |                      | Total f  | or this ACH Check for Vendor RED8995:  | 1,429.21      |
| ACH      | SIR8011              | SirsiDynix   | 10/06/2021                             |               |
|          | INV06545             | Annual Renewal of Library Informatio   | n System                               | 33,830.00     |
|          |                      | Total  | for this ACH Check for Vendor SIR8011: | 33,830.00     |
| ACH      | STA5219              | Staples Business Advantage   | 10/06/2021                             |               |
|          | 3479196940           | Public Works Supplies  |  | 143.31        |
|          | 3479591972           | Public Works Supplies  |  | 28.32         |
|          | 3479591972           | Public Works Supplies  |  | 28.31         |
|          | 3479591972           | Public Works Supplies  |  | 28.32         |
|          | 3479591972           | Public Works Supplies  |  | 28.32         |
|          | 3479591972           | Public Works Supplies  |  | 44.81         |
|          | 3479591972           | Public Works Supplies  |  | 28.32         |
|          | 3479591974           | Public Works Supplies  |  | 84.88         |
|          | 3479799763           | Public Works Supplies  |  | 109.06        |
|          | 3480429119           | Public Works Supplies  |  | 77.11         |
|          | 3480684886           | Public Works Water Division Supplies   |  | 38.58         |
|          | 3480684886           | Public Works Water Division Supplies   |  | 38.58         |

| Check No | Vendor No                | Vendor Name   | Check Date | Check Amount    |
|----------|--------------------------|---|------------|-----------------|
|          | Invoice No               | Description   | Reference  |                 |
|          | 3480959839               | Public Works Supplies                                     |            | 40.10           |
|          | 3480959839               | Public Works Supplies                                     |            | 40.10           |
|          | 3480959839               | Public Works Supplies                                     |            | 40.10           |
|          | 3480959839               | Public Works Supplies                                     |            | 40.10           |
|          | 3480959839               | Public Works Supplies                                     |            | 49.69           |
|          | 3480959839               | Public Works Supplies                                     |            | 103.08          |
|          | 3480959839               | Public Works Supplies                                     |            | 40.10           |
|          | 3481898799               | Public Works Supplies                                     |            | 37.01           |
|          | 3481898800               | Public Works Water Division Supplie                       | es         | 424.63          |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.56           |
|          | 3482329611               | Public Works Supplies - COVID-19                          |            | 27.57           |
|          | 3482665754               | Public Works Supplies                                     |            | 33.06           |
|          | 3482898621               | Public Works Supplies                                     |            | 98.11           |
|          | 3482898622               | Public Works Supplies                                     |            | 9.25            |
|          | 3482898622               | Public Works Supplies                                     |            | 9.25            |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 82.67           |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 13.78           |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 13.78           |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 13.78           |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 13.78           |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 13.78           |
|          | 3482975873               | PW Supplies for COVID-19                                  |            | 13.78           |
|          | 3484373933               | Public Works Supplies                                     |            | 39.44           |
|          | 3484373934               | Public Works Supplies                                     |            | 30.86           |
|          | 3484373935               | Public Works Supplies                                     |            | 71.65           |
|          | 3484373936               | PW Supplies   |            | 38.18           |
|          | 3484373936               | PW Supplies   |            | 38.18           |
|          | 3484373936               | PW Supplies   |            | 38.17           |
|          | 3484373936               | PW Supplies   |            | 38.18           |
|          | 3484373936               | PW Supplies   |            | 38.18           |
|          | 3484373936               | PW Supplies   |            | 38.18           |
|          | 3484373937               | Public Works Supplies                                     |            | 67.83           |
|          | 3484373937               | Public Works Supplies                                     |            | 67.83           |
|          | 3484373938               | Planning & Building Supplies                              |            | 34.71           |
|          | 3484451162               | PW Supplies   |            | 13.79           |
|          | 3484451162               | PW Supplies   |            | 13.79           |
|          | 3484451162               | PW Supplies   |            | 13.79           |
|          | 3484451162               | PW Supplies   |            | 13.79           |
|          | 3484451162               | PW Supplies   |            | 13.79           |
|          | 3484451162               | PW Supplies   |            | 13.79           |
|          | 3484581427               | Community Services Supplies                               |            | 359.91<br>15.43 |
|          | 3484581429<br>3484581429 | Community Services Supplies Community Services Supplies   |            | 23.69           |
|          | 3484819250               | Library Supplies  |            | 22.01           |
|          | 3484819251               | Library Supplies  |            | 30.86           |
|          | 3484819252               | Library Supplies  Library Supplies                        |            | 110.77          |
|          | 3484819252               | Police Dept. Supplies                                     |            | 84.56           |
|          | 3484819253               |   |            | 130.23          |
|          | 3484889546               | Planning & Building Supplies Planning & Building Supplies |            | 45.61           |
|          | 3484889547               | Community Services Supplies                               |            | 78.00           |
|          | 3484889547               | Community Services Supplies  Community Services Supplies  |            | 49.61           |
|          | 3484984847               | Public Works Supplies                                     |            | 43.31           |
|          | 3484984850               | Community Services Supplies                               |            | 27.42           |
|          | 270720 <del>1</del> 02U  | Community Services Supplies                               |            | 27.42           |

| Check No | Vendor No                | Vendor Name  | Check Date                                | Check Amount    |
|----------|--------------------------|--|---|-----------------|
|          | Invoice No               | Description  | Reference                                 |                 |
|          | 3485383104               | Library Supplies   |   | 131.24          |
|          | 3485383105               | Police Dept. Supplies                                    |   | 459.83          |
|          | 3485383107               | Police Dept. Supplies                                    |   | 45.50           |
|          | 3485383108               | Community Services Supplies                              |   | 309.74<br>81.35 |
|          | 3485556596               | Library Supplies   |   |                 |
|          | 3485556597               | Library Supplies   |   | 61.16           |
|          | 3485829788               | Police Dept. Supplies Library Supplies                   |   | 66.14<br>53.45  |
|          | 3486018556               | •                  |   | 53.43<br>110.24 |
|          | 3486018557               | Public Works Supplies COVID-19                           |   | 220.39          |
|          | 3486449349<br>3486449350 | Police Dept. Supplies Community Services Supplies        |   | 18.18           |
|          | 3486449351               | Community Services Supplies  Community Services Supplies |   | 18.18           |
|          | 3486520716               | Fire Dept. Supplies                                      |   | 18.26           |
|          | 3486589169               | Fire Dept. Supplies  Fire Dept. Supplies                 |   | 145.99          |
|          | 3486777328               | Library Supplies   |   | 76.04           |
|          | 3486777329               | Public Works Water Division Suppli                       | AC.                                       | 81.56           |
|          | 3486777331               | Police Dept. Supplies                                    | CS  | 829.53          |
|          | 3486777332               | Police Dept. Supplies                                    |   | 15.75           |
|          | 3486896117               | Community Services Supplies                              |   | 56.53           |
|          | 3487188998               | Library Supplies   |   | 88.41           |
|          | 3487438942               | Police Dept. Supplies                                    |   | 313.54          |
|          | 3487438943               | Police Dept. Supplies                                    |   | 737.94          |
|          |                          | Tot  | al for this ACH Check for Vendor STA5219: | 7,612.83        |
| 313173   | AAAELMTR                 | AAA Electric Motor Sales & Se                            | ervice 10/06/2021                         |                 |
|          | LSI-51806                | Electric Motor and Hardware Comp                         | oonents for PublicWorks Divison           | 280.31          |
|          |                          |  | Total for Check Number 313173:            | 280.31          |
| 313174   | ADHMGRP                  | Adhami Engineering Group                                 | 10/06/2021                                |                 |
|          | 2                        | Engineering Design: Rapid Flashing                       | g Beacon April - June 2021                | 14,980.00       |
|          |                          |  | Total for Check Number 313174:            | 14,980.00       |
| 313175   | ACMT2920                 | All City Management                                      | 10/06/2021                                |                 |
| 313173   | 71075                    | Crossing Guard Services for 05/30-0                      |   | 1,696.95        |
|          | 71340                    | Crossing Guard Services for 06/13-0                      |   | 754.20          |
|          | 71711                    | Crossing Guard Services for 08/08/-                      |   | 4,456.05        |
|          |                          |  | Total for Check Number 313175:            | 6,907.20        |
| 313176   | ALL0197                  | All Star Fire Equipment, Inc.                            | 10/06/2021                                |                 |
|          | 234452                   | Fire Dept Safety Clothing & Equi                         |   | 380.91          |
|          | 234628                   | Fire Dept Safety Clothing & Equi                         |   | 1,101.40        |
|          |                          |  | Total for Check Number 313176:            | 1,482.31        |
| 313177   | AMDA6710                 | Jose L. Almeda   | 10/06/2021                                |                 |
|          | 05.14.2021               | Reimb. Mileage call out for custome                      | er w/o water                              | 22.40           |
|          | 05.16.2021               | Reimb. Mileage call out for water le                     | ak  | 22.40           |
|          | 06.30.2021               | Reimb. Mileage call out for meter le                     |   | 22.40           |
|          | 07.05.2021               | Reimb. Mileage call out for water m                      | ain break                                 | 22.40           |
|          | 07.10.2021               | Reimb. Mileage call out for water le                     | ak  | 22.40           |
|          | 07.10.2021 # 2           | Reimb. Mileage call out for running                      | sprinklers                                | 22.40           |
|          | 08.22.2021               | Reimb. Mileage call out at Fairview                      | Ave.                                      | 22.40           |
|          |                          |  | Total for Check Number 313177:            | 156.80          |
| 313178   | MCACKN                   | Monica Ankenbrand  | 10/06/2021                                |                 |
|          | 116694                   | Refund due to Class Cancellation                         |   | 140.00          |

| Check Amount     | Check Date<br>Reference               | Vendor Name<br>Description   | Vendor No<br>Invoice No | Check No |
|------------------|---------------------------------------|--|-------------------------|----------|
| 140.00           | Total for Check Number 313178:        |  |                         |          |
|                  | 10/06/2021                            | Antrim's Security Co., Inc.  | ANT0243                 | 313179   |
| 44.46            |                                       | War Memorial Building Lock Chang   | 58422                   |          |
| 44.46            | Total for Check Number 313179:        |  |                         |          |
|                  | ing : 10/06/2021                      | Aramsco, Inc. (Formerly Empire   | EMPI5011                | 313180   |
| 256.67           |                                       | Fire Dept- Apparatus Cleaning Suppl  | S4800539.002            |          |
| 256.67           | Total for Check Number 313180:        |  |                         |          |
|                  | 10/06/2021                            | Laurie Astle   | LRATLE                  | 313181   |
| 84.00            | 00                                    | Refund Rental of Orange Grove Park   | 116706                  |          |
| 84.00            | Total for Check Number 313181:        |  |                         |          |
|                  | 10/06/2021                            | Backdraft OpCo LLC   | EGRP5011                | 313182   |
| 2,760.00         | er 2021 - September 2022)             | Emergency Radio Subscription Fee (   | INV2106700              |          |
| 2,760.00         | Total for Check Number 313182:        |  |                         |          |
|                  | 10/06/2021                            | Better 4 You Meals   | BT4U8180                | 313183   |
| 7,981.00         | at 202                                | Meals for Onsite and Home Delivery   | 0821-3319               |          |
| 7,981.00         | Total for Check Number 313183:        |  |                         |          |
|                  | 10/06/2021                            | Brinks Inc. (Formerly Dunbar Inc.  | DBAR3011                | 313184   |
| 537.75           |                                       | Armored Cash Transportation: July 2  | 11626544                |          |
| 498.92<br>266.90 |                                       | Armored Cash Transportation: Augus<br>Armored Cash Transportation: July 2    | 11657725<br>4193230     |          |
| 30.60            |                                       | Armored Cash Transportation: Augus   | 4256484                 |          |
| 1,334.17         | Total for Check Number 313184:        |  |                         |          |
|                  | 10/06/2021                            | Burro Canyon Shooting Park   | BUR4018                 | 313185   |
| 40.00            |                                       | PD Range Fees for 09/03/2021   | 2498                    |          |
| 40.00            | Total for Check Number 313185:        |  |                         |          |
|                  | 10/06/2021                            | CA Linen Services  | CAL5236                 | 313186   |
| -18.12           | rvices (Credit Memo)                  | Fire Station Linene Rental and Clear   | 1874319C                |          |
| -25.80           | · · · · · · · · · · · · · · · · · · · | Fire Station Linene Rental and Clear   | 1880076C                |          |
| 95.31<br>87.03   |                                       | Fire Station Linene Rental and Clear<br>Fire Station Linene Rental and Clear | 1898274<br>1900653      |          |
|                  | 171003                                | The Station Emeric Renail and Clear  | 1700033                 |          |
| 138.42           | Total for Check Number 313186:        |  |                         |          |
| 750.00           | 10/06/2021                            | California Police Chiefs Associat<br>Women in Law Enforcement Confer         | CPC4011<br>20033        | 313187   |
|                  | 7.25-30/21 Zavaia & Wellite           | women in Law Emolection Conten   | 20033                   |          |
| 750.00           | Total for Check Number 313187:        |  |                         |          |
| 152.25           | 10/06/2021                            | Cantu Graphics   | CAN0607                 | 313188   |
| 153.25<br>165.04 |                                       | Proclamation 11x14 - 100lb. Text Op<br>Business Cards for City Council       | 20320<br>20409          |          |
| 66.04            |                                       | Business Cards for G. Shelleh & T. C   | 20409                   |          |
| 29.55            |                                       | 11x17 Color Poster for Library   | 20515                   |          |
| 56.23            |                                       | Self Ink Stamp Green for Library   | 20519                   |          |
| 44.04            | cox                                   | Business Cards for Supervisor Natha  | 20522                   |          |

| Check No | Vendor No<br>Invoice No  | Vendor Name<br>Description   | Check Date<br>Reference        | Check Amount   |
|----------|--------------------------|--|--------------------------------|----------------|
|          |                          |  | Total for Check Number 313188: | 514.15         |
| 313189   | CHA1111                  | Anthony Chan   | 10/06/2021                     |                |
|          | 08.23-08.27.21           | Reimb. Training Expense for Reserve Officer (                            | Chan 08.23-08.27.21            | 715.81         |
|          |                          |  | Total for Check Number 313189: | 715.81         |
| 313190   | CHOISIN<br>116380        | Soo Jin Choi<br>Refund class due to inability to attend                  | 10/06/2021                     | 159.00         |
|          | 110500                   | retaind class due to maonity to attend                                   |                                | 137.00         |
|          |                          |  | Total for Check Number 313190: | 159.00         |
| 313191   | JMCB6710<br>05.23.2021   | Jose Manuel Cipres Bravo<br>Reimb. Mileage for Call Out Water Main Breal | 10/06/2021                     | 21.62          |
|          | 07.05.2021               | Reimb. Mileage for Call Out Water Main Breal                             |                                | 21.62          |
|          | 08.07.2021               | Reimb. Mileage for Call Out for Water Leak                               |                                | 21.62          |
|          |                          |  | Total for Check Number 313191: | 64.86          |
| 313192   | ALPD4010                 | City of Alhambra Police Department                                       | 10/06/2021                     |                |
| 313172   | SoPas-07/2021            | Inmate Housing - July 2021   | 10/00/2021                     | 1,118.00       |
|          | SoPas-08/2021            | Inmate Housing - August 2021   |                                | 2,494.00       |
|          |                          |  | Total for Check Number 313192: | 3,612.00       |
| 313193   | SPMN3010                 | City of South Pasadena   | 10/06/2021                     |                |
|          | 14044                    | Utility Billing for South Pawsadena Dog Park                             | (07/07-08/30/21)               | 446.75         |
|          |                          |  | Total for Check Number 313193: | 446.75         |
| 313194   | SOU5343                  | City of South Pasadena-Recreation  | 10/06/2021                     |                |
|          | 01.19.2021               | Reimburse Petty Cash   |                                | 6.34           |
|          | 02.18.2021               | Reimburse Petty Cash   |                                | 8.24           |
|          | 03.09.2020<br>03.10.2020 | Reimburse Petty Cash Reimburse Petty Cash                                |                                | 13.45<br>36.31 |
|          | 03.19.2020               | Reimburse Petty Cash   |                                | 54.00          |
|          | 03.25.2021               | Reimburse Petty Cash   |                                | 35.00          |
|          | 06.28.2021               | Reimburse Petty Cash   |                                | 17.82          |
|          | 06.30.2021               | Reimburse Petty Cash   |                                | 46.23          |
|          | 07.22.2020               | Reimburse Petty Cash   |                                | 33.30          |
|          | 07.28.2020<br>07.28.2021 | Reimburge Petty Cash   |                                | 18.04          |
|          | 08.02.2021               | Reimburse Petty Cash Reimburse Petty Cash                                |                                | 17.85<br>65.57 |
|          | 08.04.2020               | Reimburse Petty Cash   |                                | 6.13           |
|          | 08.12.2021               | Reimburse Petty Cash   |                                | 32.94          |
|          | 10.16.2020               | Reimburse Petty Cash   |                                | 5.61           |
|          | 11.20.2019               | Reimburse Petty Cash   |                                | 56.15          |
|          | 12.07.2020               | Reimburse Petty Cash   |                                | 8.24           |
|          |                          |  | Total for Check Number 313194: | 461.22         |
| 313195   | CON9152                  | Control Automation Design Inc  | 10/06/2021                     |                |
|          | 21-009                   | Replacement of SCADA System and Radios at                                |                                | 7,216.96       |
|          | 21-017                   | Replacement of SCADA System and Radios at                                | t Grand Reservoir.             | 2,325.00       |
|          |                          |  | Total for Check Number 313195: | 9,541.96       |
| 313196   | DSP0755                  | D & S Printing   | 10/06/2021                     |                |
|          | 9048                     | Order of # 1000 Envelopes for PW Department                              |                                | 318.63         |
|          | 9077                     | Police Department Printing Services: Self Ink                            | Rubber Stamp                   | 46.31          |
|          | 9079                     | 22x28 PVC Sign for Library "Rule of Entry"                               |                                | 88.20          |

| Check No | Vendor No<br>Invoice No                  | Vendor Name<br>Description   | Check Date<br>Reference                        | Check Amount                |
|----------|--|--|--|-----------------------------|
|          | 9080<br>9084<br>9085                     | 14x22PVC Sign for Library "Library Pa<br>PD Printing Services: 4500 Annual Ove<br>PD Printing Services: 1000 Courtesy No | tio Program Schedule"<br>rnight Parking Decals | 77.18<br>3,854.34<br>192.94 |
|          |  |  | Total for Check Number 313196:                 | 4,577.60                    |
| 313197   | DEM0777<br>6997448                       | Demco<br>CD/DVD Overlay Tags for Library   | 10/06/2021                                     | 248.00                      |
|          |  |  | Total for Check Number 313197:                 | 248.00                      |
| 313198   | DPTTSNPR<br>041787-0001-01               | Department of Transportation<br>1028 Magnolia Street Rent Balance (09)   | 10/06/2021<br>/01/2019-08/31/2022)             | 300.00                      |
|          |  |  | Total for Check Number 313198:                 | 300.00                      |
| 313199   | DPL4011<br>DUI20210917                   | DPrep Inc. DUI Checkpoint Planning & Mgmt. Co  | 10/06/2021<br>urse for Officer Smith           | 125.00                      |
|          |  |  | Total for Check Number 313199:                 | 125.00                      |
| 313200   | DUB0187<br>08.18-08.19.21                | Andrew DuBois<br>Reimb. Training Expense for CPL. Dub  | 10/06/2021<br>ois (08/18-08/19/21)             | 105.95                      |
|          |  |  | Total for Check Number 313200:                 | 105.95                      |
| 313201   | EGBC4011<br>000051234<br>000051295       | E.G. Brennan & Co. Corp.  Annual Maint. for Police Dept. Shredder  1 Pnt. Sheredder Oil for Police Dept.                 | 10/06/2021                                     | 225.00<br>83.99             |
|          |  |  | Total for Check Number 313201:                 | 308.99                      |
| 313202   | ENT5426<br>0169440                       | Entenmann-Rovin<br>Employee Anniversary Pins 2019-2021   | 10/06/2021                                     | 3,032.19                    |
|          |  |  | Total for Check Number 313202:                 | 3,032.19                    |
| 313203   | GEN1207<br>28540                         | General Pump Company<br>Replacement of Booster Pump & Surge<br>Reservoir   | 10/06/2021<br>Protector at Grand               | 26,033.92                   |
|          |  |  | Total for Check Number 313203:                 | 26,033.92                   |
| 313204   | PLGRONCA<br>116691                       | Paul Geronca Refund class due to inability to attend   | 10/06/2021                                     | 159.00                      |
|          |  |  | Total for Check Number 313204:                 | 159.00                      |
| 313205   | GRED4011<br>08.17.2021<br>09.02-09.03.21 | Ederson Gramajo<br>Reimb. Training Expense for Officer Gr<br>Reimb. Training Expense for Officer Gr                      | • •  | 17.14<br>32.26              |
|          |  |  | Total for Check Number 313205:                 | 49.40                       |
| 313206   | ISGU4011<br>08.17.2021                   | Issac Gutierrez<br>Reimb. Training Expense for Officer G   | 10/06/2021<br>utierrez (08.17.2021)            | 17.14                       |
|          |  |  | Total for Check Number 313206:                 | 17.14                       |
| 313207   | HHA5011<br>1IN0442771                    | H & H Wholesale Parts Diesel Exhaust Fluid for Fire Dept.  | 10/06/2021                                     | 87.65                       |
|          |  |  | Total for Check Number 313207:                 | 87.65                       |

| Check No | Vendor No<br>Invoice No                               | Vendor Name<br>Description   | Check Date<br>Reference           | Check Amount                                  |
|----------|---|--|-----------------------------------|---|
| 313208   | HRAS6201<br>47359<br>49175<br>49674                   | Harris & Associates Annual LLMD Levy & Collection of Assessn LLMD Admin 21-22 (05/30/21-06/30/2021) LLMD Admin 21-22 (08/01/2021-08/28/2021)   | 10/06/2021<br>nen                 | 770.00<br>7,225.00<br>850.00                  |
|          |   |  | Total for Check Number 313208:    | 8,845.00                                      |
| 313209   | HOM1515<br>1305179<br>2305053<br>9744272              | Home Depot Credit Services PW Streets Division Supplies PW Streets Division Supplies Public Works Facilities Dept. Supplies  | 10/06/2021                        | 869.22<br>641.52<br>74.64                     |
|          |   |  | Total for Check Number 313209:    | 1,585.38                                      |
| 313210   | INT6115<br>77391<br>77435                             | Interstate Batteries Battery for Public Works Engieering Truck Replacement of 2 Batteries for Back Up Gene   | 10/06/2021<br>erator at Reservoir | 120.01<br>464.94                              |
|          |   | •  | Total for Check Number 313210:    | 584.95  |
| 313211   | IICC8025<br>279976-1045999                            | Irwindale Industrial Clinic<br>Transit Division Medical Exam   | 10/06/2021                        | 45.00   |
|          |   |  | Total for Check Number 313211:    | 45.00   |
| 313212   | JSAR4011<br>16899<br>16931<br>16945<br>16947<br>16953 | Jack's Auto Repair 45 Day Inspection of Unit # 80 Police Department Auto Repairs Unit # 209 45 Day Inspection of Unit # 77 Police Department Auto Repairs Unit # 1405 Police Department Auto Repairs Unit # 1501 | 10/06/2021                        | 66.00<br>362.46<br>110.00<br>223.54<br>826.74 |
|          |   |  | Total for Check Number 313212:    | 1,588.74                                      |
| 313213   | JCRS5011<br>50036                                     | Jones Coffee Roasters<br>Fire Dept. Coffee Supplies Septemeber 2021  | 10/06/2021                        | 139.05  |
|          |   |  | Total for Check Number 313213:    | 139.05  |
| 313214   | KOAC6010<br>JC01028-7                                 | KOA Corporation SP TMC & CCTV Traffic Signal Improv. 08/   | 10/06/2021<br>13/20-12/27/20      | 12,830.00                                     |
|          |   |  | Total for Check Number 313214:    | 12,830.00                                     |
| 313215   | EMLYLAU<br>116560                                     | Emily Lau<br>Refund due to Class Cancellation  | 10/06/2021                        | 65.00   |
|          |   |  | Total for Check Number 313215:    | 65.00   |
| 313216   | LEE1111<br>08.17.2021                                 | Richard Lee<br>Reimb. Training Expense for Det. Lee (08/17)  | 10/06/2021<br>/20                 | 52.98   |
|          |   |  | Total for Check Number 313216:    | 52.98   |
| 313217   | LIFE822<br>1127520                                    | Life-Assist Inc.<br>Fire Dept. Medical Supplies  | 10/06/2021                        | 982.14  |
|          |   |  | Total for Check Number 313217:    | 982.14  |
| 313218   | CHLOO527<br>116692<br>116693                          | Charmaine Loo<br>Refund due to Class Cancellation<br>Refund due to Class Cancellation  | 10/06/2021                        | 140.00<br>140.00                              |

| Check Amour  | Check Date<br>Reference           | Vendor Name<br>Description   | Vendor No<br>Invoice No      | Check No |
|--------------|-----------------------------------|--|------------------------------|----------|
| 280.0        | Total for Check Number 313218:    |  |                              |          |
|              | 10/06/2021                        | Kelvin Machado   | KVMC6710                     | 313219   |
| 17.6         |                                   | Mileage Reimb. for call out emerg  | 04.23.2021 # 1               |          |
| 17.6<br>17.6 |                                   | Mileage Reimb. for call out due to<br>Mileage Reimb. for call out due to | 04.23.2021 # 2<br>07.05.2021 |          |
| 17.6         |                                   | Mileage Reimb. call out for water  | 07.16.2021                   |          |
| 17.6         |                                   | Mileage Reimb. for call out due to                                       | 08.28.2021                   |          |
| 17.6         | er main break                     | Mileage Reimb. for call out due to                                       | 09.11.2021                   |          |
| 106.1        | Total for Check Number 313219:    |  |                              |          |
| 110.0        | 10/06/2021<br>ession System at SC | Marx Bros. Fire Extinguisher (<br>Semi-Annual Inspection of Fire St      | MBFEC106<br>S 22817          | 313220   |
| 110.0        | Total for Check Number 313220:    |  |                              |          |
|              | 10/06/2021                        | Shante Merida  | MRSHTE                       | 313221   |
| 159.0        |                                   | Refund Class due to participant re-                                      | 116677                       |          |
| 159.0        | Total for Check Number 313221:    |  |                              |          |
|              | 10/06/2021                        | Yorimasa Minami  | YRIMINMI                     | 313222   |
| 159.0        |                                   | Refund class due to inability to att                                     | 116717                       |          |
| 159.0        | Total for Check Number 313222:    |  |                              |          |
|              | 10/06/2021                        | Mission Meridian Village POA   | MMV9126                      | 313223   |
| 804.1        |                                   | MMV HOA Fees: Hospital Dues (  | COM001 - 09/21               |          |
| 1,730.1      | 1/2021-08/18/2021)                | MMV HOA Fees: Parking Dues (   | COM002 - 09/21               |          |
| 2,534.3      | Total for Check Number 313223:    |  |                              |          |
|              | 10/06/2021                        | Norman A. Traub Associates   | TRA2010                      | 313224   |
| 175.0        | ıltant                            | Human Resources: Investigation C   | 21098-01                     |          |
| 175.0        | Total for Check Number 313224:    |  |                              |          |
|              | 10/06/2021                        | Tina Norris  | TNNRSS                       | 313225   |
| 159.0        |                                   | Refund due to Inability to Attend  | 116678                       |          |
| 159.0        | Total for Check Number 313225:    |  |                              |          |
|              | 10/06/2021                        | O' Reilly Automotive Inc.  | OREI6711                     | 313226   |
| 87.8         |                                   | Maintenance & Repair Parts for W   | 3213-219539                  |          |
| 16.5         |                                   | Maintenance & Repair Parts for W   | 3213-219736                  |          |
| 13.4         | Divison                           | Maintenance & Repair Parts for W   | 3213-226937                  |          |
| 117.8        | Total for Check Number 313226:    |  |                              |          |
| (00.0        |                                   | Pacific Institute of Defensive   | PIDT4010                     | 313227   |
| 600.0        | ierrez (10/04-10/08/21)           | Baton Instructor Course for Offcr.                                       | 11732161521002               |          |
| 600.0        | Total for Check Number 313227:    |  |                              |          |
|              | 10/06/2021                        | Pasadena Cyclery   | PSCY8520                     | 313228   |
| 108.6        |                                   | Police Department Bicycle Maint.   | 081121153605606              |          |
| 108.6        | Total for Check Number 313228:    |  |                              |          |
|              | 10/06/2021                        | Craig Phillips   | CGPH4011                     | 313229   |
| 564.4        | lips (07/26/21-08/06/21)          | Reimb. Training Expense for Det.   | 07.26-08.06.21               |          |

| Check No | Vendor No<br>Invoice No   | Vendor Name<br>Description   | Check Date<br>Reference  | Check Amount  |
|----------|---|--|--|---|
|          |   |  | Total for Check Number 313229:   | 564.48  |
| 313230   | PHOE4610<br>072021184   | Phoenix Group Information Systems<br>Annual Parking Citation Processing & D  |  | 3,590.40  |
|          |   |  | Total for Check Number 313230:   | 3,590.40  |
| 313231   | PLWK7011<br>75890   | Placeworks<br>Consultant General Plan Update (Down   | 10/06/2021<br>town Specific Plan) 07/2021  | 9,038.95  |
|          |   |  | Total for Check Number 313231:   | 9,038.95  |
| 313232   | PRRSPNSE<br>0184  | Primal Response Training Group, L.<br>Pistol Red Dot Instructor Course for Cpl   |  | 450.00  |
|          |   |  | Total for Check Number 313232:   | 450.00  |
| 313233   | PSOMAS  | PSOMAS   | 10/06/2021   |   |
|          | 174714  | Consultant - General Plan EIR (Downto  | own Specific) 06/04-07/01/21   | 34,120.50   |
|          |   |  | Total for Check Number 313233:   | 34,120.50   |
| 313234   | RIN7777 24255 25660 26009 26883 28296 29672 30295 31154  RKAC6010 31100 31285 31392 31482 | Rincon Consultants, Inc. 637 Meridian Ave. P/E 07/31/2020 1213 Fair Oaks Ave. (Pavilions) P/E: 09. 1213 Fair Oaks Ave. (Pavilions) P/E: 10. 1213 Fair Oaks Ave. (Pavilions) P/E: 11. 1213 Fair Oaks Ave. (Pavilions) P/E: 01. 1213 Fair Oaks Ave. (Pavilions) P/E: 03. 1213 Fair Oaks Ave. (Pavilions) P/E: 04. 1213 Fair Oaks Ave. (Pavilions) P/E: 06.  RKA Consulting Group Engineering Services for Street Improve | /31/2020<br>/30/2020<br>/31/2021<br>/31/2021<br>/30/2021<br>Total for Check Number 313234:<br>10/06/2021<br>ement Projects April 2021<br>ement Projects May 2021<br>ement Projects June 2021<br>ement Projects July 2021<br>Total for Check Number 313235: | 3,200.00<br>961.25<br>2,280.00<br>738.75<br>2,293.75<br>2,317.50<br>993.75<br>223.75<br>13,008.75<br>8,255.00<br>2,812.50<br>688.75<br>2,165.00 |
| 313236   | RON1111<br>08/30-08/31/21   | Matthew Ronnie<br>Reimb.Training Expense for Sgt. Ronni  | 10/06/2021<br>e (08/30-08/31/21)   | 113.95  |
|          |   |  | Total for Check Number 313236:   | 113.95  |
| 313237   | RPCH8210<br>09.02-09.03.21  | Christina Roppo<br>Reimb. Training Expense for Officer Ro  | 10/06/2021<br>oppo (09.02-09.03.21)  | 64.51   |
|          |   |  | Total for Check Number 313237:   | 64.51   |
| 313238   | SGB3223<br>0004694-IN   | San Gabriel Basin Water Quality Au<br>FY 2021-22 Combined Assessment on F  |  | 21,406.20   |
|          |   |  | Total for Check Number 313238:   | 21,406.20   |
| 313239   | SGVMC111<br>874365<br>874962  | San Gabriel Valley Medical Center<br>Blood Alcohol Withdrawl 08/13/2021<br>Blood Alcohol Withdrawl 07/30/2021  | 10/06/2021   | 48.00<br>48.00  |

| Check No | Vendor No<br>Invoice No          | Vendor Name<br>Description   | Check Date<br>Reference        | Check Amount           |
|----------|----------------------------------|--|--------------------------------|------------------------|
|          |                                  |  | Total for Check Number 313239: | 96.00                  |
| 313240   | SGVPCA00                         | San Gabriel Valley Police Chief's  | Association 10/06/2021         |                        |
|          | 2021-2022                        | SGVPCA Membership Dues FY2021  | -22 for Cheif Solinsky         | 400.00                 |
|          |                                  |  | Total for Check Number 313240: | 400.00                 |
| 313241   | SCHZCLDA<br>116568               | Claudia Sanchez<br>Refund After School Camp Med                          | 10/06/2021                     | 356.00                 |
|          |                                  |  | Total for Check Number 313241: | 356.00                 |
| 313242   | KVSRKISN                         | Kevork Sarkissian  | 10/06/2021                     |                        |
|          | 116760                           | Class Refund due to participant reques                                   | st                             | 159.00                 |
|          |                                  |  | Total for Check Number 313242: | 159.00                 |
| 313243   | JSSC2920                         | Joseph Scott   | 10/06/2021                     |                        |
|          | PW558                            | Refund Permit Fee - Concrete Permit                                      | Application                    | 433.00                 |
|          |                                  |  | Total for Check Number 313243: | 433.00                 |
| 313244   | SCAT6710                         | Scott's Automotive   | 10/06/2021                     |                        |
|          | 15813                            | Police Department Automotive Maint                                       |                                | 85.50                  |
|          | 16092                            | Police Department Automotive Maint                                       |                                | 110.50                 |
|          | 16093<br>16337                   | Police Department Automotive Maint                                       |                                | 227.99<br>77.28        |
|          | 16359                            | Police Department Automotive Maint Police Department Maintenance for C   |                                | 126.97                 |
|          | 16367                            | Police Department Automotive Maint                                       |                                | 123.50                 |
|          |                                  |  | Total for Check Number 313244: | 751.74                 |
| 313245   | SDSI0107                         | SDS Security Design Systems  | 10/06/2021                     |                        |
|          | 233801                           | Security System for Civic Center Poli                                    | ce Dept. (1                    | 65.18                  |
|          | 233803                           | Security System for Civic Center Surv                                    |                                | 113.00                 |
|          | 233804                           | Security System for Civic Center Secu                                    | rity (10/01                    | 30.00                  |
|          |                                  |  | Total for Check Number 313245: | 208.18                 |
| 313246   | SOGA6501                         | SoCalGAS   | 10/06/2021                     |                        |
|          | 196-493-8529 1                   | CNG Fuel for PW & Transit (07/01/2                                       |                                | 45.70                  |
|          | 196-493-8529 1                   | CNG Fuel for PW & Transit (07/01/2                                       |                                | 45.70                  |
|          | 196-493-8529 1<br>196-493-8529 1 | CNG Fuel for PW & Transit (07/01/2<br>CNG Fuel for PW & Transit (07/01/2 |                                | 45.70<br>45.70         |
|          | 196-493-8529 1                   | CNG Fuel for PW & Transit (07/01/2                                       |                                | 45.70                  |
|          | 196-493-8529 1                   | CNG Fuel for PW & Transit (07/01/2                                       |                                | 45.70                  |
|          |                                  |  | Total for Check Number 313246: | 274.20                 |
| 313247   | SPSLLC                           | SPS, LLC.  | 10/06/2021                     |                        |
|          | 6                                | Captial Improvement Projects @ San                                       | Pascual Stables                | 47,247.01              |
|          | 6                                | Captial Improvement Projects @ San                                       |                                | -47,247.01             |
|          | 6                                | Captial Improvement Projects @ San                                       |                                | -47,247.01             |
|          | 6<br>6                           | Captial Improvement Projects @ San<br>Captial Improvement Projects @ San |                                | 47,247.01<br>47,247.01 |
|          |                                  |  |                                |                        |
| 212240   | OTE 40.45                        | Cut E ' I  | Total for Check Number 313247: | 47,247.01              |
| 313248   | STE4845<br>2740-08-005           | Stetson Engineers Inc Risk & Resilience Report and ERP for               | 10/06/2021<br>or July 31,2     | 382.00                 |
|          |                                  | •  |                                |                        |

| Check No | Vendor No<br>Invoice No   | Vendor Name<br>Description   | Check Date<br>Reference                  | Check Amount                                 |
|----------|---|--|--|--|
|          |   |  | Total for Check Number 313248:           | 382.00                                       |
| 313249   | ANSY5265<br>116739  | Angelina Sykeh<br>Refund due to cancelled Getty Villa Trip   | 10/06/2021                               | 20.00  |
|          |   |  | Total for Check Number 313249:           | 20.00  |
| 313250   | TRSL5011<br>INV32952  | Target Solutions Learning LLC<br>Command Share: Employee Resource Appli  | 10/06/2021<br>cation & Staffing Schedule | 2,634.72                                     |
|          |   |  | Total for Check Number 313250:           | 2,634.72                                     |
| 313251   | TIM4011<br>0357905090521  | Time Warner Cable<br>Account # 8448 30 008 0357905 (09/05/21-  | 10/06/2021<br>10/04/21)                  | 130.55                                       |
|          |   |  | Total for Check Number 313251:           | 130.55                                       |
| 313252   | TOM4455   | Tom's Men's Wear & Uniform's, Inc.   | 10/06/2021                               |  |
|          | 86<br>97  | Police Dept. Uniform Shirt for Nelly Ochoa<br>Police Dept. Clothing & Uniforms for Office  | ers Gramajo & Roppo                      | 66.15<br>244.74                              |
|          |   |  | Total for Check Number 313252:           | 310.89                                       |
| 313253   | RXNTPTE<br>116405   | Roxana Topete<br>Refund for youth basketball due to schedule   | 10/06/2021<br>changes                    | 100.00                                       |
|          |   |  | Total for Check Number 313253:           | 100.00                                       |
| 313254   | TAEV9224<br>68728<br>68728  | Total Access Elevator Inc.<br>Elevator Preventative Maint.<br>Elevator Preventative Maint.   | 10/06/2021                               | 630.75<br>400.00                             |
|          |   |  | Total for Check Number 313254:           | 1,030.75                                     |
| 313255   | UCL6115<br>3003   | UC Regents Continuing Education and Certification for F  | 10/06/2021<br>ire ]                      | 2,150.50                                     |
|          |   |  | Total for Check Number 313255:           | 2,150.50                                     |
| 313256   | UND6710<br>620210703<br>720210714<br>820210708<br>dsb20203441<br>dsb20203999<br>dsb20204555 | Underground Service Alert/SC Utility Underground Service Alert 07/01/202 Utility Underground Service Alert 08/01/202 Utility Underground Service Alert 09/01/202 State Regulatory Fee 07/01/2021 State Regulatory Fee 08/01/2021 State Regulatory Fee 09/01/2021 | 1  | 170.05<br>133.75<br>175.00<br>65.04<br>65.04 |
|          |   |  | Total for Check Number 313256:           | 673.92                                       |
| 313257   | POR4707<br>114-12379896   | United Site Services, Inc.<br>Skate Park Portable Toilet Services (09/07-10  | 10/06/2021                               | 339.72                                       |
|          |   |  | Total for Check Number 313257:           | 339.72                                       |
| 313258   | VPSI407<br>I36341 013070  | Valley Power Systems Inc.<br>FD Engine E81 Maint.(Tires, Batteries, Brak   | 10/06/2021<br>tes, Rotors, Pumps)        | 13,593.20                                    |
|          |   |  | Total for Check Number 313258:           | 13,593.20                                    |
| 313259   | TLC2155<br>972110110  | VCA TLC Pasadena Veterinary Specilat<br>Medical Services for K9 Barry (08/27/2021)   | y & 10/06/2021                           | 202.25                                       |

| Check No | Vendor No<br>Invoice No  | Vendor Name<br>Description   | Check Date<br>Reference        | Check Amount   |
|----------|--------------------------|--|--------------------------------|----------------|
|          |                          |  | Total for Check Number 313259: | 202.25         |
| 313260   | EDVL6010                 | Edgar Villalobos   | 10/06/2021                     |                |
| 313200   | 04.04.2021               | Mileage Reimb. for Call Out Water Main l   |                                | 21.73          |
|          | 04.23.2021               | Mileage Reimb. for Call Out Water Main l   |                                | 21.73          |
|          | 05.07.2021               | Mileage Reimb. for Call Out Water Service  |                                | 21.73          |
|          | 05.28.2021               | Mileage Reimb. for Call Out Running Wat  |                                | 21.73          |
|          | 07.05.2021<br>07.23.2021 | Mileage Reimb. for Call Out Water Main I<br>Mileage Reimb. for Call Out for Irrigation |                                | 21.73<br>21.73 |
|          |                          |  | Total for Check Number 313260: | 130.38         |
| 212271   | CMWDII                   | Cham Wada  | 10/07/2021                     |                |
| 313261   | CMWDU<br>116747          | Cham Wadu<br>Refund due to cancelled class   | 10/06/2021                     | 140.00         |
|          |                          |  | Total for Check Number 313261: | 140.00         |
| 313262   | WEBI4018                 | Webiplex   | 10/06/2021                     |                |
|          | 3760                     | Annual Subscription: e-subpoena processi   |                                | 5,054.95       |
|          |                          |  | Total for Check Number 313262: | 5,054.95       |
| 313263   | WLHD8020                 | Westlake Hardware  | 10/06/2021                     |                |
|          | 14301882                 | Police Department Supplies   |                                | 28.64          |
|          | 14301898                 | Police Department Supplies   |                                | 35.27          |
|          | 14301908<br>14301921     | Police Department Supplies Police Department Supplies                                  |                                | 36.35<br>77.16 |
|          |                          |  | Total for Check Number 313263: | 177.42         |
| 313264   | GRA1244                  | Woods Maintenance Services, Inc.   | 10/06/2021                     |                |
|          | SPAS0721                 | City Wide Graffiti Removal Services July   | 2021                           | 1,653.00       |
|          | SPAS0821                 | City Wide Graffiti Removal Services Aug  | ust 2021                       | 342.00         |
|          |                          |  | Total for Check Number 313264: | 1,995.00       |
| 313265   | PTTYWU                   | Patty Wu   | 10/06/2021                     |                |
|          | 116495                   | Refund due to inability to join class  |                                | 20.00          |
|          |                          |  | Total for Check Number 313265: | 20.00          |
| 313266   | YTI1023<br>27847         | Y Tire Complete Auto Repair<br>Police Department - Automotive Maintena                 | 10/06/2021                     | 1,079.48       |
|          | 27017                    | Tonce Beparinent Traiomouve Mannen   | ince clift if 1707             | 1,075.10       |
|          |                          |  | Total for Check Number 313266: | 1,079.48       |
| 313267   | MKRMIYG<br>0AM03222      | Monica Ramallo Young<br>Refund Subpoena for Officers Valdez, Wo                        | 10/06/2021                     | 825.00         |
|          | 0AW03222                 | Refund Subpoena for Officers valuez, we  | ng, Simui                      | 623.00         |
|          |                          |  | Total for Check Number 313267: | 825.00         |
| 313268   | MGCHEYU<br>116581        | Ming-Che Yu<br>Refund due to Cancelled Class   | 10/06/2021                     | 65.00          |
|          |                          |  | Total for Check Number 313268: | 65.00          |
| 313269   | JSMNYMOR                 | Jasmine Yumori   | 10/06/2021                     | 35100          |
| 313209   | 116492                   | Refund class due to inability to attend  | 10/00/2021                     | 20.00          |
|          |                          |  | Total for Check Number 313269: | 20.00          |
|          |                          |  | 113.10. 0.00                   | 20.00          |

| Check No | Vendor No<br>Invoice No | Vendor Name<br>Description | Check Date<br>Reference    | Check Amount |
|----------|-------------------------|----------------------------|----------------------------|--------------|
|          |                         |                            | Total for 10/6/2021:       | 684,222.22   |
|          |                         |                            | Report Total (123 checks): | 684,222.22   |

# ATTACHMENT 4 Supplemental ACH Payments



| +_=       | ACH Payment Log       |             |   |  |  |  |
|-----------|-----------------------|-------------|---|--|--|--|
| Date      | Vendor                | Amount      | Description   |  |  |  |
| 9/14/2021 | SoCal Edison          | \$11,127.41 | Online Payment for City's So Cal Edison Accounts.                               |  |  |  |
| 9/21/2021 | SoCal Gas             | \$1,149.30  | Online Payment for City's So Cal<br>Gas Accounts.                               |  |  |  |
| 9/21/2021 | Amazon/Synchrony Bank | \$2,258.65  | Online Payment for City's<br>Amazon Expenditures from<br>06/05/2021-09/08/2021. |  |  |  |
| 9/22/2021 | UMPQUA Bank           | \$5,843.45  | Online Payment for City's August<br>2021 Credit Card Expenses.                  |  |  |  |

Total: \$20,378.81

### Checks by Date - Detail by Check Date

User: ealvarez

Printed: 9/28/2021 6:09 PM



| Check No | Vendor No                | Vendor Name  | Check Date | Check Amount   |
|----------|--------------------------|--|------------|----------------|
|          | Invoice No               | Description  | Reference  |                |
| 1915     | UMQAMC                   | UMPQUA Bank (Manual Check)                         | 09/22/2021 |                |
|          | 07.29.2021               | Public Works Dept. / CNG Fuel                      |            | 11.66          |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 0.86           |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 49.93          |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 23.06          |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 0.82           |
|          | 07.29.2021               | Public Works Dept. / CNG Fuel                      |            | 22.89          |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 25.68          |
|          | 07.29.2021               | Public Works Dept. / CNG Fuel                      |            | 2.47           |
|          | 07.29.2021               | Public Works Dept. / CNG Fuel                      |            | 9.07           |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 0.53           |
|          | 07.29.2021               | Community Services / Fuel for Transit Division     |            | 0.39           |
|          | 07.29.2021               | Public Works Dept. / CNG Fuel                      |            | 0.45           |
|          | 07.30.2021               | Library / DVDs Purchase                            |            | 369.21         |
|          | 07.30.2021               | HR Dept. / Employee Screenings                     |            | 77.25          |
|          | 07.30.2021               | Library / DVDs Purchase                            |            | 110.19         |
|          | 07.31.2021               | Fuel for Motor Officers                            |            | 23.09          |
|          | 08.02.2021               | Community Services /Postage Stamps                 |            | 88.00          |
|          | 08.02.2021               | Community Services /Postage Stamps                 |            | 55.00          |
|          | 08.03.2021               | Public Works Dept. / CNG Fuel                      |            | 20.75          |
|          | 08.03.2021               | Public Works Dept. / CNG Fuel                      |            | 16.72          |
|          | 08.03.2021               | Public Works Dept. / CNG Fuel                      |            | 61.38          |
|          | 08.03.2021               | Community Services / Fuel for Transit Division     |            | 37.80          |
|          | 08.03.2021               | Public Works Dept. / CNG Fuel                      |            | 6.66           |
|          | 08.03.2021               | Fuel for Motor Officers                            |            | 17.84          |
|          | 08.03.2021               | Community Services / Fuel for Transit Division     |            | 27.19          |
|          | 08.03.2021               | Public Works Dept. / CNG Fuel                      |            | 32.26          |
|          | 08.03.2021               | Community Services / Fuel for Transit Division     |            | 43.34          |
|          | 08.03.2021               | Public Works Dept. / CNG Fuel                      |            | 28.74          |
|          | 08.03.2021               | Fire Dept. / Registration for LA Fire Chiefs Confe | rence      | 994.11         |
|          | 08.04.2021               | Mgmt. Svcs. / League of CA Cities Meeting          | renee      | 25.00          |
|          | 08.04.2021               | Community Services / Fuel for Transit Division     |            | 60.18          |
|          | 08.04.2021               | Public Works Dept. / CNG Fuel                      |            | 17.57          |
|          | 08.04.2021               | HR Dept. / Job Posting                             |            | 300.00         |
|          | 08.04.2021               | Community Services / Fuel for Transit Division     |            | 2.15           |
|          | 08.04.2021               | Public Works Dept. / CNG Fuel                      |            | 16.60          |
|          |                          |  |            | 28.39          |
|          | 08.04.2021<br>08.04.2021 | Community Services / Fuel for Transit Division     |            | 300.00         |
|          | 08.05.2021               | HR Dept. / Job Posting Fuel for Motor Officers     |            |                |
|          |                          | Fuel for Motor Officers Fuel for Motor Officers    |            | 21.41<br>21.35 |
|          | 08.05.2021               |  |            |                |
|          | 08.06.2021               | Community Services / Cleaning Supplies             |            | 186.69         |
|          | 08.07.2021               | Library / Bookmarks                                |            | 47.37          |
|          | 08.07.2021               | Fuel for Motor Officers                            |            | 24.03          |
|          | 08.08.2021               | Planning & Building / Zoom Fee for Closed Capti    | oning      | 16.11          |
|          | 08.09.2021               | Fuel for Motor Officers                            |            | 20.90          |
|          | 08.11.2021               | Public Works Dept. / CNG Fuel                      |            | 26.97          |
|          | 08.11.2021               | Public Works Dept. / CNG Fuel                      |            | 14.46          |
|          | 08.11.2021               | Public Works Dept. / CNG Fuel                      |            | 0.24           |
|          | 08.11.2021               | Public Works Dept. / CNG Fuel                      |            | 26.49          |

| Check No | Vendor No  | Vendor Name                                     | Check Date                   | Check Amount |
|----------|------------|---|------------------------------|--------------|
|          | Invoice No | Description                                     | Reference                    |              |
|          | 08.12.2021 | Community Services / Camp Snacks                |                              | 259.24       |
|          | 08.12.2021 | Public Works Dept. / CNG Fuel                   |                              | 21.91        |
|          | 08.12.2021 | Fire Dept. / Lunch for Paramedic & FF Interview |                              | 161.74       |
|          | 08.12.2021 | Fuel for Motor Officers                         |                              | 20.39        |
|          | 08.12.2021 | Fuel for Motor Officers                         |                              | 24.04        |
|          | 08.12.2021 | Public Works Dept. / CNG Fuel                   |                              | 19.68        |
|          | 08.12.2021 | Public Works Dept. / CNG Fuel                   |                              | 19.04        |
|          | 08.13.2021 | Library / Battery Charge Tester                 |                              | 11.01        |
|          | 08.14.2021 | Fuel for Motor Officers                         |                              | 25.12        |
|          | 08.16.2021 | Public Works Dept. / CNG Fuel                   |                              | 27.89        |
|          | 08.16.2021 | Public Works Dept. / CNG Fuel                   |                              | 29.75        |
|          | 08.16.2021 | Library / Crowdcast Monthly License             |                              | 49.00        |
|          | 08.18.2021 | Mgmt. Svcs. / City Council Dinner 08/18/2021    |                              | 116.01       |
|          | 08.18.2021 | Library / Children's Shelving Unit              |                              | 46.88        |
|          | 08.18.2021 | Public Works Dept. / CNG Fuel                   |                              | 26.00        |
|          | 08.18.2021 | HR Dept. / LCW Premium Subscription Library     |                              | 900.00       |
|          | 08.18.2021 | HR Dept. / LCW Covid Prevention Plan Materia    |                              | 249.00       |
|          | 08.19.2021 | Library / Stickers for Reading Program          |                              | 41.25        |
|          | 08.21.2021 | Library / Bookmarks                             |                              | 129.40       |
|          | 08.24.2021 | Community Services / Camp Snacks                |                              | 178.31       |
|          | 08.24.2021 | Community Services / Caution Tape               |                              | 11.01        |
|          | 08.27.2021 | Library / T-Shirts for Staff                    |                              | 118.60       |
|          | 08.27.2021 | Fuel for Motor Officers                         |                              | 21.94        |
|          | 08.29.2021 | Fuel for Motor Officers                         |                              | 22.99        |
|          |            |   | Total for Check Number 1915: | 5,843.45     |
|          |            |   | Total for 9/22/2021:         | 5,843.45     |
|          |            |   | Report Total (1 checks):     | 5,843.45     |
|          |            |   | Report Total (1 checks):     | 5,843.45     |

# ATTACHMENT 5 Prepaid &Warrant Voids

### Void Check Proof List

User: ealvarez

Printed: 09/28/2021 - 8:33AM

Batch: 00001.09.2021



| Account Number                       | Amount Invoice No  | Inv Date   | Description                           | Reference | Task Label | Type | PONumber | Close PO? | Line Item |
|--------------------------------------|--|------------|---------------------------------------|-----------|------------|------|----------|-----------|-----------|
| Vendor: MART8031<br>Check No: 312904 | SoSound Entertainment<br>Check Date: 07/27/2021<br>1,350.00 08.08.2021 | 08/08/2021 | Concerts in the Park Audio / Sound Pa |           |            |      | 4027     | No        | 1         |
| 101-8030-8032-8264-000               | ×  |            |                                       |           |            |      |          |           |           |
| Check Total:                         | 1,350.00   |            |                                       |           |            |      |          |           |           |
| Vendor Total:                        | 1,350.00   |            |                                       |           |            |      |          |           |           |
| Report Total:                        | 1,350.00   |            |                                       |           |            |      |          |           |           |
|                                      |  |            |                                       |           |            |      |          |           |           |

### Void Check Proof List

User: ealvarez

Printed: 09/28/2021 - 8:46AM

Batch: 00002.09.2021



| Account Number         | Amount Invoice No                             | Inv Date   | Description                        | Reference | Task Label | Type | PONumber | Close PO? | Line Item |
|------------------------|---|------------|------------------------------------|-----------|------------|------|----------|-----------|-----------|
| Vendor: MART8031       | SoSound Entertainment                         |            |                                    |           |            |      |          |           |           |
| Check No: 312906       | Check Date: 07/27/2021<br>1,300.00 07.30.2021 | 07/30/2021 | 2021 Summmer Movies in the Park A/ |           |            |      | 4028     | No        | 1         |
| 101-8030-8032-8264-000 |   |            |                                    |           |            |      |          |           |           |
| Check Total:           | 1,300.00                                      |            |                                    |           |            |      |          |           |           |
| Vendor Total:          | 1,300.00                                      |            |                                    |           |            |      |          |           |           |
| Report Total:          | 1,300.00                                      |            |                                    |           |            |      |          |           |           |
| respon roun.           |   |            |                                    |           |            |      |          |           |           |

# **ATTACHMENT 6 Payroll Summary**

|   | Taxes Debited                      | Federal Income Tax                              | 79,523.57          |            |            |                 |
|---|------------------------------------|---|--------------------|------------|------------|-----------------|
|   |                                    | Earned Income Credit Advances                   | .00                |            |            |                 |
|   |                                    | Social Security - EE                            | 1,085.42           |            |            |                 |
|   |                                    | Social Security - ER                            | 1,085.44           |            |            |                 |
|   |                                    | Social Security Adj - EE                        | .00                |            |            |                 |
|   |                                    | Medicare - EE                                   | 9,628.29           |            |            |                 |
|   |                                    | Medicare - ER                                   | 9,628.37           |            |            |                 |
|   |                                    | Medicare Adj - EE                               | .00                |            |            |                 |
|   |                                    | Medicare Surtax - EE                            | .00                |            |            |                 |
|   |                                    | Medicare Surtax Adj - EE                        | .00                |            |            |                 |
|   |                                    | Federal Unemployment Tax                        | .00                |            |            |                 |
|   |                                    | FMLA-PSL Payments Credit                        | .00                |            |            |                 |
|   |                                    | FMLA-PSL ER FICA Credit                         | .00                |            |            |                 |
|   |                                    | FMLA-PSL Health Care Premium Credit             | .00                |            |            |                 |
|   |                                    | Employee Retention Qualified Payments Credit    | .00                |            |            |                 |
|   |                                    | Employee Retention Qualified Health Care Credit | .00                |            |            |                 |
|   |                                    | COBRA Premium Assistance Payments               | .00                |            |            |                 |
|   |                                    | State Income Tax                                | 33,661.58          |            |            |                 |
|   |                                    | State Unemployment Insurance - EE               | .00                |            |            |                 |
|   |                                    | State Unemployment Insurance - ER               | .00                |            |            |                 |
|   |                                    | State Unemployment Insurance Adj - EE           | .00                |            |            |                 |
|   |                                    | State Disability Insurance - EE                 | .00                |            |            |                 |
|   |                                    | State Disability Insurance - ER                 | .00                |            |            |                 |
|   |                                    | State Disability Insurance Adj - EE             | .00                |            |            |                 |
|   |                                    | State Family Leave Insurance - EE               | .00                |            |            |                 |
|   |                                    | State Family Leave Insurance - ER               | .00                |            |            |                 |
|   |                                    | State Family Leave Insurance Adj - EE           | .00                |            |            |                 |
|   |                                    | State Medical Leave Insurance - EE              | .00                |            |            |                 |
|   |                                    | State Medical Leave Insurance - ER              | .00                |            |            |                 |
|   |                                    | Workers' Benefit Fund Assessment - EE           | .00                |            |            |                 |
|   |                                    | Workers' Benefit Fund Assessment - ER           | .00                |            |            |                 |
|   |                                    | Transit Tax - EE                                | .00                |            |            |                 |
|   |                                    | Local Income Tax                                | .00                |            |            |                 |
|   |                                    | School District Tax                             | .00                |            |            |                 |
| _ |                                    | Total Taxes Debited Acct. No. XXXXX3688         | Tran/ABA XXXXXXXX  | 134,612.67 |            |                 |
| • | Other Transfers                    | ADP Direct Deposit Acct, No. XXXXX3688          | Tran/ABA XXXXXXXX  | 472,306.95 |            |                 |
|   |                                    | ADP Check Acct, No. XXXXX3688                   | Tran/ABA XXXXXXXXX | 4,526.53   |            |                 |
|   |                                    | Wage Garnishments Acct, No. XXXXX3688           | Tran/ABA XXXXXXXXX | 3,375.69   |            | Total Liability |
| _ |                                    | Total Amount Debited From Your Accounts         |                    |            | 614,821.84 | 614,821.84      |
|   | Bank Debits and<br>Other Liability | Adjustments/Prepay/Voids                        |                    | .00        |            | 614,821.84      |
| - | Taxes - Your                       | None This Payroll                               |                    |            |            |                 |
|   | Responsibility                     |   |                    |            |            | 614,821.84      |

Region Name: SOUTHEAST MAJOR ACCOUNTS

Batch: 6142
Quarter Number: 3
Service Center: 030

Period Ending: **09/12/2021**Pay Date: **09/17/2021** 

Week 37 Page 1

enter: **030** Current Date : **09/15/2021** 

| Net Pay   | Checks                           |                 |   |              |                      |             |            |            |   |
|-----------|----------------------------------|-----------------|---|--------------|----------------------|-------------|------------|------------|---|
|           | Direct Deposits                  |                 |   |              |                      | 472,306.95  |            |            |   |
|           | Subtotal Net Pay                 |                 |   |              |                      |             | 476,833.48 |            |   |
|           | Adjustments                      |                 |   |              |                      | .00         |            |            |   |
|           | Total Net Pay Liability (Net Ca  | sh)             |   |              |                      |             | 476,833.48 |            |   |
| Taxes     |                                  |                 | You are responded the second the |              | Amount deb           |             |            |            |   |
| Federal   | Agency                           | Rate            | EE withheld   | ER contrib.  | EE withheld          | ER contrib. |            |            |   |
|           | Federal Income Tax               |                 |   |              | 79,523.57            |             |            |            |   |
|           | Earned Income Credit Advances    |                 |   |              |                      |             |            |            |   |
|           | Social Security                  |                 |   |              | 1,085.42             | 1,085.44    |            |            |   |
|           | Medicare                         |                 |   |              | 9,628.29             | 9,628.37    |            |            |   |
|           | Medicare Surtax                  |                 |   |              |                      |             |            |            |   |
|           | Federal Unemployment Tax         |                 |   |              |                      |             |            |            |   |
|           | Subtotal Federal                 |                 |   |              | 90,237.28            | 10,713.81   | 100,951.09 |            |   |
|           | FMLA-PSL Payments Credit         |                 |   |              |                      |             |            |            |   |
|           | FMLA-PSL ER FICA Credit          |                 |   |              |                      |             |            |            |   |
|           | FMLA-PSL Health Care Premium     | Credit          |   |              |                      |             |            |            |   |
|           | Employee Retention Qualified Pay | yments Cre      |   |              |                      |             |            |            |   |
|           | Employee Retention Qualified Hea | alth Care       |   |              |                      |             |            |            |   |
|           | Cobra Premium Assistance Paym    | nents           |   |              |                      |             |            |            |   |
|           | Total Federal                    |                 |   |              | 90,237.28            | 10,713.81   | 100,951.09 |            |   |
| State     | CA State Income Tax              |                 |   |              | 33,661.58            |             |            |            |   |
|           | CA State Unemployment Insurance  | ce-ER           |   |              |                      |             |            |            |   |
|           | CA State Disability Insurance-EE |                 |   |              |                      |             |            |            |   |
|           | Subtotal CA                      |                 |   |              | 33,661.58            |             | 33,661.58  |            |   |
|           | Total Taxes                      |                 | .00   | .00          | 123,898.86           | 10,713.81   | 134,612.67 |            |   |
|           | Amount ADP Debited From Ac       | count XXXXX3688 | 3 Tran/   | ABA XXXXXXXX | х                    |             |            | 134,612.67 | Excludes Taxes That Are Your Responsibility |
| Other     | ADP Direct Deposit               |                 |   |              | 472,306.95           |             |            |            | 227 Employee Transactions                   |
| Transfers | ADP Check                        |                 |   |              | 4,526.53             |             |            |            |   |
|           | Wage Garnishments                |                 |   |              |                      |             |            |            |   |
|           | Amount ADP Debited From Ac       | count XXXXX3688 | B Tran/   | ABA XXXXXXX  | 3,375.69<br><b>X</b> |             |            | 480,209.17 |   |
|           |                                  |                 |   |              |                      |             |            | 614,821.84 |   |

Company Code: R8V

Region Name: SOUTHEAST MAJOR ACCOUNTS

Batch: 6142
Quarter Number: 3
Service Center: 030

Period Ending: **09/12/2021**Pay Date: **09/17/2021** 

Week 37 Page 2

Current Date: 09/15/2021



## City Council Agenda Report

ITEM NO. 11

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Ken Louie, Interim Director of Finance

SUBJECT:

Policies and Procedures Update

#### Recommendation

It is recommended that the City Council approve the contract with Management Partners for the development of comprehensive Finance Department Policies and Procedures ("the Manual").

#### Background

As the City Council is aware, for a number of years, the City's auditors have noted a finding that reflects the lack of up to date, complete Finance Department policies and procedures. After assessing staffing availability and the time it will take to create the Policy Manual in-house, both the Finance Ad Hoc Committee and the Finance Commission had discussed the possibility of securing consultant services to complete the project as expeditiously as possible. Ultimately, timing became more urgent with the allocation of Federal ARPA funds. A major impediment to receiving and expending the funds is the absence of up to date, current, and basic Finance Department Policy and Procedures Manual.

The City Manager authorized staff to reach out to potential consultants, and recommends proceeding with Management Partners. They have more than 25 years of business experience, and the expertise and technical staff needed for this project. A copy of their proposal is attached, as is a more detailed scope of work prepared by staff. The total project cost is \$43,900, and the project is expected to take five months to complete.

Once complete, the City will have an official Finance and accounting policies and procedures manual for internal controls that meets GAAP and Federal Single Audit Act of 1984 with amendments in 1996 requirements, and that includes the necessary documentation of internal controls as set forth in the US Governmental Accountability office (GAO) Government Auditing Standards ("Yellow Book") and the GAO Standards for Internal Control in the Federal Government ("Green Book")

#### Discussion/Analysis

The lack of a set of Finance Department Policy and Procedures has been a concern to the City's auditors for a number of years. While this has been a concern for some time, an enhanced urgency resulted from the Federal government's approval of ARPA funds to local government. One of the Federal requirements for expenditure of the funds is the requirement that the agency

Policies and Procedures Update October 6, 2021 Page 2 of 3

One of the Federal requirements for expenditure of the funds is the requirement that the agency possess current Finance Department Policy and Procedures. As the Council will soon begin a strategic planning process for the allocation of ARPA funds, it is important that the preparation of the Finance Department Manual begin as soon as possible.

After speaking with two firms, the City Manager, Interim Assistant City Manager and Interim Finance Director recommend that the services of Management Partners be secured for the work. A copy of the proposal is attached. It should be noted that pursuant to the City's Municipal Code Section 2.99-29 (12), contracts for services of specially trained and professional persons or businesses are exempt from bidding requirements.

In preparing the scope of work, staff identified seven major business cycles to be included in the Manual.

The seven business cycles are (not in priority order):

- Capital Improvements/Fixed Assets
- Purchasing and Accounts Payable
- Utility Billing (will be a brief summary of the accounting required for the activity)
- General Ledger Mtce. (mo./yr end close, bank rec.journal review/approval, etc.)
- Accounts Receivable and Cash Receipts
- Treasury/Cash Management
- Payroll (completed last due to pending payroll implementation)

The project is divided into three sections:

- Project kickoff
- Data gathering (interviews, reviewing existing policies, etc.)
- Drafting, final review and approval

The final project section includes an approval process that includes two formal meetings. These two meetings will most likely be with Finance Commission and one City Council meeting.

#### **Post-Implementation**

The recommendation is that the City Council approve the Manual created as a result of this project, but include language authorizing staff to perform routine updates and add administrative policies that do not require a modification to the Municipal Code. For example, the Accounts Payable policy will include the current "process" using the purchasing limits/requirements currently stated in the Municipal Code. In the future, if the "process" changes, but the limits designated by the Municipal Code do not change, staff can administratively revise/update the policy, with City Manager approval. However, if staff was recommending a change to a Municipal Code section, such as increasing the purchasing dollar limits, then the policy would need to go to the City Council for review and consideration, along with a Municipal Code amendment. The intent is to permit the Manual to be revised with City Manager approval, as procedures and processes change, but to not exceed staff's authority per the Municipal Code.

Policies and Procedures Update October 6, 2021 Page 3 of 3

With the rapid changes in technology and banking, staff will need the ability to modify policies to meet the requirements of the industry as well as the ever-changing ways of doing sound and prudent business. Staff will work with the Finance Commission as policies are updated or new policies are added (that do not exceed Municipal Code authority). The City Council will only need to approve policies that result in changes to the Municipal Code.

## **Fiscal Impact**

The total not to exceed cost for this project is \$43,900, and it will be necessary for the City Council to appropriate funds from General Fund (\$31,950), Water (\$10,150) and Sewer fund (\$1,800) reserves to pay for the costs. The proportionate share for each fund was based on the 2020-2021 revenue base.

#### **Commission Review**

This item has been reviewed and conferred with by the Finance Commission.

## **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### **Attachments:**

- 1. Management Partners Proposal
- 2. Agreement for Consultant Services/Schedule

## **ATTACHMENT 1**

Management Partners Proposal



September 8, 2021

Ms. Armine Chaparyan City Manager City of South Pasadena 1414 Mission Street South Pasadena, CA 91030

Dear Ms. Chaparyan:

Based on our meeting with Interim Assistant City Manager Elaine Aguilar and Interim Finance Director Ken Louie on September 8, Management Partners is pleased to provide this revised proposal to the City of South Pasadena to develop comprehensive Finance Department Policies and Procedures. We understand that the City currently lacks an official accounting policies and procedures manual that would provide the framework for internal cash management and controls for the City. Without such a manual, the City might not be able to meet the documentation requirements of the Federal Single Audit Act of 1984 needed to support the City's use of American Rescue Plan Act (ARPA) funds.

Management Partners will develop a comprehensive accounting policies and procedures manual that establishes guidelines for seven business cycles identified by the City. The accounting manual will include personnel roles and responsibilities, describe appropriate procedures for recording significant transactions in finance and accounting systems, define and set procedures for management oversight and review, establish key internal controls, and help ensure accounting and reporting requirements established by generally accepted accounting principles (GAAP) are followed.

The manual will include the following elements, among others that may be identified as we carry out our work:

- Descriptions of functions each position performs,
- Specific duties and responsibilities (desk procedures),
- Minimum required qualifications or standards,
- Council and management approved policies relating to specific transactions,
- Procedures for processing specific financial activities, and
- Appropriate monitoring and review controls.

We propose to collect information about existing procedures, interview each Finance Department staff member, gather examples of accounting manuals from other cities, and prepare a comprehensive manual. It is important to us that we develop a manual tailored to your needs with employee input. Before we describe our project plan, we would like to share some brief information about our firm.

## **About Management Partners**

Management Partners was founded in 1994 with a specific mission to help local government leaders improve their service to the public. Since then, we have worked with cities, counties, towns, and special districts of all sizes across the United States to help them work more effectively and run more efficiently. We offer a balance of perspectives with a practitioner's bias and a proven track record of successful consulting engagements. This experience gives us a sensitivity that produces positive outcomes. We are proud to say that as a result of our quality work, many of our clients ask us to complete subsequent assignments.

- We Know Local Government. Our associates have served in local governments, so we have a
  deep understanding of the operating and political environments in which you work.
- We Take a Collaborative Approach. We consider ourselves part of your team and strive to ensure our work supports your overall corporate strategy and goals.
- We Have Extensive Experience. Each of our more than 100 associates is an expert in one or more service areas, and our firm has assisted hundreds of jurisdictions in 44 states.
- We Have Developed Proven Methodologies. We understand the importance of a holistic approach to improving organizations, using field-tested methods for each aspect of the work.
- Our Work Plan is Tailored to Your Needs. Each of our projects is individually tailored to our client's unique needs, starting with a careful learning process.
- We Take Pride in the Quality of Our Work. Our internal processes ensure first-rate, complete staff work and adherence to the highest of ethical standards in public service.
- We Are Focused on Implementation. As practitioners, our recommendations make practical sense and are able to be implemented.
- We Provide a Full Suite of Services. Management Partners' services include everything required
  to support local government leaders, including organization assessments, performance
  management, process improvement, strategic planning, and financial planning, budgeting and
  analysis.

#### Plan of Work

Based on our experience, we have prepared a plan of work to develop a comprehensive accounting manual to meet GAAP and the requirements of the Federal Single Audit Act. All work will be conducted remotely. (A detailed scope of work is included as Attachment A to this proposal.)

#### **Activity 1 – Start Project**

Management Partners will begin the project by meeting with you, your assigned project coordinator, and other appropriate staff. The project start-up activity forms the foundation of the relationship between Management Partners' team and your staff. During this initial meeting, we will confirm project deliverables and due dates to ensure the project is completed on time and on budget and that our proposed scope of work is aligned precisely to meet your goals.

We will have provided a data request prior to this meeting and will review the material collected by staff to identify any other data needs. We understand that the work associated with this review is in addition to the normal work of the organization. Our goal is to integrate our activities in a manner that is thoughtful and minimizes disruption to the department.



#### **Activity 2 – Gather Information**

We will gather information by reviewing and documenting existing processes to the extent possible, conducting individual interviews with staff, and gathering examples from other cities' accounting manuals. Each is described below.

- Review background materials and document current processes. We will review the material requested in Activity 1 to begin to document the current processes for the Finance Department. This review will cover any authorizing policies and written procedures that exist (including informal procedures) for seven business cycles chosen by the City. Based on our initial understanding of the City's operations, we would suggest the following business cycles:
  - Capital Improvements/Fixed Assets,
  - Purchasing and Accounts Payable,
  - Utility Billing,
  - General ledger maintenance (month-end/year-end close and bank reconciliations),
  - Account Receivable/Cash Receipts,
  - Treasury/Cash Management, and
  - Payroll<sup>1</sup>
- **Conduct Interviews.** We will interview up to seven staff members whose input is needed to create the manual. Interviews will cover the following items:
  - List of functions performed,
  - Description of major tasks for each of the functions (including frequency and/or scheduling),
  - References to and copies of authorizing policies and/or written procedures that currently exist (including informal procedures) for the functions performed,
  - Notation on missing or incomplete policies and procedures that should be developed related to the functions performed,
  - Suggestions for technology or other changes that would aid in the efficiency of the function performed, and
  - Other information that would be useful in developing the accounting manual.

We understand that some staff may have responsibilities for multiple functions. We are estimating each interview will take about two hours. This should allow us to hear about their work and what is needed to be prepared, as well as what is already available that can be easily incorporated into the manual.

At the conclusion of the interviews, we will compile the results and analyze them to identify themes, consistencies, and material to be used in the manual development.

Collect Sample Manuals. We will obtain copies of accounting manuals from peer cities for
comparison and to inform the development of the manual. While every city is unique and we
will seek to understand what distinguishes South Pasadena's practices from others, the use of
GAAP by other cities is likely to create an opportunity to learn from their manuals. We will

<sup>&</sup>lt;sup>1</sup> We understand that the City is converting payroll systems from an outsourced solution to an in-house payroll system effective January 1, 2022. Documenting this business cycle will be scheduled after the new system is live and the procedures are in place.



conduct additional research as appropriate into best practices used by municipal departments to supplement our work.

At the conclusion of this activity, we will compile the results to identify themes, document current processes to the best extent possible, and identify opportunities for improvement.

#### Activity 3 – Develop Manual and Present Results

Next, we will prepare an outline of the manual. We will meet with you and others you designate to review the outline to ensure we have captured all the procedures and policies you wish to have included. We will then prepare a draft manual.

We will review the draft manual with you and finalize it based on your feedback. The final policies and procedures manual will conform with GAAP, meet the necessary requirements of the Federal Single Audit Act of 1984 with amendments in 1996, which includes the necessary documentation of internal controls as set forth in the US Government Accountability Office (GAO) Government Auditing Standards ("Yellow Book") and the GAO Standards for Internal Control in the Federal Government ("Green Book").

Once the manual is finalized, we will attend up to two public meetings of the City's governing bodies (e.g., Finance Commission, City Council) to present the new manual.

## **Our Experience and Qualifications**

The following list shows jurisdictions that we have assisted in the recent past with process improvement projects. We are also currently assisting 11 jurisdictions in California, Florida, and Oregon with process improvement engagements. In addition to the references below, our website, managementpartners.com, has information about our past clients, which includes hundreds of jurisdictions in 44 states, and you are welcome to contact any of them about our performance.

- Beverly Hills, California
- Blue Ash, Ohio
- Boynton Beach, Florida
- Chatham County, Georgia
- Cincinnati, Ohio
- Contra Costa Water District, California
- Dallas County, Texas
- DeKalb County, Georgia
- Dublin, California
- Fremont, California
- Gilroy, California
- Lake Forest, California
- Largo, Florida
- Long Beach, California
- Miami, Florida

- Monroe, Ohio
- Oakland Park, Florida
- Pasadena, California
- Pleasant Hill, California
- Port Hueneme, California
- Sacramento, California
- San Jose Public Library, California
- San Jose, California
- Santa Clara, California
- Santa Clarita, California
- Santa Rosa, California
- Sedgwick County, Kansas
- Solid Waste Authority of Central Ohio
- Stockton, California

#### **Our Team**

We have a strong project team that is well qualified to complete this work for South Pasadena. Steve Toler will serve as project director and will oversee the substantive work of the project. Rick Haydon will serve as project manager and will be responsible for execution of the project. They will be supported by Pete Gonda and Michelle New. Brief qualifications for each team member are provided below.



## **Steve Toler, Partner**

Experienced in budgeting and revenue forecasting, financial management and reporting, accounting, purchasing, information technology management, water and wastewater rate modeling, regional shared services planning, organizational development and training, labor relations and negotiations, business continuity planning, risk management, economic development and redevelopment, tax ballot measures, and public engagement.



- Joined Management Partners after spending nearly 20 years in local government public service working for the cities of Cupertino, Foster City and Millbrae, California.
- Served in management positions ranging from assistant city manager to information technology manager.
- Serves clients across the Pacific Northwest and West Coast, including recent engagements for the cities of Belmont, East Palo Alto, El Cerrito, Scotts Valley, Tracy, and Union City in California, as well as Mercer Island, Newcastle and Kenmore in King County, Washington.

## Rick Haydon, Special Advisor

- Has more than 30 years of municipal government experience, with an expertise in strategic planning, goal setting, organizational and policy analysis, project management, long-range forecasting, and budgeting.
- Served as City Manager for the California Central Coast cities of Santa Maria and Solvang.
- Worked for five cities, a county and a joint powers authority over the course of his career.
- In Santa Maria, oversaw a full-service city of more than 100,000 residents, a workforce of over 700 employees and an annual operating budget of \$163 million; responsible for the day-to-day operations of the City and coordinated the budget process.
- Responsible for Santa Maria's 21 consecutive California Municipal Finance Officer's (CSMFO)
   Excellence in Budgeting Awards and 10 consecutive biennial Government Finance Officers
   Association (GFOA) Distinguished Budget Presentation Awards.
- Prior to joining Management Partners, operated his own management consulting firm that specialized in goal setting workshops for city councils, strategic planning, and organizational analysis.

## Pete Gonda, Senior Manager

- More than 20 years of experience in municipal government, with an emphasis on analytics, budgeting, procurement management, contracts and performance measurement.
- Served as purchasing officer for the City of Sunnyvale, California for nine years, where he managed an award-winning centralized purchasing division with \$42 million in annual operational spending. Bid and awarded \$80 million in capital projects under a federally funded local economic stimulus program at a 30% savings and implemented continuous process improvements for a variety of services.
- Served as a senior management analyst in Sunnyvale's Finance Department, where his
  responsibilities included intergovernmental relations, policy analysis and revenue/expense
  management, including cost of service studies and related activities.

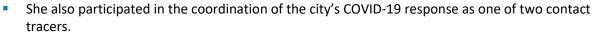


 Also worked in Sunnyvale's Department of Public Safety, the City of San Jose's Office of Economic Development, and the City of Saratoga's City Manager's Office.

Recent clients include the California cities of Palo Alto, Sunnyvale, Alameda, Beverly Hills, Hillsborough, Campbell, Scotts Valley, Marina, San Jose, Sacramento, South San Francisco, Milpitas, Walnut Creek, Santa Rosa, Gilroy, Newark, San Leandro, Fullerton, Costa Mesa, Modesto and Monte Sereno; Pinellas County, FL; Gainesville, FL; Yakima, WA; Contra Costa Water District; and the Dublin San Ramon Water District

## Michelle New, Senior Management Analyst

- Joined Management Partners in 2021 after 15 years with the City of Santa Maria where she worked first as a management analyst in the City Manager's Office and then as the human resources manager, responsible for oversight of all aspects of the human resources function.
- During her tenure, Michelle developed an award-winning succession planning program, streamlined multiple paper processes, actively participated in employee negotiations, coordinated the city's performance, disciplinary and investigative issues and was involved in the citywide budget.



- Michelle graduated from Cal Poly, San Luis Obispo with a bachelor's degree in political science and from California State University with a master's degree in public administration, San Luis Obispo with a bachelor's degree in political science and from California State University with a master's degree in public administration.
- She served as a Central Coast regional co-chair of the Municipal Management Association of Southern California (MMASC) and is the founding member of the region's annual Women in Leadership event.
- Since joining Management Partners has prepared personnel handbooks, conducted recruitments, assisted with strategic planning projects, completed detailed analysis, gathered and analyzed information for organization assessments, and assisted with a variety complex projects.

### **Hours, Cost and Timeline**

Management Partners anticipates devoting 280 hours of our staff time to complete the plan of work described above. The total cost of this project is a fixed-fee amount of \$43,900, which includes all fees and expenses. We anticipate that all of our work and meetings will be conducted remotely using video conference technology. If City leaders wish us to be onsite for any meetings, any travel and related costs will be billed separately as incurred.

The proposed timeline for this project assumes that the City issues a professional services agreement that is executed on or about October 15, 2021. We anticipate launching the project the week of October 18 and providing the draft manual for City review in late-January 2022, with a final manual completed by February 28, 2022. A detailed timeline is provided as Attachment B to this proposal.



The table below summarizes the hours, costs, and projected timeline for each activity.

| Activity                               | Hours | Cost     | Timeline                           |
|--|-------|----------|------------------------------------|
| 1 – Start project                      | 18    | \$ 3,300 | October 2021                       |
| 2 – Gather information                 | 124   | 19,000   | November 2021 to Mid-January 2022  |
| 3 – Develop manual and present results | 138   | 21,300   | Mid-November 2021 to February 2022 |
| TOTALS                                 | 280   | \$43,900 |                                    |

The table below indicates the hourly rates that the City would be charged for any additional work that might be required beyond the scope of our proposed workplan. Subject to mutual agreement, the contract would be amended and additional work would be charged at the following rates.

| Position                          | Hourly |
|-----------------------------------|--------|
|                                   | Rate   |
| Senior Vice President             | \$ 280 |
| Vice President                    | 240    |
| Partner                           | 220    |
| Special Advisor                   | 210    |
| Senior Manager                    | 190    |
| Peer Review                       | 140    |
| Senior Management Advisor/Analyst | 130    |
| Management Analyst                | 90     |

The ultimate test of a quality project is that the client is pleased with the results, and we are committed to achieving that goal. Please contact Steve Toler at <a href="mailto:SToler@managementpartners.com">SToler@managementpartners.com</a> or at (650) 918-7017 if we can provide any additional information.

Sincerely,

Jerry Newfarmer
President and CEO

Jerry Angrumer

Accepted for the City of South Pasadena by:

Name:

Title:

Date: \_\_\_\_\_



## **ATTACHMENT 2**

Agreement for Consultant Services/Schedule

# PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES

(City of South Pasadena / Management Partners)

#### 1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of South Pasadena, a California municipal corporation ("City"), and Management Partners ("Consultant").

## 2. RECITALS

- 2.1. City has determined that it requires the following professional services from a consultant: For the development of a comprehensive Finance Department Policies and Procedures Manual.
- 2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.
- 2.3. Consultant represents that it has no known relationships with third parties, City Council members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

#### 3. **DEFINITIONS**

- 3.1 "Scope of Services": The Scope of the Services is to prepare an official Finance and accounting policies and procedures manual for internal controls that meets GAAP and Federal Single Audit Act of 1984 with amendments in 1996, which includes the necessary documentation of internal controls as set forth in the US Governmental Accountability office (GAO) Government Auditing Standards ("Yellow Book") and the GAO Standards for Internal Control in the Federal Government ("Green Book"). A detailed scope of services is shown in Attachment A. A detailed timeline is shown in Attachment B.
- 3.2 "Agreement Administrator": The Agreement Administrator for this project is Ken Louie, Interim Finance Director. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request

of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Consultant

- 3.3 "Approved Fee Schedule": Consultant's compensation rates are set forth in the fee schedule attached hereto as Attachment C and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.
  - 3.4 "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is Forty-Two Thousand Nine Hundred Dollars (\$42,900).
  - 3.5 "Commencement Date": October 7, 2021.
  - 3.6 "Termination Date": Upon final presentation of the alternatives to the City Council, and completion of the final report.

#### 4 TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 18 ("Termination") below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this Agreement.

## 5 CONSULTANT'S DUTIES

- 5.2 **Services**. Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.3 **Coordination with City**. In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator.
- Budgetary Notification. Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.

- 5.5 **Business License.** Consultant shall obtain and maintain in force a City business license for the duration of this Agreement.
- Professional Standards. Consultant shall perform all work to the standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).
- 5.7 **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, City may consent in writing to Consultant's performance of such work.
- 5.8 **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Mary Elizabeth Redding, shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.
- 5.9 **Substitution of Personnel.** Any persons named in the proposal or Scope of Services constitutes a promise to the City that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. If City and Consultant cannot agree as to the substitution of key personnel, City may terminate this Agreement for cause.
- 5.10 **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.11 **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.
- 5.12 **Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law,

Professional Services Agreement – Consultant Services

from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

#### **6 SUBCONTRACTING**

- 6.2 **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.3 **Consultant Responsible.** Consultant shall be responsible to City for all services to be performed under this Agreement.
- 6.4 **Identification in Fee Schedule.** All subcontractors shall be specifically listed and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing as an amendment to this Agreement.
- 6.5 **Compensation for Subcontractors.** City shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

#### 7 COMPENSATION

- 7.2 **General.** City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
- 7.3 **Invoices.** Consultant shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, and the hours worked, a description of each labor charge, and the total amount due for labor charges.

- 7.4 **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.
- 7.5 **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.
- 7.6 **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the City through a fully executed written amendment. Consultant shall not undertake any such work without prior written approval of the City.
- 7.7 **City Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until City is satisfied that the services are satisfactory.
- 7.8 **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 11, City shall have the right to withhold payments under this Agreement to offset that amount.

#### 8 PREVAILING WAGES

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Consultant shall defend, indemnify, and hold the City, tis elected officials, officers, employees, and agents free and harmless form any claim or liability arising out of any failure or alleged failure of Consultant to comply with the Prevailing Wage Laws.

## 9 OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products" herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

#### 10 RELATIONSHIP OF PARTIES

**10.2 General.** Consultant is, and shall at all times remain as to City, a wholly independent contractor.

Professional Services Agreement – Consultant Services Page 5 of 19

- 10.3 No Agent Authority. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
- 10.4 Independent Contractor Status. Under no circumstances shall Consultant or its employees look to the City as an employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.
- 10.5 **Indemnification of CalPERS Determination.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

#### 11 INDEMNIFICATION

- 11.1 **Definitions.** For purposes of this Section 11, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. "City" shall include City, its officers, agents, employees and volunteers.
- 11.2 **Consultant to Indemnify City.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.
- 11.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, and consequential or otherwise, Property damage shall include injury to any personal or real property. Consultant shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.

Professional Services Agreement – Consultant Services Page 6 of 19

- 11.4 **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of City's choice, expert fees and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 11.5 **Defense Deposit.** The City may request a deposit for defense costs from Consultant with respect to a claim. If the City requests a defense deposit, Consultant shall provide it within 15 days of the request.
- 11.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section 11 are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City.
- 11.7 **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant's behalf.
- 11.8 **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

#### 12 INSURANCE

- 12.2 **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.
- 12.3 **Documentation of Insurance.** City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with City:
  - Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A:VII showing.
  - Documentation of Best's rating acceptable to the City.
  - Original endorsements effecting coverage for all policies required by this Agreement.
  - City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

12.4 **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

• Professional Liability Insurance: \$1,000,000 per occurrence, \$1,000,000 aggregate

General Liability:

| • | General Aggregate:             | \$1,000,000 |
|---|--------------------------------|-------------|
| • | Products Comp/Op Aggregate     | \$1,000,000 |
| • | Personal & Advertising Injury  | \$1,000,000 |
| • | Each Occurrence                | \$1,000,000 |
| • | Fire Damage (any one fire)     | \$ 100,000  |
| • | Medical Expense (any 1 person) | \$ 10,000   |

• Workers' Compensation:

N/A Due to Type of Service Provided and No Employees

• Workers' Compensation

- EL Each Accident
- EL Disease Policy Limit
- EL Disease Each Employee
- Automobile Liability
  - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 12.5 **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.
- 12.6 **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 12.7 **Automobile Liability Insurance.** Covered vehicles shall include owned if any, nonowned, and hired automobiles and, trucks.

- 12.8 Professional Liability Insurance or Errors & Omissions Coverage. The deductible or self-insured retention may not exceed \$50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- 12.9 Claims-Made Policies. If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- 12.10 Additional Insured Endorsements. The City, it's City Council, Commissions, officers, and employees of South Pasadena must be endorsed as an additional insured for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 12.11 **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 12.12 **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at

least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of South Pasadena, Attn: Ken Louie, Interim Finance Director, and South Pasadena, CA 95945.

- 12.13 **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 12.14 **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the City. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 12.15 **Report of Claims to City.** Consultant shall report to the City, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.
- 12.16 **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

12.17 **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

#### 13 MUTUAL COOPERATION

- 13.2 **City Cooperation in Performance.** City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.
- 13.3 **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim or action.

#### 14 NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City If to Consultant

Ken Louie, Interim Finance Director City of South Pasadena 1414 Mission Street South Pasadena, CA 91030

Telephone: (626) 403-7312 Facsimile: (626) 403-7241

With courtesy copy to:

Andrew Jared South Pasadena City Attorney Colantuono, Highsmith & Whatley, PC 790 E. Colorado Blvd. Ste. 850 Pasadena, CA 91101

Telephone: (213) 542-5700 Facsimile: (213) 542-5710

Jerry Newfarmer President and CEO Management Partners

2107 North First Street, Suite 470

San Jose, CA 95131 Telephone: 408/437/5400

## 15 SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.11 (Records), paragraph 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnity), paragraph 12.8 (Claims-Made Policies), paragraph 13.2 (Consultant Cooperation in Defense of Claims), and paragraph 18.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

#### 16 TERMINATION

16.2 **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

- 16.3 **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.
- 16.4 **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.
- 16.5 **Remedies.** City retains any and all available legal and equitable remedies for Consultant's breach of this Agreement.

#### 17 INTERPRETATION OF AGREEMENT

- 17.2 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 17.3 **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and Consultant.
- 17.4 **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.
- 17.5 **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 17.6 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

17.7 **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

#### 18 GENERAL PROVISIONS

- 18.2 **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 18.3 Conflicts of Interest. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 18.4 **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.
- 18.5 **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 18.6 **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 18.7 **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 18.8 **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the

following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.

- 18.9 **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 18.10 **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 18.11 **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 18.12 **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs expended in the action.
- 18.13 **Venue.** The venue for any litigation shall be Los Angeles County, California and Consultant hereby consents to jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

| "City"                 | "Consultant"                       |
|------------------------|------------------------------------|
| City of South Pasadena | Jerry Newfarmer, President and CEO |
| By:                    | By:                                |
| Signature              | Signature                          |
| Printed:               | Printed:                           |
| Title:                 | Title:                             |

| Date:   | Date: |
|---|-------|
| Attest:                                       |       |
| By: Christina Munoz, Acting Deputy City Clerk |       |
| Date:   |       |
| Approved as to form:                          |       |
| By:Andrew Jared, City Attorney                |       |
| Date:   |       |

## Exhibit A

Scope of Services

#### **SCOPE OF SERVICES**

**Outcome**: An official Finance and accounting policies and procedures manual for internal controls that meets GAAP and Federal Single Audit Act of 1984 with amendments in 1996, which includes the necessary documentation of internal controls as set forth in the US Governmental Accountability office (GAO) Government Auditing Standards ("Yellow Book") and the GAO Standards for Internal Control in the Federal Government ("Green Book")

The Seven Business Cycles identified by the City:

- 1. Capital Improvements/ Fixed Assets;
- 2. Purchasing and Accounts Payable;
- 3. Utility Billing;
- 4. General Ledger Maintenance: month end close, yearend close, including bank recs;
- 5. Accounts receivable/Cash receipts;
- 6. Treasury/Cash management; and
- 7. Payroll.

#### **Detailed scope of work**

- Activity 1 Start Project (Outcome: start project with clear understanding of objectives and expected outcomes)
  - o Project launch meeting with assigned project coordinator and other appropriate staff
  - o Confirm project deliverables and due dates
- Activity 2 Gather Information (Outcome: Understand and document existing processes)
  - o Identify personnel roles and responsibilities
  - o Conduct interviews with up to seven City staff members
    - List of functions performed
    - Description of major tasks for each of the functions
    - References to and copies of authorizing policies and or written procedures that currently exist
    - Notation on missing or incomplete policies and procedures that should be developed related to the functions performed
    - Suggestions for technology or other changes that would aid in the efficiency of the function performed
    - Other information that would be useful in developing the accounting manual
    - Compile the results and analyze them to identify themes, consistencies and material to be used in the manual development
  - o Obtain examples of accounting manuals from other cities
  - Conduct additional research as appropriate into best practices used by municipal departments to supplement the consultant's work.

o Compile the results to identify themes, document current processes to the best extent possible, and identify opportunities for improvement.

## • Activity 3 – Develop Manual and Present Results

- o Prepare an outline of the manual
- Review the draft manual with the city and make revisions based on staff feedback
- o Features of the draft manual:
  - Describe appropriate procedures for recording significant transactions in finance and accounting systems
  - Define and set procedures for management oversight
  - Establish key internal controls
  - Ensure accounting and reporting requirements established by generally accepted accounting principles are followed
  - Meet the necessary requirements of the Federal Single Audit Act of 1984, US
     GAO Government Auditing Standards ("Yellow Book") and
- o Components of the draft manual:
  - Descriptions of functions each position performs
  - Specific duties and responsibilities (desk procedures)
  - Minimum required qualifications or standards
  - Council and management approved policies relating to specific transactions
  - Procedures for processing specific financial activities, and
  - Appropriate monitoring and review controls
- Finalize the manual
- Present the manual at up to two public meetings

| Project Schedule  | Ī     |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
|---|-------|-------|------|------|-------|-------|-------|------|-------|-------|-------|-----|------|------|------|------|-----|------|------|------|
| Finance Policies and Procedures Manual  |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| City of South Pasadena  | Start | 2     | 3    | 4    | 5     | 6     | 7     | 8    | 9     | 10    | -11   | 12  | 13   | 14   | 15   | 16   | 17  | 18   | 19   | 20   |
| Activity 1. Start Project   | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Prepare launch agenda, workplan, document request   |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Conduct launch meeting  |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Request background material   |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Finalize work plan and schedule   |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
|   |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Activity 2: Gather Information  | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
|   | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes  Conduct interviews - 7 interviews @ 2hrs each   | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes  Conduct interviews - 7 interviews @ 2hrs each  Collect sample manuals   | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals  | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals  | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes  Conduct interviews - 7 interviews @ 2hrs each  Collect sample manuals  Review and Analyze manuals   | 10/18 | 10/25 | 11/1 | 11/8 | 11/15 | 11/22 | 11/29 | 12/6 | 12/13 | 12/20 | 12/27 | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results  |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results Activity 3: Develop Manual   |       | 10/25 |      |      |       |       |       |      | 12/13 |       |       | 1/3 | 1/10 | 1/17 | 1/24 | 1/31 | 2/7 | 2/14 | 2/21 | 2/28 |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results  Activity 3: Develop Manual Prepare outline of new manual  |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results  Activity 3: Develop Manual Prepare outline of new manual Review outline with city officials   |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results  Activity 3: Develop Manual Prepare outline of new manual Review outline with city officials Develop draft manual - prepare procedures |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results  Activity 3: Develop Manual Prepare outline of new manual  |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |
| Review background materials and document current processes Conduct interviews - 7 interviews @ 2hrs each Collect sample manuals Review and Analyze manuals Summarize Results  Activity 3: Develop Manual Prepare outline of new manual Review outline with city officials   |       |       |      |      |       |       |       |      |       |       |       |     |      |      |      |      |     |      |      |      |

The table below summarizes the hours, costs, and projected timeline for each activity.

| Activity                               | Hours | Cost     | Timeline                           |
|--|-------|----------|------------------------------------|
| 1 – Start project                      | 18    | \$ 3,300 | October 2021                       |
| 2 – Gather information                 | 124   | 19,000   | November 2021 to Mid-January 2022  |
| 3 – Develop manual and present results | 138   | 21,300   | Mid-November 2021 to February 2022 |
| TOTALS                                 | 280   | \$43,900 |                                    |

The table below indicates the hourly rates that the City would be charged for any additional work that might be required beyond the scope of our proposed work plan. Subject to mutual agreement, the contract would be amended and additional work would be charged at the following rates.

| Position                          | Hourly<br>Rate |
|-----------------------------------|----------------|
| Senior Vice President             | \$ 280         |
| Vice President                    | 240            |
| Partner                           | 220            |
| Special Advisor                   | 210            |
| Senior Manager                    | 190            |
| Peer Review                       | 140            |
| Senior Management Advisor/Analyst | 130            |
| Management Analyst                | 90             |



## City Council Agenda Report

ITEM NO. 12

DATE: October 6, 2021

FROM: Arminé Chaparyan, City Manager AC

PREPARED BY: Margaret Lin, Interim Director of Planning and Community Development

SUBJECT: Authorize the City Manager to Execute a Professional Services

Agreement with MIG for Contract Planning Services

#### Recommendation

It is recommended that the City Council authorize the City Manager to execute a Professional Services Agreement (PSA) with MIG for contract planning services that includes one senior-level planner to assist with managing and processing planning applications.

### Discussion/Analysis

Due to staff turnovers and a steady increase in planning applications over the last two years the number of projects in the Planning and Community Development Department (Department) has grown significantly. The City is currently in the process of recruiting and filling the remaining vacancies in the Department. However, in the meantime projects applications still need to be processed in a timely manner to meet the needs of the community. In order to reduce the backlog of projects staff recommends hiring a senior-level planner to assist with managing and processing planning applications.

#### **Next Steps**

- Associate Planner Recruitment currently active, interviews will be scheduled in the next few weeks.
- 2. Planning Manager Recruitment currently active, interviews will be scheduled in the next few weeks.

### Background

In April 2021 the City Council authorized to add a full-time Assistant Planner to the Department. On June 16, 2021, the City Council adopted the Fiscal Year 2021-2022 Annual Budget which included three associate planners, one assistant planner, and three planning interns. Currently, the Department has one associate, one assistant planner, and one planning intern. The recruitments for the remaining vacant positions are active and will be filled within the next few weeks.

#### **Fiscal Impact**

Due to the resignations of the Planning and Community Development Director and current Planning Manager as well as the delay in filling other positions in the department, there is Professional Services Agreement with MIG for Contract Planning Services October 6, 2021 Page 2 of 2

sufficient salary savings to cover this additional cost. The salary savings (Account # 101-7010-7011-7000-000) will be used to fund the proposed contract planning services for a total not-to-exceed amount of \$35,000.

## **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

Attachment: Professional Services Agreement - MIG

# **ATTACHMENT 1**

Professional Services Agreement - MIG

# PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES

(City of South Pasadena / MIG)

#### 1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of South Pasadena, a California municipal corporation ("City"), and MIG ("Consultant").

## 2. RECITALS

- 2.1. City has determined that it requires the following professional services from a consultant: Planning services to assist with managing and processing planning applications.
- 2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.
- 2.3. Consultant represents that it has no known relationships with third parties, City Council members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

## 3. **DEFINITIONS**

- 3.1. "Scope of Services": Such professional services as are set forth in Consultant's September 3, 2021 proposal to City attached hereto as Exhibit A and incorporated herein by this reference.
- 3.2. "Agreement Administrator": The Agreement Administrator for this project Planning Services. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Consultant

- 3.3. "Approved Fee Schedule": Consultant's compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.
- 3.4. "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is Thirty-Five Thousand Dollars (\$35,000).
- 3.5. "Commencement Date": October 11, 2021.
- 3.6. "Termination Date": Once the Maximum Amount of this Agreement has been expended or January 10, 2021 whichever occurs earlier.

### 4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 18 ("Termination") below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this Agreement.

### 5. CONSULTANT'S DUTIES

- 5.1. **Services**. Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2. **Coordination with City**. In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator.
- 5.3. **Budgetary Notification**. Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.
- 5.4. **Business License.** Consultant shall obtain and maintain in force a City business license for the duration of this Agreement.
- 5.5. **Professional Standards.** Consultant shall perform all work to the standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant

shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

- 5.6. **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, City may consent in writing to Consultant's performance of such work.
- 5.7. **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Scott Davidson shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.
- 5.8. **Substitution of Personnel.** Any persons named in the proposal or Scope of Services constitutes a promise to the City that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. If City and Consultant cannot agree as to the substitution of key personnel, City may terminate this Agreement for cause.
- 5.9. **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.10. **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.
- 5.11. **Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall

be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

### 6. SUBCONTRACTING

- 6.1. **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.2. **Consultant Responsible.** Consultant shall be responsible to City for all services to be performed under this Agreement.
- 6.3. **Identification in Fee Schedule.** All subcontractors shall be specifically listed and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing as an amendment to this Agreement.
- 6.4. **Compensation for Subcontractors.** City shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

### 7. COMPENSATION

- 7.1. **General.** City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
- 7.2. **Invoices.** Consultant shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges.
- 7.3. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.

- 7.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.
- 7.5. **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the City through a fully executed written amendment. Consultant shall not undertake any such work without prior written approval of the City.
- 7.6. **City Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until City is satisfied that the services are satisfactory.
- 7.7. **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 11, City shall have the right to withhold payments under this Agreement to offset that amount.

### 8. PREVAILING WAGES

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Consultant shall defend, indemnify, and hold the City, tis elected officials, officers, employees, and agents free and harmless form any claim or liability arising out of any failure or alleged failure of Consultant to comply with the Prevailing Wage Laws.

### 9. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products" herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

### 10. RELATIONSHIP OF PARTIES

- 10.1. **General.** Consultant is, and shall at all times remain as to City, a wholly independent contractor.
- 10.2. **No Agent Authority.** Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not

- represent that it is, or that any of its agents or employees are, in any manner employees of City.
- 10.3. **Independent Contractor Status.** Under no circumstances shall Consultant or its employees look to the City as an employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.
- 10.4. **Indemnification of CalPERS Determination.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

### 11. INDEMNIFICATION

- 11.1 **Definitions.** For purposes of this Section 11, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. "City" shall include City, its officers, agents, employees and volunteers.
- 11.2 **Consultant to Indemnify City.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.
- 11.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. Consultant shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.
- 11.4 **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of City's choice, expert fees and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.

- 11.5 **Defense Deposit.** The City may request a deposit for defense costs from Consultant with respect to a claim. If the City requests a defense deposit, Consultant shall provide it within 15 days of the request.
- 11.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section 11 are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City.
- 11.7 **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant's behalf.
- 11.8 **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

### 12. INSURANCE

- 12.1. **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.
- 12.2. **Documentation of Insurance.** City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with City:
  - Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A: VII showing. The Certificate of Insurance must include the following reference: [Plan Check Services]
  - Documentation of Best's rating acceptable to the City.
  - Original endorsements effecting coverage for all policies required by this Agreement.
  - City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.
- 12.3. Coverage Amounts. Insurance coverage shall be at least in the following minimum amounts:
  - Professional Liability Insurance: \$2,000,000 per occurrence,
     Professional Services Agreement Consultant Services
     Page 7 of 17

• General Liability:

| • | General Aggregate:             | \$2,000,000 |
|---|--------------------------------|-------------|
| • | Products Comp/Op Aggregate     | \$2,000,000 |
| • | Personal & Advertising Injury  | \$2,000,000 |
| • | Each Occurrence                | \$2,000,000 |
| • | Fire Damage (any one fire)     | \$ 100,000  |
| • | Medical Expense (any 1 person) | \$ 10,000   |

- Workers' Compensation:
  - Workers' Compensation
  - EL Each Accident
  - EL Disease Policy Limit
  - EL Disease Each Employee
- Automobile Liability
  - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 12.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.
- 12.5. **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 12.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 12.7. Professional Liability Insurance or Errors & Omissions Coverage. The deductible or self-insured retention may not exceed \$50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period

Professional Services Agreement – Consultant Services

- endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- 12.8. Claims-Made Policies. If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- 12.9. Additional Insured Endorsements. The City, its City Council, Commissions, officers, and employees of South Pasadena must be endorsed as an additional insured for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 12.10. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 12.11. **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of South Pasadena, Attn: Margaret Lin, Interim Director of Planning and Community Development, South Pasadena, CA 95945.

- 12.12. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 12.13. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the City. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 12.14. **Report of Claims to City.** Consultant shall report to the City, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.
- 12.15. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

12.16. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

### 13. MUTUAL COOPERATION

- 13.1. **City Cooperation in Performance.** City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.
- 13.2. **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim or action.

### 14. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage

prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

If to Consultant

Margaret Lin
Interim Director of Planning and
Community Davidonment

Community Development
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

Telephone: (626) 403-7236 Facsimile: (626) 403-7241

With courtesy copy to:

Andrew Jared, Esq.
South Pasadena City Attorney
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd. Ste. 850
Pasadena, CA 91101

Telephone: (213) 542-5700 Facsimile: (213) 542-5710

Scott Davidson Principal MIG 1650 Spruce Street, Suite 106 Riverside, CA 92507

Telephone: (957) 797-9222

### 15. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.11 (Records), paragraph 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnity), paragraph 12.8 (Claims-Made Policies), paragraph 13.2 (Consultant Cooperation in Defense of Claims), and paragraph 18.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

### 16. TERMINATION

- 16.1. **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.
- 16.2. **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.

- 16.3. **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.
- 16.4. **Remedies.** City retains any and all available legal and equitable remedies for Consultant's breach of this Agreement.

### 17. INTERPRETATION OF AGREEMENT

- 17.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 17.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and Consultant.
- 17.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.
- 17.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 17.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 17.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

### 18. GENERAL PROVISIONS

- 18.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 18.2. Conflicts of Interest. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 18.3. **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.
- 18.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 18.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 18.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 18.7. **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant

- agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
- 18.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 18.9. **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 18.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 18.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs expended in the action.
- 18.12. **Venue.** The venue for any litigation shall be Los Angeles County, California and Consultant hereby consents to jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

## TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

| "City" City of South Pasadena               | "Consultant"<br>MIG |
|---|---------------------|
| By:   | By:                 |
| Printed: Arminé Chaparyan                   | Printed:            |
| Title: City Manager                         | Title:              |
| Date:                                       | Date:               |
| Attest:                                     |                     |
| By:Christina Muñoz Acting Deputy City Clerk |                     |
| Date:                                       |                     |
| Approved as to form:                        |                     |
| By:Andrew Jared City Attorney               |                     |
| Date:                                       |                     |

### Exhibit A Scope of Work

MIG will provide a contract planner that is experienced in entitlement processing for planning and community development agencies in southern California.

MIG will provide a contract planner between the hours of 7:30am and 6:00pm for a minimum of 16 hours per week for a twelve-week period.

The planner will review entitlement applications, prepare staff reports, public presentations, conditions of approval, and findings of fact. The planner will also be responsible for project management, public assistance at the counter, conduct on-site inspections, attend commission meetings, and prepare analysis and documents to ensure compliance with CEQA. The planner will work with the applicants, their representatives, and other applicable departments/division to review and process the entitlement applications.

All work will be performed on-site at South Pasadena city hall unless a work-from home mandate is required during this time. While at City Hall, the contract planner will comply with all state, county, and city protocols to reduce the spread of COVID-19.

### Exhibit B Fee Schedule

| Schedule Milestone           | Deliverable Hours | Units      | Cost Rate  | <b>Total Cost</b> |
|------------------------------|-------------------|------------|------------|-------------------|
| 12 weeks (16 hours per week) | Planning Services | 208 hours  | \$150/hour | \$31,200.00       |
|                              |                   | TOTAL ESTI | MATED COST | \$31,200.00       |



### **City Council** Agenda Report

ITEM NO. 13

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Sheila Pautsch, Community Services Director

SUBJECT:

Request for Approval of a Co-Sponsorship and Fee Waiver of "Homecoming 2021" hosted by South Pasadena High School

**Associated Student Body** 

### Recommendation

It is recommended that the City Council approve the South Pasadena High School Associated Student Body request for co-sponsorship of October 23, 2021, and waive associated fees.

### Commission Review and Recommendation

This matter was not reviewed by a Commission.

### Discussion/Analysis

The South Pasadena High School Associated Student Body (SPHS-ASB) has requested the City's Co-Sponsorship of Homecoming 2021 through a waiver of fees to utilize the Arroyo Seco Golf Course for the event.

Due to the pandemic, the traditional indoor Homecoming must be held outdoors. SPHS-ASB has requested the use of the Arroyo Seco Golf Course. The Arroyo Seco Golf Course will be set up similar to Parti Gras but at a much smaller scale, including the mini-golf course, first hole, and patio area. There will be a DJ, and light refreshments and decorations. It is estimated 250-300 students to be in attendance. The event time is 8:00 pm to 11:00 pm. The set-up will be7:00 pm to 8:00 pm, and clean-up will occur between 11:00 pm to 12:00 am. SPHS-ASB will comply with the COVID protocol of the Los Angeles Health Department Order. SPHS-ASB will be responsible for implementing the protocols at Homecoming 2021.

### Background

Recognizing the value of partnering with local organizations and the benefits to the community while still upholding its fiscal responsibilities, the City Council approved the Co-Sponsorship policy on March 4, 2015, to provide more structure and guidance when fees may be waived, or co-sponsorship approved.

SPHS-ASB would like to hold the Homecoming 2021 dance as the 2020-2021 school year had been challenging with no in-person school or events. Students could not participate in many high Request for Approval of a Co-Sponsorship and Fee Waiver of "Homecoming 2021" hosted by South Pasadena High School Associated Student Body October 6, 2021

Page 2 of 2

school traditions. SPHS hopes to host a Homecoming 2021 to allow the students to enjoy the traditional events of Homecoming. SPHS-ASB is a nonprofit organization.

### **Legal Review**

The City Attorney has reviewed this item.

### **Fiscal Impact**

The total amount of fees waived is estimated at \$2,500 for the golf course rental. SPHS-ASB is required per the Co-sponsorship Policy to pay for staff costs, refundable security deposit, and insurance.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

### Attachment:

- 1. Co-Sponsorship Policy
- 2. Letter form SPHS-ASB

# **ATTACHMENT 1** Co-Sponsorship Policy

### **Introduction:**

The City of South Pasadena (City) routinely receives requests from nonprofit organizations, service clubs, and others requesting to co-sponsor various activities, or to waive temporary use permit fees and /or rental fees for the use of City facilities. Examples of these activities include public music performances, art exhibitions, cultural, service club, sporting and school events.

Recognizing the value of partnering with local organizations and the benefits to the community while still upholding its fiscal responsibilities, the City has established the following policy to direct when fees may be waived or co-sponsorship approved.

### **Policy**:

Fees may be waived or reduced when co-sponsored by the City when the City Council makes a determination that the program or event: 1) is of significant value to the community or to a significant portion of its residents; and 2) is within the scope of services normally provided by the City.

Before recommending approval, the City Manager, or his/her designee, will also consider factors including but not limited to: 1) benefit to the City; 2) proposed event location and time of day; and 3) impact on the surrounding neighborhood, City staff and resources.

While individuals, organizations, agencies, and private enterprises within South Pasadena may qualify for fee waivers or co-sponsorship based on meeting this policy's criteria, the City does not guarantee all requests will be accommodated. The City Council, or its designee, may determine not to provide support, due to lack of adequate funds or other resources, or when the request represents a conflict of interest or is not in the best interest of the City.

Activities specifically prohibited from City co-sponsorship or waiver of fees include those that:

1) enhance private business; 2) held on behalf of, in support of, or in opposition to any political candidate or ballot measure or advocate a political position; 3) advocate or promote adult – oriented businesses; or 4) solicit criminal activity. Religious organizations, companies or groups may obtain fee waivers or co-sponsorships if the proposed program, event, or project neither promotes religious messages nor advocates for or promotes religious beliefs.

All resources to be provided by the City in co-sponsorship of an event or program shall be within current funding allocations, and expenditures shall not result in a reduction of other City services. The City Council periodically approves the City Fee Schedule. Fee waivers may be reflected in reduced revenue totals at fiscal year-end.

The City reserves the right to assess all activities at any time to ensure all rules, regulations, conditions of use, City and health and safety laws are not violated. Co-sponsorships and fee waivers can be revoked at any time effective immediately, if the recipient agency or organization fails to comply with this policy or any other local, state or federal regulations.

### Qualifications for those seeking fee waivers or co-sponsorship:

- 1. Must be a valid non-profit or community service organization based within the City of South Pasadena (proof of non-profit status is required if applicable);
- 2. All of the following criteria shall be demonstrated by the applicant:
  - a. Consistent with the City's economic, social, or recreational goals;
  - b. Free and open to the public, unless otherwise authorized by the City Council (or its designee);
  - c. Demonstrate community pride and involvement; and
  - d. Not have a religious or political purpose.

### Co-sponsorship may include fee waiver or reduction for any of the following:

- 1. Use of a facility;
- 2. Temporary Use Permit;
- 3. Street Banner:
- 4. Tent Permit;
- 5. Encroachment Permit; and/or
- 6. Street Closure and /or traffic control plan.

### Co-sponsorship does not include the following:

- 1. Staff costs;
- 2. Refundable security deposit;
- 3. Outdoor use of any city equipment such as tables, chairs, Public Address Systems, canopies; and
- 4. Insurance.

### **Procedures:**

The following information should be submitted by the non-profit organizations when requesting use of City streets, right-of-ways, and other City properties. The request must be made in writing, at least 60 days prior to event and must include details of the event, including, but not limited to:

- 1. Name and mailing address of organization making request;
- 2. City facility, property, or street requested for use;
- 3. Proof of non-profit status if applicable;
- 4. Description and purpose of event;
- 5. Time of event and time access to the site is needed;

- 6. Proposed street closure or traffic control plan, prepared and stamped by a registered engineer (if applicable); and any and all street closures related to events, must be preapproved, via traffic control plans, by the Public Works Department. Moreover, no entity, under any circumstance, other than the City of South Pasadena may execute traffic control plans within the City's Limits. Proper insurance must accompany the Stamped Street Closure Plan for final approval.
- 7. Concession information, including whether food or drink will be sold;
- 8. List of equipment that will be brought in for the event;
- 9. List of event sponsors and their role (if any);
- 10. A description of the benefits the non-profit will receive and the benefit the City or its residents will receive from the event;
- 11. Detailed description of any support needed from City staff, including police, fire or public works (NOTE: These costs will be the responsibility of the event organizers. Any hours designated for the set-up of approved nonprofit organization events, during regular business hours, will be at the expense of the nonprofit and must be approved by the City Manager or his/her designee).
- 12. City equipment and supplies will not be available for use or rent unless the facility that is being used houses these items such as tables and chairs. The following will not be used or rented for outdoor use: Audio visual, Public Address System, Tables, Chairs, Canopies, or Electrical Outlets. Use of City vehicles for nonprofit organization use is prohibited.

### **Alcohol:**

The South Pasadena Municipal Code allows liquor on the premises (wine, beer, whiskey, etc.) under special conditions. Obtain an Alcohol Beverage & Control (ABC) permit by calling the ABC (626) 927-1060. See City Staff for additional info on ABC requirements. Alcohol may not be sold or served to minors. Failure to comply, monitor and enforce this law is grounds for terminating the activity and forfeiting all deposits, fees and co-sponsorship. Injuries caused to any person or damage to City premises, shall be the sole responsibility of the organizations, its sponsor or the adult representative. Alcohol may not be served or sold during set-up time. Service for any alcoholic beverage must end one hour before the time stated on the contract for the event to end. Alcohol is only permitted in the rented facility (Senior Center and War Memorial Building only) Alcohol may not be served or consumed in parking lots, public patio areas, or outside grounds adjacent to rented facility. For Library Community Room, please see the Library Administration for Alcohol Policy. (http://www.ci.south-pasadena.ca.us/index.aspx?page=261)

### The following conditions apply once fee waiver and or co-sponsorship is approved:

1. Appropriate recognition of the City as co-sponsor of or contributor to the event or program will be provided on all promotional materials and at all events and programs. The City Manager or his/her designee must approve promotional materials, the event/program schedule and activities. If the City is not recognized for its contributions to the event/program, the organization

could potentially lose future co-sponsorship opportunities with the City. For further clarification see the South Pasadena Municipal Code Chapter 2 Administration, Article I In General, Section 2.6-5 (Adoption of City Seal).

- 2. No fliers, posters, banners or signage can be placed, posted or distributed on City parks, City facilities, on street pole or on sandwich boards throughout the city without the approval of the City Manager or his/her designee. Street Banner and encroachment permits fees are waived but must be obtained through the City. For further clarification see the South Pasadena Municipal Code Chapter 3 (Advertising).
- 3. All non-profits must complete a Facility Use Permit with the Recreation Division of Community Services Department. Conditions may be placed on the use to minimize impacts to facilities or costs to the City, or to restore facilities to pre-event conditions.
- 4. Special Event Insurance can be purchased through the City. If Special Event Insurance is not purchased the organization must adhere to the following: Proof of General Liability Insurance and Endorsements with the City additionally insured as well as a hold harmless agreement will be required for each event with a minimum of \$2 million per occurrence and \$4 million aggregate. The insurance coverage will be determined on a case by case basis between the City, non-profit organization and Insurance Advisor and will depend largely on the requirement of street closures, serving of alcohol, duration, location and number of participants.
- 5. A refundable security deposit is required. Deposit amounts are set to ensure proper clean up and cover the City's costs for remediation of any damage or loss. If the full deposit is not accompanied with the Facility Use Permit by the specified date, the facility request shall be cancelled and approval withdrawn. Security Deposits will be refunded within four (4) to six (6) weeks of the event or activity, if standards have been met. Security Deposits will not be waived. 6. Applicants are responsible for payment of the full cost of materials, labor, replacement,
- repairs, or damages related to the event, project or program, regardless of the amount. If damage occurs and the complete remediation costs the City less than the amount of the deposit, the difference shall be refunded.
- 7. Secure necessary additional permits, e.g., vendors need business license, from food sales need County Health Department permits, and alcohol use permits.

### City Policy Pertaining to Styrofoam and Plastic Carryout Bags:

The City prohibits the use and sale of expanded polystyrene food services ware by food providers within the city and in City facilities, City-managed concessions, City sponsored or cosponsored events, city permitted events and all franchisees, contractor and vendor doing business with the city. (South Pasadena Ordinance No. 2305, SPMC 16.40-.46)

The City prohibits the use or distribution of plastic carryout bags at any facility, any event held on City property, or at any City sponsored event. (South Pasadena Ordinance No. 2269, SPMC 16.31-.39.

### **Street Banner:**

Street Banners will be hung in accordance with the event which will average two to three weeks prior to the event. Location requests cannot be made as the banner will be hung where another banner is coming down. If the applicant chooses to request a banner location, the banner fee will not be waived. One banner per organization will be hung per event due to the multiple requests received. The City only has four banner locations.

All banners must be delivered to the Public Works Department at the City Yard located at 825 Mission Street (not City Hall) at least four weeks prior to the event and picked up one week after the event from the same location.

No banners will be hung on Fair Oaks Avenue between Thanksgiving and the New Year as City Holiday decorations will be placed in these two locations.

Street Banner will only be approval for South Pasadena organizations within the List.

The attached "Exhibit A" is a list of current co-sponsored organizations or City committees and events that have been approved in the past. If any new organizations request co-sponsorship by the City, that request will come to the City Council for approval. If an existing organization would like to amend their current request, that request will also be brought to City Council for approval.

This Policy and list of events and organizations will be approved annually by the City Council.

This Policy is subject to interpretation. The City Council designates the City Manager or his/her designee in conjunction with the Department Head to interpret the Policy when items are not specifically addressed in the Policy.

Attached: Exhibit A – List of Current Co-Sponsored Organizations or City Committees and Events for 2019

Approved in May 2019 by City Council

# Exhibit A 2019 List of Co-sponsored Organizations and Events

| South Pasadena High School Boosters | Tiger Run/Walk (Street Closure and Banner)           | December       |
|-------------------------------------|--|----------------|
|                                     | Booster Bash (Banner)                                | September      |
| South Pasadena Middle School Tiger  | Main Event Poker Tournament (Facility use)           | March          |
| Cub Boosters Club                   |  |                |
| Chinese American Club               | Moon Festival (Facility and Banner)                  | September      |
| Vecinos de South Pasadena           | Annual Event (Facility)                              | October        |
| South Pasadena Educational          | Parti Gras (Golf Course)                             | May or June    |
| Foundation (SPEF)                   | Color Festival (Street Closure and Banner)           | March          |
|                                     | Fall Fundraiser (Banner)                             | October        |
|                                     | Summer School (Banner)                               | May            |
| South Pasadena Kiwanis Club         | 4 <sup>th</sup> of July Pancake Breakfast (Facility) | July           |
|                                     | Shred Day (Banner)                                   | April          |
| South Pasadena Little League        | Baseball and softball fields, storage and            | February -     |
|                                     | facilities for meetings (Park, Facility & Banner)    | December       |
| American Youth Soccer Association   | Soccer fields, storage and facilities for            | August - March |
|                                     | meetings (Park, Facility & Banner)                   |                |
| Holy Family Catholic School and     | Field rental – flag football (Park)                  | August -       |
| Church                              |  | November       |
| Boy Scouts                          | Troop meetings at various facilities                 | Year Round     |
| Girl Scouts                         | Troop Meetings at various facilities                 | Year Round     |
| South Pasadena Beautiful            | Garden Tour (Banner)                                 | April          |
|                                     | Earth Day (Facility and Banner)                      | April          |
|                                     | Meeting Space (Facility use)                         | Year Round     |
| Rotary Club of South Pasadena       | Taste of South Pasadena (Banner)                     | April          |
|                                     | Chili Cook off (Facility use)                        | November       |
| The Institute for the Redesign of   | Abilities Job Fair (Facility use and Banner)         | October        |
| Learning                            |  |                |
| South Pasadena Arts Council (SPARC) | Meeting space and fundraising events (Facility       | Year Round     |
|                                     | use)   |                |

(Continue)

### City of South Pasadena / Co-Sponsorship Policy

### **City Committee Events**

| 4 <sup>th</sup> of July/Festival of Balloons | Festival of Balloons daylong event              | July        |
|--|---|-------------|
| Committee                                    | Parade, Garfield Park games, Fireworks          |             |
|  | show  |             |
|  | (Street Closure, Banner, Facility use and       |             |
|  | staff)  |             |
| South Pasadena Tournament of Roses           | Classic Car Show (Street Closure, Banner and    | September   |
| Committee                                    | staff)  |             |
|  | Float Building and Storage (Facility and staff) | September - |
|  |   | January     |
|  | Crunch Time Party (Facility use and staff)      | December    |
|  | Spring Event (Facility use and staff)           | April       |

### **South Pasadena Chamber of Commerce**

| South Pasadena Chamber of Commerce | Farmers' Market (Street Closure)        | Every Thursday |
|------------------------------------|---|----------------|
|                                    | Eclectic Music Festival (Banner, Street | April/May      |
|                                    | Closure, Temp Use Permit, tent permit,  |                |
|                                    | Facility use, street closure and staff) |                |
|                                    | Art Crawl (Banner)                      | 3 times a year |

# **ATTACHMENT 2**Letter from SPHS-ASB

JANET ANDERSON Principal

JANET WICHMAN Assistant Principal Curriculum, Instruction, and Guidance

DAVID SPECK Assistant Principal Student Services



OLINDA CAZARES Counselor

MARYLIN GARCIA Counselor

TRACY ISHIMARU Counselor

> MARIA LONG Counselor

> > NAN NG Counselor

1401 FREMONT AVENUE, SOUTH PASADENA, CALIFORNIA 91030 TELEPHONE: (626) 441-5820 FAX (626) 441-5825

Sheila Pautsch Community Services Director 815 Mission Street South Pasadena, CA 91030

Dear Ms. Pautsch,

Thank you so much for your consideration of our request for the City of South Pasadena to co-sponsor an event with the South Pasadena High School Associated Student Body.

The SPHS ASB would like to hold a Homecoming Dance. We usually do an indoor venue of the gym, but are unable to due to Covid Guidelines.

We would like to use the Arroyo Seco golf course as the venue. Per the City of South Pasadena/Co-Sponsorship Policy document, we are submitting the following:

### 1. Name and mailing address of organization making request

South Pasadena High School Associated Student Body 1401 Fremont Avenue South Pasadena, CA 91030

### 2. City facility, property, or street requested for use

Arroyo Seco Golf Course

If allowed, we would also like the students to be able to use the miniature golf course.

### 3. Proof of non-profit status if applicable

South Pasadena High School Associated Student Body is a nonprofit under tax ID number 95-6004736.

### 4. Description and purpose of event

Homecoming Dance for South Pasadena High School. This will be a ticketed event for SPHS students.

### 5. Time of event and time access to the site is needed

Dance will be from 8PM-11PM on October 23rd, 2021. There will be an hour needed before and after for set-up and strike. 7PM - 12AM will cover the event.

### 6. Proposed street closure or traffic control plan, prepared and stamped by a registered engineer

N/A

### 7. Concession information, including whether food or drink will be sold

We are proposing to provide limited food at the Homecoming Dance but none will be sold. We are looking at a small taco vendor that would be self-sustained and also a donut cart.

### 8. List of equipment that will be brought in for the event

DJ equipment and sound system. Food truck(s) Decorations

### 9. List of event sponsors and their role (if any)

None to date.

## 10. A description of the benefits the non-profit will receive and the benefit the City or its residents will receive from the event

This event is for the benefit of our City's students and families. This is a time-honored tradition of having a homecoming dance after the Homecoming Football game. This is the best option for a local outdoor venue.

## 11. Detailed description of any support needed from City staff, including police, fire or public Works

No special support needs expected.

### Other

Insurance documentation furnished upon needs of Arroyo Seco Golf Course Management.

Sincerely, Anthony Chan SPHS ASB Junior Class Advisor 626-940-4111



### City Council Agenda Report

ITEM NO. 14

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Tara Schultz, Interim Human Resources & Risk Manager

SUBJECT:

Renaming of the Planning and Community Development Department to the Community Development Department and Adoption of Resolution Approving a Classification and Salary Range for Deputy Community Development Director and Changing the Title of the Planning and Community Development Director position to

**Community Development Director** 

### Recommendation

It is recommended that the City Council consider the following actions:

- 1. Rename the Planning and Community Development Department to Community Development Department; and
- 2. Adopt a resolution approving the classification and salary range for a new Deputy Community Development Director and change the title of the Planning and Community Development Director to Community Development Director.
- 3. Appropriate \$4,085 to Community Development/ Salaries Permanent Account 101-7011-7000-000 to cover the difference in cost for the new Deputy Community Development Director.

### Discussion/Analysis

The City has recently experienced a number of vacancies in the Planning and Community Development Department, affording staff the opportunity to evaluate the needs of the Department as it seeks to fill the existing vacancies. In many cities the title of the department has evolved from the standard Planning Department to Community Development Department, allowing the broader title to encompass the traditional building and planning functions, as well as the expanded responsibilities of code enforcement, filming, arts & economic development, and housing. Staff is recommending a change in the department title to Community Development Department to better encompass the array of services provided to the community. In accordance with that change it would be necessary to change the title of the director as well. Staff is recommending a change in title to Community Development Director, with no change in salary. Staff is please to report that a new director has been selected to lead this department and regrow the team.

In September, the City Council approved the creation of the Planning Manager (formerly "Principal Management Analyst") to assist with the oversite of the Planning Division of the Department. This position provides technical assistance to the staff and assists the Director with management of the busy workload of the Planning Division that is common for South Pasadena. To assist with the overall departmental management, staff is recommending the creation of a new Deputy Community Development Director position. This position would be an unrepresented management position and effective immediately upon approval. The new position would be responsible for assisting the Director with the management and implementation of department goals, policies and programs, along with the General Plan, Master and Specific Plans and the Housing Element. The Deputy would also manage transportation planning, housing programs, code enforcement and participate in the City's arts & economic development activities. The establishment of a Deputy Director position also provides the needed support to the Department and Director that has been missing and affords the City and Director the opportunity for succession planning.

### Alternatives

These changes are necessary to recruit qualified candidate and encourage the promotion and advancement of existing staff.

### **Fiscal Impact**

Cost associated with renaming the department will be minimal and limited to new stationary, business cards, etc. These costs can be absorbed in the department budget. There is no financial impact associated with changing the title of the Director since the salary is not being changed. The Deputy Community Development Director is a new position, with a proposed salary range of \$8,449 - \$11,323, mirroring that of the Deputy Directors in Public Works. The estimated annual cost of this position is \$135,876. Currently there is one vacancy in the department, the new Planning Manager, and the other former Principal Management Analyst is Acting as the Interim Director until the new Director comes on board. Based on the savings afforded by the current vacancies, staff is requesting an appropriation of \$4,085 to cover the difference for the remainder of the fiscal year.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

### Attachments:

1) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA CHANGING THE NAME OF THE **PLANNING** AND COMMUNITY DEVELOPMENT **DIEPARTMENT** TO **COMMUNITY** DEVELOPMENT DEPARTMENT, CHANGING THE TITL OF THE PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR TO COMMUNITY DEVELOPMENT DIRECTOR AND **ESTABLISHING** THE POSITION OF DEPUTY COMMUNITY

## DEVELOPMENT DIRECTOR, AND ADOPTING NEW JOB DESCRIPTIONS AND SALARY RANGES

- a. Exhibit "A" Community Development Director and Deputy Community Development Director job description/classification specifications
- b. Exhibit "B" Community Development Director and Deputy Community Development Director salary schedule

### RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA CHANGING THE NAME OF THE PLANNING COMMUNITY DEVELOPMENT DIEPARTMENT COMMUNITY DEVELOPMENT DEPARTMENT, CHANGING **OF PLANNING AND COMMUNITY** THE TITL THE DEVELOPMENT DIRECTOR TO COMMUNITY DEVELOPMENT DIRECTOR **AND ESTABLISHING** THE **POSITION** ASSISTANT COMMUNITY DEVELOPMENT DIRECTOR, AND ADOPTING NEW JOB DESCRIPTIONS AND SALARY RANGES

THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES HEREBY RESOLVE:

**WHEREAS**, The City wishes to change the name of the Planning and Community Development Department to Community Development Department; and

**WHEREAS**, the City wishes to change the title of the Planning and Community Development Director to Community Development Director to coordinate with the proposed change of the name of the Department; and

WHEREAS, the creation of a new Assistant Community Development Director classification is intended to be implemented by the proposed Community Development Department; and

WHEREAS, theses position is unrepresented management; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETRMINE AND ORDER AS FOLLOWS:

**SECTION 1.** That the Planning and Community Development Department shall be renamed the Community Development Department.

**SECTION 2.** That the Planning and Community Development Director position shall be retitled Community Development Director.

**SECTION 3.** That the classification of Assistant Community Development Director is hereby established.

**SECTION 4.** That the job description of Community Development Director and Assistant Community Development Director, attached hereto as shown in Exhibit A, are hereby adopted.

**SECTION 5**. The Community Development Director and Assistant Community Development Director classifications are unrepresented management classifications.

**SECTION 6.** The base salary schedule for the positions of Community Development Director and Assistant Community Development Director as established are set forth in the attached Exhibit B.

**SECTION 7.** This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED ON this 6th day of October, 2021.

|  | Mayor Diana Mahmud         |
|--|----------------------------|
| ATTEST:  | APPROVED AS TO FORM:       |
| Christina Muñoz, Acting Deputy City Clerk  | Andrew Jared City Attorney |
| I HEREBY CERTIFY the foregoing resolution the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, California, at a region of the City of South Pasadena, continuous of the City of South P |                            |
| 2021, by the following vote:   | Ç                          |
| 2021, by the following vote:  AYES:  | Ç                          |
| · ·  |                            |
| AYES:  |                            |
| AYES:<br>NOES:   |                            |
| AYES: NOES: ABSENT:  |                            |

### EXHBIT "A"

# Deputy Community Development Director Classification Specification

City of South Pasadena

### DEPUTY COMMUNITY DEVELOPMENT DIRECTOR

### Purpose

Under general administrative direction from the Community Development Director, assists in planning, directing, managing and overseeing the activities and operations of the Community Development Department; to oversee the day-to-day management of assigned divisions, functions, and services including building inspection and compliance, planning, filming, arts & economic development, transportation planning, code enforcement and/or housing programs; to coordinate assigned activities with other departments and outside agencies; and to provide highly responsible and complex administrative support to the Community Development Director; and performs other related duties as required. This position may serve as Acting Director in the absence of the Community Development Director.

### **Distinguishing Characteristics**

The Deputy Community Development Director is responsible for participating with the Director in the overall planning, direction and management of the Community Development Department. This position serves as a department manager and works closely with professional building inspection, planning, and engineering staff, code enforcement staff, and the department's office/clerical support group. The primary responsibilities and assignments of the Deputy Community Development Director are the oversight and management of the City's transportation planning, housing programs, code enforcement, filming, arts & economic development, and special projects, which will require independent judgment on issues which are complex, interpretive and evaluative in nature. This position is part of the managerial and professional class in the Planning and Building series. This classification is distinguished from the lower level classes in the job series in that this is a higher level position, expected to exercise independent judgment, wisdom, common sense, and initiative in assisting the Director in implementing effective departmental operations.

### **Examples of Duties**

The duties listed below are examples of the work typically performed by employees in this class. An employee may not be assigned all duties listed and may be assigned duties that are not listed below:

• Assist in the management of all department services and activities of the Community Development Department; assume management responsibility for the day-to-day operations of assigned divisions, functions, and services including building inspection and compliance, planning, transportation planning, code enforcement, filming, arts & economic development, and housing operations.

- Participate in managing the development and implementation of Community Development Department goals, objectives, policies, and priorities for each assigned service area; recommend and administer policies and procedures.
- Monitor and evaluate the efficiency and effectiveness of service delivery methods and procedures; recommend, within departmental policy, appropriate service and staffing levels.
- Assess and monitor work load, administrative and support systems, and internal reporting relationships; identify opportunities for improvement; direct and implement changes.
- Select, train, motivate and evaluate assigned personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline and termination procedures.
- Participate in the development and administration of assigned areas of the Community Development Department's budget; participate in and approve the forecast of funds needed for staffing, equipment, materials, and supplies; monitor and approve expenditures; implement budgetary adjustments as appropriate and necessary.
- Assist in overseeing building inspection, building plan check, and permit activities and ensure compliance with appropriate laws, ordinances, and regulations.
- Assist in receiving, reviewing and preparing reports and recommendations on various land planning and development proposals and projects for presentation to the Planning Commission and City Council.
- Represent the Community Development Department to other departments, elected officials and outside agencies; coordinate assigned activities with those of other departments and outside agencies and organizations.
- Coordinates the City's transportation planning program and participate in arts & economic development activities.
- Oversee the City's Code Enforcement program.
- Develop transportation planning policies and programs.
- Create City's Bicycle Master Plan and evaluate all mobility issues.
- Evaluate citywide parking issues and develop parking plan.
- Participate in arts & economic development activities.
- Oversee and manage the City's Housing Program, including affordable housing programs, update and implement policies and programs established in the Housing Element and monitor City compliance with Housing Element goals, and assist with the acquisition and management of CalTrans housing.
- Participate on a variety of boards, commissions, and committees.
- Provide staff assistance to the Community Development Director.
- Attend and participate in professional group meetings; stay abreast of new trends and innovations in the field of community development and urban planning.

- Respond to and resolve difficult and sensitive citizen inquiries and complaints.
- Assists the Director with the maintenance, development, and implementation of the City's General Plan, Master Plans, and Specific Plans.
- Directs the preparation of environmental, demographic, land use, economic indices, planning and building construction/alteration laws and related data. Ensures that all programs are administered in strict accordance to the law.
- Makes presentations to the City Council, Commissions and Boards, staff, City Manager and the public.
- As assigned, serves as acting Community Development Director in the absence of the Community Development Director.
- Performs other related duties, as assigned.

# **Employment Standards**

# Education/Experience:

Any combination of education and/or experience that has provided the knowledge, skills and abilities necessary for acceptable job performance. Atypical way to obtain the knowledge and abilities would include:

- A bachelor's degree with major course work in urban planning, public or business administration or a related field.
- Five years of progressively responsible experience in municipal planning, community and economic development, or housing program administration, including two years as a top or executive level manager of a large, complex organization.
- A Master's Degree in a related field is highly desirable.

### Knowledge of:

Principles and practices of Planning, Building, Community and Economic Development Housing programs and initiatives management; principles of administration, organization and municipal government operations; principles, objectives, and practices of environmental and urban planning, building construction regulatory activities, and related community development activities; knowledge of laws pertaining to subdivision, annexation, and land use consistent with various building codes; knowledge of legal procedures involved in enforcement of building, and use and housing codes; knowledge of municipal budgets and revenue sources; methods and techniques of supervision, training and motivation; basic principles of mathematics; applicable federal, state and local laws, codes and regulations; methods and techniques of scheduling work assignments; current and latest technological advances within the profession; best practices to provide for and ensure efficient service delivery; standard office procedures, practices and equipment; modern office practices, methods and equipment, including a computer and applicable software; methods and techniques for record keeping and report preparation and writing; proper English, spelling and grammar; occupational hazards and standard safety practices.

# Ability to:

Assist with the planning, direction, management and coordination of the work of the Planning and Community Department; Assist with the development and administration of sound departmental goals, objectives, policies and methods for evaluating achievement and performance levels; Assist with the generation of new and creative ideas as a result of visionary and strategic thinking; Assist in developing, presenting and administering a program budget; Facilitate group participation and consensus building; Plan, organize, train, evaluate and direct work of assigned staff; Interpret, explain and apply applicable laws, codes and regulations; Read, interpret and record data accurately; Organize, prioritize and follow-up on work assignments; Work independently and as part of a team; Make sound decisions within established guidelines; Analyze a complex issue, and develop and implement an appropriate response; Follow written and oral directions; Observe safety principles and work in a safe manner; Communicate clearly and concisely, both orally and in writing; Establish and maintain effective working relationships; Operate an office computer and a variety of word processing and software applications.

# **Physical Demands**

This is essentially a desk job. Physical demands include occasional lifting up to 25 pounds, some reaching, bending, walking, stooping, and squatting. The position also requires repetitive hand movement and fine coordination in preparing reports using a computer keyboard. Additionally, the position requires both near and far vision in reading written reports and work related documents. Acute hearing is required when providing phone and personal service. The nature of the work also requires the incumbent to drive motorized vehicles.

# **Special Requirements**

Possession of a valid Class "C" California Driver License and a satisfactory driving record.

# **Working Conditions**

Environment is generally clean with limited exposure to conditions such as dust, fumes, odors, or noise. Computer is used on a daily basis. Requires traveling throughout the City and adjacent areas, and the attendance of occasional night meetings.

### **FLSA Status**

Exempt

10/06/2021

# Exhibit "B"

# **Community Development Director Salary Schedule**

(Effective October 6, 2021)

| Position    | Step A   | Step B   | Step C   | Step D   | Step E   | Step F   | Step G   |
|-------------|----------|----------|----------|----------|----------|----------|----------|
| Community   | \$10,660 | \$11,193 | \$11,753 | \$12,341 | \$12,958 | \$13,605 | \$14,286 |
| Development |          |          |          |          |          |          |          |
| Director    |          |          |          |          |          |          |          |

# **Deputy Community Development Director Salary Schedule**

(Effective October 6, 2021)

| Position    | Step A  | Step B  | Step C  | Step D  | Step E   | Step F   | Step G   |
|-------------|---------|---------|---------|---------|----------|----------|----------|
| Deputy      | \$8,449 | \$8,872 | \$9,315 | \$9,781 | \$10,270 | \$10,783 | \$11,323 |
| Community   |         |         |         |         |          |          |          |
| Development |         |         |         |         |          |          |          |
| Director    |         |         |         |         |          |          |          |



# City Council Agenda Report

ITEM NO. 15

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Lucy Demirjian, Assistant to the City Manager

Andrew L. Jared, City Attorney

SUBJECT:

Adoption of a Resolution Continuing the Proclamation of a Local Emergency Due to the Outbreak of COVID-19, Authorizing the City Manager to Take All Necessary Actions as the Director of Emergency Services, and Authorizing Remote Teleconference Meetings of the

Legislative Bodies of the City

#### Recommendation

It is recommended that the City Council approve the attached resolution continuing the proclamation of a local emergency due to the outbreak of COVID-19, authorizing the City Manager to take all necessary actions as the Director of Emergency Services, and authorizing remote teleconference meetings of the legislative bodies of the City.

### Discussion/Analysis

On March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events. In response to the COVID-19 statewide emergency, the South Pasadena City Council adopted Resolution No. 7646 declaring a local emergency on March 18, 2020.

Most recently, on September 17, 2021, the Los Angeles County Public Health Officer issued a revised order, Responding Together At Work and In the Community, requiring operators of indoor bars and lounges to verify the COVID-19 vaccination status of their patrons and employees.

On September 16, 2021, Governor Newsom signed Assembly Bill 361 (AB 361) which amends the Ralph M. Brown Act to provide additional provisions that allow meetings of legislative bodies to be conducted via teleconference.

AB 361 allows a local agency legislative body to hold a meeting utilizing teleconferencing without complying with the standard teleconferencing requirements if the Governor has proclaimed a State of Emergency and any of the following circumstances:

Emergency Declaration/ AB 361 October 6, 2021 Page 2 of 5

- State or local officials have imposed or recommended measures to promote social distancing.
- The meeting is being held for the purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The legislative body has determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

### **Background**

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the novel coronavirus. Executive Orders—N-25-20, N-29-20, and N-35-20 (Brown Act Orders) waived requirements in the Brown Act expressly or impliedly requiring the physical presence of city councilmembers, staff, or the public at local agency meetings. Specifically, the orders:

- waived the requirement that local agencies provide notice of each teleconference location from which a member of the legislative body will be participating in a public meeting,
- waived the requirement that each teleconference location be accessible to the public,
- waived the requirement that members of the public be able to address the legislative body at each teleconference conference location,
- waived the requirement that local agencies post agendas at all teleconference locations, and,
- waived the requirement that at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

On June 11, 2021, the Governor issued Executive Order N-08-21, to begin winding down some of the prior measures that were adopted to respond to COVID-19. Notably, N-08-21 rescinds the Brown Act Orders, effective September 30, 2021.

On March 18, 2020, pursuant to Government Code Section 8630(c), the South Pasadena City Council adopted Resolution No. 7646 declaring a local emergency, restricting private and public gatherings, and establishing protections for residential and commercial tenants, among other things. The City has renewed the declaration of local emergency on May 5, 2020 (Resolution No. 7648), on June 17, 2020 (Resolution No. 7657), on August 5, 2020 (Resolution No. 7669), on August 19, 2020 (Resolution No. 7678), on October 21, 2020 (Resolution No. 7685), on December 16, 2020, (Resolution No. 7690), on February 17, 2021 (Resolution No. 7703), on April 7, 2021 (Resolution No. 7713), June 2, 2021 (Resolution No. 7721), July 21, 2021 (Resolution No. 7726), and September 15, 2021 (Resolution No. 7732).

On September 16, Governor Newsom signed AB 361, which allows cities to continue to meet remotely during proclaimed states of emergency under modified Brown Act requirements that are similar but not identical to the rules and procedures established by the Brown Act Orders. Unlike the Brown Act Orders, AB 361 requires the City to make affirmative findings to take advantage of the more flexible teleconferencing standards.

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AB 361 added Government Code section 54953, subdivision (e)(3), which states:

"If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference ... the legislative body shall, not later than 30 days after teleconferencing for the first time ... and every 30 days thereafter, make the following findings by majority vote:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.
- (B) Any of the following circumstances exist:
- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing."

The attached resolution makes the necessary findings authorizing the City to use teleconferenced meetings for the next 30 days. The City will need to adopt a version of this resolution at each of its subsequent meetings if it desires to maintain fully remote or hybrid meetings.

The proposed actions to preserve life, property, and public order are consistent with California Government Code section 8634 and South Pasadena Municipal Code Chapter 11.

The City of South Pasadena is committed to keeping our community safe amidst the recent surges in COVID-19 cases. Since the June 15 reopening of everyday activities in the State of California, there has been a nationwide rise in new COVID-19 cases because of the more contagious Delta variant. The Los Angeles County Department of Public Health continues to track variant cases in Los Angeles County. The most dominant circulating variant in the County continues to be the highly transmissible Delta variant.

#### Legal Review

The City Attorney's office has reviewed this item.

### **Fiscal Impact**

With the State declaration of a health emergency, local COVID-19 response efforts may be eligible for state or federal reimbursement. The costs of responding to COVID-19 are unknown at this time due to evolving conditions but are being tracked by staff. The reinstatement of utility payments may generate additional revenue.

# **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

#### Attachment:

1. City Council Resolution

# **ATTACHMENT**City Council Resolution

# CITY OF SOUTH PASADENA RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,
CONTINUING ITS PROCLAMATION OF A LOCA EMERGENCY DUE TO THE
OUTBREAK OF COVID-19, RATIFYING THE PROCLAMATION OF A STATE OF
EMERGENCY BY THE MARCH 4TH DECLARATION OF A STATE OF
EMERGENCY BY GOVERNOR NEWSOM, AND AUTHORIZING REMOTE
TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF
SOUTH PASADENA FOR THE PERIOD OF OCTOBER 6 THROUGH NOVEMBER 5,
PURSUANT TO BROWN ACT PROVISIONS

WHEREAS, the City of South Pasadena is committed to preserving and nurturing public access and participation in the meetings of its legislative bodies; and

**WHEREAS,** all meetings of the City of South Pasadena's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, such conditions now exist in the City specifically, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID; and

WHEREAS, on March 4, 2020, the Chair of the Los Angeles County Board of Supervisors and the Los Angeles County Health Officer declared a local emergency and a local health emergency, respectively, as a result of COVID-19; and

**WHEREAS,** on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or

recommending limitations upon attendance at public assemblies, conferences or other mass events; and

**WHEREAS,** on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19; and

WHEREAS, on March 18, 2020, the South Pasadena City Council adopted Resolution No. 7646 declaring a local emergency, restricting private and public gatherings, and establishing protections for residential and commercial tenants, among other things; and the South Pasadena has renewed the declaration of local emergency on May 6, 2020 (Resolution No. 7648), on June 17, 2020 (Resolution No. 7657), on August 5, 2020 (Resolution No. 7669), on August 19, 2020 (Resolution No. 7678), on October 21, 2020 (Resolution No. 7685), on December 16, 2020, (Resolution No. 7690), on February 17, 2021 (Resolution No. 7703), on April 7, 2021 (Resolution No. 7713), June 2, 2021 (Resolution No. 7721), July 21, 2021 (Resolution No. 7726), and September 15, 2021 (Resolution No. 7732); and

**WHEREAS**, on March 19, 2020, the State Public Health Officer issued the "Stay at Home" order; and

**WHEREAS**, on March 21, 2020, the Los Angeles County Health Officer issued the "Safer at Home" order; and

WHEREAS, on April 28, 2020, Governor Gavin Newsom announced a 4-stage transition plan, titled "California's Pandemic Resilience Roadmap," to end the Stay at Home order; and

**WHEREAS,** on May 6, 2020, the South Pasadena City Council adopted Resolution No. 7648 proclaiming the continuation of a local emergency and, among other things, suspended water and sewer utility terminations and the City's Parking Pass Program; and

**WHEREAS**, on May 7, 2020, the State Public Health Officer amended the Stay at Home order to allow for the reopening of lower-risk workplaces; and

**WHEREAS,** on May 29, 2020, the Los Angeles County Health Officer amended the Safer at Home order with a new order titled "Reopening Safer at Work and in the Community for Control of COVID-19," which seeks to limit residents' exposure during Los Angeles County's transition through Stage 2 of California's Pandemic Resilience Roadmap; and

WHEREAS, Section 6 of the Los Angeles County Health Officer's May 29, 2020 order states, "This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction;" and

WHEREAS, on June 17, 2020, the South Pasadena City Council adopted Resolution No. 7657, proclaiming the continuation of a local emergency and clarifying that any local regulations on public gatherings or private facilities as permissive as the Los Angeles County Health Officer's May 29, 2020 order and any subsequent Los Angeles County Health Officer orders; resuming the City's Parking Pass Program, and creating the Al Fresco Dining and Retail Program; and

- WHEREAS, on July 18, 2020, the Los Angeles County Public Health Officer issued a revised Order regarding Reopening Safer at Work and specifying what businesses and services can be open either for inside shopping or outdoor pick-up only, what businesses can be open only by outside service, and what businesses and services are closed; and
- **WHEREAS,** on August 12, 2020, the Los Angeles County Public Health Officer issued a revised Order, regarding Reopening Safer and Work.
- WHEREAS, Section 6 of the Los Angeles County Health Officer's August 12, 2020 order states, "This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction."
- WHEREAS, on November 19, 2020, the State Public Health Officer issued a Limited Stay at Home Order effective in counties under Tier One (Purple) of California's Blueprint for a Safer Economy, requiring that all gatherings with members of other households and all activities conducted outside the residence, lodging, or temporary accommodation with members of other households cease between 10:00pm PST and 5:00am PST, except for those activities associated with the operation, maintenance, or usage of critical infrastructure or required by law; and
- WHEREAS, on November 25, 2020, the Los Angeles County Public Health Officer issued a revised Order aligning Los Angeles County with the State Public Health Officer's Limited Stay at Home Order ordering the closure of restaurants for indoor and outdoor dining; and
- WHEREAS, on December 3, 2020, the State Public Health Officer issued the Regional Stay at Home Order applying to state regions with less than 15% ICU availability, and prohibiting private gatherings of any size, closes sector operations except for critical infrastructure and retail, and requiring masking and physical distancing in all others; and
- **WHEREAS,** on December 6, 2020, the State Public Health Officer issued a Supplemental Order to the Regional Stay at Home Order, ordering the Southern California region, including Los Angeles County, be placed under the December 3, 2020 Regional Stay at Home Order; and
- **WHEREAS,** on January 25, 2021, the State Public Health Officer ended the Supplemental Order to the Regional Stay at Home Order and returned counties to the tiers assigned in the Blueprint for a Safer Economy;
- WHEREAS, on May 21, 2021, the California Department of Public Health published the Beyond the Blueprint Framework for Industry and Business Sectors ahead of the state's anticipated June 15 retirement of the Blueprint for a Safer Economy. Under the Beyond the Blueprint framework, all sectors listed in the current Blueprint Activities and Business Tiers Chart may return to normal operations with no capacity limitations or physical distancing.
- WHEREAS, on June 28, 2021, the Los Angeles County Public Health Officer issued a revised public health order rescinding most Los Angeles County Department of Public Health sector-specific protocols and aligning the county with the State Beyond the Blueprint for

Industry and Business Sectors and all current and subsequent orders of the State Public Health Officer; and

**WHEREAS,** on July 16, 2021, as community transmission of COVID-19 is rapidly increased from low to substantial transmission in one month, the Los Angeles County Public Health Officer issued a revised public health order requiring face masks to be worn by all persons, regardless of vaccination status; and

WHEREAS, on August 23, 2021, the Los Angeles County Public Health Officer issued a revised order, Responding Together At Work and In the Community, encouraging vaccination masking by all, regardless of vaccination status, in an effort to slow the increasing trends in and level of transmission of COVID-19 currently being seen in Los Angeles County; and

**WHEREAS**, On September 16, Governor Newsom signed AB 361, which allows cities to continue to meet remotely during proclaimed states of emergency under modified Brown Act requirements that are similar but not identical to the rules and procedures established by the Brown Act Orders; and

**WHEREAS,** on September 17, 2021, the Los Angeles County Public Health Officer issued a revised order, Responding Together At Work and In the Community, requiring operators of indoor bars and lounges to verify the COVID-19 vaccination status of their patrons and employees; and

WHEREAS, the City Council does hereby find that a state of emergency exits due to the COVID-19 pandemic and that the State of Emergency declared by the Governor as well as social distancing measures issued by county and state agencies and the airborne spread of COVID-19 make long meetings of the City's legislative bodies indoors impractical and poses an imminent risk to attendees, staff, and elected officials and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the State and local emergencies and the physical distancing requirements recommended by the State and local public health officers, the City Council does hereby find that the legislative bodies of the City of South Pasadena shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

**WHEREAS**, the City will continue to ensure public access to meetings of its legislative bodies pursuant to the relevant sections of the Government Code as it has done throughout the Governor's declaration of a State of Emergency.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

**SECTION 1. Recitals.** The preceding Recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

**SECTION 2. Proclamation.** Pursuant to Government Code section 8630, subdivision (a), the City Council proclaims the continuation of a local emergency due to the outbreak of SARS-CoV-2 (COVID-19) and the need to continue meeting remotely due to the imminent risk of spreading COVID-19 if the City were to hold legislative meetings at City Hall, due to the airborne spread of the disease as well as the social distancing orders currently in place from the State and Los Angeles County.

**SECTION 3. Ratification of Governor's Proclamation of a State of Emergency**. The City Council hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

**SECTION 4. Remote Teleconference Meetings.** The City Manager and legislative bodies of the City of South Pasadena are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

**SECTION 5. Effective Date of Resolution**. This Resolution shall take effect immediately

upon its adoption and shall be effective until the earlier of November 5, or such time the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of South Pasadena may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED, APPROVED AND ADOPTED on this 6<sup>th</sup> day of October 2021.

|  | Diana Mahmud, Mayor            | _ |
|--|--------------------------------|---|
| ATTEST:                                  | APPROVED AS TO FORM:           |   |
| Christina Munoz Acting Deputy City Clerk | Andrew L. Jared, City Attorney | _ |

266423.2

# CITY OF SOUTH PASADENA CITY CLERK'S DIVISION

# **CERTIFICATION OF RESOLUTION**

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF SOUTH PASADENA)
SS

| I, Christina Munoz, Acting Deputy City Clerk of the City of South Pasadena, do hereby certify that Resolution No, was duly and regularly approved and adopted at a Regular meeting of the City Council on this 6 <sup>th</sup> day of October 2021, by the following votes as the same |
|--|
| meeting of the City Council on this of day of October 2021, by the following votes as the same   |
| appears on file and of record in the Office of the City Clerk.   |
| AYES:  |
| NOES:  |
| ABSENT:  |
| ABSTAIN:   |
|  |
|  |
| CHRISTINA MUNOZ  |
| Acting Deputy City Clerk   |



# City Council Agenda Report

ITEM NO. 16

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager A

PREPARED BY:

Shahid Abbas, Public Works Director

H. Ted Gerber, Deputy Public Works Director

SUBJECT:

Authorize the Third Amendment with Stantec Consulting Services,

Inc. Extending the Agreement for Services for Engineering Support

Services related to the Graves Reservoir Project

### Recommendation

It is recommended that the City Council authorize the City Manager to execute the third contract amendment with Stantec Consulting Services, Inc. (Stantec) to extend the agreement for engineering support services related to the Graves Reservoir Project.

# Background

The recently reconstructed Graves Reservoir is located outside of the City limits in a residential neighborhood of the City of San Marino. In 2015, Stantec was selected as the design consultant to replace the Graves Reservoir, and this agreement for services was executed with an original not-to-exceed contract value of \$666,650. In 2017, a first amendment to the agreement for services was executed to add \$18,994.98 in fees. The additional fees addressed work items that were not included in the original scope of work, including coordination of the State loan application to submit a required Cultural Resources Report, and increased the not-to-exceed contract value to \$685,545. A second amendment to the agreement for services was executed in 2018, adding \$221,003 in fees for Stantec's provision of post-design services, engineering services during construction, and post-construction support. The additional fees increased the not-to-exceed contract value to \$906.548. Construction of the reservoir was recently completed. However, tasks remain outstanding post-construction: provision of project record drawings, and final walkthrough and start-up assistance. The record drawing work to be completed includes Stantec's creation of digital as-built record drawings based on changes made to the construction drawings during the project. Additionally, City staff have requested Stantec to support the reservoir start-up process by drafting documentation needed to receive a revised permit from the California Department of Drinking Water to safely operate the Graves well and reservoir for the first time since 2016.

Stantec has noted that the contract termination date of the second amendment to the agreement for services was February 29, 2020. Significant project delays and change orders drove the construction schedule into 2021, which delayed Stantec's post construction tasks. Therefore, an

Third Amendment with Stantec Consulting Services, Inc. to Extend the Agreement for Services for Engineering Support Services related to the Graves Reservoir Project October 6, 2021
Page 2 of 2

extension of the contract to December 31, 2021 is necessary in order to complete post construction tasks. This amendment does not increase the already approved contract amount. Deadlines regarding preparation of the required work product are identified in the scope of work.

# **Environmental Analysis**

Prior environmental review was completed regarding the construction of the Graves Reservoir project. This action does not alter or amend such prior scope or the Graves Reservoir project, and therefore it can be determined with certainty that this action shall have no direct physical change or a reasonably foreseeable indirect physical change on the environment, this action is exempt from any further analysis under California Environmental Quality Act (CEQA) based on State CEQA Guidelines Section 15378.

### **Fiscal Impact**

This Project is funded by a Drinking Water State Revolving Fund (DWSRF) approved in the amount of \$12,205,642 and an Environmental Protection Agency grant for \$291,000. Sufficient funds of \$37,528 are available to complete this work in the Graves Well Rehabilitation – Water Capital Improvement Project Budget Account # 500-9000-9289-9289-000. This contract amendment does not increase the already contracted amount, it only extends the completion period.

# **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### Attachments

- 1. Stantec Proposed Third Amendment to Agreement for Services
- 2. Stantec Executed Agreement for Services
- 3. Stantec Executed First Amendment to Agreement for Services
- 4. Stantec Executed Second Amendment to Agreement for Services

# **ATTACHMENT 1**

Proposed Third Amendment to Professional Services Agreement

# THIRD AMENDMENT TO AGREEMENT FOR SERVICES

THIS AMENDMENT ("Amendment") is made as of this 6<sup>th</sup> day of October 2021, by and between the CITY OF SOUTH PASADENA ("City") and STANTEC CONSULTING SERVICES, INC., ("Consultant").

#### RECITALS

WHEREAS, on September 2, 2015, the City and Consultant entered into an Agreement for Consultant Services ("Agreement") for the Consultant to provide design services for Graves Reservoir Replacement Project (Project); and

WHEREAS, the original agreement was for an amount of \$666,650;

WHEREAS, on April 19, 2017, the Agreement was amended ("Amendment 1") to provide assistance with the State Water Resources Board revolving loan program application including a required Cultural Resources Report required by the State; and

WHEREAS, Amendment 1 increased the Agreement amount by \$18,995 to a total amount of \$685,545; and

WHEREAS, on July 18, 2018, the Agreement was again amended ("Amendment 2") to extend the Consultant's work to include construction engineering design support services; the Consultant having functioned as the Engineer of Record during the project design phase; and

WHEREAS, Amendment 2 increased the Agreement amount by \$221,003 to a total amount of \$906,548; and

WHEREAS, the contract termination date of Amendment 2 was February 29, 2020; and

WHEREAS, an extension to the Agreement is necessary in order for Consultant to complete the final post-construction tasks as required in the Amendment 2 scope of services.

NOW THEREFORE, THE CITY AND THE CONSULTANT AGREE AS FOLLOWS:

1. TERM. The term of this agreement shall be extended from February 29, 2020 to December 31, 2021.

- 2. CONSULTANT shall submit project record drawings, including digital as-built record drawings based on changes made to the construction drawings during the project (Agreement Task No. 7), to the City Engineer within thirty (30) days.
- 3. CONSULTANT shall provide the support documentation needed to receive a revised permit from the California Department of Drinking Water, within thirty (30) days, as required pursuant to Agreement Task No. 8.
- 4. CONSULTANT shall continue to provide all final walkthrough and start-up assistance, as required pursuant to Agreement Task No. 8.
- 5. PROVISIONS OF AGREEMENT. All other terms, conditions, and provisions of the Agreement to the extent not modified by this Amendment, shall remain in full force and effect.

| "City"                                    | "Consultant"                      |
|---|-----------------------------------|
| City of South Pasadena                    | Stantec Consulting Services, Inc. |
| Ву:                                       | By:                               |
| Signature                                 | Signature                         |
| Printed:                                  | Printed:                          |
| Title:                                    | Title:                            |
| Date:                                     | Date:                             |
| Attest:                                   |                                   |
| By:                                       |                                   |
| Christina Munoz, Acting Deputy City Clerk |                                   |
| Date:                                     |                                   |
|   |                                   |
| Approved as to form:                      |                                   |
| By:                                       |                                   |
| Andrew L. Jared, City Attorney            |                                   |
| Date:                                     |                                   |

# **ATTACHMENT 2**

**Executed Agreement for Services** 

# AGREEMENT FOR SERVICES

THIS AGREEMENT ("Agreement") is made as of this 2nd day of September, 2015 by and between the CITY OF SOUTH PASADENA ("City") and MWH Americas ("Consultant").

- 1. CONSULTANT'S SERVICES. Consultant agrees to perform during the term of this Agreement, the tasks, obligations, and services set forth in the "Scope of Services" attached to and incorporated into this Agreement as Exhibit A (the "Services").
- 2. TERM OF AGREEMENT. The term of this Agreement shall be from the effective date pursuant to Paragraph "38" of this Agreement and shall end on **March 15, 2017** or when the work is satisfactorily completed, whichever occurs first, unless extended by a supplemental agreement.
- 3. FAMILIARITY WITH WORK. By execution of this Agreement, Consultant warrants that:
  - (1) It has thoroughly investigated and considered the work to be performed, based on all available information; and
    - (2) It carefully considered how the work should be performed; and
  - (3) It fully understands the difficulties and restrictions attending the performance of the work under this Agreement; and
  - (4) It has the professional and technical competency to perform the work and the production capacity to complete the work in a timely manner with respect to the schedule included in the scope of services.
- 4. PAYMENT FOR SERVICES. City shall pay for the services performed by Consultant pursuant to the terms of this Agreement, the compensation set forth in the "Schedule of Compensation" attached to and incorporated into this Agreement as Exhibit B. The fees for services shall not exceed the authorized amount of \$666,650 unless the CITY has given specific advance approval in writing.
- 5. TIME FOR PERFORMANCE. Consultant shall not perform any work under this Agreement until (a) Consultant furnishes proof of insurance as required under Paragraph "8" of this Agreement. All services required by Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.
- 6. DESIGNATED REPRESENTATIVE. Consultant hereby designates Miko Aivazian, P.E. as the Consultant Representative, and said Representative shall be responsible for job performance, negotiations, contractual matters, and coordination with the City.

- Consultant's professional services shall be actually performed by, or shall be immediately supervised by, the Consultant Representative.
- 7. HOLD HARMLESS; INDEMNIFICATION. Consultant hereby agrees to protect, indemnify and hold City and its employees, officers and servants free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgment, interests, court costs, legal fees and other expenses incurred by the City arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the City, death or damages to property (including property of the City) and without limitation by enumeration, all other claims or demands of every character occurring or arising directly out of the negligent acts, recklessness or willful misconduct of Consultant in the performance of its services under this Agreement. This provision is not intended to create any cause of action in favor of any third party against Consultant or the City or to enlarge in any way the Consultant's liability but is intended solely to provide for indemnification of the City for liability for damages or injuries to third persons or property arising from Consultant's negligent performance hereunder.
- 8. INSURANCE. Consultant shall procure and maintain at all times during the term of this Agreement insurance as set forth in Exhibit "C" attached hereto. Proof of insurance shall consist of a Certificate of Insurance provided on IOS-CGL form No. CG 00 01 11 85 or 88 executed by Consultant's insurer and in a form approved by the City's City Attorney.
- 9. LICENSES, PERMITS, AND FEES. Consultant shall obtain a City of South Pasadena Business License and any and all other permits and licenses required for the services to be performed under this Agreement.
- 10. INDEPENDENT CONTRACTOR STATUS. City and Consultant agree that Consultant, in performing the Services herein specified, shall act as an independent Contractor and shall have control of all work and the manner in which it is performed. Consultant shall be free to contract for similar services to be performed for other entities while under contract with City. Consultant is not an agent or employee of City, and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees. Consultant shall be responsible to pay and hold City harmless from any and all payroll and other taxes and interest thereon and penalties, therefore, which may become due as a result of services performed hereunder.
- 11. ASSIGNMENT. This Agreement is for the specific services with Consultant as set forth herein. Any attempt by Consultant to assign the benefits or burdens of this Agreement without written approval of City is prohibited and shall be null and void; except that Consultant may assign payments due under this Agreement to a financial institution.

- 12. STANDARD. Consultant agrees that the services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily provided by an experienced and competent professional organization rendering the same or similar services. Consultant shall re-perform any of said services, which are not in conformity with standards as determined by the City.
- 13. CONFIDENTIALITY. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.
- 14. RECORDS AND INSPECTIONS. Consultant shall maintain full and accurate records with respect to all services and matters covered under this Agreement. City shall have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings and activities. Consultant shall maintain an up-to-date list of key personnel and telephone numbers for emergency contact after normal business hours.
- 15. OWNERSHIP OF CONSULTANT'S WORK PRODUCT. All reports, documents, all analysis, computations, plans, correspondence, data, information, computer media, including disks or other written material developed and/or gathered by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Such Material shall not be the subject of a copyright application by Consultant. Any re-use by City of any such materials on any project other than the project for which they were prepared shall be at the sole risk of City unless City compensates Consultant for such use. Such work product shall be transmitted to City within ten (10) days after a written request therefore. Consultant may retain copies of such products.
- 16. NOTICES. All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

City: Sergio Gonzalez, City Manager

City of South Pasadena 1414 Mission Street South Pasadena, CA 91030 Contractor: Mr. Eric Mills

**MWH Americas** 

300 North Lake Avenue, Suite 400

Pasadena, CA. 91101

If the name of the principal representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice shall be given within five (5) working days of said changes.

- 17. TAXPAYER IDENTIFICATION NUMBER. Consultant shall provide City with a complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service.
- 18. APPLICABLE LAWS, CODES AND REGULATIONS. Consultant shall perform all services described in accordance with all applicable laws, codes and regulations required by all authorities having jurisdiction over the Services. Consultant agrees to comply with prevailing wage requirements as specified in the California Labor Code, Sections 1770, et seq.
- 19. RIGHT TO UTILIZE OTHERS. City reserves the right to utilize others to perform work similar to the Services provided hereunder.
- 20. BENEFITS. Consultant will not be eligible for any paid benefits for federal, social security, state workers' compensation, unemployment insurance, professional insurance, medical/dental, California Public Employees Retirement System ("PERS") or fringe benefits offered by the City of South Pasadena.
- 21. PERS ELIGIBILITY INDEMNITY. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the PERS to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

- 22. TRAVEL/EXPENSES. Any reimbursement expenses must be pre-authorized and shall be based upon the approved rates of L.A. County Auditor-Controller.
- 23. CONFLICT OF INTEREST. Consultant agrees that any conflict or potential conflict of interest shall be fully disclosed prior to execution of contract and Consultant shall comply with all applicable federal, state and county laws and regulations governing conflict of interest.
- 24. ECONOMIC INTEREST STATEMENT. Consultant hereby acknowledges that pursuant to Government Code Section 87300 and the Conflict of Interest Code adopted by City hereunder, Consultant is designated in said Conflict of Interest Code and is therefore required to file an Economic Interest Statement (Form 700) with the City Clerk, for each employee providing advise under this Agreement, prior to the commencement of work.
- 25. POLITICAL ACTIVITY/LOBBYING CERTIFICATION. Consultant may not conduct any activity, including any payment to any person, officer, or employee of any governmental agency or body or member of Congress in connection with the awarding of any federal contract, grant, loan, intended to influence legislation, administrative rulemaking or the election of candidates for public office during time compensated under the representation that such activity is being performed as a part of this Agreement.
- 26. NON-DISCRIMINATION. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age physical or mental handicap, medical condition, or sexual orientation. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.
- 27. AUDIT OR EXAMINATION. Consultant shall keep all records of funds received from City and make them accessible for audit or examination for a period of three years after final payments are issued.
- 28. MODIFICATION OF AGREEMENT. This Agreement may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties.
- 29. WAIVER. If at any time one party shall waive any term, provision or condition of this Agreement, either before or after any breach thereof, no party shall thereafter be deemed to have consented to any future failure of full performance hereunder.

- 30. COVENANTS AND CONDITIONS. Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.
- 31. RIGHT TO TERMINATE. City may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty (30) days written notice.
- 32. EFFECT OF TERMINATION. Upon termination as stated in Paragraph "31" of this Agreement, City shall be liable to Consultant only for work performed by Consultant up to and including the date of termination of this Agreement, unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant shall be entitled to payment for work satisfactorily completed to date, based on proration of the monthly fees set forth in Exhibit "B" attached hereto. Such payment will be subject to City's receipt of a close-out billing.
- 33. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.
- 34. LITIGATION FEES. Should litigation arise out of this Agreement for the performance thereof, the court shall award costs and expenses, including attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid and/or incurred in good faith. "Prevailing Party" shall mean the party that obtains a favorable and final judgment or order from a court of law described in paragraph "33." This paragraph shall not apply and litigation fees shall not be awarded based on an order or otherwise final judgment that results from the parties' mutual settlement, arbitration, or mediation of the dispute.
- 35. SEVERABILITY. If any provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions nevertheless will continue in full force and effect without being impaired or invalidated in any way.
- 36. FORCE MAJEURE. The respective duties and obligations of the parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the control of the party from whom the affected performance was due.
- 37. INTEGRATED AGREEMENT. This Agreement, together with Exhibits "A," "B" and "C" supersede any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party, which is not embodied herein, nor

any other agreement; statement or promise not contained in this Agreement shall be valid and binding. Any modification of the Agreement shall be effective only if it is in writing and signed by all parties.

38. EFFECTIVE DATE. The effective date of this Agreement is the date the Notice to Proceed is received by Consultant, and shall remain in full force and effect until amended or terminated.

| Dated: 9-2-2015        | "CITY"                            |
|------------------------|-----------------------------------|
|                        | By: Sergio Gonzalez, City Manager |
| Dated: August 31, 2015 | "CONSULTANT"                      |
|                        | By: Frie Mills, P.E.              |

APPROVED AS TO FORM:

Teresa L. Highsmith, City Attorney

Sally Killey for
Evelyn G. Zneimer, City Clerk
(seal)

# **EXHIBIT "A"**

# SCOPE OF SERVICES

# SEE ATTACHMENT A

### **EXHIBIT "B"**

# SCHEDULE OF COMPENSATION

- I. AMOUNT OF COMPENSATION. For performing and completing all services pursuant to Exhibit "A" Scope of Services, is for a total amount not to exceed \$666,550.
- II. BILLING. At the end of each calendar month in which services are performed or expenses are incurred under this Agreement, Contractor shall submit an invoice to the City at the following address:

Public Works Director City of South Pasadena 1414 Mission Street South Pasadena, CA 91030

The invoice submitted pursuant to this paragraph shall show the:

- 1) Purchase order number;
- 2) Project name/description;
- 3) Name and hours worked by each person who performed services during the billing period;
- 4) The title/classification under which they were billed;
- 5) The hourly rate of pay;
- 6) Actual out-of-pocket expenses incurred in the performance of services; and,
- 7) Other such information as the City may reasonably require.
- III. METHOD OF PAYMENT. Payment to Contractor for the compensation specified in Section I, above, shall be made after the City Manager or designee determines that the billing submitted pursuant to Section II, above, accurately reflects work satisfactorily performed. City shall pay Contractor within thirty (30) days therefrom.

# **EXHIBIT "C"**

The Consultant shall maintain throughout the duration of the term of the Agreement, liability insurance covering the Consultant and, with the exception of Professional Liability Insurance, designating City including its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants, as additional insured against any and all claims resulting in injury or damage to persons or property (both real and personal) caused by any aspect of the Consultant 's work, in amounts no less than the following and with such deductibles as are ordinary and reasonable in keeping with industry standards. It shall be stated, in the Additional Insured Endorsement, that the Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be noncontributory.

Professional Liability Insurance

\$1,000,000/\$2,000,000

# General Liability:

| a. | General Aggregate                | \$2, | ,000,000 |
|----|----------------------------------|------|----------|
| b. | Products Comp/Op Aggregate       | \$2, | ,000,000 |
| c. | Personal & Advertising Injury    | \$1, | ,000,000 |
| d. | Each Occurrence                  | \$1, | ,000,000 |
| e. | Fire Damage (any one fire)       | \$   | 50,000   |
| f. | Medical Expense (any one person) | \$   | 5,000    |

# Workers' Compensation:

| a. | Workers' Compensation      | Statutory Limits |
|----|----------------------------|------------------|
| b. | EL Each Accident           | \$1,000,000      |
| c. | EL Disease - Policy Limit  | \$1,000,000      |
| d. | EL Disease - Each Employee | \$1,000,000      |

# Automobile Liability

a. Any vehicle, combined single limit \$1,000,000

The Consultant shall provide thirty (30) days advance notice to City in the event of material changes or cancellation of any coverage. Certificates of insurance and additional insured endorsements shall be furnished to City thirty (30) days prior to the effective date of this Agreement. Refusal to submit such certificates shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement. If proof of insurance required under this Agreement is not delivered as required or if such insurance is canceled and not adequately replaced, City shall have the right but not the duty to obtain replacement insurance and to charge the Consultant for any

premium due for such coverage. City has the option to deduct any such premium from the sums due to the Consultant.

Insurance is to be placed with insurers authorized and admitted to write insurance in California and with a current A.M. Best's rating of A-:VII or better. Acceptance of insurance from a carrier with a rating lower than A-:VII is subject to approval by City 's Risk Manager. Consultant shall immediately advise City of any litigation that may affect these insurance policies.

#### ATTACHMENT A

# Scope of Work

Based on our understanding of the City required services, we anticipate the following Scope of Work for this project.

### TASK 1: Project Management and Meetings

Task 1.1 – Project Kick-off Meeting: Prior to beginning the work, MWH will coordinate and participate in a project kick-off meeting with the City staff. MWH will prepare the meeting agenda and meeting minutes for the kick-off meeting. The Kick-off meeting will be attended by the MWH Project Manager, Project Engineer, and key subconsultants.

Task 1.2 – Monthly Coordination Meetings: MWH will attend regularly scheduled meetings with the City staff to review the work in progress, report problems and concerns, and receive comments on the engineering report/study documents as needed. MWH will prepare all meeting agenda and minutes and will submit to the City on a timely manner. All meeting minutes will be distributed within two working days of the meeting. Design meetings will consist of eight (8) monthly coordination meetings. The MWH Project Manager will attend each monthly coordination meeting and other MWH staff and key subconsultants will attend as determined to be necessary by the MWH Project Manager.

Task 1.3 – Meetings with City Council: MWH will attend four (4) meetings with the City Council and other stakeholders to present the project and respond to questions. The meetings will be attended by the MWH Project Manager and Project Engineer and key subconsultants.

Task 1.4 – Project Management: This task addresses the management responsibilities associated with proper scheduling, budget control, invoice preparation and coordination with the City. MWH's Principal-in-Charge and Project Manager will review the status of budget, schedule, and relevant project issues together on a weekly basis. Our Project Manager will provide project status updates via email to City's designated project manager on a weekly basis. This weekly status update will be used to confirm work progress, identify critical information needs, and where appropriate alert the City to any potential issues which may impact the project scope, schedule or budget. These weekly project status updates will be supplemented with monthly project status reports that will be prepared and distributed with MWH's invoices.

Task 1.5 – Technical Review and QA/QC: MWH will provide quality assurance and quality control (QA/QC) reviews through the course of the project consistent with City's policies. MWH's quality management procedures establish and maintain a structure for providing reviews of all work products and adherence to industry design standards. Specific efforts for this project will consist of:

- Development of a Project Management Plan, which defines the project scope, approach, deliverables, schedule, budget and provides a basis for QA/QC and technical reviews
- Conformance to City's drafting and design standards, guide specifications and standard details
- Constructability review prior to each submittal
- Review of calculations by reviewers independent of the project design team prior to each submittal

Technical reviews will consist of reviews for code compliance, safety, operability, constructability, bid-ability, errors/omissions, and clarity.

#### TASK 2: Reservoir Site Review

**Task 2.1 - Data Review:** MWH and our key subconsultants will conduct a review of available plans consisting of existing reservoir plans, City owned reports, City provided site data, and City provided yard piping drawings. After reviewing the available data, MWH will prepare a brief technical memorandum that will indicate if the available data is sufficient to perform the work or if additional information will be required.

**Task 2.2 - Site Investigations/Reservoir Inspection:** MWH and our key subconsultants will visit the Graves Reservoir site and perform a visual inspection of the existing reservoir structure and other buildings/structures at the project site. Utilizing this information MWH will identify site constraints and existing conditions.

### **TASK 3: Utility Research**

Task 3.1 – Utility Research: MWH will review the existing utilities within the boundaries of the existing Graves Reservoir site to determine if any utilities may interfere with the proposed project. The utility research will involve reviewing available utility plans provided by the City.

### TASK 4: Geotechnical/Hydrgeological Investigation

**Task 4.1 – Geotechnical Report:** MWH's geotechnical subconsultant, Group Delta, will prepare a geotechnical report for the project. The geotechnical investigations will consist of field borings to determine soil/geologic information required for the structural design of the reservoir. Group Delta will prepare a hazardous material assessment report on the existing site.

Task 4.2 – Hazardous Material Report: MWH's geotechnical subconsultant, Group Delta, will prepare a hazardous material assessment report for the project site. The assessment report will include other buildings within the project site and the reservoir.

### **TASK 5: Topographic Survey**

**Task 5.1 – Surveying:** MWH's subconsultant, The Prizm Group will prepare a topographic survey of the project site. The topographic survey will be used during the final design phase as a base map for the entire project. The survey work will also determine the locations of all features within the project site.

#### **TASK 6: Site Visits**

Task 6.1 – Site Visits: MWH will visit the project site to verify the site conditions and determine the site accessibility issues if any. Two (2) site visits for two (2) MWH personnel to the project site have been budgeted.

### **TASK 7: Project Evaluation**

Task 7.1 – Project Evaluation: MWH will perform a visual inspection of the reservoir interior and other facilities within the project site. MWH will visually inspect the interior conditions of the reservoir concrete liner, columns, roof and other structural elements. MWH will not perform any physical testing for the concrete floor, walls and other elements of the reservoir.

7.2 – Prepare and Submit a Condition Assessment Report: MWH will prepare a condition assessment report for the findings of the inspections and will recommend to the City for the rehabilitation or replacement of the existing Graves Reservoir.

### **TASK 8: Environmental Study**

Task 8.1 – Project Evaluation: MWH will perform an environmental study pursuant to CEQA/NEPA requirements. The environmental report will include any mitigation measures required. MWH will obtain a Negative Declaration on behalf of the City.

### TASK 9: Preliminary Engineering Report

**Task 9.1 – Preliminary Engineering Report:** MWH will prepare a Preliminary Design Report that will consist of two alternative conceptual designs.

Task 9.2 – Conceptual Construction Cost Estimate: MWH will prepare a Class III Opinion of Probable Construction Cost for the preferred alternative. Class III Cost Estimate is considered preliminary and it is used for budget authorization or budget control only.

**Task 9.3 – Wellhead Treatment Evaluation:** MWH will evaluate the merit of adding a wellhead treatment system for Well No.2.

### TASK 10: Final Design

**Task 10.1 – Final Design:** Once the City has approved the Preliminary Design Report, MWH will begin the final design phase of the project based on the selected alternative. The final design package will include:

- Final Plans (complete and ready to be advertised)
- Final Project Specifications (see Task 10.2)
- Construction Cost Estimate

MWH will prepare and submit review packages at 30%, 60%, 85%, and 100% levels of completion. The review packages will consist of five (5) half size (11"x17") drawing sets. All deliverables will be internally reviewed prior to submittal to the City. Refer to the original proposal for the list of drawings.

**Task 10.2 – Prepare Specifications:** MWH will prepare and submit a set of specifications for the project at each deliverable. The specifications will be based on MWH standard technical specifications and City front-end specifications. This Task consists of the following:

- Three (3) copies of the table of contents at 30% submittal
- Three (3) copies of the technical specifications at 60% submittal
- Three (3) copies of complete specifications (front end and technical specifications) at 85% submittal
- signed and stamped hard copy and one electronic copy of the specifications at 100% submittal

10.3 – Construction Cost Estimates: MWH will prepare a class II Opinion of Probable Construction Cost estimate (at 100% completion level) for the project. The cost estimate will be based on the completed 100% final design plans and specifications.

### TASK 11: Bidding Assistance

Task 11.1 – MWH will provide bidding assistance including participation in the pre-bid and construction kick-off meetings. MWH will also coordinate, review, respond, and issue addendums during the bid period.

### TASK 12: Renderings and Landscaping Plans

Task 12.1 – Prepare Architectural Renderings: MWH will prepare presentation renderings of the reservoir site for presentations to the City Council and other stakeholders. Our estimate includes up to four (4) renderings for budgetary purposes.

Task 12.2 – Prepare Landscaping Plans and Specifications: MWH will prepare landscaping plans and specifications for the reservoir site. Landscaping work will include planting and irrigation. Refer to Task 10 for estimated number of landscaping drawings.

### TASK 13: Wellhead Treatment Final Design (Optional Task)

Task 13.1 – Plans and Specifications for Wellhead Treatment Facility: If it is agreed-upon to implement the final design for a wellhead treatment facility, additional work to prepare the final drawings and specifications will be required. This task will be negotiated with the City based on the decisions made during the preliminary study phase. The budget included in the fee proposal is based upon the assumption that a resin system can be implemented for Well No. 2.

#### **DELIVERABLES:**

The following is a list of project deliverables required by the City at each submittal:

- 1. Three (3) sets of hard copies (11x17) of interim construction plans, specifications, and cost estimates at 30%, 60%, and 85% submittal.
- 2. Final set of construction plans
  - a) One set of stamped and signed mylars
  - Electronic files in AutoCAD format
- 3. All reports
- 4. Three sets of project specifications (hard copy plus electronic copy) signed and stamped
- 5. Engineers estimate (hard copy plus electronic copy)
- 6. Copies of utility research letters and responses.

6

317

408

916

800

1.482

43

3.972

\$611,325

\$8.200

\$47.025

0

TOTAL ALL TASKS (1-13)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/26/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| PRODUCER Willis of Texas, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville. TN 37230-5191 | CONTACT Willis Certificate Center  PHONE [A/C, No, Ext): (877) 945-7378  E-MAIL ADDRESS: Certificates@willis.com |       |  |  |  |
|---|--|-------|--|--|--|
| Nasitville, 1N 3/230-3191   | INSURER(S) AFFORDING COVERAGE  |       |  |  |  |
|   | INSURER A: Travelers Indemnity Company   |       |  |  |  |
| INSURED   | INSURER B : Travelers Property Casualty Insurance Company 3  |       |  |  |  |
| MWH Global Inc. MWH Americas, Inc., MWH Constructors, Inc.,                                 | INSURER C: Travelers Property Casualty Company of America  | 25674 |  |  |  |
| Hawksley Consulting, Inc.   | INSURER D:   |       |  |  |  |
| 380 Interlocken Crescent, Ste 200   | INSURER E:   |       |  |  |  |
| Broomfield, CO 80021  | INSURER F:   |       |  |  |  |

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR |      | TYPE OF INSURANCE                                 | ADDL                    | SUBR   | POLICY NUMBER  | POLICY EFF<br>(MM/DD/YYYY) | POLICY EXP<br>(MM/DD/YYYY)   | LIMIT  | S  | ,,,,,,    |
|------|------|---|-------------------------|--|--|----------------------------|--|--|----|-----------|
| Α    | X    | COMMERCIAL GENERAL LIABILITY                      | - Literature Commission | de constantino de la constantino della constanti | A STATE OF THE STA |                            | a substances and a substances and a substances and a substance | EACH OCCURRENCE  | \$ | 1,000,000 |
|      |      | CLAIMS-MADE X OCCUR                               | Х                       | Х  | VTC2K-CO-5643B790-15   | 08/31/2015                 | 08/31/2016   | DAMAGE TO RENTED<br>PREMISES (Ea occurrence)   | \$ | 300,000   |
|      |      |   |                         |  |  |                            |  | MED EXP (Any one person)   | \$ |           |
|      |      |   |                         |  |  |                            |  | PERSONAL & ADV INJURY  | \$ | 1,000,000 |
|      | GEN  | I'L AGGREGATE LIMIT APPLIES PER:                  |                         |  |  |                            |  | GENERAL AGGREGATE  | \$ | 2,000,000 |
|      |      | POLICY X PRO-                                     |                         |  |  |                            |  | PRODUCTS - COMP/OP AGG   | \$ | 2,000,000 |
|      |      | OTHER:  |                         |  |  |                            |  |  | \$ |           |
|      | AUT  | OMOBILE LIABILITY                                 |                         |  |  |                            |  | COMBINED SINGLE LIMIT<br>(Ea accident)   | \$ | 1,000,000 |
| В    | Х    | ANY AUTO  |                         |  | VTC2JCAP5643B808-15  | 08/31/2015                 | 08/31/2016   | BODILY INJURY (Per person)   | \$ |           |
|      |      | ALL OWNED SCHEDULED AUTOS                         |                         |  |  |                            |  | BODILY INJURY (Per accident)   | \$ |           |
|      |      | HIRED AUTOS NON-OWNED AUTOS                       |                         |  |  |                            |  | PROPERTY DAMAGE<br>(Per accident)  | \$ |           |
|      |      |   |                         |  |  |                            |  | The state of the s | \$ |           |
|      |      | UMBRELLA LIAB OCCUR                               |                         |  |  |                            |  | EACH OCCURRENCE  | \$ |           |
|      |      | EXCESS LIAB CLAIMS-MADE                           |                         |  |  |                            |  | AGGREGATE  | \$ |           |
|      |      | DED RETENTION\$                                   |                         |  |  |                            |  |  | \$ |           |
|      |      | KERS COMPENSATION EMPLOYERS' LIABILITY            |                         |  |  |                            |  | X PER OTH-   |    |           |
| _    | ANY  | PROPRIETOR/PARTNER/EXECUTIVE TYN                  | N/A                     |  | VTC2JUB5643B81A-15   | 08/31/2015                 | 08/31/2016   | E.L. EACH ACCIDENT   | \$ | 1,000,000 |
|      | (Man | datory In NH)                                     | N/A                     |  |  |                            |  | E.L. DISEASE - EA EMPLOYEE   | \$ | 1,000,000 |
|      |      | s, describe under<br>CRIPTION OF OPERATIONS below |                         |  |  |                            |  | E.L. DISEASE - POLICY LIMIT  | \$ | 1,000,000 |
|      |      |   |                         |  |  |                            |  |  |    |           |
|      |      |   |                         |  |  |                            |  |  |    |           |
|      |      |   |                         |  |  |                            |  |  |    |           |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of South Pasadena, its officers, officials, employees and volunteers are included as an Additional Insured as respects to General Liability and Automobile Liability Coverage.

General Liability Coverage policy shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by City of South Pasadena, its officers, officials, employees and volunteers.

Waiver of Subrogation applies in favor of City of South Pasadena, its officers, officials, employees and volunteers with respects to General Liability Coverage.

| CERTIFICATE HOLDER  | CANCELLATION   |
|---|--|
|   | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
| City of South Pasadena  | AUTHORIZED REPRESENTATIVE  |
| Attn: Public Works Department<br>1414 Mission Street<br>∣South Pasadena, CA 91030 | Not all the  |
|   |  |

POLICY NUMBER: VTC2K-CO-5643B790-15

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

## BLANKET ADDITIONAL INSURED (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- WHO IS AN INSURED (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
  - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
  - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
- 2. The insurance provided to the additional insured by this endorsement is limited as follows:
  - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III — Limits Of Insurance.
  - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
    - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
    - Supervisory, inspection, architectural or engineering activities.

- c) The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.
- 3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the "written contract requiring insurance" specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis. this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".
- **4.** As a condition of coverage provided to the additional insured by this endorsement:
  - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

#### COMMERCIAL GENERAL LIABILITY

- How, when and where the "occurrence" or offense took place;
- The names and addresses of any injured persons and witnesses; and
- iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:
  - Immediately record the specifics of the claim or "suit" and the date received; and
  - ii. Notify us as soon as practicable.

The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d) The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph 3. above.

The following definition is added to SECTION V.
 – DEFINITIONS:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- **b.** While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

POLICY NUMBER: VTC2JCAP5643B808-15

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM BUSINESS AUTO COVERAGE FORM MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

#### **SCHEDULE**

#### Name Of Person(s) Or Organization(s):

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED TO INCLUDE AS ADDITIONAL INSURED ON THIS COVERAGE FORM IN ASSURITED CONTRACT OR AGREEMENT THAT IS SIGNED AND EXECUTED BY YOU BEFORE THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS AND THAT IS IN EFFECT DURING THE POLICY PERIOD.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Cov-

ered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section I – Covered Autos Coverages of the Auto Dealers Coverage Form.

#### ISSUE DATE:

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DESIGNATED ENTITY – NOTICE OF CANCELLATION/NONRENEWAL PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

#### SCHEDULE

**CANCELLATION:** 

Number of Days Notice of Cancellation: 60

NONRENEWAL:

Number of Days Notice of Nonrenewal: 60

PERSON OR ORGANIZATION:

Any person or organization that is a certificate holder of a certificate of insurance issued for you that:

- 1) Refers to this policy and states that notice of cancellation or nonrenewal of this policy will be provided to that person or organization, and
- 2) Is in effect, and is on file at the office of your agent or broker for this policy, at the time of the cancellation or nonrenewal.

#### ADDRESS:

The address shown for that person or organization in that certificate of insurance.

#### PROVISIONS:

- A. If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.
- B. If we decide to not renew this policy for any statutorily permitted reason, and a number of days is shown for nonrenewal in the schedule above, we will mail notice of the nonrenewal to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for nonrenewal in the schedule above before the expiration date.

#### THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

## DESIGNATED ENTITY – NOTICE OF CANCELLATION/NONRENEWAL PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

#### SCHEDULE

CANCELLATION:

Number of Days Notice of Cancellation: 60

NONRENEWAL:

Number of Days Notice of Nonrenewal: )60

PERSON OR ORGANIZATION:

ANY PERSON OR ORGANIZATION THAT IS A CERTIFICATE HOLDER OF A CERTIFICATE OF INSURANCE ISSUED FOR YOU THAT:

- 1. REFERS TO THIS POLICY AND STATES THAT NOTICE OF CANCELLATION OR NONRENEWAL OF THIS POLICY WILL BE PROVIDED TO THAT PERSON OR ORGANIZATION, AND:
- 2. IS IN EFFECT, AND IS ON FILE AT THE OFFICE OF YOUR AGENT OR BROKER FOR THIS POLICY, AT THE TIME OF THE CANCELLATION OR NONRENEWAL.

#### ADDRESS:

THE ADDRESS SHOWN FOR THAT PERSON OR ORGANIZATION IN THAT CERTIFICATE OF INSURANCE.

#### **PROVISIONS:**

- A. If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.
- B. If we decide to not renew this policy for any statutorily permitted reason, and a number of days is shown for nonrenewal in the schedule above, we will mail notice of the nonrenewal to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for nonrenewal in the schedule above before the expiration date.



WORKERS COMPENSATION AND EMPLOYERS LIABILITY POLICY ENDORSEMENT WC 99 06 R3 (00)

POLICY NUMBER: VTC2JUB5643B81A15

## NOTICE OF CANCELLATION TO DESIGNATED PERSONS OR ORGANIZATIONS

The following is added to PART SIX - CONDITIONS:

#### Notice Of Cancellation To Designated Persons Or Organizations

If we cancel this policy for any reason other than non-payment of premium by you, we will provide notice of such cancellation to each person or organization designated in the Schedule below. We will mail or deliver such notice to each person or organization at its listed address at least the number of days shown for that person or organization before the cancellation is to take effect.

You are responsible for providing us with the information necessary to accurately complete the Schedule below. If we cannot mail or deliver a notice of cancellation to a designated person or organization because the name or address of such designated person or organization provided to us is not accurate or complete, we have no responsibility to mail, deliver or otherwise notify such designated person or organization of the cancellation.

#### SCHEDULE

|  | to reamun   |
|--|-------------|
| Name and Address of Designated Persons or Organizations: | Days Notice |
|  |             |

ANY PERSON OR ORGANIZATION THAT IS A CERTIFICATE HOLDER OF A CERTIFICATE OF INSURANCE ISSUED FOR YOU THAT:

60

- A) REFERS TO THIS POLICY AND STATES THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE PROVIDED TO THAT PERSON OR ORGANIZATION; AND
- B) IS IN EFFECT, AND IS ON FILE AT THE OFFICE OF YOUR AGENT OR BROKER FOR THIS POLICY, AT THE TIME OF THE CANCELLATION.

SUCH NOTICE WILL BE MAILED TO THE ADDRESS SHOWN FOR THAT PERSON OR ORGANIZATION IN THAT CERTIFICATE OF INSURANCE.



#### CERTIFICATE OF LIABILITY INSURANCE

10/1/2015

8/26/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

| BELOW. THIS CERTIFICATE OF INS<br>REPRESENTATIVE OR PRODUCER, A        |        |   |  | EAC                       | ONTRACT E          | BETWEEN T  | HE ISSUING INSURER(S),   | AUTHORIZED   |
|--|--------|---|--|---------------------------|--------------------|--|--|--|
| IMPORTANT: If the certificate holder                                   | is an  | ADI                                     | DITIONAL INSURED, the p  | policy(ie                 | es) must be        | endorsed.  | If SUBROGATION IS WAIN   | /ED, subject to  |
| the terms and conditions of the policy                                 |        |   |  | dorsen                    | nent. A stat       | ement on th  | is certificate does not conf   | fer rights to the  |
| certificate holder in lieu of such endor                               | seme   | ent(s)                                  |  | CONTAC                    | т                  |  |  |  |
| PRODUCER Lockton Companies 444 W. 47th Street, Suite 900               |        |   | -  | PHONE:                    |                    | g====0.4811119191919191919191919191919191919191  | FAX<br>(A/C, No):  |  |
| Kansas City MO 64112-1906  |        | (A/C, No, Ext): (A/C, No):              |  |                           |                    |  |  |  |
| (816) 960-9000   |        |   | -  | ADDRES                    |                    | ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,  |  | 1  |
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| INSURED AGUIL AN CEDICAS INC   |        |   | The second secon |                           |                    | or London (  | (AF Beazley)   |  |
| 1247602 MWH AMERICAS, INC.   |        |   | -  | INSURER                   |                    | ***************************************  |  |  |
| 370 INTERLOCKEN BLVD.<br>STE. 300                                      |        |   | -  | INSURER                   | ·····              |  |  |  |
| BROOMFIELD CO 80021  |        |   | -  | INSURER                   |                    |  |  |  |
|  |        |   |  | INSURER                   |                    | ***********************  | BATTER STATE OF THE STATE OF TH |  |
| COVERAGES MWHGL05 CEF  | TIFIC  | CATE                                    | NUMBER: 13638831   |                           | <u> </u>           |  | REVISION NUMBER:   | XXXXXXX  |
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| INDICATED. NOTWITHSTANDING ANY RI                                      | EQUIF  | REME                                    | NT. TERM OR CONDITION O  | OF ANY                    | CONTRACT           | OR OTHER I   | DOCUMENT WITH RESPECT  | TO WHICH THIS  |
| CERTIFICATE MAY BE ISSUED OR MAY EXCLUSIONS AND CONDITIONS OF SUCH     | POLI   | AIN,<br>CIES.                           | LIMITS SHOWN MAY HAVE E  | BEEN RE                   | EDUCED BY I        | PAID CLAIMS.   | HEREIN IS SUBJECT TO A   | LL THE TERIVIS,  |
| INSR LTR TYPE OF INSURANCE   | ADDL   | SUBR                                    |  | 7                         | POLICY EFF         | POLICY EXP<br>(MM/DD/YYYY)   | LIMITS   |  |
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| CLAIMS-MADE OCCUR  |        |   | NOT AT EICABEE   |                           |                    |  | DAMAGE TO RENTED PREMISES (Ea occurrence) \$   | XXXXXXX  |
|  |        |   |  |                           |                    |  | A STATE OF THE PARTY OF THE PAR | XXXXXXX  |
|  |        |   |  |                           |                    |  | PERSONAL & ADV INJURY \$   | XXXXXXX  |
| GEN'L AGGREGATE LIMIT APPLIES PER:                                     |        | ĺ                                       |  |                           |                    |  | GENERAL AGGREGATE \$   | XXXXXXX  |
| POLICY PRO-<br>JECT LOC  |        |   |  |                           |                    |  | PRODUCTS - COMP/OP AGG \$  | XXXXXX   |
| OTHER:   |        |   |  |                           |                    |  | \$   |  |
| AUTOMOBILE LIABILITY   |        |   | NOT APPLICABLE   |                           |                    |  | COMBINED SINGLE LIMIT (Ea accident) \$   | XXXXXX   |
| ANY AUTO   |        |   |  |                           |                    |  | 111111111111111111111111111111111111111  | XXXXXX   |
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| HIRED AUTOS NON-OWNED AUTOS  |        |   |  |                           |                    |  | tratabooding   | XXXXXX   |
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| DED RETENTION\$  | -      |   |  |                           |                    | MANAGEMENT OF THE STREET   |  | XXXXXXX  |
| WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N                      |        |   | NOT APPLICABLE   |                           |                    |  | PER OTH-<br>STATUTE ER   |  |
| ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?              | N/A    |   |  | -                         |                    |  |  | XXXXXXX  |
| (Mandatory in NH)  If yes, describe under                              | '}     |   |  |                           |                    |  | E.L. DISEASE - EA EMPLOYEE \$  | The state of the s |
| If yes, describe under DESCRIPTION OF OPERATIONS below  A PROFESSIONAL | 1      |   | GI OPP1401006  |                           | 10/1/2014          | 10/1/0015  | E.L. DISEASE - POLICY LIMIT   \$ EACH CLAIM: \$1,000,000   | XXXXXXX  |
| A PROFESSIONAL<br>LIABILITY  | N      | N                                       | GLOPR1401286   | - 1                       | 10/1/2014          | 10/1/2015  | AGGREGATE: \$2,000,000   |  |
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| DESCRIPTION OF OPERATIONS / LOCATIONS / VEHIC                          | LES (A | CORD                                    | 101. Additional Remarks Schedule   | e, may be a               | attached if more   | space is require   | ed)  |  |
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| CERTIFICATE HOLDER   |        |   |  | CANC                      | ELLATION           |  |  |  |
| 13638831   |        |   |  |                           |                    | Arrahayyyyina iyaana a   | <u></u>  |  |
| CITY OF SOUTH PASADENA   |        |   |  |                           |                    |  | ESCRIBED POLICIES BE CANO  |  |
| ATTN: PUBLIC WORKS DEPA  | RTM    | 1EN'                                    | Τ  |                           |                    |  | REOF, NOTICE WILL BE<br>Y PROVISIONS.  | DELIVERED IN   |
| 1414 MISSION STREET  |        |   |  |                           |                    |  |  |  |
| SOUTH PASADENA CA 91030  | ,      |   |  | AUTHORIZED REPRESENTATIVE |                    |  |  |  |
|  |        |   |  |                           |                    | (/   | M Agnello  |  |
|  |        |   |  |                           |                    | y may  | 111 Amello   |  |

### **ATTACHMENT 3**

Executed First Amendment to Agreement for Services

## FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

THIS AMENDMENT ("Amendment") is made and entered into on the 19th day of April, 2017, by and between the CITY OF SOUTH PASADENA ("City") and MWH AMERICAS, INC., ("Consultant").

#### RECITALS

WHEREAS, on September 2, 2015, the City and Consultant entered into an Agreement to provide design services during the construction of the Graves Reservoir Replacement Project; and

WHEREAS, during the course of construction, the City increased the scope of services to include additional items not included in the original scope of work. These items include coordinating efforts with the State for the loan application, which include the gathering of the application forms and attachments, fillings of application and applying for the project funding.

WHEREAS, the consultant engaged the services of Provenience Group to prepare the Cultural Resource report as a sub-consultant, which was required to process the loan application.

WHEREAS, the fee proposal submitted by the consultant, in the amount of \$18, 994.98 is just and reasonable.

NOW THEREFORE, THE CITY AND THE CONSULTANT AGREE AS FOLLOWS:

1. CONSULTANT'S SERVICES. Section 1 of the Agreement is amended to read as follows:

Consultant agrees to perform during the term of this Agreement and Amendment, the tasks obligations, and services set forth in the "Scope of Services" attached to and incorporated into this Agreement as Exhibit A and in this Amendment as Exhibit A-1.

2. PAYMENT FOR SERVICES. Section 4 of the Agreement is amended to add a second paragraph to read as follows:

The fees for services for the Scope of Services described in Exhibit A-1 shall not exceed \$18,994.98, which together with the not-to exceed fees of the \$666,550 for services set forth in Exhibit A, total \$685,545.

- 3. TERM. The term of this Agreement shall be extended from April 15, 2017 to September 30, 2017 or when the work is satisfactorily completed, whichever occurs first, or unless extended by a supplemental amendment.
- 4. PROVISIONS OF AGREEMENT. All other terms, conditions, and provisions of the Agreement to the extent not modified by this Amendment, shall remain in full force and effect.

| "CITY"                        |
|-------------------------------|
| By: 5 - 5 - 5                 |
| Sergio Gonzalez, City Manager |
| "CONSULTANT"                  |
| By: Name/Vitle City &         |
|                               |

APPROVED AS TO FORM:

Teresa L. Highsmith, City Attorney

#### EXHIBIT "A-1" SCOPE OF SERVICES

MWH Americas, Inc. (Consultant) will provide additional services which were not included in the original scope of work. The proposed amendment will include preparation of a Cultural Resources Report necessary to complete the environmental documents as per guidelines for the State Resources Board Revolving Loan Program. In addition, the Consultant will assist the City to process and coordinate the efforts with the State Water Resources Control Board including, but not limited to completing the loan application, with complete attachments and filing of the application. The Consultant shall coordinate with State Water Resources Control Board staff to ensure completion and funding of the revolving loan.

### **ATTACHMENT 4**

Executed Second Amendment to Agreement for Services

#### SECOND AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

THIS AMENDMENT ("Amendment") is made as of this 18<sup>th</sup> day of July, 2018, by and between the CITY OF SOUTH PASADENA ("City") and STANTEC CONSULTING SERVICES, INC., ("Consultant").

#### RECITALS

WHEREAS, on September 2, 2015, the City and Consultant entered into an Agreement for Consultant Services ("Agreement") for the Consultant to provide design services for Graves Reservoir Replacement Project (Project); and

WHEREAS, on April 19, 2017, the Agreement was amended ("Amendment 1") to provide assistance with the State Water Resources Board revolving loan program application including a required Cultural Resources Report required by the State; and

WHEREAS, the original Agreement was in the amount of \$666,650, and after Amendment 1, the revised Agreement total was \$685,545 (\$666,650 plus Amendment 1 amount of \$18,995); and

WHEREAS, it is recommended that the Engineer of Record performs the construction engineering support services required during Project construction; and

WHEREAS, the costs for said services, on an as needed basis, shall be in an amount not to exceed \$221,003.

#### NOW THEREFORE, THE CITY AND THE CONSULTANT AGREE AS FOLLOWS:

PAYMENT FOR SERVICES. That Section 2 of the Agreement is hereby 1. amended to read as follows:

> The maximum amount payable under the terms of this Agreement, including expenses, shall not exceed \$906,648 (which includes the compensation for the original scope of services in the amount of \$666,650, additional services in the amount of \$18,995 for Amendment 1 and additional services in the amount of \$221,003 for Amendment 2).

2. SCOPE OF SERVICES. That the scope of work of the Agreement is hereby amended to read as follows:

> Consultant agrees to perform the following during the term of this agreement and Amendment(s), the tasks obligations, and services set forth in the "Scope of

Services" attached to and incorporated into this Agreement as Exhibit A, in Amendment 1 as Exhibit A-1, and in this Amendment as Exhibit A-2.

- 3. TERM. The term of this Agreement shall be extended to February 29, 2020.
- 4. DESIGNATED REPRESENTATIVE. That Section 6 is hereby amended and reads as follows:

Consultant hereby designates Christopher Mote, P.E., as the Consultant Representative, and said Representative shall be responsible for the job performance, negotiations, contractual matters, and coordination with the City. Consultant's professional services shall be actually performed by, or shall be immediately supervised by, the Consultant representative.

5. NOTICES. The addresses to send Notice sent by mail under Section 16 shall be amended to read as follows:

If to City:

Stephanie DeWolfe, City Manager City of South Pasadena 1414 Mission Street South Pasadena, CA 91030

With courtesy copy to:

Teresa L. Highsmith, Esq. South Pasadena City Attorney Colantuono, Highsmith & Whatley, PC 790 E. Colorado Blvd. Ste. 850 Pasadena, CA 91101 Telephone: (213) 542-5700

Telephone: (213) 542-5700 Facsimile: (213) 542-5710

If to Consultant:

Stantec Consulting Services, Inc. 300 N. Lake Avenue, Suite 400 Pasadena, CA 91101

6. CITY REPRESENTATIVE: The Agreement Administrator for this project is designated as Kahono Oei, Interim Public Works Director, the City representative. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Consultant.

the Agreement to the extent not modified by this Amendment, shall remain in full force and effect. "City" "Consultant" City of South Pasadena Stantec Consulting Services, Inc. By: Signatur Printed: STEPHANIE DEWOLFE Printed: CITY MANAGER Title: 7/18/2018 Date: Date: Attest: Date: 7/18/2018 Approved as to form: Teresa L. Highsmith, City Attorney

PROVISIONS OF AGREEMENT. All other terms, conditions, and provisions of

7.

7/18/2018

Date:

## Exhibit "A-2" Scope of Services

#### Project Purpose:

Stantec will provide post-design services, engineering services during the construction, and record drawing phases of the Graves Reservoir (Project). Stantec staff will attend progress meetings, assist City of South Pasadena to answer questions, review Contractor submittals, and assist the City of South Pasadena to manage construction of the work on an as needed basis as requested by the City representative.

#### Scope of Services Tasks:

Stantec will perform the following engineering support services during Construction:

#### Task 1: Project Management

Stantec will perform project management and administration activities throughout the duration of the project. Project administration consists of project setup and document control, weekly monitoring of schedule and budget, monthly invoicing, and project close-out activities. Specific work activities will consist of project administration, progress reports, and quality control.

Task 1 Work Product: Monthly invoices and status phone calls over the anticipated duration of the Project are assumed. Monthly invoices shall include a status of Project schedule and budget.

#### Task 2: Request for Information (RFIs) Responses

Stantec will interpret the Contract Documents, respond to questions about the Contract Documents, and will prepare sketches to clarify design details as requested by the City representative. Response(s) to RFIs will be responded to within five (5) working days of the receipt of RFIs by Stantec. The scope of work and fee estimate for RFI's is based on the assumption that there will be one hundred (100) RFIs requiring response from Stantec. Stantec has budgeted an average of three (3) hours of review and action time per RFI. Stantec will create and maintain its own RFI log. RFIs shall be submitted electronically to Stantec.

Task 2 Work Product: Written responses for up to one hundred (100) RFIs. The average turnaround time for RFIs will be five (5) business days from receipt by Stantec. Certain high-priority RFIs may require a quicker turnaround time, and Stantec will work with the City to expedite the review of these RFIs.

#### Task 3: Submittal Responses and Shop Drawing Review

Stantec will review submittals and shop drawings of fabricated and manufactured equipment for conformity with the intent of the contract Plans and Specifications as requested by the City representative. A submittal is defined as a submittal from the Contractor or a subcontractor, product samples, calculations, shop or working drawings, certificates, test reports, or other

document that requires review from Stantec (outside of RFI response). The scope of work and fee estimate for submittal and shop drawing is based on review and response to one hundred and fifty (150) submittal items, including resubmittals. Stantec has budgeted an average of four (4) hours of review and response time per submittal. This consists of transposing the comments made by engineers to a cover sheet/comment log. Stantec will create and maintain a submittal log documenting the date received, the date returned, and the response. Submittals shall be submitted electronically to Stantec.

Task 3 Work Product: Written response comments on the contractor-generated submittals, up to one hundred and fifty (150) total, including submittals and resubmittals. The average turnaround time will be seven (7) business days from receipt of the submittal by Stantec. It is assumed that submittals will be electronic. Certain high-priority submittals may require a quicker turnaround time, and Stantec will work with the City to expedite the review of these submittals.

#### Task 4: Site Visits

Stantec Design Team members will make periodic visits to the construction site as requested by the City representative. The site visits will be made by engineers of various design disciplines, depending on the type of construction underway. For estimation purposes, Stantec has budgeted forty eight (48) hours for this task which is approximately eight (8), six (6) hour site visits over the construction duration. The site visits include vehicular travel time to and from the Project site.

Task 4 Work Product: Up forty eight hours (48) for site visits including travel time to and from the Project site during construction.

#### Task 5: Request for Change(s) (RFCs) Processing

Stantec will review proposed design changes to address unforeseen conditions or changes to the original intent of the Plans and Specifications as requested by the City representative. Stantec will provide engineering services to support the implementation of design changes, by producing sketches, calculations, or technical specifications required to process the RFC. The scope of work and fee estimate for this task is based on five (5) RFCs. Stantec has budgeted services to support design changes are budgeted at twenty (20) hours (each) for two (2) major RFCs, and four (4) hours (each) for three (3) standard RFCs. Major RFC's are defined as complex project changes requiring more than four hours of time for the Consultant to process the change and modify the plans. Examples include complex design changes such as hazardous abatement or other changes requiring less than four hours of time for the Consultant to process the changes and modify the plans. Examples include routine changes such as upsizing utility connections or other changes with construction value of less than \$50,000. RFCs shall be submitted electronically to Stantec.

Task 5 Work Product: Review of up to five (5) RFCs, and engineering to support design changes or fifty two (52) hours of response.

#### Task 6: Construction Meetings

Stantec will attend periodic construction meetings as requested by the City representative. For estimation purposes, Stantec has budgeted forty four (44) hours for this task which is approximately twenty two (22), two (2) hour construction meetings during the construction phase. Meetings at the Project site will be billed included the meeting time and vehicular travel time to and from the meeting location. Project construction meetings that can be attended remotely (via a web service or conference call) will only be billed for the meeting time, no travel time.

Task 6 Work Product: Up forty four hours (44) for construction meetings. Only meetings at the Project site includes vehicular travel time to and from the meeting location.

#### Task 7: Record Drawings

Stantec shall revise the conformed CAD drawings for a Record Drawing Set, based on a single set of marked up drawings provided by the City of South Pasadena. The intent of the Record Drawings is to reflect documented design and field changes during construction. It is assumed that no additional sheet to the conformed plan set will be created by Stantec. One (1) full size hard copy set and an electronic version of both pdf and CAD on CD-ROM will be provided to the City within forty five (45) days of the marked up drawings being provided to Stantec by the City.

Task 7 Work Product: One electronic copy (pdf) on CD-ROM will be provided to the City. Upon acceptance by the City Stantec will submit a hard copy, full size set of final record drawings.

#### Task 8: Final Walkthrough and Start-up Assistance

Stantec will assist the City of South Pasadena with project close-out procedures required by the Contract Documents, consisting of participation in final project walk-through and start-up assistance as requested by the City representative. For estimation purposes, Stantec assumes this task will be limited to forth eight (48) hours.

#### Schedule of Hourly Rates

The rates provided below shall be in effect until April 1, 2019, at which time rates will increase by three (3) percent. Services provided by Stantec's personnel in various labor categories will be billed at the following hourly rates (inclusive of salary, overhead, and fee):

| Billing Classification                | Hourly Rate |
|---------------------------------------|-------------|
| Principal In Charge / Company Officer | \$290       |
| Project Manager                       | \$240       |
| Principal Professional II             | \$240       |
| Principal Engineer I                  | \$230       |
| Supervising Engineer                  | \$200       |
| Project Engineer                      | \$185       |
| Senior Engineer                       | \$160       |
| Professional Engineer                 | \$135       |
| Associate Engineer                    | \$115       |
| Assistant Engineer                    | \$105       |
| Contract Administrator                | \$125       |

- 1. Payment of the invoiced amount for the professional engineering services shall be based on monthly invoices describing the work performed and expenses incurred during the preceding month.
- 2. Non-salary expenses and outside services attributable to the Project shall include:
  - Living and traveling expenses including mileage of employees when away from the home office on business connected with the Services;
  - An associated project cost ("APC") rate for telecommunications, postage, computers, word processors, incidental photocopying, and related equipment in the amount of \$9.50 per labor hour;
  - The identifiable costs of reproduction, printing and binding applicable to the Project;
  - When the City requests the Consultant to perform site visits or construction meetings, travel time is for vehicular travel between the City approved meeting location and Consultants office. Mileage per IRS guidelines (currently \$0.545 per mile for 2018); and
  - The actual cost of outside and subcontracted services, and other direct costs
    identifiable to the Project will be charged at the above stated cost plus ten (10)
    percent markup to cover overhead, administration, other indirect costs and profit.
    Consultant shall receive City representative approval for reprographic, printing and
    express mail service costs.
- 3. Payment shall be due within 45 days after date of monthly invoice describing the work performed and expenses incurred during the preceding month.

### Breakdown of Tasks and Rates

|        |                         | Company Officer | Principal Professional<br>II | Supervising Engineer | Senior Engineer | Project Professional | Associate Professional | Administrative<br>Assistant | Total Hours                        | Labor Costs Total | Other Direct Costs   | Stantec Total   |
|--------|-------------------------|-----------------|------------------------------|----------------------|-----------------|----------------------|------------------------|-----------------------------|------------------------------------|-------------------|----------------------|-----------------|
| Task # | Task Name               | \$290           | \$240                        | \$200                | \$160           | \$135                | \$115                  | \$125                       | (80 KG (45 m)                      |                   |                      | District States |
| 1      | Project Management      | 24              | 0                            | 0                    | 14              | 28                   | 0                      | 80                          | 146                                | \$ 22,980         | \$0                  | \$ 22,980       |
|        | Request for Information |                 |                              |                      |                 |                      |                        |                             |                                    |                   |                      |                 |
| 2      | (RFIs) Responses        | 0               | 0                            | 126                  | 24              | 100                  | 50                     | 0                           | 300                                | \$ 48,290         | \$0                  | \$ 48,290       |
|        | Submittal Responses and |                 |                              |                      |                 |                      |                        |                             | 65-10-10-1                         | 2,500,000,000     | Carron as an of the  |                 |
| 3      | Show Drawing Review     | 0               | 0                            | 160                  | 50              | 240                  | 150                    | 0                           | 600                                | \$ 89,650         | \$0                  | \$ 89,650       |
| 4      | Site Visits             | 4               | 0                            | 16                   | 4               | 4                    | 4                      | 0                           | 32                                 | \$ 6,000          | \$ 110               | \$ 6,110        |
|        | Request for Changes     |                 |                              |                      |                 |                      |                        |                             | 130 77 - 40 - 5<br>76 7 - 50 85 85 |                   | V16 (2)              |                 |
| 5      | (RFCs) Processing       | 0               | 0                            | 20                   | 8               | 24                   | 0                      | 0                           | 52                                 | \$ 8,520          | \$0                  | \$ 8,520        |
| 6      | Construction Meetings   | 2               | 0                            | 22                   | 0               | 20                   | 0                      | 0                           | 44                                 | \$ 7,680          | \$ 245               | \$ 7,925        |
| 7      | Record Drawings         | 0               | 0                            | 0                    | 0               | 20                   | 180                    | 0                           | 200                                | \$ 23,400         | \$ 220               | \$ 23,620       |
| -      | Final Walkthrough and   |                 |                              |                      |                 |                      |                        |                             | 4.00                               |                   | 42.07.10.00.00.00.00 |                 |
| 8      | Startup Assistance      | 0               | 0                            | 48                   | 8               | 12                   | 12                     | 0                           | 80                                 | \$ 13,880         | \$ 28                | \$ 13,908       |
|        | Total                   | 30 #            | 0                            | 392                  | 108             | 448                  | 396                    | 80                          | 1454                               | \$ 220,400        | \$ 603               | \$ 221,003      |



#### CERTIFICATE OF LIABILITY INSURANCE

5/1/2019

DATE (MM/DD/YYYY) 4/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s)

|   | Lockton Companies   | CONTACT  |       |
|---|---|--|-------|
| PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000 | 444 W. 47th Street, Suite 900<br>Kansas City MO 64112-1906  | NAME:   PHONE  |       |
|   | (610) 200-2000  | INSURER(S) AFFORDING COVERAGE                        | NAIC# |
|   |   | INSURER A: Zurich American Insurance Company         | 16535 |
| INSURED   | MWH CONSTRUCTORS, INC.                                      | INSURER B: Travelers Property Casualty Co of America | 25674 |
| 1415077   | SLAYDEN CONSTRUCTORS, INC.                                  | INSURER C: American Guarantee and Liab. Ins. Co.     | 26247 |
|   | STANTEC CONSULTING SERVICES, INC.<br>8211 SOUTH 48TH STREET | INSURER D:   |       |
|   | PHOENIX AZ 85044  | INSURER E:   |       |
|   |   | INSURER F:   |       |

COVERAGES CERTIFICATE NUMBER: 14729415 **REVISION NUMBER:** <u>XXXXXXX</u> THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

|             |  | ADDL |  | LIMITS SHOWN MAY HAVE BEEN                        | POLICY EFF           | POLICY EXP           |  |              |
|-------------|--|------|--|---|----------------------|----------------------|--|--------------|
| INSR<br>LTR | TYPE OF INSURANCE                                      | INSD | WVD  | POLICY NUMBER                                     | (MM/DD/YYYY)         | (MM/DD/YYYY)         | LIMITS                                       | S            |
| Α           | X COMMERCIAL GENERAL LIABILITY                         | Y    | Y  | GLO0246172  | 5/1/2018             | 5/1/2019             |  | s 2,000,000  |
|             | CLAIMS-MADE X OCCUR                                    |      |  |   |                      |                      | DAMAGE TO RENTED<br>PREMISES (Ea occurrence) | \$ 300,000   |
|             | X CONTRACTUAL/CROSS                                    |      |  |   |                      |                      | MED EXP (Any one person)                     | \$ 25,000    |
|             | X XCU COVERED  | Ì    |  |   |                      |                      | PERSONAL & ADV INJURY                        | s 2,000,000  |
|             | GEN'L AGGREGATE LIMIT APPLIES PER:                     |      | - Total Annual   |   |                      |                      | GENERAL AGGREGATE                            | \$ 4,000,000 |
|             | POLICY X PRO- X LOC                                    |      | -  |   |                      |                      | PRODUCTS - COMP/OP AGG                       | \$ 2,000,000 |
|             | OTHER:   |      |  |   |                      |                      |  | \$           |
| В           | AUTOMOBILE LIABILITY                                   | Y    | N  | TC2J-CAP-8E086819                                 | 5/1/2018             | 5/1/2019             | COMBINED SINGLE LIMIT (Ea accident)          | \$ 1,000,000 |
| B<br>B      | X ANY AUTO   |      |  | TJ-BAP-8E086820<br>TC2J-CAP-8E087017              | 5/1/2018<br>5/1/2018 | 5/1/2019<br>5/1/2019 | BODILY INJURY (Per person)                   | s XXXXXXX    |
|             | OWNED SCHEDULED AUTOS ONLY                             |      |  |   |                      |                      |  | s XXXXXXX    |
|             | HIRED NON-OWNED AUTOS ONLY                             |      |  |   |                      |                      | PROPERTY DAMAGE<br>(Per accident)            | s XXXXXXX    |
|             |  |      |  |   |                      |                      |  | s XXXXXXX    |
| C           | X UMBRELLA LIAB X OCCUR                                | N    | N  | AUC9184637  | 5/1/2018             | 5/1/2019             | EACH OCCURRENCE                              | \$ 5,000,000 |
|             | X EXCESS LIAB CLAIMS-MADE                              |      | -  |   |                      |                      | AGGREGATE                                    | s 5,000,000  |
|             | DED X RETENTIONS 10,000                                |      |  |   |                      |                      |  | \$ XXXXXXX   |
| В           | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY          |      | N  | TC2J-UB-8E08592 (AOS)                             | 5/1/2018             | 5/1/2019             | X PER OTH-                                   |              |
| B           | ANY PROPRIETOR/PARTNER/EXECUTIVE                       | N/A  | To annual to the contract of t | TRJ-UB-8E08593 (MA, WI)<br>EXCEPT FOR OH ND WA WY | 5/1/2018             | 5/1/2019             | E.L. EACH ACCIDENT                           | s 1,000,000  |
|             | (Mandatory in NH)                                      |      | maurona  | EREDITION ON THE WAY                              |                      |                      | E.L. DISEASE - EA EMPLOYEE                   | s 1,000,000  |
|             | If yes, describe under DESCRIPTION OF OPERATIONS below |      | 1  |   |                      |                      | E.L. DISEASE - POLICY LIMIT                  | s 1,000,000  |
|             |  |      | -  |   |                      |                      |  |              |
|             |  |      |  |   |                      |                      |  |              |
|             |  |      |  |   |                      |                      |  |              |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: THE CITY OF SOUTH PASADENA, ITS OFFICERS, OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE ADDITIONAL INSUREDS AS RESPECTS GENERAL LIABILITY AND AUTO LIABILITY, AND THESE COVERAGES ARE PRIMARY, AS REQUIRED BY WRITTEN CONTRACT. THE ADDITIONAL INSUREDS' OWN COVERAGE IS EXCESS OF AND NON-CONTRIBUTORY WITH THE GENERAL LIABILITY, AND ON THE AUTO LIABILITY AS RESPECTS THE USE OF VEHICLES OWNED BY MWH/STANTEC, WHERE REQUIRED BY WRITTEN CONTRACT. WAIVER OF SUBROGATION APPLIES TO GENERAL LIABILITY WHERE ALLOWED BY STATE LAW AND AS REQUIRED BY WRITTEN CONTRACT.

| CERTIFICATE HOLDER  | CANCELLATION See Attachments   |
|---|--|
| 14729415 CITY OF SOUTH PASADENA ATTN: PUBLIC WORKS DEPARTMENT 1414 MISSION STREET | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
| SOUTH PASADENA CA 91030   | AUTHORIZED REPRESENTATIVE  |

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Attachment Code: D522032 Certificate ID: 14729415

POLICY NUMBER: GL00246172 COMMERCIAL GENERAL LIABILITY

NAMED INSURED: SEE ATTACHED CERTIFICATE CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

#### Name of Person or Organization:

ANY PERSON OR ORGANIZATION TO WHOM OR TO WHICH YOU ARE REQUIRED TO PROVIDE ADDITIONAL INSURED STATUS IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT, EXCEPT WHERE SUCH CONTRACT OR AGREEMENT IS PROHIBITED BY LAW

#### Location(s) Of Covered Operations:

ALL LOCATIONS COVERED UNDER THIS POLICY, FOR LIABILITIES ARISING OUT OF OUR NAMED INSURED'S ACTIVITIES ONLY.

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.) A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- 1. Your acts or omissions; or
- 2. The acts or omissions of those acting on your behalf; in performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

#### However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- **B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- 1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as part of the same project.

CG 20 10 04 13 Page 1 of 1 Attachment Code: D522054 Certificate ID: 14729415

POLICY NUMBER: GLO0246172

**GENERAL LIABILITY** 

NAMED INSURED: SEE ATTACHED CERTIFICATE

CG 20 37 04 13

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**COMMERCIAL** 

### ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

#### SCHEDULE

Name of Person or Organization:

ANY PERSON OR ORGANIZATION TO WHOM OR TO WHICH YOU ARE REQUIRED TO PROVIDE ADDITIONAL INSURED STATUS IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT, EXCEPT WHERE SUCH CONTRACT OR AGREEMENT IS PROHIBITED BY LAW

#### Location And Description of Completed Operations:

ANY LOCATION OR PROJECT WHERE YOU ARE REQUIRED TO PROVIDE ADDITIONAL INSURED STATUS IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT EXCEPT WHEN SUCH CONTRACT OR AGREEMENT IS PROHIBITED BY LAW

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

#### However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or
- 2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Policy No.: GLO0246172

NAMED INSURED: SEE ATTACHED CERTIFICATE

## Other Insurance Amendment -- Primary And Non-Contributory

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## This endorsement modifies insurance provided under the: Commercial General Liability Coverage Part

1. The following paragraph is added to the Other Insurance Condition of Section IV --- Commercial General Liability Conditions:

This insurance is primary insurance to and will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by a written contract or written agreement that this insurance would be primary and would not seek contribution from any any other insurance available to the additional insured.
- 2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV --- Commercial General Liability Conditions:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

All other terms and conditions of this policy remain unchanged.

U-GL-1327-BCW (04/13)

Attachment Code: D522092 Certificate ID: 14729415 POLICY NUMBER: GLO0246172

CG 24 04 05 09

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage Part

#### SCHEDULE

#### Name Of Person Or Organization:

Any person or organization that requires you to waive your rights of recovery, in a written contract or agreement with the Named Insured.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

CG 24 04 05 09

IV - Conditions:

Attachment Code: D522055 Certificate ID: 14729415



ITEM NO. 17

DATE: October 6, 2021

FROM: Armine Chaparyan, City Manager

PREPARED BY: Margaret Lin, Interim Director of Planning and Community Development

Marina Khrustaleva, Assistant Planner

SUBJECT: Project No. 2382-MIL - Approval of a Mills Act Contract for Property

Located at 917 Palm Avenue (Assessor's Parcel Number 5313-008-024)

#### Recommendation

It is recommended that the City Council enter into a Mills Act contract with the property owners of 917 Palm Avenue, which is a contributor to the designated El Centro/Indiana/Palm Historic District.

#### **Executive Summary**

A Mills Act contract is an agreement between the City and the property owner. The contract requires that the property owner completes specific restoration and maintenance tasks, as submitted in the proposed restoration work plan. The proposed work plan is included as Exhibit C to the Mills Act contract. In return, for the duration of 10 years, the property owner receives a reduction in their property tax bill with the agreement that those property tax savings be reinvested into the property and fund the approved improvements.

On August 19, 2021, the Cultural Heritage Commission (CHC) reviewed the proposed Mills Act application and voted 5-0 recommending that the City Council enter into the Mills Act contract. The subject property qualifies for a Mills Act contract because it is a contributor to the El Centro/Indiana/Palm Historic District, which was designated as a historic district in 1993.

#### Commission Review and Recommendation

In accordance to South Pasadena Municipal Code Chapter 2 Section 2.68 (B)(1)(c), the Cultural Heritage Commission recommended that the subject property be approved for a Mills Act contract with the City based upon the following required criteria:

- (i) Financial Investment. The estimated tax benefit is not expected to exceed the applicant's proposed financial investment in the cultural resource over the first 10 years of the contract.
  - The applicant is proposing to invest \$122,000 in repairs between 2022 and 2031. The tax benefit over the same period is expected to be \$121,000, so this criterion is met.
- (ii) Public Benefit. The proposed Mills Act contract features a work plan that will provide a benefit to the public by: rehabilitating the property for continued occupancy or adaptive

reuse; improved viability through systems upgrades and structural reinforcement upgrades; preserving and maintaining the character-defining features of the property, and/or restoring character-defining features of the property that have been significantly altered or removed over time.

The Craftsman house is 117 years old and it shows a number of critical issues. The stream-rock wall framing front yard shows areas with failing/cracked mortar among the original stream rocks; repairs would stabilize and repair failing mortar with an appropriate replacement material to arrest the deterioration and ensure long-term preservation of this feature. Some of the home's original wood-framed windows need repairs and repainting, of the sashes as well as framing. Inoperable windows would be repaired and rehung. Non-original aluminum slider windows would be replaced with wood-framed windows more compatible with the historic home. House has areas with wood deterioration beneath a recent re-painting, with the most severe deterioration located on the southern elevation and at wall junctures. Project would include repairing/replacing in-kind deteriorated wood to arrest any further loss of original materials and ensure long-term preservation of wood siding. The roof of the house is covered with non-original composition shingles. The project involves removing composition shingles; repairs to roof system; reroofing with new composition shingles to ensure that the roof system is intact and water proof. These components of the project prove that Criterion ii. is met.

(iii) Retroactive Limitations. The estimated tax benefit will not be used for any maintenance or alteration work that was previously completed or initiated before the contract is approved, unless it can be shown that the completed work was necessary in the interest of the public health or safety following involuntary damage or destruction caused by fire, act of nature, or any other casualty.

The items on the proposed work plan are planned for the period 2024-2030. None of the estimated tax benefit will be used for any maintenance or alteration work that was previously completed or initiated before the contract is approved. Therefore, Criterion iii. is met.

(iv) Limitations on Maintenance. The estimated tax benefit will not be used for routine maintenance work except for exemplary or exceptional properties that have financially burdensome maintenance requirements.

The cost of annual termite inspection and triannual roof and paint inspections is not included into overall scope of work so Criterion iv. is met.

(v) Limitations on Interior Work. The estimated tax benefit will not be used for work within the interior of a cultural resource unless the commission determines the following exceptions should be made: the interior work is necessary to improve the structural integrity of the property; the interior work is necessary to preserve and maintain character-defining features within the cultural resource that are specifically identified as part of the official landmark nomination; and/or the interior work is necessary to preserve and maintain character-defining features of the property that were discovered subsequent to its landmark designation. The commission must first determine that those interior features are character-defining based on substantial evidence provided by the applicant.

No interior work is proposed using the estimated tax benefit, therefore, criterion v. is met.

(vi) Limitations on Landscaping. The estimated tax benefit will not be used for landscaping work unless it will be used for specific landscape features that were identified as part of the official landmark nomination.

No landscaping work is proposed using the estimated tax benefit, therefore, criterion vi. is met.

Entering into the Mills Act contract will promote the City's Preservation Element of the General Plan, Section 5.5, Goal 6, Policy 6.3, "Encourage property owners to take advantage of the available financial incentives."

The Cultural Heritage Commission recommended approval of the Mills Act Contract.

The proposed Rehabilitation and Maintenance Work Plan is included as an Attachment to the staff report provided to the Cultural Heritage Commission, which is included here as Attachment 2.

#### **Fiscal Impact**

A Mills Act contract allows a tax reduction (between approximately 40% - 60%) for a property owner who agrees to perform certain restoration and maintenance tasks over a 10-year period. Although the City will see a reduction in property tax revenue (26% per Mills Act contracted property), the benefits of the program include economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

The total estimated cost to the City as a result of property tax reduction for this property is approximately \$19,300 over the first 10 years of the contract, which amounts to average of \$1,930 annually. It should be noted that the initial temporary loss of property tax revenue will be considerably offset through years of local property value appreciation due to the high standard maintained on these properties.

#### **Environmental Analysis**

This project is exempt from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15308, Class 8: Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

#### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### **Attachments:**

- 1. Mills Act Contract
- 2. CHC Staff Report

# ATTACHMENT 1 Mills Act Contract

#### MILLS ACT CONTRACT

THIS CONTRACT ("Contract") is made and entered into this \_\_\_\_day of December 2021, by and between the CITY OF SOUTH PASADENA, CALIFORNIA, a municipal corporation ("City"), and Mo Huang Rolfe ("Owner").

#### **RECITALS**

- (i) California Government Code Section 50280 *et seq.*, authorizes cities to enter into contracts with the Owner of qualified historical property to provide for the use, maintenance, and restoration of such historical property so as to retain its characteristics as property of historical significance;
- (ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at 917 Palm Avenue, South Pasadena, California, Assessor's Parcel Number 5313-008-024 ("Historic Property"). A legal description of the Historic Property is attached hereto, marked as "Exhibit A" and is incorporated herein as if fully set forth;
- (iii) The Historic Property is a contributor to the designated El Centro/Indiana/Palm Historic District designated in 1993, resolution attached hereto, marked "Exhibit B". Built in 1903, it is one of the oldest Craftsman Bungalows in the Historic District. It is highly intact and retains the key character-defining features of the architectural style.
- (iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

- 1. EFFECTIVE DATE AND TERM. The Agreement shall be effective and commence on January 1, 2022 and shall remain in effect for a minimum period of ten (10) years, unless the property owner is issued a notice of non-renewal as provided in Section 2.68(b)(1)(E)(v) of the South Pasadena Municipal Code.
- 2. AUTOMATIC RENEWAL. Unless a notice of non-renewal is issued, this Agreement shall automatically be extended by one year for each anniversary date of the Agreement unless otherwise specified herein.

3. APPEAL OF NOTICE OF NON-RENEWAL. The property owner shall have the right (per Government Code Section 50282) to appeal a notice of non-renewal to the City Council.

#### 4. STANDARDS FOR HISTORIC PROPERTY.

- a. Owner shall rehabilitate, preserve and maintain the historically significant characteristics of the Historic Property. Attached hereto, marked as Exhibit "C" and incorporated herein by this reference is a list of those items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property and a timeline for completion, which shall apply to such property throughout the term of this agreement. Owner shall obtain approval from the Chair of the Cultural Heritage Commission prior to start of work of said items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property.
- b. Owner shall additionally and where necessary, restore and rehabilitate the property according to the rules and regulations of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the State Historic Building Code and shall maintain the entire property according to minimum standards and conditions, attached hereto, marked as Exhibit "D".
- 5. LIMITATIONS. Under Section 2.68(b)(1)(C)(iii)–(v), the estimated tax benefit will not be used for: (1) any maintenance or alteration work that was previously completed or initiated before the contract is approved, unless it can be shown that the completed work was necessary in the interest of the public health or safety following involuntary damage or destruction caused by fire, act of nature, or any other casualty; (2) routine maintenance work except for exemplary or exceptional properties that have financially burdensome maintenance requirements; (3) work within the interior of a Historic Property unless the Cultural Heritage Commission determines an exception should be made; and (4) landscaping work unless it will be used for specific landscape features that were identified as part of the official landmark nomination.
- 6. INSPECTIONS. The Owner shall allow reasonable inspections, by prior appointment given a minimum of at least 24 hours in advance, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Office of Historic Preservation, State Board of Equalization, and the City, as may be necessary to determine Owners' compliance with the terms and conditions of this agreement.
- 7. PROVISION OF COMPLIANCE INFORMATION. The owner hereby agrees to furnish the City with any and all information requested by the City which may be reasonable and necessary to determine compliance with the terms and provisions of this Agreement. In addition, the owner shall agree to provide to the City on the third anniversary date of this Agreement and every third year thereafter a report describing the preservation tasks that are in progress and have been completed pursuant to this Agreement.
- 8. NON-RENEWAL. If recommended by the Commission and approved by the City Council, a notice of non-renewal may be issued six (6) years into the duration of

this Agreement. The procedure for notice of non-renewal by the owner or the City shall be in accordance with Government Code Section 50282 as it may be amended from time to time.

- 9. BINDING EFFECT OF CONTRACT. This Agreement shall be binding on all successors-in interest of the owner to the benefits and burdens of this Agreement. The contract shall stipulate escrow instructions that require a review and re-evaluation of the property every three years.
- 10. CANCELLATION. City following a duly noticed public hearing as set forth in California Code Section 50280 *et seq.*, may cancel this Agreement if City determines that the Owner has breached any of the conditions or covenants of the Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the significance criteria under which it was designated. City may also cancel this Agreement if it determines Owner has failed to restore or rehabilitate the Historic Property in the manner specified in Paragraph 4 of this Agreement. The City may also cancel this Agreement if, upon consultation with the State of California Office of Historic Preservation, the preservation, rehabilitation, or restoration becomes infeasible due to damage caused by natural disaster. City's right to cancel this Agreement pursuant to this paragraph shall in no way limit or restrict its rights or legal remedies arising from City's Cultural Heritage Ordinance and Municipal Code.
- 11. CANCELLATION FEE. In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Section 50280 et seq., described herein. Upon cancellation, Owner shall pay a cancellation fee equal to twelve and one-half percent (12.5%) of the current fair market value of the property as determined by the County Assessor as though the Historic Property were free of the contractual restriction pursuant to this Agreement. The Owner shall pay the cancellation fee to the County Auditor in the time and manner prescribed by the County Auditor.
- 12. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of the terms of this Agreement.

In the event of a breach by Owner under the provisions of this agreement, City shall give written notice to Owner by registered or certified mail to the address stated in this agreement, which notice shall specifically identify the alleged breach and the proposed action which City recommends to Owner to cure said alleged breach. Owner shall hereafter have sixty (60) days within which to cure such breach to the reasonable satisfaction of the City. Upon completion by Owner of the cure of the breach, City shall withdraw its notice of breach.

Should owner not cure such breach within the time period specified above, then City may, without further notice, declare a default under the terms of this agreement and may bring any action necessary to specifically enforce the obligations of Owner arising

out of the terms of this agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief as may be appropriate. City may at its sole discretion extend the 60-day cure period. Such extension must be in writing.

- 13. WAIVER. City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in the City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
- 14. BINDING EFFECT OF AGREEMENT. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restriction as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restriction expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

15. NOTICE. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: City of South Pasadena

Director of Planning and Building

1414 Mission Street

South Pasadena, California 91030

Owner: Mo Huang Rolfe

917 Palm Avenue

South Pasadena, California 91030

- 16. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.
- 17. INDEMNITY OF CITY. Owner agrees to protect, defend, indemnify, and shall hold City and its elected officials, officers, agents, and employees harmless from liability for claims, loss, proceedings, damages, causes of action, liability, costs or expense, including reasonable attorney's fees in connection with damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of such Owner or those of its contractor, subcontractor, agent, employee or other person acting on its behalf which relate to the use, operation, capital improvement and maintenance of the Historic Property. Owner hereby agree to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.
- 18. BINDING UPON SUCCESSORS. All of the agreements, rights, covenants, reservations, and restrictions contained in the Agreement shall be binding upon and shall inure to benefit of the parties herein, their heirs, successors, legal representative, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.
- 19. LEGAL COSTS. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- 20. SEVERABILITY. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- 21. GOVERNING LAW. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- 22. EMINENT DOMAIN PROCEDURES. Upon the filing of an action in eminent domain by a public agency for the condemnation of the fee title of any land described herein or of less than fee interest which will present the portion of land condemned or other land or a portion of it which is the subject of this Agreement from being used for any authorized use, or upon the acquisition in lieu of eminent domain by a public agency for a public improvement, the portions of this Agreement by which Owner agree to preserve and to restrict the use of property described herein shall be null and void

upon such filing as to the portion of the land condemned or acquired and to the additional land the use of which for an authorized purpose will be prevented as a result of condemnation or acquisition.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency as to all or a portion of the land subject to the Agreement, the restrictions on the use of the property included in this Agreement shall, without further agreement of the parties, be re-instituted and the terms of this Agreement shall be in full force and effect.

- 23. RECORDATION. No later than thirty (30) days after the parties execute this Agreement, the Owner or Owner's agent shall record this Agreement in the Office of the County Recorder of the County of Los Angeles.
- 24. AMENDMENTS. This Agreement may be amended, in whole or in part, only by written-recorded instrument executed by the parties hereto.
- 25. NOTICE TO OFFICE OF HISTORIC PRESERVATION. The City shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of entering into this Agreement.

IN WITNESS THEREOF, City and Owner have executed this Agreement on the day and year first above written.

|                             | CITY OF SOUTH PASADENA |
|-----------------------------|------------------------|
| Date:                       | By:<br>Diana Mahmud,   |
|                             | Diana Mahmud,<br>MAYOR |
| Attest:                     | MAYOR                  |
| Christina Munoz,            |                        |
| ACTING DEPUTY CITY CLERK    |                        |
| Approved as to Form:        |                        |
| Andrew Jared, CITY ATTORNEY |                        |
| Date:                       |                        |
|                             |                        |
| Date:                       |                        |
|                             | Mo Huang Rolfe, Owner  |

#### Exhibit "A"

Legal Description

Proof of Legal Description:

## EXHIBIT "A"

Lot(s) 18 in Block 1 of the Malabar Tract, in the City of South Pasadena, County of Los Angeles, State of California, as per map recorded in Book 12, Page(s) 96 of Miscellaneous Records, in the office of the County Recorder of said County.

## Exhibit "B"

City Council Resolution for

Historic District Designation

## RESOLUTION NO. 6180

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DESIGNATING PORTIONS OF EL CENTRO -INDIANA - PALM AVENUES AS AN OFFICIAL CULTURAL HISTORIC DISTRICT

WHEREAS, Section 2.73A-14. Landmarks and Historic Districts of the South Pasadena Municipal Code establishes procedures for registering historic districts; and

WHEREAS, the Cultural Heritage Commission having duly received a nomination form to register an historic district for the area bounded by Palm Avenue on the east, El Centro Street on the south, Indiana Avenue on the west and Pico Alley on the north; more specifically including all residences on both sides of Palm Avenue in the 900 block, all residences on both sides of El Centro Street in the 500 block, all residences on both sides of Indiana Court in the 500 block and all residences on the east side of Indiana Avenue in the 900 block plus one residence (921) on the west side of Indiana Avenue; and

whereas, the Commission complied with the pertinent and applicable provisions of Subsection (A) (3) (Designation Procedure) and made findings of fact pursuant to Subsection (A) (2) (Designation Criteria for Districts); and

WHEREAS, the Commission forwarded a recommendation to the City Council to approve the proposed historic district; and

WHEREAS, the City Council held a public hearing on the proposed designation on July 7, 1993 and received public testimony; and

WHEREAS, the area qualifies as a district by reason of the following applicable subsections:

- (a) Its character, interest or value as a part of the heritage of the community;
- (d) Its exemplification of a particular architectural style of an era of history of the City (including Foursquare, Craftsman, pattern book kit houses, and period revival styles);

RESOLUTION NO. 6180
Page 2

- (g) Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, materials or craftsmanship; and
- (1) Its significance as a distinguishable neighborhood or area whose components may lack individual distinction; and
- (m) More than 50% plus one of all affected owners of parcels within the proposed district have consented in writing to such designation.

NOW, THEREFORE, be it resolved by the City Council of the City of South Pasadena the following:

- Designation of the above-described properties as the EL CENTRO - INDIANA - PALM HISTORIC DISTRICT.
- 2. The map as set forth in Exhibit A hereto attached and made a part of, as the official boundaries of the historic district.

PASSED, APPROVED AND ADOPTED on July 21 , 1993.

James C. Hodge, Jr. Mayor City of South Pasadena

ATTEST:

Jeannine A. Gregory, City Clerk

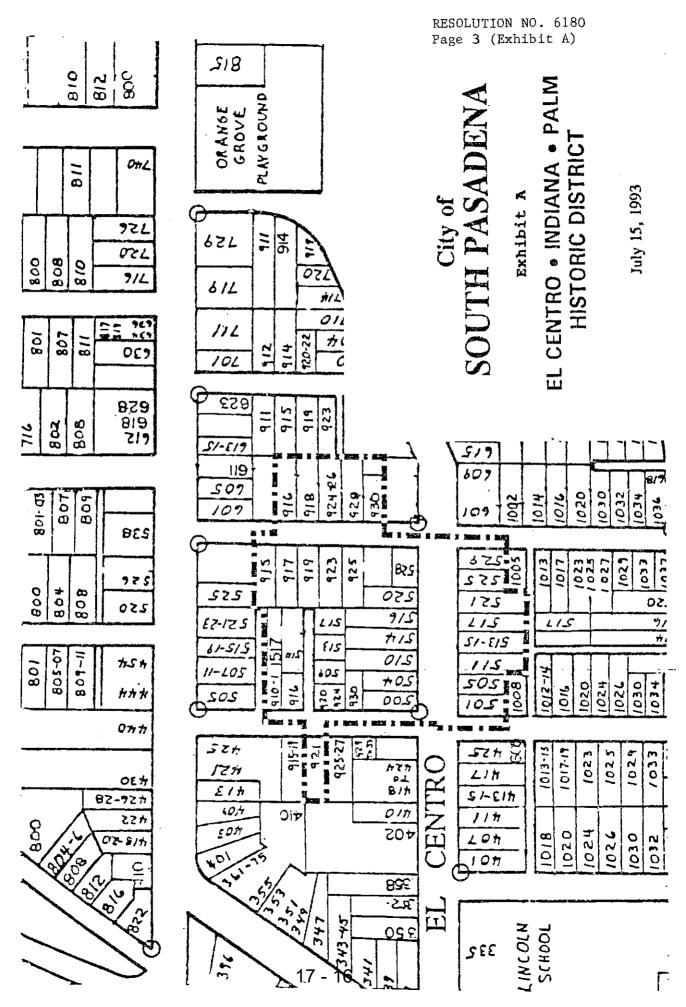
HEREBY CERTIFY that the foregoing resolution was adopted by the City Council of the City of South Pasadena at a regular meeting held on the 21st day of July , 1993, by the following vote:

AYES: Richards, Knapp, Zee and Mayor Hodge

NOES: None

ABSENT: Woollacott

Jeannine A. Gregory, City Clerk



## Exhibit "C"

Restoration Work Plan

&

Financial Analysis



Mills Act Application | Rolfe Residence 917 Palm Avenue, South Pasadena

### Prepared for:

City of South Pasadena Department of Planning and Building South Pasadena, CA 91030

Prepared by: Debi Howell-Ardila, MHP Mo and Donald Huang Rolfe 917 Palm Avenue South Pasadena, CA 91030

April 2021

## Mills Act Application, Huang-Rolfe Residence 917 Palm Avenue, South Pasadena

## **Table of Contents**

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| 1   | Project Background   | 1    |
| 2   | Mills Act Work Plan, Schedule and Reporting System   | 3    |
| 3   | Description of Work Plan and Priorities  | 4    |
| 4   | Financial Analysis   | 8    |
|     | Appendix A: Photographic Overview of Existing Conditions  Appendix B: Owner's Letter of Intent   |      |
|     | Appendix C: Supporting Documents  A. Legal Property Description  B. Annual Property Tax Statement, 2020  C. Utility Bill: City of South Pasadena, Water Bill  D. Utility Bill: Southern California Edison, Electric Bill  E. Utility Bill: SoCalGas, Gas Bill  F. Homeowner's Insurance Bill |      |

## 1. Project Background

This document provides the required materials for a Mills Act application for the residence located at 917 Palm Avenue, South Pasadena (APN #5313-008-024). Constructed in 1903, 917 Palm Avenue is a highly intact Craftsman-style residence and a contributor to the El Centro/Indiana/Palm Residential Historic District, designated in 1993. Owned by Mo Huang and Donald Rolfe since 2006, 917 Palm Avenue is one of the district's earliest examples of early twentieth-century Craftsman architecture. As noted in the 2014 South Pasadena Citywide Historic Context Statement:

Craftsman architecture developed in the first decade of the 20th century as an indigenous California version of the American Arts and Crafts movement, incorporating Southern California's unique qualities. Constructed primarily of stained wood, with wide overhanging eaves, balconies, and terraces extending the living space outdoors, the style embodied the goals of the Arts and Crafts movement.

The Craftsman bungalow dates from the early 1900s through the 1920s. The bungalow's simplicity of form, informal character, direct response to site, and extensive use of natural materials, particularly wood and stone, was a regional interpretation of the reforms espoused by the Arts and Crafts movement's founder, William Morris. Craftsman bungalows generally have rectangular or irregular plans, and are one to one-and-a-half stories tall. They have wood clapboard or shingle exteriors and a pronounced horizontal emphasis, with broad front porches, often composed with stone, clinker brick, or plastered porch piers. Other character-defining features include low-pitched front-facing gable roofs, and overhanging eaves with exposed rafter tails.<sup>1</sup>

As a key contributor to the El Centro/Indiana/Palm Residential Historic District, 917 Palm Avenue retains the key character-defining features of the architectural style as described in the *Citywide Historic Context Statement*. When the Huang-Rolfe family purchased the home, it was already over a century old, and the new owners completed a number of critical preservation, rehabilitation, and repair projects for the house. These included repainting the house and repairing the roof, along with other restoration projects. When the homeowners learned of the Mills Act, they began pursuing a possible application, with the assistance of local historic preservation specialist, Debi Howell-Ardila, MHP, a former CHC member and author of numerous Mills Act applications in South Pasadena.

With the property over 117 years old, a number of critical preservation/rehabilitation/repair projects are in need of completion. The highest priorities, by feature, are:

- (1) stream-rock wall framing property; hardscaping repairs/in-kind replacement/stabilization;
- (2) historic wood-frame windows; repairs/repainting;
- (3) horizontal wood-siding; repairs/in-kind replacement of deteriorated areas; repainting in period-appropriate palette;
- (4) re-roofing and water proofing.

The Mills Act program and property tax abatement would help the property owners continue completing these high-priority projects and ensure the long-term preservation of this important contributor to the El Centro/Indiana/Palm Residential Historic District.

<sup>&</sup>lt;sup>1</sup> Historic Resources Group, 2014, City of South Pasadena Citywide Historic Context Statement, p. 269.

In January 2021, the property owners presented their Letter of Intent to apply for the Mills Act at the CHC hearing; the CHC voted in favor of allowing the application to move forward and a subcommittee was formed. In March 2021, the applicant, Mo Rolfe, Ms. Howell-Ardila, City staff and CHC subcommittee members, Chair Rebecca Thompson and Commissioner William Cross, attended a virtual site walk to hear CHC feedback and recommendations for this Mills Act application.

This application reflects all feedback and suggestions provided by the CHC to date, as well as all additional materials required by the City.

For ease of review by CHC members and decision makers, the following presents a summary of the Mills Act workplan for 917 Palm Avenue according to character-defining feature:

| Project Location                | Character-Defining Feature   | Issue  |
|---------------------------------|--|--|
| Front yard/sidewalk             | Stream-rock wall framing front yard  | This character-defining feature shows areas with failing/cracked mortar among the original stream rocks; repairs would stabilize and repair failing mortar with an appropriate replacement material to arrest the deterioration and ensure long-term preservation of this feature  |
| House exterior (all windows)    | Wood-frame windows   | Some of the home's original wood-framed windows need repairs and repainting, of the sashes as well as framing. Inoperable windows would be repaired and rehung. Nonoriginal aluminum slider windows would be replaced with wood-framed windows more compatible with the historic home.   |
| House exterior (all elevations) | Original horizontal wood sheathing   | House has areas with wood deterioration beneath a recent re-painting, with the most severe deterioration located on the southern elevation and at wall junctures. Project would include repairing/replacing in-kind deteriorated wood to arrest any further loss of original materials and ensure long-term preservation of wood siding. |
| Roof of main house              | Remove composition shingles;<br>repairs as needed to roof system; re-<br>roofing with composition shingles | This repair will involve a tear-off and re-<br>roofing of the main house to ensure that the<br>roof system is intact and water proof.  |

As owners of a historic property and designated City landmark, Mo Huang and Donald Rolfe understand the importance of ensuring that all repair, maintenance and rehabilitation projects follow the City guidelines and the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. Each project, as well as the corresponding Standards-compliant treatment approach, is described in more detail in this application.

## 2. Schedule and Reporting System

| Project Completion by Y |   |                      |
|-------------------------|---|----------------------|
| 1.                      | Sidewalk/front yard: Stream-rock wall repairs and stabilization         | 2024                 |
| 2.                      | House, exterior: repairs/repainting of wood-frame windows               | 2025                 |
| 3.                      | House, exterior: repairs/carpentry work and repainting of wood sheat    | hing 2030            |
| 4.                      | House, exterior: tear-off, repairs/water proofing, and re-sheathing roo | of 2030              |
| 5.                      | Maintenance: Termite inspections/mitigation                             | Annual inspection    |
| 6.                      | Maintenance: Roof inspections and repairs as needed                     | Triannual inspection |
| 7.                      | Maintenance: Paint inspection and repairs as needed                     | Triannual inspection |

#### Reporting System:

The property owners of 917 Palm Avenue will provide **annual written updates** to the City of South Pasadena in the final quarter of the year, documenting progress and providing updates and photographs on the Mills Act work plan.

Prior to commencement of work efforts, Certificates of Appropriateness (CoA) will be obtained by the property owners as required by the City of South Pasadena Cultural Heritage Ordinance for each project included in these plans.

Progress reports will include detailed work descriptions, photographs of work completed, and copies of permits and CoAs/CHC guidance and input.

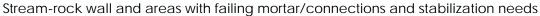
## 3. Description of Work Plan and Priorities

Work efforts described in these plans will comply with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

| Proposed Project & Description                                     | Est. Cost | Priority |   |
|--|-----------|----------|---|
|  |           |          | _ |
| 1. Sidewalk/front yard: Stream-rock wall repairs and stabilization | \$ 27,000 | High     |   |

This character-defining feature shows areas with failing/cracked mortar; repairs would stabilize and repair failing mortar with an appropriate replacement material to arrest the deterioration and ensure long-term preservation of this feature.

All prep work will be undertaken in compliance with the *Secretary's Standards*. **No power-washing** will be used. Repair of stream-rock wall/mortar may consist of either patching the historic material or filling in with new material work to match the historic material. If replacement is necessary, duplication of historic materials and detailing should be as exact as possible to assure a repair that is functionally and aesthetically acceptable. Work will be planned and directed by a contractor with experience in historic preservation.





#### 2. House, Wood-frame windows

\$ 25,000

0 High

Rehabilitation of historic windows to include (but not necessarily be limited to): repair of non-operational hardware and poorly sealing windows; re-weather stripping/re-sealing where needed; window frames, surrounds and sills will be prepped and repainted in a period-appropriate palette.

Treatment approach will include the gentlest methods possible, for window removal, glazing repairs, and repainting—contractors will not use power-washing or machine sanding for any character-defining features. Gentlest means possible, including hand-sanding, will be used in prepping for repainting of the exterior. Work will be planned and directed by a contractor with experience in historic preservation.

Overview of wood-frame windows; repainting/repairs needed









Mills Act Application, Huang-Rolfe Residence, 917 Palm Avenue Prepared by Debi Howell-Ardila, MHP

#### 3. House, exterior, all elevations:

\$45,000

Medium

Original wood-siding is in need of repairs/repainting. Some junctures between wood planks, in particular at corners, show signs of deterioration that have been painted over but not repaired. Where needed, unstable wood planks will be re-fastened in an unobtrusive fashion and patched to match existing in all aspects of appearance. If necessary, any replacement of wood siding will be in-kind to match existing in materials, appearance/patterning, finishes/texture, and size/profile. Paint color to match existing. Treatment approach will include the gentlest methods possible—contractors will not use powerwashing or machine sanding for any character-defining features. Cracked and peeling paint to be removed with Peel Away, lightly hand-sanded, primed, and set with two coats of paint. Gentlest means possible, including hand-sanding, will be used in prepping for repainting of the exterior. Work will be planned and directed by a contractor with experience in historic preservation.

Example of original horizontal wood-siding and areas in need of repair, south elevation



4. House: Re-roof and repairs/waterproofing as needed

\$25,000

Low

Remove/replace composition shingles. Examine/repair underlying structure where needed. In areas of the roof line with wood features, repairs and carpentry work to address failing/deteriorated wood rafters and eaves, fascia, and other wood framing as needed. If necessary, replacement of any wood features will be made to match existing in materials, appearance, patterning, finishes/texture, and size/profile. Paint color to either match existing or reflect a period-appropriate palette.

No power-washing will be used for exterior materials or character-defining features. Cracked and peeling paint to be removed with Peel Away, lightly hand-sanded, primed, and set with two coats of paint. Secretary's Standards treatment approach: identify, retain, and preserve "the functional and decorative features that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolas...chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning." Should character-defining features be affected, work will be planned and directed by a contractor with experience in historic preservation.

Overview of roof line and shape



## 4. Mills Act Work Plan, Financial Analysis

| Pro | oposed Project & Description  | Est. Cost  | Schedule |
|-----|---|------------|----------|
| 1.  | Sidewalk/front yard: Stream-rock wall repairs and stabilization   | \$ 27,000  | 2024     |
| 2.  | House, exterior: repairs/repainting of wood-frame windows   | \$ 25,000  | 2025     |
| 3.  | House, exterior: repairs and repainting of exterior siding  | \$ 45,000  | 2030     |
| 4.  | Residence roof: Re-roofing, to include removal of sheathing; repairs as needed to roof system structure; re-sheathing of roof with composition shingles | \$ 25,000  | 2030     |
| То  | Total Historic Preservation Investment in 917 Palm Avenue: \$ 122,000   |            |          |
| То  | tal Tax Savings for Owners (10-year period)   | \$ 121,000 |          |
| A۱  | Average Annual Cost to the City of South Pasadena (26%): \$ 1,920   |            |          |

### Mills Act Work Plan, Financial Analysis

917 Palm Avenue, South Pasadena, California 91030

**Property Address:** 

#### Mills Act Application, 917 Palm Avenue, Financial Analysis

Assessor's ID #: 5313-008-024

Single-family Residence Current Assessed Value: \$ 1,225,534 Type: Landmark #: City of South Pasadena Historical Landmark (district contributor) REVENUES Annual Current Yr Year 1 Year 2 Year 3 Year 4 Year 5 Year 6 Year 7 Year 8 Year 9 Year 10 2028 2029 2030 2031 Increase 2021 2022 2023 2024 2025 2026 2027 1. Monthly Revenues 6,000.00 6,180.00 6,365.40 6,556.36 6,753.05 6,955.64 7,164.31 7,379.24 7,600.62 7,828.64 8,063.50 2. Annual Rental Income 3% 72,000.00 74,160.00 76,384.80 78,676.34 81,036.63 83,467.73 85,971.77 88,550.92 91,207.45 93,943.67 96,761.98 ANNUAL EXPENSES 3. Insurance 5% 1,340.00 1,407.00 1,477.35 1,551.22 1,628.78 1,710.22 1,795.73 1,885.51 1,979.79 2,078.78 2,182.72 7,363.97 Total Costs 4. Utilities 6% 4,112.00 4,358.72 4,620.24 4,897.46 5,191.31 5,502.78 5,832.95 6,182.93 6,553.90 6,947.14 5% 9,250.00 9,712.50 10,198.13 10,708.03 12,395.88 13,015.68 13,666.46 14,349.79 15,067.28 \$122,162.78 Maintenance 11,243.43 11,805.60 6/7. Management / Other 0.00 TOTAL EXPENSES 8. Sum lines 3 through 7 \$14,702.00 \$15,478.22 \$16,295.72 \$17,156.71 \$18,063.52 \$19,018.61 \$20,024.56 \$21,084.12 \$22,200.16 \$23,375.70 \$24,613.96 ANNUAL NET INCOME 9. Line 2 minus line 8 \$57,298.00 \$58,681.78 \$60,089.08 \$61,519.64 \$62,973.12 \$64,449.13 \$65,947.20 \$67,466.80 \$69,007.29 \$70,567.97 \$72,148.02 **CAPITALIZATION RATE** 10. Interest Component 4.75% 11. Historic Property Risk Component 4.0% 12. Property Tax Component 1.020% 13. Amortization Component 8.0% 14. Total Capitalization Rate 17.8% **NEW ASSESSED VALUE** Mills Act Assessment (Line 9 divided by Line 14) \$322,442.32 \$329,858.49 \$337,445.24 \$345,206.48 \$353,146.23 \$361,268.59 \$369,577.77 \$378,078.06 \$386,773.85 \$395,669.65 \$404,770.05 TAXES: AMOUNT TO BE PAID 16. Tax under Mills Act (Line 15 x .01035146) 3,337.75 3,414.52 3,493.05 3,573.39 3,655.58 3,739.66 3,825.67 3,913.66 4,003.67 4,095.76 4,189.96 **Total Tax** 17. Current Tax 1.02% 15,010.00 15,163.10 15,317.77 15,474.01 15,631.84 15,791.29 15,952.36 16,115.07 16,279.45 16,445.50 16,613.24 Savings 18 Tax Savings (Line 17 minus line 16) 11,672.25 11,748.59 11,824.71 11,900.62 11,976.26 12,051.63 12,126.69 12,201.41 12,275.77 12,349.74 12,423.28 \$120,878.69 Annual TAXES: COST TO CITY Average 19. Annual Cost to City 26% \$1,867.56 \$1,879.77 \$1,891.95 \$1,904.10 \$1,916.20 \$1,928.26 \$1,940.27 \$1,952.23 \$1,964.12 \$1,975.96 \$1,987.72 \$1,928.01

# Appendix A

Photographic Overview of Issues









Figure 3. Rear elevation, 917 Palm Avenue (west perspective)







Figure 5. Rear elevation, 917 Palm Avenue (west perspective)

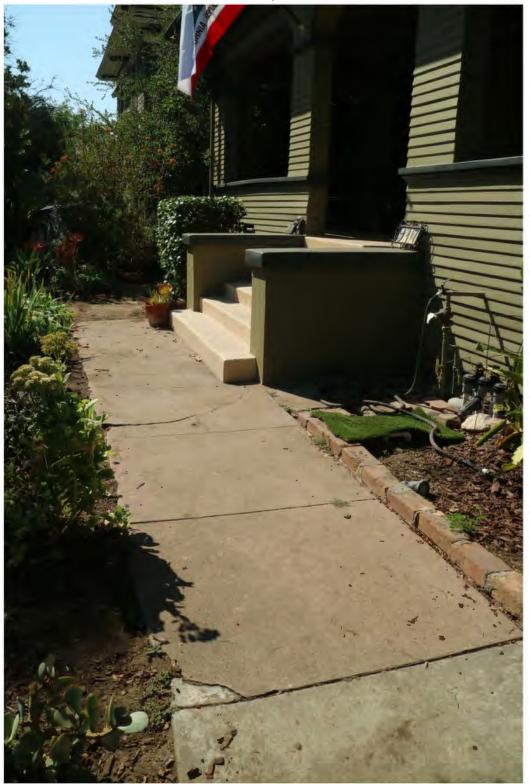
Figure 6. Character-defining hardscaping and stream-rock wall, shows signs of deteriorated mortar and structural failure; in need of repairs, stabilization, and limited in-kind replacement



Figure 7. Character-defining hardscaping and stream-rock wall, shows signs of deteriorated mortar and structural failure; in need of repairs, stabilization, and limited in-kind replacement



Figure 8. Character-defining hardscaping and stream-rock wall, shows signs of deteriorated mortar and structural failure; in need of repairs, stabilization, and limited in-kind replacement



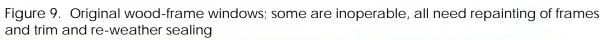




Figure 10. Original wood-frame window, front elevation; some are inoperable, all need repainting of frames and trim and re-weather sealing



Figure 11. Original wood-frame windows; some are inoperable, all need repainting of frames and trim and re-weather sealing



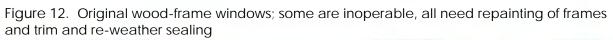




Figure 13. Original wood-frame windows; some are inoperable, all need repainting of frames and trim and re-weather sealing



Figure 14. Areas of deteriorated wood siding have been painted over; original horizontal wood-siding on each elevation needs repairs, gentle sanding/prep work, and repainting



Figure 15. Original horizontal wood-siding on each elevation is in need of repair, gentle sanding/prep work, and repainting



Figure 16. Original horizontal wood-siding on each elevation is in need of repair, gentle sanding/prep work, and repainting







Figure 18. Areas of deteriorated wood siding have been painted over; original horizontal wood-siding on each elevation is in need of repairs/limited in-kind replacement, gentle sanding/prep work, and repainting



# Appendix B

Letter of Intent, July 2019

## **Donald and Mo Huang Rolfe**

917 Palm Avenue South Pasadena, California 91030 (p) 626-720-1638 (e) mrolfe319@gmail.com

Kanika Kith, Planning Manager Mark Gallatin, Chair, Cultural Heritage Commission City of South Pasadena Planning & Building Department 1414 Mission Street South Pasadena, CA 91030

4 January 2021

Dear Ms. Kith and Mr. Gallatin:

We are writing to express our interest in applying for the Mills Act for our home at 917 Palm Avenue, South Pasadena (APN #5313-008-024). Our home is an intact Craftsman Bungalow constructed in 1903. At 117 years old, this makes our house one of the earliest Craftsman Bungalows in the neighborhood (and one of the earliest within the designated El Centro/Indiana/Palm Residential Historic District).

Since purchasing the home in 2006, it has served as the primary residence for our family.

Because the house was nearly a century old when we bought it, we have carried out a number of significant repair and upgrade projects. When we learned about the Mills Act recently, though, we realized that having the tax offset offered through the program would help us continue investing in the long-term preservation of the home.

With our house now 117 years old, we have found that there are always more preservation projects in need of attention. At the top of our list, for example, are hardscaping upgrades to the character-defining stream rock walls around our property, rehabilitating/weather-proofing our home's original wood-frame windows, ongoing repairs/re-finishing of exterior wood features, an eventual re-roofing, among other projects. The Mills Act program and property tax abatement would help us continue completing the ongoing repairs needed for our property as well as ensure its future preservation.

In order to make sure that our Mills Act preservation/rehabilitation workplans are comprehensive and meet the City's requirements, we have asked our local preservation specialist Debi Howell-Ardila to prepare our application. She will be coordinating with you throughout the process and presenting this application at the CHC and City Council hearings.

| prepare our application. She will be coordinating v | vith you throughout the process and presenting this |
|---|---|
| application at the CHC and City Council hearings.   |   |
|   |   |
| Thank you in advance for your consideration.        |   |

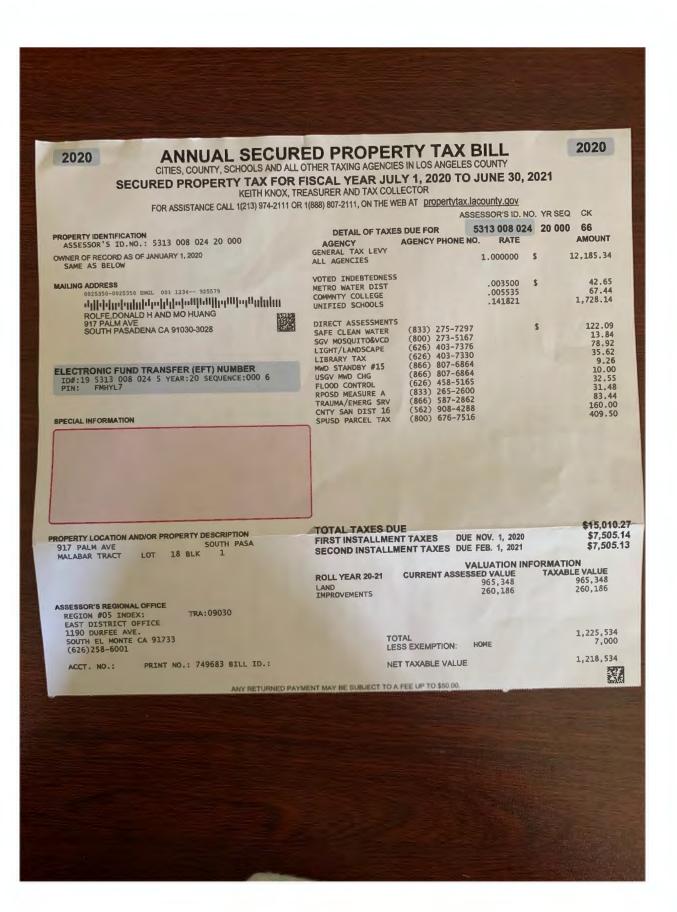
Sincerely,

Mo Huang Rolfe

# Appendix C

## **Supporting Documents**

- A. Legal Property Description
- B. Annual Property Tax Statement
- C. Utility Bill: City of South Pasadena, Water Bill
- D. Utility Bill: Southern California Edison, Electric Bill
- E. Utility Bill: SoCalGas, Gas Bill
- F. Homeowner's Insurance Bill





City of South Pasadena 415 Pisgah Church Rd Ste 374 Greensboro, NC 27455

TEMP-RETURN SERVICE REQUESTED

DONALD ROLFE 917 PALM AVE SOUTH PASADENA, CA 91030-3028 00349

#### Utility Billing Statement - City of South Pasadena

if you have any questions, you may contact us at (877) 583-7933 or visit https://southpasadena.secure.munibilling.com. To pay by automated phone, call 877-556-7929.

PREVIOUS BALANCE PAYMENTS

\$0.00 \$0.00

CURRENT CHARGES TOTAL DUE 10/29/2020 \$244.99 \$244.99

306 0101 8439-303 PQ1 LB006464 STOCK + F-G2 01/ENT + 001087

| ACCOUNT NUMBER | 15210                                   |
|----------------|---|
| CUSTOMER       | DONALD ROLFE                            |
|                | 917 PALM AVE<br>SOUTH PASADENA CA 91030 |
| BILL DATE      | 09/29/2020                              |

Start Read Meter # 48201361 07/27/20 - 4834

End Read Consumption 09/21/20 - 4655

| SERVICE                              | START             | END               | USAGE | AMOUNT   |
|--------------------------------------|-------------------|-------------------|-------|----------|
| Water Meter 1"                       | 07/27/2020        | 09/21/2020        |       | \$126.12 |
| Water Consumption (20 + \$3.33) Per  | 07/27/2020 - 4834 | 09/21/2020 - 4855 | 21    | \$66.60  |
| Water Consumption (1 @ \$4.19) Per H |                   |                   |       | \$4.19   |
| Efficiency Fee (21 + \$0.14) Per HCF | 07/27/2020 - 4834 | 09/21/2020 - 4855 | 21    | \$2.94   |
| Sewer Basic Charge                   | 07/27/2020        | 09/21/2020        |       | \$28.15  |
| Wastewater Discharge Fee             | 07/27/2020        | 09/21/2020        |       | \$2.00   |
| UTAX                                 |                   |                   |       | \$14.99  |
| TOTAL CURRENT CHARGES                |                   |                   |       | \$244.99 |

Please detach below perforation and return with payment

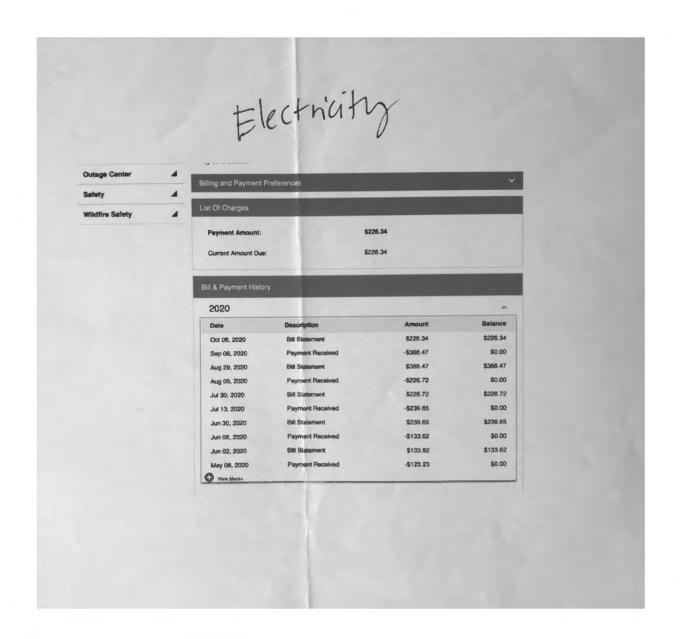
| ACCOUNT NUMBER  | 15210        |
|-----------------|--------------|
| SERVICE ADDRESS | 917 PALM AVE |
| AMOUNT DUE      | \$244.99     |
| DUE DATE        | 10/29/2020   |
| NAME            | DONALD ROLFE |
| COMPANY ID      | 1087         |

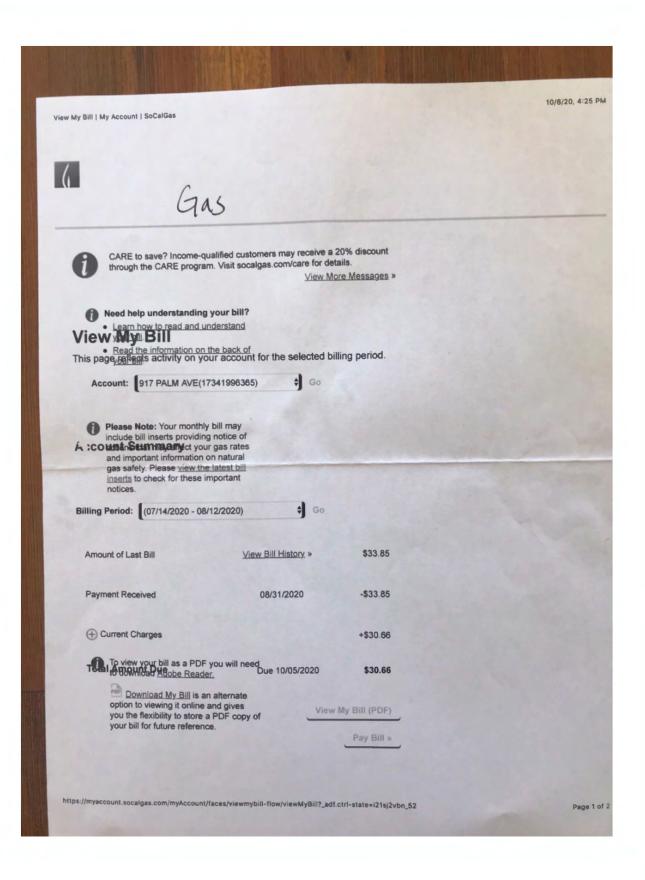
Use the code 129712 to sign-up online at https://southpasadena.secure.munibilling.com

Return this stub. Write your account number on your check in the memo area.

City of South Pasadena PO BOX 399328 SAN FRANCISCO, CA 94139-9328 աշվենկել/Կբիգրվավիլի Կյումյալի աներկեր

000001196224000001087000000024499018







# Home Insurance Billing Summary

10/8/2019

Donald H Rolfe and Mo Huang Rolfe,

Your renewal balance is due by your renewal date - 11/30/2019.

You can pay now with the options displayed below or an itemized billing statement will be sent on 10/31/2019.

#### Your Account Summary

Current term remaining balance

Renewal Premium

Account balance

\$0.00

\$1,340.41

\$1,340.41

This is a summary and actual billed amount may change based on payment activity and future transactions. Changes made after October 8, 2019, will reflect on your statement.

Home Policy 93079-13-97

Billing Account G005753907

#### Your Farmers Agent

Arthur Kouredjian

16900 Sherman Way 10 Van Nuys, CA 91406 (818) 922-7702 akouredjian@farmersagent.com

#### Billing Questions?

1-877-327-6392

7:00 am 11:00 pm (CT) Mon Fri 8:00 am - 8:00 pm (CT) Sat - Sun



#### Payment Options

### Save time and never forget a bill with automatic payments.

Sign up at farmers.com or contact your agent to set up automatic payments. Your payment due will be automatically debited on your due date.

Pay online. Visit us at farmers.com.

Pay by phone. Call 1-877-327-6392 or contact your agent.

Pay your agent directly. Your agent can accept payment in a variety of methods.

farmers.com



25-5983 2-18

## Exhibit "D"

Standards of Rehabilitation

#### The Secretary of the Interior

#### Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and the environment.
- 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

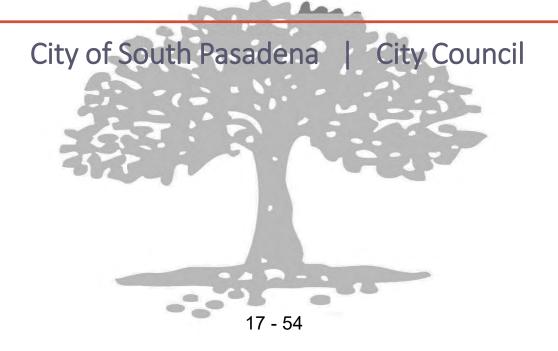
## **ATTACHMENT 2**

June 17, 2021 Cultural Heritage Commission Staff Report (Click Here)

# 917 Palm Avenue

Mills Act Request 2382-MIL

October 6, 2021



# **PROJECT**

- Mills Act Contract Request for 917 Palm Avenue
- The property qualifies for the Mills Act incentive program as a contributor to the EL Centro / Indiana / Palm Historic District designated in 1993

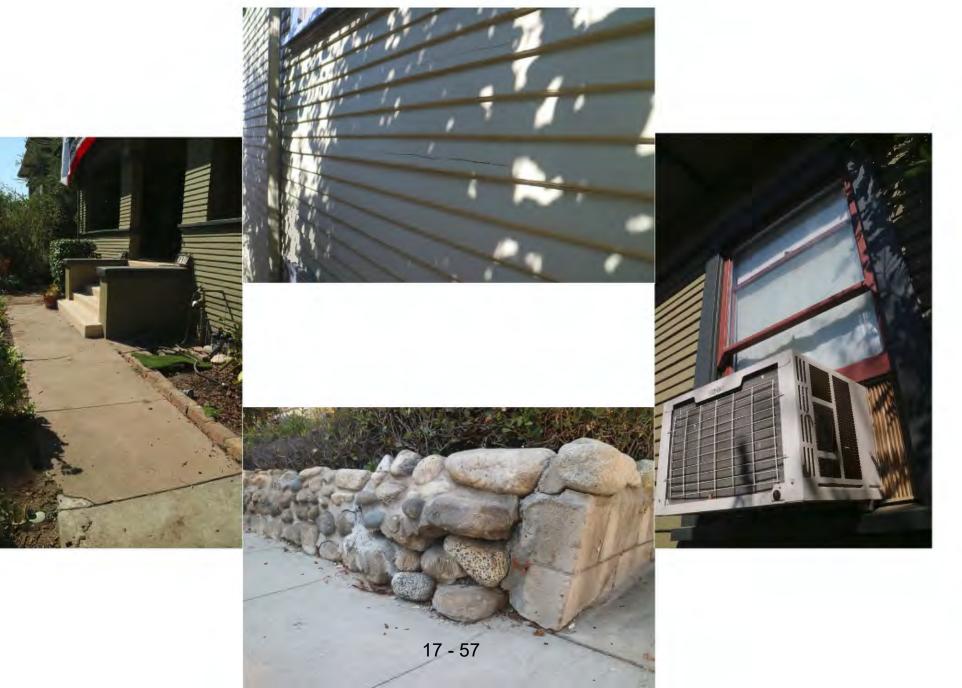


# 917 Palm Avenue



The Craftsman house was built in 1903.

# 917 Palm Avenue



| Project |  | ompletion by Year    |  |
|---------|--|----------------------|--|
| 1.      | Sidewalk/front yard: Stream-rock wall repairs and stabilization          | 2024                 |  |
| 2.      | House, exterior: repairs/repainting of wood-frame windows                | 2025                 |  |
| 3.      | House, exterior: repairs/carpentry work and repainting of wood sheath    | ing 2030             |  |
| 4.      | House, exterior: tear-off, repairs/water proofing, and re-sheathing roof | 2030                 |  |
| 5.      | Maintenance: Termite inspections/mitigation                              | Annual inspection    |  |
| 6.      | Maintenance: Roof inspections and repairs as needed                      | Triannual inspection |  |
| 7.      | Maintenance: Paint inspection and repairs as needed                      | Triannual inspection |  |

# Mills Act rehabilitation and restoration plan includes:

### Work Plan 2024:

Stream-rock wall repairs and stabilization (\$27,000)

### Work Plan 2025:

Exterior repairs/repainting of wood-frame windows (\$25,000)

### Work Plan 2030:

Exterior repairs/carpentry work; repainting of wood sheathing (\$45,000) Exterior tear off, repairs/water proofing; re-sheathing the roof (\$25,000)

### Annual / Triannual Maintenance:

- Termite inspections/mitigation
- Roof inspections and repairs as needed
- Paint inspection and repairs as needed

The total cost of the proposed scope of work is \$122,000. The total tax savings for the owners is estimated at \$121,000.

### 917 Palm Avenue

#### **Criteria for Mills Act Contract**

**Financial investment**. Tax benefit would not exceed applicant's proposed financial investment.

**Public Benefit**. Work plan will provide a benefit to the public (rehabilitation for continued occupancy or reuse, systems and structural reinforcement upgrades, preserving, maintaining, restoring character-defining features).

**Retroactive Limitation**. Tax benefit will not be used for work that was previously completed or initiated.

Limitation on Maintenance. Tax benefit will not be used for routine maintenance work

**Limitations on Interior Work**. Tax benefit will not be used for interior work unless it is necessary for structural integrity, preservation, maintenance, restoration of character-defining features.

**Limitations on Landscaping**. Tax benefit will not be used for landscape unless for specific landscape features.

# **Cultural Heritage Commission Recommendation:**

The Cultural Heritage Commission recommends that the City Council enter into a Mills Act contract for 917 Palm Avenue.

## 917 Palm Avenue

# Thank you!



ITEM NO. 18

DATE: October 6, 2021

FROM: Armine Chaparyan, City Manager

PREPARED BY: Margaret Lin, Interim Director of Planning and Community Development

Marina Khrustaleva, Assistant Planner

SUBJECT: Project No. 2383-MIL - Approval of a Mills Act Contract for Property

Located at 1016 Orange Grove Avenue (Assessor's Parcel Number 5315-

019-037)

#### Recommendation

It is recommended that the City Council enter into a Mills Act contract with the property owners of 1016 Orange Grove Avenue, which is Historic Landmark No. 57.

#### **Executive Summary**

A Mills Act contract is an agreement between the City and the property owner. The contract requires that the property owner completes specific restoration and maintenance tasks, as submitted in the proposed restoration work plan. The proposed work plan is included as Exhibit C to the Mills Act contract. In return, for the duration of 10 years, the property owner receives a reduction in their property tax bill with the agreement that those property tax savings be reinvested into the property and fund the approved improvements.

On April 15, 2021, the Cultural Heritage Commission (CHC) reviewed the proposed Mills Act application and voted 4-0 recommending that the City Council enter into the Mills Act contract. The subject property qualifies for a Mills Act contract because it was designated as Historic Landmark No. 57 by the City Council on May 19, 2021.

#### Commission Review and Recommendation

In accordance to South Pasadena Municipal Code Chapter 2 Section 2.68 (B)(1)(c), the Cultural Heritage Commission recommended that the subject property be approved for a Mills Act contract with the City based upon the following required criteria:

- (i) Financial Investment. The estimated tax benefit is not expected to exceed the applicant's proposed financial investment in the cultural resource over the first 10 years of the contract.
  - The applicant is proposing to invest \$210,000 in repairs between 2022 and 2031. The tax benefit over the same period is expected to be \$126,000; therefore, Criterion i. is met.
- (ii) Public Benefit. The proposed Mills Act contract features a work plan that will provide a benefit to the public by: rehabilitating the property for continued occupancy or adaptive

reuse; improved viability through systems upgrades and structural reinforcement upgrades; preserving and maintaining the character-defining features of the property, and/or restoring character-defining features of the property that have been significantly altered or removed over time.

The work plan for this property includes structural retrofitting of stone foundation; repairs/in-kind replacement of original wood-framed windows, where needed; on back elevation, replacement of non-original aluminum-sliding windows with wood-framed windows; repairs or replacement of damaged roof beams and sagging roof line; associated repairs and reinforcement of roof system; repairs/refinishing of varied distinctive wood features, including horizontal wood sliding, vertical planks at the foundation and banding below roof-wall juncture, and wood shingles in gable apexes. As most of these features are visible from the public right of way (except for the stone foundation), a public benefit will be conferred by their repair/rehabilitation; therefore, Criterion ii. is met.

(iii) Retroactive Limitations. The estimated tax benefit will not be used for any maintenance or alteration work that was previously completed or initiated before the contract is approved, unless it can be shown that the completed work was necessary in the interest of the public health or safety following involuntary damage or destruction caused by fire, act of nature, or any other casualty.

The items on the proposed work plan are planned for the period 2023-2027. None of the estimated tax benefit will be used for any maintenance or alteration work that was previously completed or initiated before the contract is approved; therefore, Criterion iii. is met.

(iv) Limitations on Maintenance. The estimated tax benefit will not be used for routine maintenance work except for exemplary or exceptional properties that have financially burdensome maintenance requirements.

None of the work proposed for this property using the estimated tax benefits constitutes routine maintenance; therefore, Criterion iv. is met.

(v) Limitations on Interior Work. The estimated tax benefit will not be used for work within the interior of a cultural resource unless the commission determines the following exceptions should be made: the interior work is necessary to improve the structural integrity of the property; the interior work is necessary to preserve and maintain character-defining features within the cultural resource that are specifically identified as part of the official landmark nomination; and/or the interior work is necessary to preserve and maintain character-defining features of the property that were discovered subsequent to its landmark designation. The commission must first determine that those interior features are character-defining based on substantial evidence provided by the applicant.

All work proposed using the estimated tax benefit will occur on the exterior of the home, with the exception of the foundation retrofitting, which is necessary to improve the structural integrity of the property. No interior work is proposed; therefore, Criterion v. is met. (vi) Limitations on Landscaping. The estimated tax benefit will not be used for landscaping work unless it will be used for specific landscape features that were identified as part of the official landmark nomination.

No landscaping work is proposed using the estimated tax benefit; therefore, Criterion vi. is met.

Entering into the Mills Act contract will promote the City's Preservation Element of the General Plan, Section 5.5, Goal 6, Policy 6.3, "Encourage property owners to take advantage of the available financial incentives."

The Cultural Heritage Commission recommended approval of the Mills Act Contract.

The proposed Rehabilitation and Maintenance Work Plan is included as an Attachment to the staff report provided to the Cultural Heritage Commission, which is included here as Attachment 2.

#### **Fiscal Impact**

A Mills Act contract allows a tax reduction (between approximately 40% - 60%) for a property owner who agrees to perform certain restoration and maintenance tasks over a 10-year period. Although the City will see a reduction in property tax revenue (26% per Mills Act contracted property), the benefits of the program include economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

The total estimated cost to the City as a result of property tax reduction for this property is approximately \$32,870 over the first 10 years of the contract, which amounts to average of \$3,287 annually. It should be noted that the initial temporary loss of property tax revenue will be considerably offset through years of local property value appreciation due to the high standard maintained on these properties.

#### **Environmental Analysis**

This project is exempt from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15308, Class 8: Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

#### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### **Attachments:**

- 1. Mills Act contract
- 2. CHC Staff Report

# ATTACHMENT 1 Mills Act Contract

#### MILLS ACT CONTRACT

THIS CONTRACT ("Contract") is made and entered into this \_\_\_\_day of December 2021, by and between the CITY OF SOUTH PASADENA, CALIFORNIA, a municipal corporation ("City"), and Michael Klaus ("Owner").

#### **RECITALS**

- (i) California Government Code Section 50280 *et seq.*, authorizes cities to enter into contracts with the Owner of qualified historical property to provide for the use, maintenance, and restoration of such historical property so as to retain its characteristics as property of historical significance;
- (ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at 1016 Orange Grove Avenue, South Pasadena, California, Assessor's Parcel Number 5315-019-037 ("Historic Property"). A legal description of the Historic Property is attached hereto, marked as "Exhibit A" and is incorporated herein as if fully set forth;
- (iii) The Historic Property is Historic Landmark No. 57 designated on 5/19/2021, resolution attached hereto, marked "Exhibit B". It is known as the "Orange Grove Schoolhouse" and was originally built in 1885 and relocated to the current place in 1908. It represents the early years of South Pasadena's development; it belongs to a very limited stock of surviving civic properties from the 1880s; it is a fine example of the transitional Late Victorian/Craftsman architectural style. Overall, the Orange Grove Schoolhouse is significant by its character, interest and value as a part of the heritage of the community.
- (iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

- 1. EFFECTIVE DATE AND TERM. The Agreement shall be effective and commence on January 1, 2022 and shall remain in effect for a minimum period of ten (10) years, unless the property owner is issued a notice of non-renewal as provided in Section 2.68(b)(1)(E)(v) of the South Pasadena Municipal Code.
- 2. AUTOMATIC RENEWAL. Unless a notice of non-renewal is issued, this Agreement shall automatically be extended by one year for each anniversary date of the Agreement unless otherwise specified herein.

3. APPEAL OF NOTICE OF NON-RENEWAL. The property owner shall have the right (per Government Code Section 50282) to appeal a notice of non-renewal to the City Council.

#### 4. STANDARDS FOR HISTORIC PROPERTY.

- a. Owner shall rehabilitate, preserve and maintain the historically significant characteristics of the Historic Property. Attached hereto, marked as Exhibit "C" and incorporated herein by this reference is a list of those items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property and a timeline for completion, which shall apply to such property throughout the term of this agreement. Owner shall obtain approval from the Chair of the Cultural Heritage Commission prior to start of work of said items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property.
- b. Owner shall additionally and where necessary, restore and rehabilitate the property according to the rules and regulations of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the State Historic Building Code and shall maintain the entire property according to minimum standards and conditions, attached hereto, marked as Exhibit "D".
- 5. LIMITATIONS. Under Section 2.68(b)(1)(C)(iii)–(v), the estimated tax benefit will not be used for: (1) any maintenance or alteration work that was previously completed or initiated before the contract is approved, unless it can be shown that the completed work was necessary in the interest of the public health or safety following involuntary damage or destruction caused by fire, act of nature, or any other casualty; (2) routine maintenance work except for exemplary or exceptional properties that have financially burdensome maintenance requirements; (3) work within the interior of a Historic Property unless the Cultural Heritage Commission determines an exception should be made; and (4) landscaping work unless it will be used for specific landscape features that were identified as part of the official landmark nomination.
- 6. INSPECTIONS. The Owner shall allow reasonable inspections, by prior appointment given a minimum of at least 24 hours in advance, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Office of Historic Preservation, State Board of Equalization, and the City, as may be necessary to determine Owners' compliance with the terms and conditions of this agreement.
- 7. PROVISION OF COMPLIANCE INFORMATION. The owner hereby agrees to furnish the City with any and all information requested by the City which may be reasonable and necessary to determine compliance with the terms and provisions of this Agreement. In addition, the owner shall agree to provide to the City on the third anniversary date of this Agreement and every third year thereafter a report describing the preservation tasks that are in progress and have been completed pursuant to this Agreement.

- 8. NON-RENEWAL. If recommended by the Commission and approved by the City Council, a notice of non-renewal may be issued six (6) years into the duration of this Agreement. The procedure for notice of non-renewal by the owner or the City shall be in accordance with Government Code Section 50282 as it may be amended from time to time.
- 9. BINDING EFFECT OF CONTRACT. This Agreement shall be binding on all successors-in interest of the owner to the benefits and burdens of this Agreement. The contract shall stipulate escrow instructions that require a review and re-evaluation of the property every three years.
- 10. CANCELLATION. City following a duly noticed public hearing as set forth in California Code Section 50280 *et seq.*, may cancel this Agreement if City determines that the Owner has breached any of the conditions or covenants of the Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the significance criteria under which it was designated. City may also cancel this Agreement if it determines Owner has failed to restore or rehabilitate the Historic Property in the manner specified in Paragraph 4 of this Agreement. The City may also cancel this Agreement if, upon consultation with the State of California Office of Historic Preservation, the preservation, rehabilitation, or restoration becomes infeasible due to damage caused by natural disaster. City's right to cancel this Agreement pursuant to this paragraph shall in no way limit or restrict its rights or legal remedies arising from City's Cultural Heritage Ordinance and Municipal Code.
- 11. CANCELLATION FEE. In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Section 50280 et seq., described herein. Upon cancellation, Owner shall pay a cancellation fee equal to twelve and one-half percent (12.5%) of the current fair market value of the property as determined by the County Assessor as though the Historic Property were free of the contractual restriction pursuant to this Agreement. The Owner shall pay the cancellation fee to the County Auditor in the time and manner prescribed by the County Auditor.
- 12. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of the terms of this Agreement.

In the event of a breach by Owner under the provisions of this agreement, City shall give written notice to Owner by registered or certified mail to the address stated in this agreement, which notice shall specifically identify the alleged breach and the proposed action which City recommends to Owner to cure said alleged breach. Owner shall hereafter have sixty (60) days within which to cure such breach to the reasonable satisfaction of the City. Upon completion by Owner of the cure of the breach, City shall withdraw its notice of breach.

Should owner not cure such breach within the time period specified above, then City may, without further notice, declare a default under the terms of this agreement and may bring any action necessary to specifically enforce the obligations of Owner arising out of the terms of this agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief as may be appropriate. City may at its sole discretion extend the 60-day cure period. Such extension must be in writing.

- 13. WAIVER. City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in the City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
- 14. BINDING EFFECT OF AGREEMENT. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restriction as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restriction expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

15. NOTICE. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: City of South Pasadena

Director of Planning and Building

1414 Mission Street

South Pasadena, California 91030

Owner: Michael Klaus

1016 Orange Grove Avenue

South Pasadena, California 91030

- 16. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.
- 17. INDEMNITY OF CITY. Owner agrees to protect, defend, indemnify, and shall hold City and its elected officials, officers, agents, and employees harmless from liability for claims, loss, proceedings, damages, causes of action, liability, costs or expense, including reasonable attorney's fees in connection with damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of such Owner or those of its contractor, subcontractor, agent, employee or other person acting on its behalf which relate to the use, operation, capital improvement and maintenance of the Historic Property. Owner hereby agree to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.
- 18. BINDING UPON SUCCESSORS. All of the agreements, rights, covenants, reservations, and restrictions contained in the Agreement shall be binding upon and shall inure to benefit of the parties herein, their heirs, successors, legal representative, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.
- 19. LEGAL COSTS. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- 20. SEVERABILITY. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- 21. GOVERNING LAW. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- 22. EMINENT DOMAIN PROCEDURES. Upon the filing of an action in eminent domain by a public agency for the condemnation of the fee title of any land described herein or of less than fee interest which will present the portion of land condemned or other land or a portion of it which is the subject of this Agreement from being used for any authorized use, or upon the acquisition in lieu of eminent domain by a public agency for a public improvement, the portions of this Agreement by which Owner

agree to preserve and to restrict the use of property described herein shall be null and void upon such filing as to the portion of the land condemned or acquired and to the additional land the use of which for an authorized purpose will be prevented as a result of condemnation or acquisition.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency as to all or a portion of the land subject to the Agreement, the restrictions on the use of the property included in this Agreement shall, without further agreement of the parties, be re-instituted and the terms of this Agreement shall be in full force and effect.

- 23. RECORDATION. No later than thirty (30) days after the parties execute this Agreement, the Owner or Owner's agent shall record this Agreement in the Office of the County Recorder of the County of Los Angeles.
- 24. AMENDMENTS. This Agreement may be amended, in whole or in part, only by written-recorded instrument executed by the parties hereto.
- 25. NOTICE TO OFFICE OF HISTORIC PRESERVATION. The City shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of entering into this Agreement.

IN WITNESS THEREOF, City and Owner have executed this Agreement on the day and year first above written.

CITY OF COLITH DACADENIA

|                          | CILLOF SOUTH PASADENA |
|--------------------------|-----------------------|
| Date:                    | By:                   |
|                          | Diana Mahmud,         |
|                          | MAYOR                 |
| Attest:                  |                       |
|                          |                       |
| <u></u>                  |                       |
| Christina Munoz,         |                       |
| ACTING DEPUTY CITY CLERK |                       |
| Approved as to Form:     |                       |
| Andrew Jared,            |                       |
| CITY ATTORNEY            |                       |
| D.                       |                       |
| Date:                    |                       |
|                          |                       |
| Date:                    |                       |
|                          | Michael Klaus, Owner  |

### Exhibit "A"

Legal Description

### **Proof of Legal Description:**

### **EXHIBIT "A"**

#### Parcel 1:

The Northerly 67 feet of the Southerly 110 feet of Lot 11, 12, 13 and 14 of McCament Tract, in the City of South Pasadena, County of Los Angeles, State of California, as per Map recorded in Book 10, Page 31 of Maps, in the Office of the County Recorder of said County.

Excepting therefrom the Easterly 38 feet of Lot 14.

#### Parcel 2:

An easement for common driveway purposes over the Northerly 8 feet of the Southerly 118 feet of the Westerly 125 feet of Lots 11, 12 and 13 of that McCament Tract, as per Map recorded in Book 10, Page 31 of Maps, in the Office of the County Recorder of said County.

### Exhibit "B"

City Council Resolution for

Historic District Designation

#### CITY OF SOUTH PASADENA RESOLUTION NO. 7719

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DESIGNATING 1016 ORANGE GROVE AVENUE, KNOWN AS THE ORANGE GROVE SCHOOLHOUSE (LANDMARK NO. 57)

- **WHEREAS,** Section 2.62 of the South Pasadena Municipal Code, Ordinance No. 2315 ("Cultural Heritage Ordinance") authorizes the Cultural Heritage Commission ("the Commission") to recommend to the City Council the designation of appropriate properties as landmarks; and
- WHEREAS, on November 23, 2020, the Planning Division received a Landmark nomination report and request from the property owner's representative, Debi Howell-Ardila or the house located at 1016 Orange Grove Avenue, known as "Orange Grove Schoolhouse" (Assessor's Parcel Number 5315-019-037); and
- WHEREAS, on February 18, 2021, at the regularly scheduled Commission meeting, the Commission reviewed the request of Landmark designation and appointed the Landmark Subcommittee ("Subcommittee") of two Commission members; and
- **WHEREAS,** on February 25, 2021, the Subcommittee conducted a virtual site meeting with the homeowners to tour the property; and
- WHEREAS, on March 31, 2021, the Subcommittee formalized their findings and notified staff of their request to carry the Landmark nomination to the full Commission for the Commission's formal vote on the recommendation to City Council for designation; and
- **WHEREAS,** on April 15, 2021, the Commission formalized their recommendation to the City Council for designation of the Orange Grove Schoolhouse as a Historic Landmark by a vote of 4-0-1, one member absent; and
- **WHEREAS,** on May 19, 2021, the City Council of South Pasadena held duly noticed regularly scheduled meeting to provide a public hearing and received public testimony on the proposed Landmark Designation of the Orange Grove Schoolhouse located at 1016 Orange Grove Avenue.
- NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

#### SECTION 1. ENVIRONMENTAL REVIEW FINDINGS

The City Council has determined that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the "common sense"

C.C. Resolution No. 7719 Page **2** of **5** 

exemption," Section 15016(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be understood with certainty that there is no possibility that the designation of a historic landmark could have a significant effect on the environment, and therefore, is not subject to CEQA.

#### SECTION 2. DESIGNATION OF HISTORIC LANDMARK FINDINGS

Based on the evidence presented at the public hearing, on the evidence contained in the City Council staff report, the Cultural Heritage Commission staff report and associated attachments, and other records of proceedings, the City Council considered the applicable designation criteria contained in the Cultural Heritage Ordinance and makes the following findings, pursuant to SPMC Section 2.63(a)(2) for designation of the Orange Grove Schoolhouse located at 1016 Orange Grove Avenue:

# (A) That the designation of landmark or historic district is consistent with one or more of the purposes set forth in SPMC 2.58B; and

The designation of 1016 Orange Grove Avenue as the Historic Landmark is consistent with the purpose of the Cultural Heritage Ordinance for identification, protection, enhancement, and preservation of structures, sites, and areas that represent the City's heritage and character. As the Cultural Heritage Commission report states, the Orange Grove Schoolhouse represents one of the very few remaining city's civic buildings from the founding years. Over years, it had multiple uses and location such as its intended use as a school, an orphanage, a duplex, and a single family residence. Thus, the designation of the proposed Historic Landmark will help promote the City's sense of place as it will preserve, maintain, and safeguard the City's heritage and character, will reflect the phases of the City's history, and will foster pride in the ownership of the City's historic resources.

# (B) That the landmark or historic district meets one or more of the criteria for designation listed in subsection (b) of this section; and

The proposed Historic Landmark qualifies for designation under Criterion (1), "Its character, interest or value as a part of the heritage of the community." When the Orange Grove Schoolhouse was constructed in 1885, South Pasadena's School district was less than 10 years old. When the City of South Pasadena incorporated in 1888, the population was approximately 500. Two years later, the population had doubled in size. As stated in the Cultural Heritage Commission report, the Schoolhouse provided multiple uses for the city as it continued to grow. It served early settlers and families as a school as well as a gathering place for community events and meetings.

The lot currently occupied by the Orange Grove Schoolhouse originally formed part of the holdings of the San Gabriel Orange Growers Association. In 1906, the land was subdivided and platted as the McCament Tract, with narrow, residential-sized lots. Shortly after, four of these lots were joined for use by the South Pasadena School District, allowing the final relocation of the Schoolhouse for the use of the Boy's and Girl's Aid Society. Although the city continued to expand, the Orange Grove Schoolhouse remained one of South Pasadena's very few institutional

C.C. Resolution No. 7719 Page **3** of **5** 

properties.

# (C) That the landmark or historic district possesses historic integrity of location, design, setting, materials, workmanship, feeling, or association.

The proposed Historic Landmark possesses historic integrity of location, design, setting, materials, workmanship, and feeling. The Orange Grove Schoolhouse style elements represent transition from the Late Victorian to Craftsman style and can be clearly identified in the building. The building has a high-pitched hipped roof with clipped gable ends and shallow boxed eaves. The walls are clad with horizontal wood shiplap siding with wood corner-boards and coursed wood shingles in gable apexes. A partial length porch elevated on a wood staircase, with a shallow hipped roof with a clipped gable, simple wood posts, and low wood railing, adorns the front elevation. Single and paired wood windows with attenuated window frames are seen throughout all elevations. Underneath the windows and the porch, the façade is sheathed with vertical wood plank siding and diamond patterned wood screens. As decades passed, different uses required very minor alterations such as the removal of the school bell and Late Victorian-style roof tower, reconfiguration of primary entrance, and changes to some windows and doors. However, the extant building retains historic integrity and a majority of its character-defining features. Thus, the home is an excellent representative of the Late Victorian and Craftsman architectural style that clearly reflects the original use and design.

#### SECTION 3. ADDITIONAL FINDINGS FOR HISTORIC LANDMARK

In addition to the findings in Section 2 above, the City Council also makes the findings as required for designation of historic landmark pursuant to SPMC Section 2.63(a), based upon the recommendation of the Cultural Heritage Commission, that the proposed Historic Landmark qualifies for designation under criterion (1) of SPMC Section 2.63(b):

#### 1. Its character, interest or value as a part of the heritage of the community;

The Orange Grove Schoolhouse was originally constructed in 1885 and was designed by architects Clinton B. Ripley and Harry Ridgeway. It represents the transitional Late Victorian/Craftsman style that both were common in South Pasadena at the time it was constructed. The building was originally located on El Centro and Fairview Avenue, and was moved to El Centro Street and Pasadena Avenue (to the site of present-day Arroyo Vista Elementary School, then known as Lincoln Park School) in 1888. The Schoolhouse is a direct representation of the City's growing need for public facilities in the 1880s as the city expanded, it was simultaneously used for town meetings, church services and social gatherings. The building was used by the Boy's and Girl's Aid Society since 1908, when it was relocated to its current location, until 1918, when it was converted into residential use. As stated in the report, the Orange Grove Schoolhouse is a representation of the very few surviving civic properties from the 1880s period in South Pasadena.

C.C. Resolution No. 7719 Page **4** of **5** 

#### SECTION 4. RECORD OF PROCEEDING

The documents and other materials that constitute the record of the proceedings upon which the City Council's decision is based, which include, but are not limited to, the staff reports, as well as all materials that support the staff reports for the proposed designation, are located in the Planning and Building Department of the City of South Pasadena at 1414 Mission Street, South Pasadena, CA 91030. The custodian of these documents is the City Clerk of the City of South Pasadena.

#### **SECTION 5. DETERMINATION**

Based on the evidence presented in the staff report, testimony received during the public hearing, minutes, other records of proceeding, and its findings herein, the City Council hereby approves the designation of 1016 Orange Grove Avenue, known as the Orange Grove Schoolhouse, as official Historic Landmark Number 57.

#### SECTION 6. CERTIFICATION OF THE RESOLUTION

The City Clerk of the City of South Pasadena shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

#### SECTION 7. FILING WITH THE COUNTY CLERK

The City Council directs the City Clerk to file the appropriate designation with the office of the Los Angeles Registrar-Recorder/County Clerk.

**PASSED, APPROVED AND ADOPTED ON** this 19<sup>th</sup> day of May 2021.

Diana Mahmud, Mayor

Diana Mahmud, Mayor

Diana Mahmud, Mayor

**ATTEST:** 

APPROVED AS TO FORM:

-- DocuSigned by:

Lucie Colombo

---616DE6C4690140F.

Lucie Colombo, CMC, CPMC City Clerk (seal) -DocuSigned by:

tirisa Highsmith

Teresa L. Highsmith, City Attorney

C.C. Resolution No. 7719 Page 5 of 5

#### CITY OF SOUTH PASADENA CITY CLERK'S DIVISION

# CERTIFICATION OF RESOLUTION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF SOUTH PASADENA)
SS

I, Lucie Colombo, CMC, CPMC, City Clerk of the City of South Pasadena, do hereby certify that Resolution No. 7719, was duly and regularly approved and adopted at a Regular meeting of the City Council on this 19th day of May 2021, by the following votes as the same appears on file and of record in the Office of the City Clerk.

**AYES:** Donovan, Primuth, Zneimer, Cacciotti, and Mayor Mahmud

NOES: None
ABSENT: None
ABSTAIN: None

—DocuSigned by: Lucie Colombo

---616DE6C4690140F..

LUCIE COLOMBO, CMC, CPMC City Clerk

## Exhibit "A"

# State Department of Parks and Recreation Form 1016 Orange Grove Ave

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION PRIMARY RECORD

 Review Code

 Page 1 of 8
 Resource name(s) or a

Resource name(s) or number (assigned by recorder) Orange Grove Schoolhouse

P1. Other Identifier:

\*P2. Location: □Not for Publication ■Unrestricted

\*a. County Los Angeles County

Date:

\*b. USGS 7.5' Quad

Address 1016 Orange Grove Avenue

City South Pasadena Zip 91030

\*e. Other Locational Data: Assessor's Parcel Number 5315-019-037 E

**Other Listings** 

Block: Lot:

\*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries.)

Constructed in circa 1885, the Orange Grove Schoolhouse is a transitional Late Victorian/Craftsman style property originally used as one of South Pasadena's earliest public schoolhouses. This early institutional use is clearly reflected in the scale, setback, and character of the property. Roughly square in plan, the Orange Grove Schoolhouse is 1 1/2 stories in height and elevated on a concrete foundation. The building is capped with a prominent, relatively high-pitched, hipped roof with ridge line. Below the boxed roof eaves is a continuous band of thin, vertical wood planks. The exterior displays wood shiplap siding with simple wood corner-posts.

In terms of the property's Late Victorian-style elements, the mass and scale of the property, its high-pitched roof form, the roofline treatment (e.g., the use of shallow, boxed eaves instead of wide, sheltering eaves with extended rafter tails), along with attenuated window-frames and shapes, point to its late nineteenth-century date of construction. (In contrast, the Craftsman style emphasized the horizontal axis through low pitched roof, wide eaves with rafter tails, and more prominent window framing and treatment. The incorporation of wood horizontal siding and simple wood porch supports and features, reflect the Craftsman era of design.) (See Continuation Sheet, p. 3)

\*P3b. Resource Attributes: (list attributes and codes) HP2. Single-family Property

\*P4. Resources Present: ■Building □Structure □Object □Site □District □Element of District □Other



**P5b. Photo:** (view and date) Southwest elevation February 2021

\*P6. Date Constructed/Age and Sources: ■historic
1885 ca; California State Historic Resources Inventory

\*P7. Owner and Address: Michael Klaus 1016 Orange Grove Avenue South Pasadena, CA 91030

\*P8. Recorded by: Debi Howell-Ardila, MHP

\*P9. Date Recorded: April 3, 2021

\*P10. Survey Type: Intensive-level/landmark nomination

\*P11. Report Citation: (Cite survey

report and other sources, or enter "none"): South Pasadena Cultural Heritage Commission, Landmark/Historic District Nomination Form, 1016 Orange Grove Avenue, South Pasadena, prepared by Debi Howell-Ardila, MHP, South Pasadena

\*Attachments: □None □Location Map □Sketch Map □Continuation Sheet ■Building, Structure, and Object Record □Archaeological Record □District Record □Linear Feature Record □Milling Station Record □Rock Art Record □Artifact Record □Photograph Record □ Other (list)

DPR 523A (1/95) \*Required information

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION

Primary #\_ HRI#

### **BUILDING, STRUCTURE, AND OBJECT RECORD**

Page 2 of 8

\*CHR Status Code 5S

\*Resource Name or #: Orange Grove Schoolhouse

- B1. Historic Name: Orange Grove Schoolhouse
- B2. Common Name: 1016 Orange Grove Avenue
- B3. Original Use: Public schoolhouse B4. Present Use: Single-family Residence
- \*B5. Architectural Style: Transitional Late Victorian-Craftsman style
- \*B6. Construction History: (Construction date, alterations, and date of alterations): Constructed circa 1885

  Due to its early date of construction, a limited number of building permits are available for this property. According to available secondary sources and visual observation, the property was constructed in circa 1885. The building was originally located on El Centro (originally Center) Street and Fairview (originally Oak Hill) Avenue and relocated on two occasions: first, in circa 1888, to the site of present-day Arroyo Vista Elementary School (then known as Lincoln Park School), then to its present location in 1908. While the property does not occupy its original location, the character, setting, and feeling of its present setting are compatible with and similar to the original location on El Centro Street. Alterations include: interior remodel (including lowering ceilings from 12 to 10 feet) (date unknown); conversion of schoolhouse to use as a duplex and single-family residence (circa 1918); reconfiguration of primary entrance (prior to conversion of the schoolhouse to residential use, the entrance stairs were roughly centered on the façade rather than located on the north side; date unknown); removal of a Late Victorian-style roof tower and some ornamentation on the gables (date unknown); changes to window/door openings on front and rear elevation (date unknown); installation of aluminum-frame windows and a secondary entrance on rear elevation

\*B7. Moved? □No ■Yes □Unknown Date: Original Location: El Centro (Center) and Fairview (Oak Hill)

\*B8. Related Features: None

(date unknown)

B9a. Architect/Builder: Ripley & Ridgeway

b. Builder: Ripley & Ridgeway

\*B10. Significance: Context/Theme: "Town Settlement & Late 19<sup>th</sup> Century Development" Area: Institutional Dev.

Period of Significance: 1885-1918 Property Type: Single-family Residence Applicable Criteria: Landmark Criterion 1

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity)

The Orange Grove Schoolhouse is eligible for local Criterion 1 of the South Pasadena Cultural Heritage Ordinance. As a rare, surviving example of one of South Pasadena's first schoolhouses, from the City's founding years, 1016 Orange Grove Avenue has significant value and interest as part of the heritage of South Pasadena. Some alterations have been made over time, as the schoolhouse was converted to residential use in 1918. However, the extant building retains historic integrity and a majority of its character-defining features, including the large-scale lot, mass and scale, high/medium-pitched hipped and clipped gable roof, and attenuated window shapes/sizes reflecting the original institutional use and the transitional Late Victorian/Craftsman style.

B11. Additional Resource Attributes: (List attributes and codes) N/A

#### \*B12. References:

Apostol, Jane, 1987. "South Pasadena: A Centennial History" (South Pasadena Public Library)

California State Historical Resources Inventory

City of South Pasadena Building Permits

City of South Pasadena, 2014, Citywide Historic Context Statement

County of Los Angeles Public Works Dept, Land Records

Los Angeles County Tax Assessor Records

South Pasadena Public Library History Room Collection

Sanborn Fire Insurance Maps, South Pasadena, 1906–1950

South Pasadena Record, 1909, "The City Grammar Schools;" on file with South Pasadena Public Library History Room

South Pasadena Record, 18 February 1915, "Orange Grove School;" on file with South Pasadena Public Library History Room

South Pasadena Review, 1974, "History of SoPas Home Detailed;" on file with South Pasadena Public Library History Room

(This space reserved for official comments.)



B13. Remarks:

\*B14. Evaluator: Debi Howell-Ardila, MHP \*Date of Evaluation: November 2020

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET

Primary # HRI# Trinomial

Page 3 of 8 \*Resource Name or #: Orange Grove Schoolhouse, 1016 Orange Grove Avenue

\*Recorded by Debi Howell-Ardila, MHP \*Date: April 3, 2021 ⊠ Continuation □ Update

#### \*P3a. Description (continued):

On the west elevation, the primary façade features a partial-length porch, elevated on a wood staircase. The concrete porch is capped with a shallow hipped roof and projecting, clipped-gable wing on the south. Vertical wood planks, with a dark wood-colored stain, face the porch ceiling. Simple wood bargeboards trim the gable of the projecting wing; a simple square vent pierces the gable apex. The gable is faced with wood shingles. The porch roof rests on simple wood porch supports and beams. A low, wood-post railing frames the porch and entrance stairs.

The entrance consists of a simple wood door set in a wood frame. The entrance is flanked by paired wood-frame, one-over-one double-hung windows as well as two-over-two, wood-frame, double-hung lights. The window shape, as noted previously, is attenuated, with thin wood mullions dividing the lights. Below the front porch, vertical wood-plank siding, with diamond-patterned screens enclosed with wood frames, sheathes the elevated foundation of the property.

The side elevations (on the north and south) continue the materials and design of the façade, with a slightly projecting wing framed by corner-boards. Fenestration on the side elevations consists primarily of one-over-one wood-framed windows set in simple wood surrounds. As on the façade's projecting wing, the gable apex is faced with coursed wood shingles. Below the windows, walls are sheathed in vertical wood facing, accented with diamond-patterned wood planks.

Located along the northern elevation, a concrete driveway leads to a concrete-clad parking lot. The rear elevation continues the design of the façade, with walls primarily sheathed in shiplap wood siding, accented with wood corner-boards. Fenestration varies on this elevation, with a bank of attenuated, wood-framed windows along the southern portion of the elevation and some nonoriginal aluminum-frame sliders and lights. A raised back porch, framed with a simple wood-post railing, and secondary entrance are located on the back elevation. On the second story, the clipped gable apex displays a non-original wood-frame window. The basement is accessed via several concrete stairs on the rear elevation.

From the sidewalk, the property is accessed via a concrete walkway bisecting the lawn. Mature trees, including several palm trees in the rear parking lot, enhance the property. A small non-original sheltered trellis and table, with brick post supports and accents, are located in the southeastern corner of the property. Alterations to the property include a non-original garage door and tile paving of a portion of the entry path. In good repair, the residence is otherwise highly intact and enhanced by mature trees and landscaping.

#### P5b. Photo (continued): (view and date)

Overview of oversized-parcel, façade, and setting, west perspective



State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION

**CONTINUATION SHEET** 

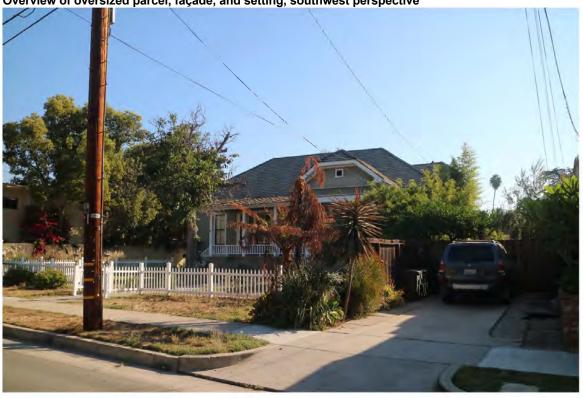
Primary # HRI# **Trinomial** 

\*Resource Name or #: Orange Grove Schoolhouse, 1016 Orange Grove Avenue Page 4 of 8

\*Recorded by Debi Howell-Ardila \*Date: 3 April 2021 □ Update

P5b. Photo (continued): (view and date)

Overview of oversized parcel, façade, and setting, southwest perspective



**Detail of entrance porch** 



State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION

**CONTINUATION SHEET** 

Primary # HRI# Trinomial

Page 5 of 8 \*Resource Name or #: Orange Grove Schoolhouse, 1016 Orange Grove Avenue

\*Recorded by Debi Howell-Ardila \*Date: 3 April 2021 ⊠ Continuation □ Update

P5b. Photo (continued): (view and date)







State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION **CONTINUATION SHEET** 

Primary # HRI#

**Trinomial** 

\*Resource Name or #: Orange Grove Schoolhouse, 1016 Orange Grove Avenue

\*Recorded by Debi Howell-Ardila \*Date: 3 April 2021 □ Update

P5b. Photo (continued): (view and date)



Detail of vertical-plank sheathing on foundation



State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION

CONTINUATION SHEET

Page 7 of 8 \*Resource Name or #: Orange Grove Schoolhouse, 1016 Orange Grove Avenue

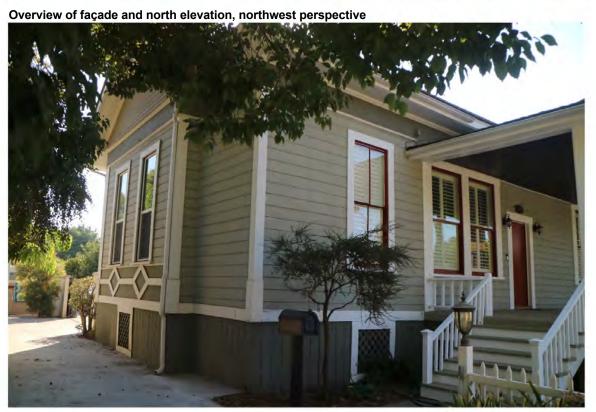
\*Recorded by Debi Howell-Ardila \*Date: 3 April 2021 ⊠ Continuation □ Update

Primary # HRI#

**Trinomial** 

P5b. Photo (continued): (view and date)





State of California — The Resources Agency **DEPARTMENT OF PARKS AND RECREATION** CONTINUATION SHEET

Primary # HRI#

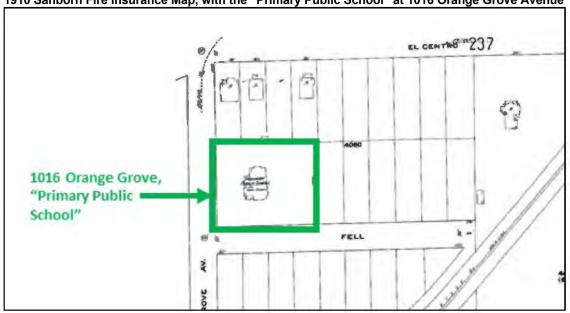
**Trinomial** 

\*Resource Name or #: Orange Grove Schoolhouse, 1016 Orange Grove Avenue Page 8 of 8

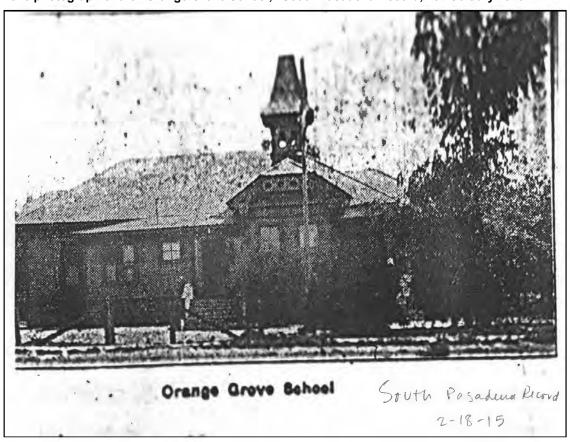
 □ Continuation \*Recorded by Debi Howell-Ardila \*Date: 3 April 2021 □ Update

P5b. Photo (continued): (view and date)

1910 Sanborn Fire Insurance Map, with the "Primary Public School" at 1016 Orange Grove Avenue



1915 photograph of the "Orange Grove School," South Pasadena Record, 18 February 1915



## Exhibit "C"

Restoration Work Plan

&

Financial Analysis



Mills Act Application | Orange Grove Schoolhouse 1016 Orange Grove Avenue, South Pasadena

## Prepared for:

City of South Pasadena Department of Planning and Building South Pasadena, CA 91030

## Prepared by:

Debi Howell-Ardila, MHP Michael Klaus

March 2021

## Mills Act Application, Orange Grove Schoolhouse

## 1016 Orange Grove Avenue, South Pasadena

## **Table of Contents**

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| 2     | Mills Act Work Plan, Schedule and Reporting System   | 4    |
| 3     | Description of Work Plan and Priorities  | 5    |
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|       | Appendix A: Photographic Overview of Existing Conditions  Appendix B: Owner's Letter of Intent   |      |
| А     | Appendix C: Supporting Documents  1. Legal Description  2. Annual Property Tax Statement  3. Utility Bill: Southern California Edison, Electric Bill  4. Utility Bill: SoCalGas, Gas Bill  5. Homeowner's Insurance Bill |      |

Appendix D: Mills Act Work Plan Matrix

6. Utility Bill: City of South Pasadena, Water Bill

## 1. Project Background

This Mills Act Historic Property Contract application is for the single-family residence at 1016 Orange Grove Avenue, South Pasadena (APN 5315-019-037). Constructed in circa 1885, 1016 Orange Grove Avenue is a transitional Late Victorian/Craftsmanstyle property constructed as one of South Pasadena's earliest public schoolhouses.

This early institutional use is still reflected in the property's scale/mass, setbacks, and overall character. Originally located on El Centro and Fairview Avenue, the small schoolhouse was moved to its current location in 1908.



The property has been in residential use since 1918.

According to South Pasadena historian Jane Apostol and documents on file with the South Pasadena Public Library History Room, the Orange Grove Schoolhouse was designed by Ripley and Ridgeway for a cost of \$1,550.1 The schoolhouse was used "not only for classes, but for town meetings, church services, and social gatherings. Soon after South Pasadena incorporated in 1888, voters passed bond issues to enlarge the Center Street schoolgrounds and put up a more substantial building."<sup>2</sup>

In 1908, following another bond measure for school construction, the Orange Grove Schoolhouse was moved to its present location, at 1016 Orange Grove Avenue, to serve as the Boys' and Girls' Aid Society.

The Orange Grove Schoolhouse is included in the California State Historic Resources Inventory with a "5S2" California Historic Resources Status Code (individually eligible for local listing through Section 106 SHPO concurrence) and the South Pasadena Inventory of Cultural Resources: with "5S3" California Historic Resources Status Code ("appears individually eligible for local listing through survey").

In late 2020, the property owner, Michael Klaus, with the help of local preservation specialist Debi Howell-Ardila, MHP, prepared a landmark nomination for the property for designation on the South Pasadena Register of Landmarks. The nomination is being considered by the Cultural Heritage Commission in tandem with this application.

In summary, as one of South Pasadena's earliest schoolhouses, the Orange Grove Schoolhouse represents the City's early growth and expansion in the founding years of the 1880s. In this era, settlement grew rapidly; when this property was constructed in 1885, it served not only as a schoolhouse but also as a civic space for gatherings and meetings. South Pasadena retains very few civic/institutional properties from the City's founding years. As such, 1016 Orange Grove Avenue represents one of South Pasadena's earliest and most intact 19<sup>th</sup>-century institutional properties.

<sup>&</sup>lt;sup>1</sup> Information and research assistance on the property's history as the Orange Grove Schoolhouse was provided by Ms. Olivia Radbill, City of South Pasadena Public Library, Local History Collection.

<sup>&</sup>lt;sup>2</sup> Apostol, Jane. 1987. "South Pasadena: A Centennial History" (South Pasadena Public Library).

As established in South Pasadena's *Citywide Historic Context Statement*, the Orange Grove Schoolhouse fits within the context, "Town Settlement and Late 19<sup>th</sup> Century Development (1870-1899)," under the theme of Institutional Development.

As described in the context statement, properties eligible under the context of Town Settlement and Late 19<sup>th</sup> Century Development:

represent early resources in the City's history that are associated with post-rancho settlement and the establishment of South Pasadena as a City. Resources eligible under this context may include buildings (residential, commercial, and industrial), along with landscape features and parks. There may also be remnant features such as retaining walls and outbuildings that have important associations with a building or site that is no longer extant.<sup>3</sup>

Given the rarity of properties reflecting this era in the City's history, eligibility standards and integrity thresholds established in the Citywide Historic Context Statement allow for a higher degree of alteration and relocation. As noted in the study's section on integrity considerations:

Properties from this period are rare and represent some of the earliest development in South Pasadena; therefore, a greater degree of alteration may be acceptable. ... Due to the importance and rarity of resources from this period, a property may remain eligible if it has been relocated. In general, relocated properties should retain their orientation and relationship to the street, along with sufficient architectural features to convey their significance.<sup>4</sup>

The Orange Grove Schoolhouse meets all of the eligibility standards included in the *Citywide Historic Context Statement* for eligibility under this context and theme.

In January 2021, the property owner filed a Letter of Intent to apply for the Mills Act. In February 2021, the Letter of Intent was discussed by the Cultural Heritage Commission (CHC) and subcommittee members, Chair Rebecca Thompson and Vice Chair Mark Gallatin, attended a remote site visit to tour the property and inspect the proposed Mills Act workplan items.

With the Orange Grove Schoolhouse over 135 years old, a number of critical preservation/rehabilitation and repair projects are needed for the property. The Mills Act property tax abatement would help the owner complete these projects and ensure the long-term preservation of this important property. The proposed Mills Act workplan priorities are:

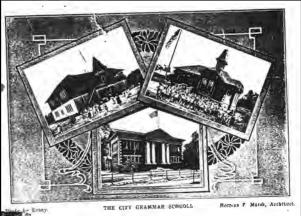
- 1. Seismic retrofitting of stone foundation;
- 2. For roof, repairs to/replacement of damaged roof beam/sagging roof line and associated repairs and reinforcement of roof system;
- 3. Repairs/in-kind replacement (where needed) of original wood-framed windows; on back elevation, replacement of non-original aluminum-sliding windows with wood-framed windows
- 4. For exterior of house, repairs/refinishing of varied, distinctive wood features, including horizontal wood siding, vertical planks at the foundation and banding below roof-wall juncture, and wood shingles in gable apexes.

Mills Act Application, Orange Grove Schoolhouse, 1016 Orange Grove Avenue Prepared by Debi Howell-Ardila, MHP

<sup>&</sup>lt;sup>3</sup> City of South Pasadena, Planning and Building Department. 2014. *South Pasadena Citywide Historic Context Statement*, p. 82.

<sup>&</sup>lt;sup>4</sup> City of South Pasadena, Planning and Building Department. 2014. *South Pasadena Citywide Historic Context Statement*, p. 86.





This application reflects all feedback and suggestions provided by the CHC to date, as well as all additional materials required by the City. Section 2 provides an overview of the application schedule and reporting system; Sections 3 and 4 present the Description of Work Plan and Priorities and the Financial Analysis.

Appendices include photographs (Appendix A), the original Letter of Intent (Appendix B), and documentation for the financial analysis (Appendix C). In addition, for ease of review by the City and CHC members, and for ease of use by the property owners as they begin implementing the plans, Appendix D provides an overview matrix showing all Mills Act workplan items, their status as character-defining features, recommended treatment approach, proposed schedule, and cost estimates.

As the owner of a distinctive and unique historic property, Mr. Klaus understands the importance of ensuring that all repair, maintenance and rehabilitation projects follow the City guidelines and the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. Each project, as well as the corresponding Standards-compliant treatment approach, is described in more detail in this application.

## 2. Schedule and Reporting System

| Proje | ct  | Completion Year      |  |  |  |
|-------|---|----------------------|--|--|--|
| 1.    | Seismic retrofitting of unfastened, stone foundation  | 2023                 |  |  |  |
| 2.    | Repairs/in-kind replacement of wood-framed windows; on back elevation, replacement of non-original aluminum-sliding window with wood-framed window  | 2023                 |  |  |  |
| 3.    | For roof, repairs to/replacement of damaged roof beam and associated repairs and reinforcement of roof system   | 2025                 |  |  |  |
| 4.    | Repairs/patching or in-kind replacement of wood exterior elements, including horizontal wood siding, vertical planks, wood shingles; resealing and repainting in period-appropriate palette; repairs/carpentry was a second or control of the control | 2027<br>vork         |  |  |  |
| 5.    | Maintenance: Termite inspections/mitigation   | Annual inspection    |  |  |  |
| 6.    | Maintenance: Roof inspections and repairs as needed   | Triannual inspection |  |  |  |
| 7.    | Maintenance: Paint inspection and repairs as needed   | Triannual inspection |  |  |  |

### **Noncapitalized Projects**

- Relocation of front steps to original location at center of house (to be based on documentary evidence and subject to Certificate of Appropriateness)
- 2. Correcting unpermitted renovations on upper story and updating assessment (previous owner disclosed to the current owner that some upstairs attic space was converted to upstairs bedrooms and living space on an unpermitted basis. No plans are available for any previous work. The current owner intends to submit design plans for approval, make changes to the unpermitted space to comply with building code, and correct the assessment)
- 3. Replacement/upgrade of antiquated sewer line

#### Reporting System

The property owner of 1016 Orange Grove Avenue will provide annual written updates to the City of South Pasadena in the final quarter of the year, documenting progress and providing updates and photographs on the Mills Act work plan.

Prior to commencement of work efforts, Certificates of Appropriateness (CoA) will be obtained by the property owners as required by the City of South Pasadena Cultural Heritage Ordinance for each project included in these plans. Progress reports will include detailed work descriptions, photographs of work completed, and copies of permits and CoAs/CHC guidance and input.

## 3. Description of Work Plan and Priorities

Work efforts described in these plans will comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

# Proposed Project & Description Est. Cost Priority 1. Structural Retrofitting \$65,000 High

The house will be structurally retrofitted according to industry standards and applicable building codes. A qualified contractor will reinforce elements in need of stabilization; stabilize and re-create positive base for unfastened structural posts.

#### Overview of basement and stream-rock structural foundation, existing conditions



### Section 3 Description of Work Plan and Priorities (continued)

#### **Proposed Project & Description**

Est. Cost

**Priority** 

#### 2. Roof system repairs/beam repairs

\$45,000

High

On the rear elevation, the roof line, to the right of the ridge line, shows signs of sagging. Repairs include evaluating structure of roof system and beams and making repairs and structural reinforcement where needed. Work will be planned to avoid any character-defining features. Should any character-defining features—such as details of roof eaves, fascia boards, or roof shape/form—be removed, destroyed, or obstructed in the repairs, those features will be replaced in-kind to match existing in appearance.

Secretary's Standards treatment approach for changes to roof include: identify, retain, and preserve "the functional and decorative features that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolas...chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning."

Overview of roof shape/form on rear elevation, existing conditions and repair issues; the area of sagging as shown on the exterior and interior appears in the lower left and right, respectively









### Section 3 Description of Work Plan and Priorities (continued)

#### **Proposed Project & Description**

Est. Cost

**Priority** 

3. Exterior walls, wood features and elements

\$75,000

Med/Low

The exterior includes a variety of character-defining wood features, including horizontal wood siding, vertical plank foundation sheathing, vertical plank banding, wood shingles in gable apexes, and wood framing and applied ornament. Some of the wood features are in need of repairs, carpentry work, and/or in-kind replacement and repainting. Some junctures between wood planks, in particular at house corners and near service boxes, show signs of deterioration. If needed, unstable wood planks will be re-fastened in an unobtrusive fashion and patched to match existing in all aspects of appearance. If necessary, any replacement of wood siding will be in-kind to match existing in materials, appearance/patterning, finishes/texture, and size/profile. Paint color to either match existing or reflect a period-appropriate palette.

Treatment approach will include the gentlest methods possible—contractors will not use power-washing or machine sanding for any character-defining features. Cracked and peeling paint to be removed with Peel Away, lightly hand-sanded, primed, and set with two coats of paint.

#### Overview of exterior wall wood features and elements, existing conditions and repair issues



### Section 3 Description of Work Plan and Priorities (continued)

#### **Proposed Project & Description**

Est. Cost

Priority

#### 4. Window repairs/rehabilitation

\$ 25,000

Low

Rehabilitation of historic windows to include (but not necessarily be limited to): repair of cracked/broken glazing; repair of non-operational double-hung windows, including replacement of missing sash cords where needed; re-weathering stripping/re-sealing where needed; window frames, surrounds and sills will be prepped and repainted in a period-appropriate palette.

Replacement of nonoriginal aluminum-frame window screens with wood-frame screens on east elevation.

Treatment approach will include the gentlest methods possible, for window removal, glazing repairs, and repainting—contractors will not use power-washing or machine sanding for any character-defining features. Gentlest means possible, including hand-sanding, will be used in prepping for repainting of the exterior. Work will be planned and directed by a contractor with experience in historic preservation.

#### Overview of original, wood-frame windows and wood (and aluminum) screens









## 4. Mills Act Work Plan, Financial Analysis

| Pr | oposed Project & Description   | Est. Cost  | Schedule |
|----|--|------------|----------|
| 1. | Structural Retrofitting  | \$65,000   | 2023     |
| 2. | Window rehabilitation; replacement of non-original aluminum frame windows  | \$25,000   | 2023     |
| 3. | Roof system repairs/roof beam reinforcement and repairs  | \$45,000   | 2025     |
| 4. | Exterior wood features (horizontal wood siding, vertical plank sheathing and banding, wood shingles and molding) | \$75,000   | 2027     |
| Тс | tal Investment in 1016 Orange Grove Avenue:  | \$ 210,000 |          |
| То | tal Tax Savings for Owners (10-year period)  | \$ 126,000 |          |
| A۱ | verage Annual Cost to the City of South Pasadena:  | \$ 3,287   |          |

## 4. Mills Act Work Plan, Financial Analysis, 1016 Orange Grove Avenue (con't)

| Property Address:<br>Type:<br>Landmark #:  | 1016 Orange Grove Ave, South Pasadena, California 91030<br>Single-family Residence<br>City of South Pasadena Register (Nomination Pending) |                    |                |                |                |                | Assessor's ID #: 5315-019-037<br>Current Assessed Value: \$ 1,450,000 |                |                |                |                |                 |                   |
|--|--|--------------------|----------------|----------------|----------------|----------------|---|----------------|----------------|----------------|----------------|-----------------|-------------------|
| REVENUES                                   | Annual<br>Increase   | Current Yr<br>2021 | Year 1<br>2022 | Year 2<br>2023 | Year 3<br>2024 | Year 4<br>2025 | Year 5<br>2026  | Year 6<br>2027 | Year 7<br>2028 | Year 8<br>2029 | Year 9<br>2030 | Year 10<br>2031 |                   |
| Monthly Revenues                           | ıncrease   | 6,000.00           | 6,180.00       | 6,365.40       | 6,556.36       | 6,753.05       | 6,955.64  | 7,164.31       | 7,379.24       | 7,600.62       | 7,828.64       | 8,063.50        |                   |
| 2. Annual Rental Income                    | 3.0%   | 72,000.00          | 74,160.00      | 76,384.80      | 78,676.34      | 81,036.63      | 83,467.73   | 85,971.77      | 88,550.92      | 91,207.45      | 93,943.67      | 96,761.98       |                   |
| ANNUAL EXPENSES                            |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| B. Insurance                               | 5.0%   | 2,065.00           | 2,168.25       | 2,276.66       | 2,390.50       | 2,510.02       | 2,635.52  | 2,767.30       | 2,905.66       | 3,050.95       | 3,203.49       | 3,363.67        |                   |
| I. Utilities                               | 6.0%   | 5,088.00           | 5,393.28       | 5,716.88       | 6,059.89       | 6,423.48       | 6,808.89  | 7,217.43       | 7,650.47       | 8,109.50       | 8,596.07       | ,               | Total Costs       |
| 5. Maintenance                             | 5.0%   | 15,950.00          | 16,747.50      | 17,584.88      | 18,464.12      | 19,387.32      | 20,356.69   | 21,374.53      | 22,443.25      | 23,565.41      | 24,743.69      | 25,980.87       | \$210,648.26      |
| 6/7. Management / Other                    | 5.5 76   | 0.00               | 10,7 .7.130    | 17,55          | 10,.012        | 13,307.132     | 20,000.00   | 22,5755        |                | 23,333.11      | 2.,3.03        | 23,300.07       | Ψ210/0 .3.20      |
| 3. Sum lines 3 through 7                   |  | \$23,103.00        | \$24,309.03    | \$25,578.41    | \$26,914.50    | \$28,320.83    | \$29,801.10   | \$31,359.25    | \$32,999.38    | \$34,725.86    | \$36,543.25    | \$38,456.37     |                   |
| ANNUAL NET INCOME                          |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| 9. Line 2 minus line 8                     |  | \$48,897.00        | \$49,850.97    | \$50,806.39    | \$51,761.84    | \$52,715.81    | \$53,666.63   | \$54,612.52    | \$55,551.53    | \$56,481.59    | \$57,400.42    | \$58,305.61     |                   |
| CAPITALIZATION RATE                        |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| LO. Interest Component                     | 4.75%  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| l 1. Historic Property Risk<br>Component   | 4.00%  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| l 2. Property Tax                          |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| Component                                  | 1.016%   |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| L3. Amortization                           |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| Component                                  | 1.20%  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| 14. Total Capitalization Rate              | 10.97%   |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| NEW ASSESSED VALUE                         |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| L5. Mills Act Assessment                   |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| (Line 9 divided by Line                    |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| 14)  |  | \$445,896.41       | \$456,152.02   | \$466,643.52   | \$477,376.32   | \$488,355.98   | \$499,588.16  | \$511,078.69   | \$522,833.50   | \$534,858.67   | \$547,160.42   | \$559,745.11    |                   |
| TAXES: AMOUNT TO BE                        |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| 16. Tax under Mills Act                    |  |                    |                |                |                |                |   |                |                |                |                |                 |                   |
| (Line 15 x .01035146)                      |  | 4,615.68           | 4,721.84       | 4,830.44       | 4,941.54       | 5,055.20       | 5,171.47  | 5,290.41       | 5,412.09       | 5,536.57       | 5,663.91       | 5,794.18        |                   |
| 17. Current Tax                            | 1.160%   | 16,820.00          | 17,015.11      | 17,212.49      | 17,412.15      | 17,614.13      | 17,818.46   | 18,025.15      | 18,234.24      | 18,445.76      | 18,659.73      | 18,876.18       | Total Tax Savings |
| 18. Tax Savings<br>(Line 17 minus line 16) |  | 12,204.32          | 12,293.27      | 12,382.05      | 12,470.61      | 12,558.94      | 12,646.99   | 12,734.74      | 12,822.15      | 12,909.19      | 12,995.82      | 13,082.00       | \$126,895.77      |
| TAXES: COST TO CITY                        |  |                    |                |                |                |                |   |                |                |                |                |                 | Annual Average    |
| 19. Annual Cost to City                    | 26%  | \$3,173.12         | \$3,196.25     | \$3,219.33     | \$3,242.36     | \$3,265.32     | \$3,288.22  | \$3,311.03     | \$3,333.76     | \$3,356.39     | \$3,378.91     | \$3,401.32      | \$3,287.82        |

## Appendix A

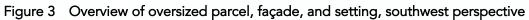
Photographic Overview





Figure 2 Overview of oversized-parcel, façade, and setting, west perspective





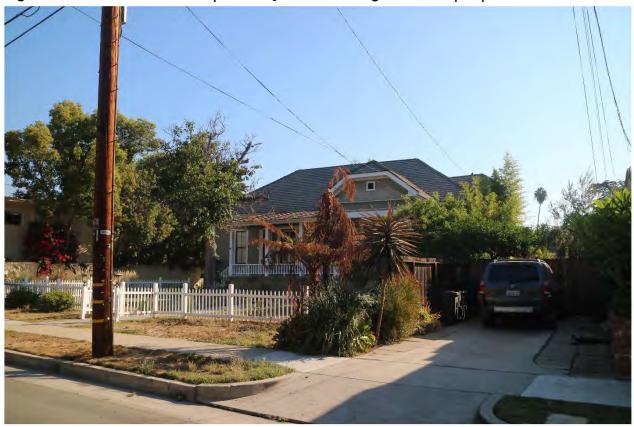


Figure 4 Concrete walkway and façade, west perspective



Figure 5 Detail of entrance porch



Figure 6 Detail of wood-plank ceiling, front porch

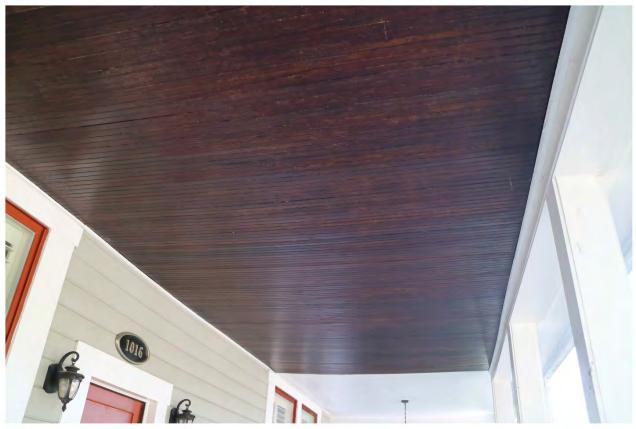




Figure 8 Detail of entrance porch supports, railing, and wood-sheathed foundation

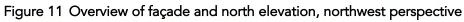






Figure 10 Overview of façade and entrance porch, northwest perspective





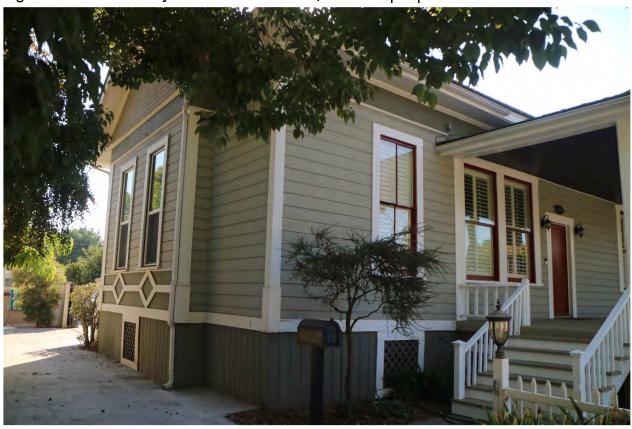


Figure 12 Detail of shallow boxed eaves and wrap-around vertical-plank band at roof line



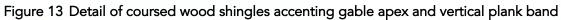




Figure 14 Detail of vertical plank sheathing and diamond-patterned accent, north elevation



Figure 15 Overview of rear elevation, northeast perspective



Figure 16 Detail of nonoriginal windows and wall openings, east elevation



Figure 17 Detail of steps and entrance to basement



Figure 18 Overview of rear elevation and parking lot, east perspective



Figure 19 Overview of secondary entrance, east (rear) elevation



Figure 20 Detail of attenuated, wood-framed two-over-two windows, east elevation

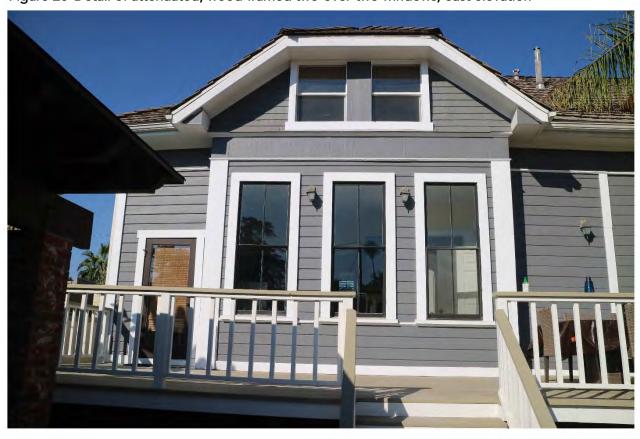


Figure 21 Overview of rear portion of property, landscaping, and wood and brick trellis



Figure 22 Overview of eastern border of property and parking lot



Tigate to the control of the control

Figure 23 Entrance to rear-elevation parking lot, northwest perspective

## Appendix B

Letter of Intent, January 2021

Michael Klaus 1016 Orange Grove Ave. South Pasadena, CA 91030 mklaus1@gmail.com

January 4, 2021

Cultural Heritage Commission
City of South Pasadena Planning and Building Department
1414 Mission Street
South Pasadena, CA 91030

Re: Mills Act Letter of Intent – 1016 Orange Grove Avenue

Dear Cultural Heritage Commission:

I am writing to express my interest in applying for the Mills Act for my home at 1016 Orange Grove Avenue, South Pasadena. The home is one of South Pasadena's original schoolhouses, and I am separately seeking a landmark designation for the home.

I purchased the home in August and have begun making a number of necessary repairs, some anticipated and many unanticipated (such as recent costly rodent proofing and plumbing repairs, following termite fumigation and wood repairs at the end of August). In my excitement to move to South Pasadena and become part of this community, I underestimated the extent of maintenance issues ahead of me on a 110-year old house, and support with the Mills Act would go a long way in ensuring that I can undertake all the projects that are needed to make the home safe for living and preserve an important part of South Pasadena's history.

As an example, one immediate project, which I have discussed with Nott & Associates, is retrofitting of the foundation. The current foundation is made of original stone masonry and lacks proper bracing and anchoring, and I would like to complete a proper seismic retrofitting to protect the architectural integrity of the house and minimize any further settlement. Other necessary upgrades include repairs to the exterior siding, replacement and repairs of the windows and repair or replacement of a roof beam.

Over time, I also plan to replace the fence in the front yard and improve the landscaping to retain the character and charm of this historic property.

Should the Cultural Heritage Commission approve my request to move forward with a Mills Act application, I would welcome the opportunity to show you the home and provide more information on the tasks that I have in mind for inclusion in the application.

Sincerely,

Michael Klaus

Well Kho

# Appendix C

## **Supporting Documents**

- 1. Legal Description of Property
- 2. Supplemental Property Tax Statement
- 3. Utility Bill: Southern California Edison, Electric Bill
- 4. Utility Bill: SoCalGas, Gas Bill
- 5. Homeowner's Insurance Bill
- 6. Utility Bill: City of South Pasadena, Water Bill

Direct No. 305-2052510-01

#### Exhibit "A"

#### Paircel I

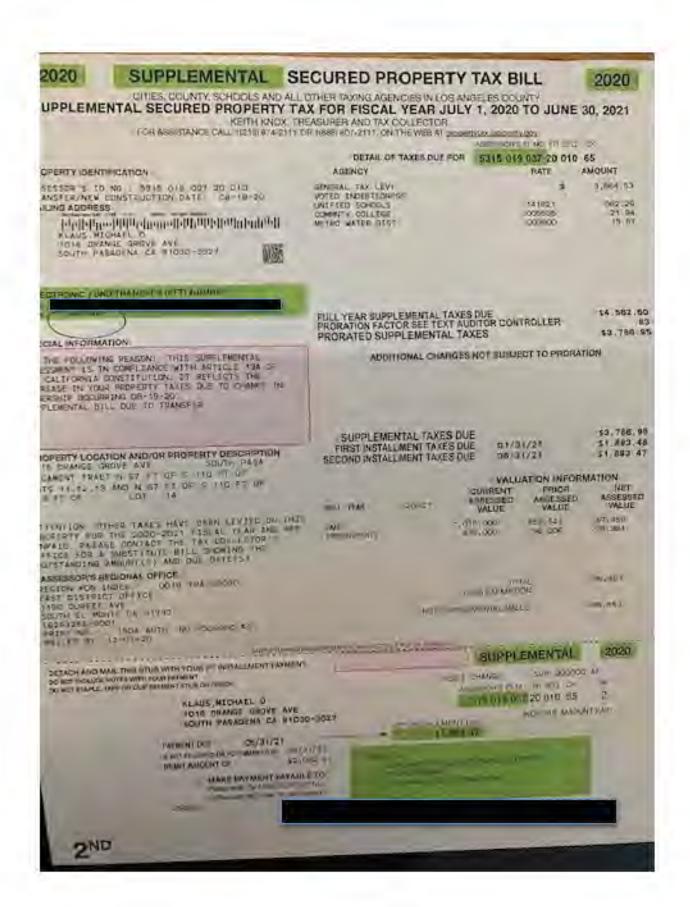
The Northerty 67 feet of the Southerty 110 feet of Lev 11, 12, 13 and 14 of McComent Tract, in the City of South Pasadama, County of Low Angeles, State of California, as per Map recorded in Rock 10, Page 11 of Maps, in the Office of the County Recorder of such County.

Excepting therefrom the Eutority 34 Juni of Lot 14.

#### Parcel 2

An easement for common driveway purposes over the Northerty II feet of the Southerty 118 feet of the Westerty 123 feet of Lots 11.

12 and 13 of that McCarrent Tract, as per Map recorded in Book 10, Page 21 of Maps, in the Office on the County Recorder of said County.





For billing and service inquiries 1-800-684-8123 www.sce.com

# Your electricity bill

KLAUS, MICHAEL / Page 1 of 8

Customer Account

Date bill prepared 03/02/21

Amount due \$103.37 Due by 03/22/21

1016 ORANGE GROVE AVE SOUTH PASADENA, CA 91030-3027

## Your account summary

| () | Total amount you owe by 03/22/21 | \$103.37  |
|----|----------------------------------|-----------|
|    | Your new charges                 | \$103.37  |
|    | Balance forward                  | \$0.00    |
|    | Payment Received 02/05/21        | -\$106.75 |
|    | Previous Balance                 | \$106.75  |
|    |                                  |           |

# Summary of your billing detail

| Service account | Service address                       | Billing period       | Your rate           | New charges |
|-----------------|---------------------------------------|----------------------|---------------------|-------------|
|                 | 1016 ORANGE GROVE AVE<br>S PASADE, CA | 01/26/21 to 02/25/21 | TOUD-4-9PM<br>(SCE) | \$68.24     |
| 0.000.000.70    | 1016 ORANGE GROVE AVE<br>S PASADE, CA | 01/26/21 to 02/25/21 | TOU-D-4             | \$35.13     |

\$103.37

# Things you should know

#### DIRECT PAYMENT INFORMATION.....

We will automatically debit the total amount due, \$103.37, from your checking account on or after 03/12/21. Your bank may place a hold on these funds prior to that date. Thank you!

#### Changes to DWR Bond Charge on your bill

As of October 1, 2020, the DWR Bond Charge is being collected to support California's Wildfire Fund. This charge is no longer being used to repay bonds issued by the California Department of Water Resources (DWR) to cover the costs of buying power during the 2001-02 energy crisis. For more information on this change, please visit sce.com/understandyourbill.

(14-574)

Tear here

If your contact information has changed please complete the form on the reverse side and return the stub below.

Tear here



Customer account 2-42-919-1661

Amount due by 03/22/21

\$103.37

We will automatically debit the total amount due \$103.37 from your checking account on or after 03/12/21. Your bank may place a hold on these funds prior to that date.

Thank you!

STMT 03022021 P4

KLAUS, MICHAEL 1016 ORANGE GROVE AVE SOUTH PASADENA, CA 91030-3027



ACCOUNT NUMBER SERVICE FOR
MICHAEL KLAUS
1016 ORANGE GROVE AVE
S PASADENA CA 91030-3027

DATE MAILED Feb 18, 2021 24 Hour Service

1-800-427-2200 English

1-800-342-4545 Español

1-800-252-0259 *TTY* socalgas.com

Page 1 of 2

Н

#### **Account Summary**

| Total Amount Due    |          |           | \$128.02 |
|---------------------|----------|-----------|----------|
| Current Charges     |          |           | + 128.02 |
| Payment Received    | 02/08/21 | THANK YOU | - 178.85 |
| Amount of Last Bill |          |           | \$178.85 |

### **Current Charges**

| Rate: GR - Residential |          |        | Clima        | te Zone:           | 1                  | Baselin | e Allowar  | ice: 56 Th          | erm             | S  |                 |
|------------------------|----------|--------|--------------|--------------------|--------------------|---------|------------|---------------------|-----------------|----|-----------------|
| Meter Numb             | er: 1314 | 1076   | 1 (Next sche | duled rea          | d date Ma          | ar 17   | 2021)      |                     | Cycle:          | 11 |                 |
| Billing Period         |          | Days   | Meter Number | Current<br>Reading | Previo<br>- Readir |         | Difference | Billing<br>x Factor | BTU<br>x Factor | =  | Total<br>Therms |
| 01/14/21 - 0           | 2/16/21  | 33     | 13140761     | 4962               | 4884               |         | 78         | 1.000               | 1.039           |    | 81              |
| GAS CHA                | RGES     |        |              |                    |                    |         |            |                     |                 |    | Amount(\$)      |
| Customer               | Charge   |        |              |                    | ;                  | 33 D    | ays x \$.  | 16438               |                 |    | 5.42            |
| Gas Servi              | ce (Deta | ails i | below)       |                    | 81 TI              | nern    | าร         |                     |                 |    |                 |
|                        | Baseline |        |              |                    | Over Basel         | ne      |            |                     |                 |    |                 |
| Therms used            | 56       |        |              |                    | 25                 |         |            |                     |                 |    |                 |
| Rate/Therm             | \$1.206  | 61     |              |                    | \$1.5972           | 0       |            |                     |                 |    |                 |
| Charge                 | \$67.57  |        |              | +                  | \$39.93            |         |            |                     | =               |    | 107.50          |

|         | Total Gas Charges \$112.92   |
|---------|--|
| CHARGES | and the second s |

| TAXES & FEES ON GAS CHARGES   |                      | Amount(\$) |
|-------------------------------|----------------------|------------|
| State Regulatory Fee          | 81 Therms x \$.00577 | .47        |
| Public Purpose Surcharge      | 81 Therms x \$.07037 | 5.70       |
| South Pasadena City Users Tax | \$119.09 x 7.50%     | 8.93       |

Total Taxes and Fees on Gas Charges \$15.10

Total Current Charges \$128.02

DATE DUE Mar 10, 2021

AMOUNT DUE \$128.02

#### Gas Usage History (Total Therms used)



|                       | Feb 20 | Jan 21 | Feb 21 |
|-----------------------|--------|--------|--------|
| Total Therms used     | 0      | 109    | 81     |
| Daily average Therms  | .0     | 3.6    | 2.5    |
| Days in billing cycle | 0      | 30     | 33     |

SoCalGas' gas commodity cost per therm for your billing period:

Feb. . . . . . \$.36766 Jan. . . . . . \$.39764

PLEASE KEEP THIS PORTION FOR YOUR RECORDS. (FAVOR DE GUARDAR ESTA PARTE PARA SUS REGISTROS.)
PLEASE RETURN THIS PORTION WITH YOUR PAYMENT. (FAVOR DE DEVOLVER ESTA PARTE CON SU PAGO.)

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT. (FAVOR DE DEVOLVER ESTA PARTE CON SU PAGO.)

SocalGas A Sempra Energy only

Save Paper & ACCOUNT NUMBER
Postage
PAY ONLINE

DATE DUE Mar 10, 2021

AMOUNT DUE \$128.02

Please enter amount enclosed.

CY 11 6527 0490 P

Write account number on check and make payable to SoCalGas.

MICHAEL KLAUS 1016 ORANGE GROVE AVE S PASADENA CA 91030-3027

SoCalGas PO BOX C MONTEREY PARK CA 91756-5111

#### Metropolitan Direct Property and Casualty Insurance Company Methite Auto & Home Platinum Homeowners Declarations

10/28/2020 ST 04

Premiums

\$ 2,013.00

1000

rest.i.

incl

14-00

.00

Policy Number: Policy Term: From 08/19/020 to 08/19/2021, 12:01 A.M. Standard Time: at the location of the property. insured as stated in the pulicy.

Named Insured: MICHAEL KLAUS. 1016 ORANGE GROVE AVE. SOUTH PASADENA CA 91010

Page 1 of 3 Change 05 Policy Change Effective Date: 10/28/2020

Bill To: Mortgagee

WELLS FARGO BANK NA 906 ISAOA PO BOX 100515 FLORENCE SC 29602

| Residence Premises: Named inst | red's Address Sirown Above. |
|--------------------------------|-----------------------------|
| Basic Policy Coverages         | Limits                      |
| A - Dwelling                   | \$ 427,511                  |

| W. Caroline                    | 4   | 421,311 |
|--------------------------------|-----|---------|
| B Private Structures           | 4   | 85,502  |
| C - Personal Property          | - 5 | 320,633 |
| F Personal Liability:          |     |         |
| Each Occurrence                |     | 500,000 |
| G - Medical Payments to Olives |     |         |
| Ench Person                    | 9   | 1,000   |
| Loss of Une                    | 1.4 | 128 253 |

Causes of Property Loss Comprehensive Penis

**Building Property Loss Settlement** Extended Limits Plus

Personal Property Loss Settlement Replacement Cost on Contents

Additional Coverages Ordinance or Law Limit 50% of Cov A Personal Injury Coverage

Back Up of Sewer, Drain and Sump Pump Covinsion \$10,000 Limit, \$1,000 Deductible Workers Compensation Coverage

Optional Coverages Schedule of Personal Property (See Attached)

Prior Annual Premium: \$ 2,065.00 Change in premium from 10/26/2020 through 05/19/2021: Current Annual Premium:

2,065.00

Deductible(s)

\$1000 deductible applies to each loss.

Forms and Endorsements: HP5100 0105 HR6100 0205 HF8000 0506

HP 1000 0902 HP7000 0902

HP2200.020S C117CA 0108 HP3500 0904 HADICA DIGS HP4320 0113 BOTO ACCEAH

STREET, STREET MFL 1380:003

SHOULD SHOW FROM



- MAKE A PAYMENT
- DISABLE AUTO-PAY
  DASHBOARD
  SERVICE
- BILLS/PAYMENTS
- ACCOUNT INFO
- CONTACT/FORMS
- LOGOUT

### City of South Pasadena - Customer Portal

### Bills/Payments

Account Number

Name

MICHAEL KLAUS

**CUSTOMER DEPOSIT Balance** 

Current Balance \$0.00

Open Deposit Charges \$0.00

\$200.00 Payment Due

02/11/2021

Make A Payment Disable Auto-Pay Customer Service

Date Description

Debit Credit

02/11/2021 Payment

https://southpasadena.secure.munibilling.com/customer\_portal\_bills\_payments

1/8

\$193.01

01/12/2021

View Bill Details

\$193.01

MAKE A PAYMENT
 DISABLE AUTO-PAY
 Description TOMER SERVICE

Read Dt

Begin End

Consumption

Water Base Charges R 01/06/2021

0

0

\$126.12

Water Consumption R 01/04/2021

4017 4020

3

\$9.99

Efficiency Fee 01/04/2021

4017 4020

3

\$0.42

Wastewater Basic Charge R

0

01/06/2021

0

 $https://southpasadena.secure.munibilling.com/customer\_portal\_bills\_payments$ 

2/8

# Appendix D

Mills Act Work Plan Matrix

# 10-Year Work Plan, 1016 Orange Grove Avenue, South Pasadena

Rehabilitation Treatment Approach: Standards and Guidelines\*

All work efforts will be guided by the rehabilitation treatment guidelines: (1) Identify, Retain, and Preserve; (2) Stabilize; (3) Protect and Maintain; (4) Repair; (5) Limited, In-Kind Replacement

| Feature / Issue  | Character-<br>Defining? | Condition / Repair  | Recommended Treatment / Standards Compliance   | Repair/<br>Maintenance<br>Schedule | Estimated Cost  |
|--|-------------------------|---|--|------------------------------------|---|
| 1. Structural Retrofitting (house is not currently structurally retrofitted) | No                      | Repairs:  *Reinforce elements in need of stabilization; stabilize and re-create positive base for unfastened structural posts   | Recommended rehabilitation treatment guidelines:  Repair according to industry standards and applicable building codes   | 2023                               | \$65,000  |
| 2. Windows   | Yes                     | Condition: Good (isolated repairs needed)  Repairs: (1) Rehabilitation of historic windows to include (but not necessarily be limited to): repair of cracked/broken glazing; repair of non-operational double-hung windows, including replacement of missing sash cords where needed; re-weathering stripping/re-sealing where needed; and repainting windows and window frames in period-appropriate palette  (2) Removal of nonoriginal aluminum-frame window screens with wood-frame screens along north elevation | Windows and their functional and decorative features shall be repaired according to the Secretary of the Interior's Standards for the Treatment of Historic Properties.  Recommended treatment guidelines:  1. Identify, retain, and preserve:  "Identifying, retaining, and preserving windowsand their functional and decorative featuresthat are important in defining the overall historic character of the building. Such features can include frames, sash, muntins, glazing, sills, heads, hoodmolds, panelled or decorated jambs and moldings, and interior and exterior shutters and blinds.  2. Stabilize:  "Stabilize:  "Stabilizing deteriorated or damaged windows as a preliminary measure, when necessary, prior to undertaking appropriate preservation work."  3. Protect and maintain:  "Protecting and maintaining the wood and architectural metals which comprise the window frame, sash, muntins, and surrounds through appropriate surface treatments such as cleaning, rust removal, limited paint | 2023                               | \$ 25,000  To be completed by contractor with experience in historic preservation |

<sup>\*</sup> Unless otherwise noted, all quoted material describing recommended treatment approaches is drawn from the Secretary of the Interior's Standards for the Treatment of Historic Properties, "Rehabilitation Treatment," US Department of the Interior, National Park Service, Washington, DC. Available at: http://www.nps.gov/history/hps/standguide.

| Feature / Issue           | Character-<br>Defining?  | Condition / Repair   | Recommended Treatment / Standards Compliance   | Repair/<br>Maintenance<br>Schedule | Estimated Cost   |
|---------------------------|--|--|--|------------------------------------|--|
|                           |  |  | <ul> <li>"Making windows weather tight by re-caulking and replacing or installing weather-stripping. These actions also improve thermal efficiency."</li> <li>4. Repair: <ul> <li>"Repairing window frames and sash by patching, piecing-in, consolidating or otherwise reinforcing them using recognized preservation methods. The new work should be unobtrusively dated to guide future research and treatment."</li> </ul> </li> <li>5. Limited Replacement In-Kind: <ul> <li>"Replacing in kind extensively deteriorated or missing parts of windows when there are surviving prototypes such as frames, sash, sills, glazing, and hoodmolds. The new work should match the old in material, design, color, and texture; and be unobtrusively dated to guide future research and treatment."</li> </ul> </li> </ul>   |                                    |  |
| 3. Roof System<br>Repairs | Yes (configuration, pitch, original ornamental details where extant); sheathed in nonoriginal composition shingles | Condition: Overall good (with some sagging in the rear elevation right of the ridge line)  Repairs: *Reinforce & repair roof system where needed, with focus on rearelevation beam and sagging areas of the roofline; any adjacent roof features or elements will be repaired/replaced in kind where needed following repairs to roof system | <ol> <li>Recommended rehabilitation treatment guidelines:</li> <li>Identify, retain, preserve:         Identify "the functional and decorative features that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolaschimneys, &amp; weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning."</li> <li>Repair:         "Repairing a roof by reinforcing the historic materials which comprise roof features. Repairs will also generally include the limited replacement in kindor with compatible substitute materialof those extensively deteriorated or missing parts of features when there are surviving prototypes."</li> <li>Replace:         "Replacing in kind an entire feature of the roof that is too deteriorated to repairif the overall form and detailing are still evidentusing the physical evidence as a model to reproduce the feature. Examples can include a large section of roofing, or a dormer or chimney. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered."</li> </ol> | 2025                               | \$45,000  To be completed by contractor with experience in historic preservation |

| Feature / Issue   | Character-<br>Defining? | Condition / Repair  | Recommended Treatment / Standards Compliance  | Repair/<br>Maintenance<br>Schedule | Estimated Cost  |
|---|-------------------------|---|---|------------------------------------|---|
| 4. Exterior wood features (horizontal wood siding, vertical plank foundation sheathing and banding, wood shingles in gable apexes, wood molding ornament) | Yes                     | Condition: Good/Fair  Repairs: Repairs/patching or in-kind replacement of areas of damaged and deteriorated wood siding; resealing and repainting in periodappropriate palette  | The exterior wood sheathing of the building will be repaired as necessary and repainted, according to the Secretary's Standards.  Recommended rehabilitation treatment guidelines:  1. Identify, retain, and preserve:     "Identifying, retaining/preserving wood features that are important in defining the historic character of the building such as siding, cornices, brackets, window architraves, and doorway pediments; and their paints, finishes, and colors."  2. Stabilize:     "Stabilizing deteriorated or damaged wood as a preliminary measure, when necessary, prior to undertaking appropriate preservation work."  3. Protect and Maintain:     "Retaining coatings such as paint that help protect the wood from moisture and ultraviolet light. Paint removal should be considered only where there is paint surface deterioration and as part of an overall maintenance program which involves repainting or applying other appropriate protective coatings. Inspecting painted wood surfaces to determine whether repainting is necessary or if cleaning is all that is required.  Removing damaged or deteriorated paint to the next sound layer using the gentlest method possible (hand-scraping and hand sanding), then repainting. Applying compatible paint coating systems following proper surface preparation.  Repainting with colors that are appropriate to the historic building Evaluating the overall condition of the wood to determine whether more than protection and maintenance are required, that is, if repairs to wood features will be necessary." | 2027                               | \$ 75,000  To be completed by contractor with experience in historic preservation |
|   |                         | 4. Repair:  "Repairing, stabilizing, and conserving fragile wood using well-tested consolidants, when appropriate. Repairs should be physically and visually compatible and identifiable upon close inspection for future research. Repairing wood features by patching, piecing-in, or otherwise reinforcing the wood using recognized preservation methods. The new work should be unobtrusively dated to guide future research and treatment." |   |                                    |   |

| Feature / Issue | Character-<br>Defining? | Condition / Repair | Recommended Treatment / Standards Compliance  | Repair/<br>Maintenance<br>Schedule | Estimated Cost |
|-----------------|-------------------------|--------------------|---|------------------------------------|----------------|
|                 |                         |                    | 5. Limited Replacement in Kind:  "Replacing in kind extensively deteriorated or missing parts of wood features when there are surviving prototypes such as brackets, molding, or sections of siding. New work should match the old in material, design, color, and texture; and be unobtrusively dated to guide future research and treatment." |                                    |                |
|                 |                         |                    | Not Recommended:  "Replacing an entire wood feature such as a column or stairway when limited replacement of deteriorated and missing parts is appropriate.   |                                    |                |
|                 |                         |                    | Using replacement material that does not match the historic wood feature; or failing to properly document the new work."  |                                    |                |

# Exhibit "D"

Standards of Rehabilitation

# The Secretary of the Interior

# Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and the environment.
- 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

# **ATTACHMENT 2**

April 15, 2021 Cultural Heritage Commission Staff Report (Click Here)

# **1016 Orange Grove Avenue**

2383-MIL

Mills Act Request

October 6, 2021

City of South Pasadena | City Council

# **PROJECT**

- Mills Act Contract Request for property located at 1016 Orange Grove Avenue.
- The property qualifies for the Mills Act incentive program as the landmark designation request was approved by City Council on May 19, 2021 (Historic Landmark # 57).



Built in 1885 - Orange Grove Schoolhouse

# 1016 Orange Grove Avenue 2383-MIL













# 1016 Orange Grove Avenue 2383-MIL

# **Criteria for Mills Act Contract**

**Financial investment**. Tax benefit would not exceed applicant's proposed financial investment

**Public Benefit**. Work plan will provide a benefit to the public (rehabilitation for continued occupancy or reuse, systems and structural reinforcement upgrades, preserving, maintaining, restoring character-defining features)

**Retroactive Limitation**. Tax benefit will not be used for work that was previously completed or initiated

Limitation on Maintenance. Tax benefit will not be used for routine maintenance work

**Limitations on Interior Work**. Tax benefit will not be used for interior work unless it is necessary for structural integrity, preservation, maintenance, restoration of character-defining features.

**Limitations on Landscaping**. Tax benefit will not be used for landscape unless for specific landscape features

| Project |    |  | Completion Year      |  |
|---------|----|--|----------------------|--|
|         | 1. | Seismic retrofitting of unfastened, stone foundation   | 2023                 |  |
|         | 2. | Repairs/in-kind replacement of wood-framed windows;<br>on back elevation, replacement of non-original aluminum-sliding<br>window with wood-framed window   | 2023                 |  |
|         | 3. | For roof, repairs to/replacement of damaged roof beam and associated repairs and reinforcement of roof system  | 2025                 |  |
|         | 4. | Repairs/patching or in-kind replacement of wood exterior elements, including horizontal wood siding, vertical planks, wood shingles; resealing and repainting in period-appropriate palette; repairs/carpentry | 2027<br>work         |  |
|         | 5. | Maintenance: Termite inspections/mitigation  | Annual inspection    |  |
|         | 6. | Maintenance: Roof inspections and repairs as needed  | Triannual inspection |  |
|         | 7. | Maintenance: Paint inspection and repairs as needed  | Triannual inspection |  |









# **Cultural Heritage Commission Recommendation:**

The Cultural Heritage Commission recommends that the City Council enter into a Mills Act contract for 1016 Orange Grove Avenue.

# Thank you



City Council Agenda Report

ITEM NO. 19

DATE: October 6, 2021

FROM: Armine Chaparyan, City Manager

PREPARED BY: Margaret Lin, Interim Director of Planning and Community Development

Marina Khrustaleva, Assistant Planner

SUBJECT: Project No. 2397-MIL - Approval of a Mills Act Contract for Property

Located at 807 Bank Street (Assessor's Parcel Number 5314-019-021)

#### Recommendation

It is recommended that the City Council enter into a Mills Act contract with the property owners of 807 Bank Street, which is Historic Landmark No. 56.

## **Executive Summary**

A Mills Act contract is an agreement between the City and the property owner. The contract requires that the property owner completes specific restoration and maintenance tasks, as submitted in the proposed restoration work plan. The proposed work plan is included as Exhibit C to the Mills Act contract. In return, for the duration of 10 years, the property owner receives a reduction in their property tax bill with the agreement that those property tax savings be reinvested into the property and fund the approved improvements.

On June 17, 2021, the Cultural Heritage Commission (CHC) reviewed the proposed Mills Act application and voted 4-0 recommending that the City Council enter into the Mills Act contract. The subject property qualifies for a Mills Act contract because it was designated as Historic Landmark No. 56 by the City Council on May 19, 2021.

#### **Commission Review and Recommendation**

In accordance to South Pasadena Municipal Code Chapter 2 Section 2.68 (B)(1)(c), the Cultural Heritage Commission recommended that the subject property be approved for a Mills Act contract with the City based upon the following required criteria:

- (i) Financial Investment. The estimated tax benefit is not expected to exceed the applicant's proposed financial investment in the cultural resource over the first 10 years of the contract.
  - The applicant is proposing to invest \$207,500 in repairs between 2022 and 2031. The tax benefit over the same period is expected to be \$157,915; therefore, Criterion i. is met.
- (ii) Public Benefit. The proposed Mills Act contract features a work plan that will provide a benefit to the public by: rehabilitating the property for continued occupancy or adaptive reuse; improved viability through systems upgrades and structural reinforcement upgrades;

City Council Agenda October 6, 2021

preserving and maintaining the character-defining features of the property, and/or restoring character-defining features of the property that have been significantly altered or removed over time.

With its hillside location, the residence shows signs of seismic instability and a failing retaining wall along the eastern elevation. The applicant proposes to develop a site stabilization and seismic retrofitting plan; re-point and flash brick fireplace chimney stack; remove non-character-defining composition shingles, repair/reinforce roof system, and install fire resistant wood-shake roof to restore this original character-defining feature, proving that Criterion ii. is met.

(iii) Retroactive Limitations. The estimated tax benefit will not be used for any maintenance or alteration work that was previously completed or initiated before the contract is approved, unless it can be shown that the completed work was necessary in the interest of the public health or safety following involuntary damage or destruction caused by fire, act of nature, or any other casualty.

The items on the proposed work plan are planned for the period 2022-2028. None of the estimated tax benefit will be used for any maintenance or alteration work that was previously completed or initiated before the contract is approved; therefore, Criterion iii. is met.

(iv) Limitations on Maintenance. The estimated tax benefit will not be used for routine maintenance work except for exemplary or exceptional properties that have financially burdensome maintenance requirements.

The cost of annual termite inspection and triannual roof and paint inspections is not included into overall scope of work; therefore, Criterion iv. is met.

(v) Limitations on Interior Work. The estimated tax benefit will not be used for work within the interior of a cultural resource unless the commission determines the following exceptions should be made: the interior work is necessary to improve the structural integrity of the property; the interior work is necessary to preserve and maintain character-defining features within the cultural resource that are specifically identified as part of the official landmark nomination; and/or the interior work is necessary to preserve and maintain character-defining features of the property that were discovered subsequent to its landmark designation. The commission must first determine that those interior features are character-defining based on substantial evidence provided by the applicant.

No interior work is proposed using the estimated tax benefit; therefore, Criterion v. is met.

(vi) Limitations on Landscaping. The estimated tax benefit will not be used for landscaping work unless it will be used for specific landscape features that were identified as part of the official landmark nomination.

No landscaping work is proposed using the estimated tax benefit; therefore, Criterion vi. is met.

City Council Agenda October 6, 2021

Entering into the Mills Act contract will promote the City's Preservation Element of the General Plan, Section 5.5, Goal 6, Policy 6.3, "Encourage property owners to take advantage of the available financial incentives."

The Cultural Heritage Commission recommended approval of the Mills Act Contract.

The proposed Rehabilitation and Maintenance Work Plan is included as an Attachment to the staff report provided to the Cultural Heritage Commission, which is included here as Attachment 2.

#### **Fiscal Impact**

A Mills Act contract allows a tax reduction (between approximately 40% - 60%) for a property owner who agrees to perform certain restoration and maintenance tasks over a 10-year period. Although the City will see a reduction in property tax revenue (26% per Mills Act contracted property), the benefits of the program include economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

The total estimated cost to the City as a result of property tax reduction for this property is approximately \$27,000 over the first 10 years of the contract, which amounts to average of \$2,700 annually. It should be noted that the initial temporary loss of property tax revenue will be considerably offset through years of local property value appreciation due to the high standard maintained on these properties.

## **Environmental Analysis**

This project is exempt from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15308, Class 8: Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

#### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

### **Attachments:**

- 1. Mills Act Contract
- 2. CHC Staff Report

# ATTACHMENT 1 Mills Act Contract

#### MILLS ACT CONTRACT

THIS CONTRACT ("Contract") is made and entered into this \_\_\_\_\_day of December 2021, by and between the CITY OF SOUTH PASADENA, CALIFORNIA, a municipal corporation ("City"), and Greg Hise and Lisa Padilla ("Owner").

#### **RECITALS**

- (i) California Government Code Section 50280 *et seq.*, authorizes cities to enter into contracts with the Owner of qualified historical property to provide for the use, maintenance, and restoration of such historical property so as to retain its characteristics as property of historical significance;
- (ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at 807 Bank Street, South Pasadena, California, Assessor's Parcel Number 5314-019-021 ("Historic Property"). A legal description of the Historic Property is attached hereto, marked as "Exhibit A" and is incorporated herein as if fully set forth;
- (iii) The Historic Property is Historic Landmark No. 56 designated on 5/19/2021, resolution attached hereto, marked "Exhibit B". It is known as the "Mary E. Sowards House"; it represents residential development in Southern California's first rising suburbs after the WWII era, the Modern Ranch architectural style, and the work of significant local architect Theodore Pletsch. The house embodies elements of outstanding attention to architectural design and detail. Overall, the Sowards House is significant by its character, as an exemplification of a particular architectural style, as the work of an architect whose work has influenced the heritage of the city and the state, and as an embodiment of elements of outstanding attention to architectural design, materials, and detail.
- (iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

1. EFFECTIVE DATE AND TERM. The Agreement shall be effective and commence on January 1, 2022 and shall remain in effect for a minimum period of ten (10) years, unless the property owner is issued a notice of non-renewal as provided in Section 2.68(b)(1)(E)(v) of the South Pasadena Municipal Code.

- 2. AUTOMATIC RENEWAL. Unless a notice of non-renewal is issued, this Agreement shall automatically be extended by one year for each anniversary date of the Agreement unless otherwise specified herein.
- 3. APPEAL OF NOTICE OF NON-RENEWAL. The property owner shall have the right (per Government Code Section 50282) to appeal a notice of non-renewal to the City Council.
  - 4. STANDARDS FOR HISTORIC PROPERTY.
  - a. Owner shall rehabilitate, preserve and maintain the historically significant characteristics of the Historic Property. Attached hereto, marked as Exhibit "C" and incorporated herein by this reference is a list of those items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property and a timeline for completion, which shall apply to such property throughout the term of this agreement. Owner shall obtain approval from the Chair of the Cultural Heritage Commission prior to start of work of said items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property.
  - b. Owner shall additionally and where necessary, restore and rehabilitate the property according to the rules and regulations of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the State Historic Building Code and shall maintain the entire property according to minimum standards and conditions, attached hereto, marked as Exhibit "D".
- 5. LIMITATIONS. Under Section 2.68(b)(1)(C)(iii)–(v), the estimated tax benefit will not be used for: (1) any maintenance or alteration work that was previously completed or initiated before the contract is approved, unless it can be shown that the completed work was necessary in the interest of the public health or safety following involuntary damage or destruction caused by fire, act of nature, or any other casualty; (2) routine maintenance work except for exemplary or exceptional properties that have financially burdensome maintenance requirements; (3) work within the interior of a Historic Property unless the Cultural Heritage Commission determines an exception should be made; and (4) landscaping work unless it will be used for specific landscape features that were identified as part of the official landmark nomination.
- 6. INSPECTIONS. The Owner shall allow reasonable inspections, by prior appointment given a minimum of at least 24 hours in advance, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Office of Historic Preservation, State Board of Equalization, and the City, as may be necessary to determine Owners' compliance with the terms and conditions of this agreement.
- 7. PROVISION OF COMPLIANCE INFORMATION. The owner hereby agrees to furnish the City with any and all information requested by the City which may be reasonable and necessary to determine compliance with the terms and provisions of this Agreement. In addition, the owner shall agree to provide to the City on the third anniversary date of this Agreement and every third year thereafter a report describing the

preservation tasks that are in progress and have been completed pursuant to this Agreement.

- 8. NON-RENEWAL. If recommended by the Commission and approved by the City Council, a notice of non-renewal may be issued six (6) years into the duration of this Agreement. The procedure for notice of non-renewal by the owner or the City shall be in accordance with Government Code Section 50282 as it may be amended from time to time.
- 9. BINDING EFFECT OF CONTRACT. This Agreement shall be binding on all successors-in interest of the owner to the benefits and burdens of this Agreement. The contract shall stipulate escrow instructions that require a review and re-evaluation of the property every three years.
- 10. CANCELLATION. City following a duly noticed public hearing as set forth in California Code Section 50280 *et seq.*, may cancel this Agreement if City determines that the Owner has breached any of the conditions or covenants of the Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the significance criteria under which it was designated. City may also cancel this Agreement if it determines Owner has failed to restore or rehabilitate the Historic Property in the manner specified in Paragraph 4 of this Agreement. The City may also cancel this Agreement if, upon consultation with the State of California Office of Historic Preservation, the preservation, rehabilitation, or restoration becomes infeasible due to damage caused by natural disaster. City's right to cancel this Agreement pursuant to this paragraph shall in no way limit or restrict its rights or legal remedies arising from City's Cultural Heritage Ordinance and Municipal Code.
- 11. CANCELLATION FEE. In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Section 50280 et seq., described herein. Upon cancellation, Owner shall pay a cancellation fee equal to twelve and one-half percent (12.5%) of the current fair market value of the property as determined by the County Assessor as though the Historic Property were free of the contractual restriction pursuant to this Agreement. The Owner shall pay the cancellation fee to the County Auditor in the time and manner prescribed by the County Auditor.
- 12. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of the terms of this Agreement.

In the event of a breach by Owner under the provisions of this agreement, City shall give written notice to Owner by registered or certified mail to the address stated in this agreement, which notice shall specifically identify the alleged breach and the proposed action which City recommends to Owner to cure said alleged breach. Owner shall hereafter have sixty (60) days within which to cure such breach to the reasonable

satisfaction of the City. Upon completion by Owner of the cure of the breach, City shall withdraw its notice of breach.

Should owner not cure such breach within the time period specified above, then City may, without further notice, declare a default under the terms of this agreement and may bring any action necessary to specifically enforce the obligations of Owner arising out of the terms of this agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief as may be appropriate. City may at its sole discretion extend the 60-day cure period. Such extension must be in writing.

- 13. WAIVER. City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in the City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.
- 14. BINDING EFFECT OF AGREEMENT. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restriction as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restriction expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

15. NOTICE. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: City of South Pasadena
Director of Planning and Building
1414 Mission Street
South Pasadena, California 91030

Owner: Greg Hise and Lisa Padilla

807 Bank Street

South Pasadena, California 91030

16. EFFECT OF AGREEMENT. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

- 17. INDEMNITY OF CITY. Owner agrees to protect, defend, indemnify, and shall hold City and its elected officials, officers, agents, and employees harmless from liability for claims, loss, proceedings, damages, causes of action, liability, costs or expense, including reasonable attorney's fees in connection with damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of such Owner or those of its contractor, subcontractor, agent, employee or other person acting on its behalf which relate to the use, operation, capital improvement and maintenance of the Historic Property. Owner hereby agree to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.
- 18. BINDING UPON SUCCESSORS. All of the agreements, rights, covenants, reservations, and restrictions contained in the Agreement shall be binding upon and shall inure to benefit of the parties herein, their heirs, successors, legal representative, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.
- 19. LEGAL COSTS. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- 20. SEVERABILITY. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- 21. GOVERNING LAW. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- 22. EMINENT DOMAIN PROCEDURES. Upon the filing of an action in eminent domain by a public agency for the condemnation of the fee title of any land described herein or of less than fee interest which will present the portion of land

condemned or other land or a portion of it which is the subject of this Agreement from being used for any authorized use, or upon the acquisition in lieu of eminent domain by a public agency for a public improvement, the portions of this Agreement by which Owner agree to preserve and to restrict the use of property described herein shall be null and void upon such filing as to the portion of the land condemned or acquired and to the additional land the use of which for an authorized purpose will be prevented as a result of condemnation or acquisition.

If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency as to all or a portion of the land subject to the Agreement, the restrictions on the use of the property included in this Agreement shall, without further agreement of the parties, be re-instituted and the terms of this Agreement shall be in full force and effect.

- 23. RECORDATION. No later than thirty (30) days after the parties execute this Agreement, the Owner or Owner's agent shall record this Agreement in the Office of the County Recorder of the County of Los Angeles.
- 24. AMENDMENTS. This Agreement may be amended, in whole or in part, only by written-recorded instrument executed by the parties hereto.
- 25. NOTICE TO OFFICE OF HISTORIC PRESERVATION. The City shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of entering into this Agreement.

IN WITNESS THEREOF, City and Owner have executed this Agreement on the day and year first above written.

CITY OF COLITII DAGADENIA

|                          | CITT OF SOUTH PASADE | INA |
|--------------------------|----------------------|-----|
| Date:                    | By:                  |     |
|                          | Diana Mahmud,        |     |
| Attact                   | MAYOR                |     |
| Attest:                  |                      |     |
|                          |                      |     |
| Christina Munoz,         |                      |     |
| ACTING DEPUTY CITY CLERK |                      |     |
| Approved as to Form:     |                      |     |
| Andrew Jared,            |                      |     |
| CITY ATTORNEY            |                      |     |
| CITTATIONNET             |                      |     |
| Date:                    |                      |     |

| Date: |                     |
|-------|---------------------|
|       | Greg Hise, Owner    |
| Date: |                     |
|       | Lisa Padilla, Owner |

# Exhibit "A"

Legal Description

# **Proof of Legal Description:**

## **EXHIBIT "A"**

PARCEL 1:

THAT PORTION OF LOT(S) 23 AND 24 OF TRACT NO. 14626, IN THE CITY OF SOUTH

PASADENA.

COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 308 PAGE(S) 5 AND 6 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT DISTANT SOUTH 72" 53" 37" EAST, A DISTANCE OF 42.20 FEET TO THE

MOST EASTERLY CORNER OF LOT 24; THENCE NORTH 43° 30' 00" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOT 23, A DISTANCE OF 63.23 FEET; THENCE SOUTH 46° 30' 00"

EAST, A DISTANCE OF 140.27 FEET, MORE OR LESS, TO A POINT IN THE SOUTHEASTERLY LINE OF

SAID LOT 23, DISTANT SOUTHWESTERLY THEREON, 20.29 FEET FROM THE MOST EASTERLY CORNER OF SAID LOT 23; THENCE SOUTH 52° 43' 00" WEST, ALONG SAID SOUTHEASTERLY LINE,

A DISTANCE OF 101.31 FEET; THENCE NORTH 46" 30" 00" WEST, A DISTANCE OF 144.78 FEET TO

THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR INGRESS AND EGRESS AND FOR DRIVEWAY AND PUBLIC UTILITY PURPOSES.

OVER THOSE PORTIONS OF LOT(S) 22 TO 24, INCLUSIVE OF TRACT NO. 14526, IN THE CITY

SOUTH PASADENA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP

IN BOOK 305 PAGE(S) 5 AND 6 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF

COUNTY, WITHIN THE LINES OF THAT CERTAIN COUNTY RECORDER OF SAID COUNTY, WITHIN

THE LINES OF THAT CERTAIN EASEMENT DESCRIBED IN THE DECLARATION OF EASEMENT, RECORDED ON APRIL 10, 1956 AS INSTRUMENT NO, 3664, IN BOOK 50844, PAGE(S) 310, OFFICIAL

RECORDS OF SAID COUNTY.

\*\*\*END OF LEGAL DESCRIPTION\*\*\*

# Exhibit "B"

City Council Resolution for

Historic District Designation

# CITY OF SOUTH PASADENA RESOLUTION NO. 7720

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DESIGNATING 807 BANK STREET, KNOWN AS THE MARY E. SOWARDS HOUSE, AS A HISTORIC LANDMARK (LANDMARK NO. 56)

**WHEREAS,** Section 2.62 of the South Pasadena Municipal Code, Ordinance No. 2315 ("Cultural Heritage Ordinance") authorizes the Cultural Heritage Commission ("the Commission") to recommend to the City Council the designation of appropriate properties as landmarks; and

WHEREAS, on June 11, 2020, the Planning Division received a Landmark nomination report and request from the property owners, Lisa Padilla and Greg Hise, for the house located at 807 Bank Street, known as the "Mary E. Sowards House" (Assessor's Parcel Number 5314-019-021); and

WHEREAS, on August 20, 2020, at the regularly scheduled Commission meeting, the Commission reviewed the request of Landmark designation and appointed the Landmark Subcommittee ("Subcommittee") of two Commission members; and

**WHEREAS,** on January 14, 2021, the Subcommittee conducted a virtual site meeting with the homeowners to tour the property; and

WHEREAS, on February 9, 2021, the Subcommittee formalized their findings and notified staff of their request to carry the Landmark nomination to the full Commission for the Commission's formal vote on the recommendation to City Council for designation; and

**WHEREAS,** on February 18, 2021, the Commission formalized their recommendation to the City Council for designation of the Mary E. Sowards House as a Historic Landmark by a vote of 4-0-1, one member absent; and

**WHEREAS,** on May 19, 2021, the City Council of South Pasadena held duly noticed regularly scheduled meeting to provide a public hearing and received public testimony on the proposed Landmark Designation of the Mary E. Sowards House located at 807 Bank Street.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

## SECTION 1. ENVIRONMENTAL REVIEW FINDINGS

The City Council has determined that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the "common sense exemption," Section 15016(b)(3), which states that CEQA applies only to projects which have

C.C. Resolution No. 7720 Page **2** of **6** 

the potential for causing a significant effect on the environment. It can be understood with certainty that there is no possibility that the designation of a historic landmark could have a significant effect on the environment, and therefore, is not subject to CEQA.

## SECTION 2. DESIGNATION OF HISTORIC LANDMARK FINDINGS

Based on the evidence presented at the public hearing, on the evidence contained in the City Council staff report, the Cultural Heritage Commission staff report and associated attachments, and other records of proceedings, the City Council considered the applicable designation criteria contained in the Cultural Heritage Ordinance and makes the following findings, pursuant to SPMC Section 2.63(a)(2) for designation of the Mary E. Sowards House located at 807 Bank Street:

# (A) That the designation of landmark or historic district is consistent with one or more of the purposes set forth in SPMC 2.58B; and

The designation of 807 Bank Street as the Historic Landmark is consistent with the purpose of the Cultural Heritage Ordinance for identification, protection, enhancement, and preservation of structures, sites, and areas that represent the City's heritage and character. The proposed Historic Landmark represents the post WWII residential development theme related to a higher demand for housing in Los Angeles County. At this period, architects started to build on hillside properties that were seen as expensive or undevelopable before. The Sowards House is located on a hillside and exemplifies the common mid-twentieth century Modern Ranch home. Thus, the designation of the proposed Historic Landmark will help promote the City's sense of place as it will preserve, maintain, and safeguard the City's heritage and character, will reflect the phases of the City's history, and will foster pride in the ownership of the City's historic resources.

# (B) That the landmark or historic district meets one or more of the criteria for designation listed in subsection (b) of this section; and

The proposed Historic Landmark qualifies for designation under Criteria (1), (4), (6), and (7). The home was constructed in 1959 and represents some of southern California's suburbs post WWII. The home characterizes Modern Ranch style of architecture that arose from 1935-1975. As stated in the historic resource evaluation report, "Authenticity of period (Mid-Twentieth Century Residential) and style (Modern Ranch) is evident in the "L" plan with wide street-facing façade, the structure's low, horizontal massing, the recessed entry with brick surround, an open interior plan, and fenestration that provides "privacy with a view." Mary Sowards was an admired educator of South Pasadena High School students and resided at the home until 1971. Architect Theodore Pletsch's (1901-1994) who designed the Sowards House established his practice in 1927 and practiced in Southern California for four decades, retiring in 1981. He built more than three hundred projects, the majority of them custom designed single-family residences for clients in Pasadena, San Marino, and South Pasadena. Overall, the Sowards House retains historic integrity and is a prime example of a Modern Ranch house with a high level of attention to materials and details.

C.C. Resolution No. 7720 Page **3** of **6** 

# (C) That the landmark or historic district possesses historic integrity of location, design, setting, materials, workmanship, feeling, or association.

The proposed Historic Landmark possesses historic integrity of location, design, setting, materials, workmanship, and feeling. Common Modern Ranch style character-defining features include wide overhangs, front entry located off center, asymmetrical façade, and large windows, and shutters. The architectural elements indefinable in the Sowards House include the floor to ceiling glass, folding wood shutters, "L" shape plan, overhang eaves with exposed and rounded rafter ends, and the recessed entry. The materials and workmanship can be seen in the board and batten siding, overhang eaves, interior ash paneling, in-pocket doors, and built-in cabinets. Thus, the Sowards House is an excellent representative of Modern Ranch architectural style, and reflects the mid-twentieth century design.

### SECTION 3. ADDITIONAL FINDINGS FOR HISTORIC LANDMARK

In addition to the findings in Section 2 above, the City Council also makes the findings as required for designation of historic landmark pursuant to SPMC Section 2.63(a), based upon the recommendation of the Cultural Heritage Commission, that the proposed Historic Landmark qualifies for designation under criteria (1), (4), (6), and (7) of SPMC Section 2.63(b):

## 1. Its character, interest or value as a part of the heritage of the community;

The Sowards House (1959) receives mention in historic surveys the City of South Pasadena commissioned in 2001 ("potential historic significance"), 2003 ("eligible for special consideration in local planning"), and 2007 ("appears to be individually eligible for local history or designation through survey evaluation"). In 2017 a citywide historic survey identified the period 1935-1970 as one of significance for historic status. Development of Bank Street and the district surrounding South Pasadena High School from a Spanish-Mexican era rancho to the post-conquest Hunt Tract is entwined with histories of pioneer residents including D.M. Graham and members of the Fletcher, Church, McNitt, and Wishart families. Client Mary Sowards was reportedly an admired and beloved educator of South Pasadena High School students. Architect Theodore Pletsch was commended widely as "the builder of San Marino" defined broadly to include South Pasadena and the western San Gabriel Valley.

## 4. Its exemplification of a particular architectural style of an era of history of the city;

The Modern Ranch style was one among a suite of mid-century styles associated with Southern California. Merchant builders adopted the "California Contemporary" for postwar tracts in residential suburbs on the edge of cities in the northeast and southwest. The Sowards House is representative of residential development in Southern California's first ring suburbs after WWII. An in migration of job seekers during the defense emergency, coupled with family formation after the WWII, heightened the demand for housing in Los Angeles County. Communities developed in an earlier era, like South Pasadena, had limited land for new construction (Monterey Hills and Raymond Hill were the exceptions). Mid-Twentieth Century residences are found in tracts of three to ten lots and as single dwellings that infill existing neighborhoods. In many cases these structures were constructed on hillside or hilltop lots previously viewed as

C.C. Resolution No. 7720 Page **4** of **6** 

unbuildable or too expensive to improve. The Sowards House is Modern in its open space planning, its unadorned construction, and the integration of indoor and outdoor spaces. It is Ranch-like in its elongated plan and horizontality, in the architect's use of textured materials and tactile finishes, in its handcrafted construction, and in its facilitation of casual living.

# 6. Its identification as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States;

As stated in the Landmark application, architect Theodore Pletsch (1901-1994) was trained at USC in the 1920s, established his practice in 1927, secured limited commissions during the 1930s depression, and then entered into a highly prolific four decades, retiring in 1981. Office records archived at the Pasadena Museum of History document more than three hundred projects, the majority custom designed single-family residences for clients in Pasadena, San Marino, and South Pasadena. Pletsch's work is associated with California.

# 7. Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;

According to the Landmark application, Authenticity of period (Mid-Twentieth Century Residential) and style (Modern Ranch) are evident in the "L" plan with wide street-facing façade, the structure's low, horizontal massing, the recessed entry with brick surround, an open interior plan, and fenestration that provides "privacy with a view." Integrity of materials and workmanship is manifested in board-and-batten siding, overhanging eaves with exposed and rounded rafter ends, interior ash paneling and built-in cabinets, a patio seating wall, and motor court planter beds of brick. Intactness of character defining features is apparent in floor-to-ceiling expanses of glass, in folding wood shutters that define activity zones, in pocket doors, and in period appliances original to the house.

#### SECTION 4. RECORD OF PROCEEDING

The documents and other materials that constitute the record of the proceedings upon which the City Council's decision is based, which include, but are not limited to, the staff reports, as well as all materials that support the staff reports for the proposed designation, are located in the Planning and Building Department of the City of South Pasadena at 1414 Mission Street, South Pasadena, CA 91030. The custodian of these documents is the City Clerk of the City of South Pasadena.

#### **SECTION 5. DETERMINATION**

Based on the evidence presented in the staff report, testimony received during the public hearing, minutes, other records of proceeding, and its findings herein, the City Council hereby approves the designation of 807 Bank Street, known as the Mary E. Sowards House, as official Historic Landmark Number 56.

C.C. Resolution No. 7720 Page **5** of **6** 

### SECTION 6. CERTIFICATION OF THE RESOLUTION

The City Clerk of the City of South Pasadena shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

### SECTION 7. FILING WITH THE COUNTY CLERK

The City Council directs the City Clerk to file the appropriate designation with the office of the Los Angeles Registrar-Recorder/County Clerk.

PASSED, APPROVED AND ADOPTED ON this 19<sup>th</sup> day of May 2021.

Diana Malmud, Mayor
38815312B7DE402...

Diana Mahmud, Mayor

**ATTEST:** 

**APPROVED AS TO FORM:** 

DocuSigned by:

Lucie Colombo

-616DE6C4690140F..

Lucie Colombo, CMC, CPMC City Clerk (seal) - DocuSigned by:

turisa Highismith —3657EFA936854DF...

Teresa L. Highsmith, City Attorney

C.C. Resolution No. 7720 Page **6** of **6** 

## CITY OF SOUTH PASADENA CITY CLERK'S DIVISION

# CERTIFICATION OF RESOLUTION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF SOUTH PASADENA)
SS

I, Lucie Colombo, CMC, CPMC, City Clerk of the City of South Pasadena, do hereby certify that Resolution No. 7720, was duly and regularly approved and adopted at a Regular meeting of the City Council on this 19th day of May 2021, by the following votes as the same appears on file and of record in the Office of the City Clerk.

**AYES:** Donovan, Primuth, Zneimer, Cacciotti, and Mayor Mahmud

NOES: None
ABSENT: None
ABSTAIN: None

---- DocuSigned by:

Lucie Colombo

---616DE6C4690140F..

LUCIE COLOMBO, CMC, CPMC City Clerk

# Exhibit "A"

# State Department of Parks and Recreation Form 807 Bank Avenue

| State of California (The Resources Agency | y Primary #                   |      |
|---|-------------------------------|------|
| DEPARTMENT OF PARKS AND RECREATI          | ON HRI #                      |      |
| PRIMARY RECORD                            | Trinomial<br>NRHP Status Code |      |
| Other Lis                                 | stings                        |      |
| Review C                                  | CodeReviewer                  | Date |

**Page** <u>1</u> of <u>12</u>

Resource name(s) or number (assigned by recorder) Mary E. Sowards House/807 Bank Street

P1. Other Identifier:

\*P2. Location: □Not for Publication ■Unrestricted

\*a. County Los Angeles County

Date:

\*b. USGS 7.5' Quad

\*c. Address 807 Bank Str

City South Pasadena

**Zip** 91030

\*c. Address 807 Bank Street

City

e. Other Locational Data: Assessor's Parcel Number 5314-019-021 Bl

Block: Lot:

\*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries.)

Constructed in 1959, 807 Bank Street is a distinctive, outstanding example of a Modern Ranch style residence in South Pasadena. Located on a small cul de sac off Bank Street, the property was designed by renowned local architect Theodore Pletsch and built by Gerald E. Murphy. Roughly L-shaped in plan, the residence is capped with a low-pitched, cross-gable roof terminating in wide overhanging eaves with exposed, rounded rafter tails. The façade displays an asymmetrical but balanced design composition, with an elaborated, central entrance sheathed in brick and elevated on a curved, low brick patio. Indoor-outdoor integration is enhanced at the entrance through Pletsch's use of a continuous, runner-like band of brick from the exterior through the interior foyer.

Along the L-shaped façade, the high ratio of solid walls, sheathed in rusticizing board-and-batten wood siding, reflects the Ranch House ideal of the inward-turned building plan. Small, rectangular windows provide fenestration on the façade, whereas on the north/east elevations, which face the San Gabriel Mountains, a wrap-around patio with generous expanses of fenestration, including aluminum-framed sliding sashes, doors, and picture windows, fully integrate the house into the site and landscaping. (See Continuation Sheet, p. 3)

\*P3b. Resource Attributes: (list attributes and codes) HP2. Single-family Property

\*P4. Resources Present: ■Building □Structure □Object □Site □District □Element of District □Other



**P5b. Photo:** (view and date) Southwest elevation February 2021

\*P6. Date Constructed/Age and Sources: ■historic 1959 (original drawings/plans)

\*P7. Owner and Address: Greg Hise, PhD, and Lisa Padilla 807 Bank Street South Pasadena, CA 91030

\***P8. Recorded by:** Debi Howell-Ardila, MHP

\*P9. Date Recorded: May 1, 2021

\*P10. Survey Type:

Intensive-level evaluation/landmark nomination

\*P11. Report Citation: (Cite survey report and other sources, or enter "none"): "City of South Pasadena City Landmark Nomination, Application Form, 807 Bank Street, South Pasadena," prepared by Greg Hise and Lisa Padilla, 6 February 2021; "Historic Resource Application, Sowards House, 807 Bank Street, South Pasadena," prepared by Greg Hise and Lisa Padilla, February 2021.

\*Attachments: □None □Location Map □Sketch Map ■Continuation Sheet ■Building, Structure, and Object Record □Archaeological Record □District Record □Linear Feature Record □Milling Station Record □Rock Art Record □Artifact Record □Photograph Record □ Other (list)

DPR 523A (1/95) \*Required information

State of California / The Resources Agency DEPARTMENT OF PARKS AND RECREATION

Primary #\_ HRI#\_

# BUILDING, STRUCTURE, AND OBJECT RECORD

Page 2 of 12

\*CHR Status Code\_5S

\*Resource Name or #: Mary E. Sowards House/807 Bank Street

B1. Historic Name: Mary E. Sowards House

B2. Common Name: 807 Bank Street

B3. Original Use: Single-family Residence B4. Present Use: Single-family Residence

\*B5. Architectural Style: Modern Ranch style

\*B6. Construction History: (Construction date, alterations, and date of alterations): Constructed 1959

According to the original plans and building records on file with the City of South Pasadena, 807 Bank Street was constructed in 1959 for Mary E. Sowards. The following list of alterations/modifications of the property was drawn from available building permits and original drawings:

\*Original open-air porch on eastern portion of northeast elevation screened (date unknown)

- \*Storage shed in garage relocated (date unknown); original drawings show a tool/storage area in different location
- \*Nonoriginal garage door (date unknown); the original period design door replaced with standard metal unit
- \*Two nonoriginal, low, square brick pillars added to entrance porch (date unknown)
- \*Original lanterns removed (date unknown);
- \*Bathroom remodel (2020); damaged shower pan/tile, sink counter & fixtures were replaced and upgraded
- \*Miscellaneous repairs or replacement (dates vary) per building permit records

| *B7. | Moved? ■No | □Yes | □Unknown | Date: | _Original Location: |  |
|------|------------|------|----------|-------|---------------------|--|
|------|------------|------|----------|-------|---------------------|--|

\*B8. Related Features: None

B9a. Architect/Builder: Theodore Pletsch b. Builder: Gerald E. Murphy

\*B10. Significance: Context/Theme: Architecture & Design/Post-World War II Modernism/ Regional Modernism

Period of Significance: 1959 Property Type: Single-family Residence Applicable Criteria: South Pasadena Criteria 4 & 7

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity)

The Mary E. Sowards House is a distinctive, outstanding, and highly intact example of a Modern Ranch style residence in South Pasadena. The property meets the City's criteria for landmark eligibility under Local Criterion 4 ("Its exemplification of a particular architectural style of an era of history in the city") and Criterion 7 ("Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, materials or craftsmanship"). As defined in the South Pasadena Citywide Historic Context Statement, the Sowards House meets these criteria under the context, "Architecture & Design," theme "Post-World War II Modernism/ Regional Modernism," and subtheme "Ranch style." The home displays the character-defining features of the Modern Ranch variant described in the South Pasadena Citywide Historic Context Statement.

At the time of the property's construction, in 1959, South Pasadena's many communities and neighborhoods were largely developed; as of 2021, a majority of the city's extant housing stock still dates to the pre-World War II era. In this way, the Sowards House stands out as a distinctive, highly intact, and custom-built Modern Ranch house that is relatively uncommon in South Pasadena. With very few exterior or interior alterations, the property retains historic integrity in all seven areas: location, design, setting, workmanship, materials, association, and feeling. (Continued on

B11. Additional Resource Attributes: (List attributes and codes) N/A

### \*B12. References:

Continuation Sheet, p. 12)

City of South Pasadena City Directories and Building Permits; County of Los Angeles Public Works Dept, Land Records (see Continuation Sheet, page 12)

B13. Remarks:

\*B14. Evaluator: Debi Howell-Ardila, MHP

\*Date of Evaluation: May 2021

(This space reserved for official comments.)

Sketch Map (Los Angeles County Tax Assessor Property Information Map)



DPR 523B (1/95) \*Required information

State of California (The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET

Primary # HRI# **Trinomial** 

Page 3 of 12 \*Recorded by Debi Howell-Ardila, MHP \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Date: May 1, 2021

□ Update

#### \*P3a. Description (continued):

The residence is perched atop a hillside site with irregular topography. The south/west elevations face an asphalt driveway and cul de sac off Bank Street, at street level; the north/east elevations are elevated above street level. Along the north elevation, a full-length wood deck is raised on wood post supports, with hardscaping and landscaping below. A concrete retaining wall, which is failing in areas due to site settlement issues, forms the property boundary along the east elevation. Side elevations mirror the overall design of the home, with walls sheathed in wood board-and-batten siding and smooth stucco.

Alterations include the removal and replacement of the original shake roof and garage door, the addition of two low, square brick pillars flanking the entrance, and screening of an original open patio on the rear elevation. The home is otherwise highly intact on the exterior and interior, which retains original, distinctive built-in cabinetry/book shelves, wall sheathing, folding wood shutters, and wood and brick flooring, among other features. In good repair, the house is further enhanced by mature trees and landscaping.

Figure 1 Neighborhood context, showing 807 Bank Street cul de sac, west perspective



State of California (The Resources Agency **DEPARTMENT OF PARKS AND RECREATION** CONTINUATION SHEET

Primary # HRI#

**Trinomial** 

Page 4 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: 1 May 2021

□ Continuation

□ Update

Figure 2 Site context, 807 Bank Street, hillside parcel and driveway; photo shows west elevation, with nested side-gable, and north elevation, with elevated full-length deck; this Modern Ranch-style residence exhibits a skillful site-specific design and high degree of indoor-outdoor integration



Detail, west elevation, with board-and-batten siding, low-pitched roof with wide overhanging eaves and exposed rafter tails, framed by stepped brick wall and stream rocks



State of California ( The Resources Agency **DEPARTMENT OF PARKS AND RECREATION** CONTINUATION SHEET

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 □ Continuation □ Update

Figure 4 Motor court and façade, facing south and west, with low-pitched, cross-gable roof, L-shaped plan, and use of rusticizing materials such as board-and-batten siding and brick



Figure 5 Detail of façade and entrance patio, with low, curved brick patio, at southwest corner



State of California (The Resources Agency DEPARTMENT OF PARKS AND RECREATION

CONTINUATION SHEET

Primary # HRI# Trinomial

Page 6 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: May 1, 2021

Figure 6 Detail of façade's south-facing wing, with board-and-batten sheathing, minimal fenestration, and brick detailing at entrance



Figure 7 Detail of façade's west-facing wing, with attached garage; alterations include the garage door and low brick pier in lower right; the residence is otherwise largely unaltered



State of California ( The Resources Agency DEPARTMENT OF PARKS AND RECREATION

CONTINUATION SHEET

Primary # HRI# Trinomial

Page 7 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: May 1, 2021

Figure 8 East elevation overview, showing low-pitched roof, wide, sheltering eaves, and high degree of indooroutdoor integration on rear elevation of house



Figure 9 Detail, east elevation porch, with sliding glass doors, wrap-around picture windows, and brick pavers curved to accommodate a mature tree



State of California ( The Resources Agency **DEPARTMENT OF PARKS AND RECREATION** CONTINUATION SHEET

Primary # HRI#

**Trinomial** 

Page 8 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: May 1, 2021

 □ Continuation □ Update

Figure 10 North elevation, overview of elevated, full-length wood deck and indoor-outdoor connections

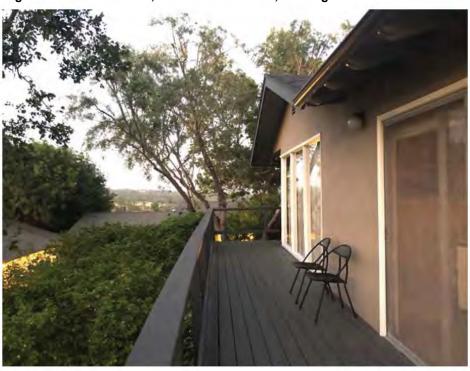


Figure 11 North elevation; interior spaces easily connect to the outdoors through elevated, full-length wood deck



State of California (The Resources Agency **DEPARTMENT OF PARKS AND RECREATION** CONTINUATION SHEET

Primary # HRI#

**Trinomial** 

Page 9 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: May 1, 2021

 □ Continuation □ Update

Figure 12 Detail of side gate at southeast corner of property; chain-link fence marks location of the steep hillside descent at the property boundary



Figure 13 Detail of 807 Bank Street's hillside topography and parcel boundary; photo shows edge of retaining wall and site stabilization issues



State of California (The Resources Agency **DEPARTMENT OF PARKS AND RECREATION** 

CONTINUATION SHEET

Primary # HRI# **Trinomial** 

Page 10 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP

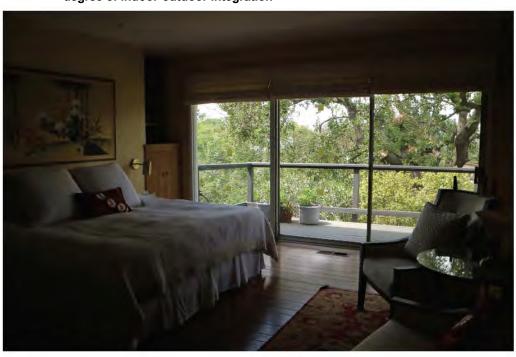
\*Date: May 1, 2021

 □ Continuation □ Update

Figure 14 Interior, foyer. The home's high degree of indoor-outdoor integration is enhanced through the lack of a raised entrance threshold and runner-like band of patterned brick, creating a continuous line from the low, curved entrance patio through the foyer



Figure 15 Interior, detail. Master suite opens onto elevated, full-length deck on north elevation, allowing for high degree of indoor-outdoor integration



State of California (The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET

Primary # HRI#

Trinomial

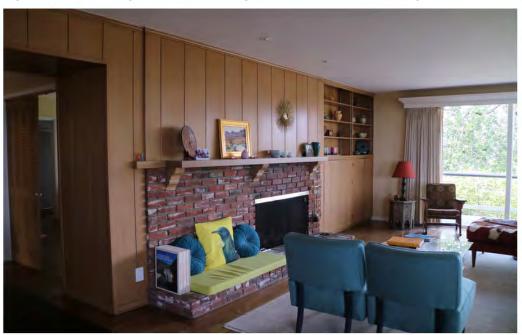
Page 11 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: May 1, 2021

 $oxed{oxed}$  Continuation  $oxed{\Box}$  Update

Figure 16 Interior, original built-in shelving, folding wood shutters, and cabinetry



Figure 17 Interior, original built-in shelving, fireplace, and wood paneling



State of California (The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET

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Page 12 of 12 \*Resource Name or #: Mary E. Sowards House/807 Bank Street \*Recorded by Debi Howell-Ardila, MHP \*Date: 1 May 2021

□ Update

#### \*B10. Significance (continued):

As noted in the accompanying nomination ("City of South Pasadena City Landmark Nomination, Application Form, 807 Bank Street, South Pasadena"), the Mary E. Sowards House represents

a prime example of the Modern Ranch, a style of residential design that came to the fore in southern California in the post-WWII era and that is associated with the architect of record, Theodore Pletsch (1901- 1994). ...Pletsch trained at USC in the 1920s, established his practice in 1927, secured limited commissions during the 1930s depression, and then entered into an highly prolific four decades, retiring in 1981. Office records archived at the Pasadena Museum of History document more than three hundred projects, the majority custom designed single-family residences for clients in Pasadena. San Marino, and South Pasadena.

Peers respected Pletsch's prodigiousness and his success at melding popular house types with contemporary living. Residences Pletsch designed were published in popular press shelter magazines (Architectural Digest), newspapers (Los Angeles Times, Los Angeles Herald, Pasadena Star-News), and journals with a readership of professionals (California Arts & Architecture, Federal Savings and Loan Topics) and illustrated by leading commercial photographers (Maynard Parker, Max Tatch, Harry H. Baskerville).

As a graduate of the pioneering architecture program at USC, Pletsch attended the school during its shift away from Beaux Art methods toward a more regionally-inflected, client-driven approach to design (Howell-Ardila, 2010). In Southern California, one of the most influential and enduring aspects of this approach was an emphasis on regional precedent, through the use of indigenous materials, site-specific design, and indoor-outdoor integration. In this approach, a site's existing topography was treated not as a problem to be overcome (and in-filled or graded, for example) but rather as a design element with its own distinctive qualities and advantages for integrating home and garden. In 807 Bank Street, Pletsch capitalized on an irregular, hillside lot to design a home that is perfectly suited to its site. The home's spaciousness and close connections with the outdoors reflect Pletsch's skill in tailoring the home to the client and the site, both key characteristics in modern design. The interior program also reflects ideas that might appear commonplace as of 2021 but were still evolving at the time: these include the rejection of a hierarchical progression of spaces and emphasis instead on an open plan with well-designed zones for living and ample connections to the outdoors.

As noted by USC School of Architecture professor Kenneth Breisch, in a letter supporting the nomination, Pletsch's design for 807 Bank Street demonstrated his mastery of this important regional modernist idiom, melded with the Modern Ranch house style:

What I find particularly remarkable about [807 Bank Street] is the intact nature of both its architecture and landscape. The absence of alterations and additions are exceptionally unusual for houses of this scale.... The site overall maintains a strong sense of its original purpose and period of design. As a preservationist I find it increasingly frustrating that these types of properties, homes that so exemplify the aspirations of a large segment of the population are increasing being lost. They form an integral reflection of our history and its suburban vernacular landscape, as do many other remnants of our often complex and sometimes difficult history. We need to recognize all aspects of this complexity, not just the great "masterpieces" of architecture, but also the less conspicuous "monuments" commemorating the everyday life of often unsung individuals that contributed to the well-being of our society. The Sowards house is an especially elegant example of this and certainly reflects an important contribution to the character of the South Pasadena neighborhoods that arose during the decades following the War (Breisch, 2021).

In summary, the Sowards House meets Local Criteria 4 and 7 under the context, "Architecture & Design," theme "Post-World War II Modernism/ Regional Modernism," and subtheme "Ranch style." As noted in the landmark nomination, the property "is modern in its open space planning, its unadorned construction, and the integration of indoor and outdoor spaces," and it is "ranch-like in its elongated plan and horizontality, in the architect's use of textured materials and tactile finishes, in its handcrafted construction, and in its facilitation of casual living."

#### \*B12. References (continued):

Breisch, Kenneth, USC School of Architecture, 13 February 2021, Letter in Support of 807 Bank Street Landmark Nomination. On file with City of South Pasadena Building and Planning Department.

City of South Pasadena City Landmark Nomination, Application Form, 807 Bank Street, South Pasadena," prepared by Greg Hise and Lisa Padilla, 6 February 2021

Hise, Greg, and Lisa Padilla, 2021, "Historic Resource Application, Sowards House, 807 Bank Street, South Pasadena, CA 91030." On file with City of South Pasadena Building and Planning Department.

Historic Resources Group, 2014, City of South Pasadena Citywide Historic Context Statement. On file with City of South Pasadena Building and Planning Department.

Howell-Ardila, Debi, 2010, ""Writing Our Own Program': The USC Experiment in Modern Architectural Pedagogy," Master of Historic Preservation Thesis, USC School of Architecture (Los Angeles, CA).

# Exhibit "C"

Restoration Work Plan

&

Financial Analysis







Mills Act Application | Mary E. Sowards House 807 Bank Street, South Pasadena

# Prepared for:

City of South Pasadena Department of Planning and Building South Pasadena, CA 91030

# Prepared by:

Debi Howell-Ardila, MHP Greg Hise, PhD, and Lisa Padilla, AIA, AICP, LEED AP

May 2021

# Mills Act Application, Mary E. Sowards House

# 807 Bank Street, South Pasadena

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| 3   | Description of Work Plan and Priorities  | 5    |
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|     | Appendix A: Photographic Overview of Existing Conditions  Appendix B: Owner's Letter of Intent   |      |
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# 1. Project Background

This Mills Act Historic Property Contract application is for the single-family residence at 807 Bank Street, South Pasadena (APN 5314-019-021), located near Meridian Avenue and South Pasadena High School. Constructed in 1959, 807 Bank Street is a distinctive, outstanding example of a Modern Ranch House in

South Pasadena. Designed by renowned, local architect Theodore Pletsch, the home was built for long-time South Pasadena High School instructor Mary E. Sowards. Highly intact on the exterior and interior, the Sowards House meets the eligibility criteria for a local landmark as described in the 2014 *City of South Pasadena Citywide Historic Context Statement*. <sup>2</sup>

This section summarizes the property's eligibility and steps completed thus far for the Mills Act application.



# Summary of Landmark Eligibility

The Mary E. Sowards House is a distinctive, outstanding, and highly intact example of a Modern Ranch style residence in South Pasadena. The property meets the City's criteria for landmark eligibility under Local Criterion 4 ("Its exemplification of a particular architectural style of an era of history in the city") and Criterion 7 ("Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, materials or craftsmanship"). As defined in the City of South Pasadena Citywide Historic Context Statement, the Sowards House meets these criteria under the context, "Architecture & Design," theme "Post-World War II Modernism/ Regional Modernism," and subtheme "Ranch style."

Prepared in 2014, the *Citywide Historic Context Statement* provides a consistent, comparative framework for historic resource evaluations and landmark nominations in South Pasadena. At the time of its preparation, because the City's historic resources survey was decades-old, with a period of significance largely ending in 1945, the recent past and postwar eras had long remained under-represented in preservation planning guidance, historic resource surveys, and Inventory/Register-listed resources. Therefore, a focal point of the *Citywide Historic Context Statement* was developing a thorough, consistent framework for assessing the City's many postwar properties. Included among this framework were properties reflecting the Ranch House and regional modernist styles.

The Sowards House reflects both styles and meets the registration requirements for landmark eligibility defined in the *Citywide Historic Context Statement* for a Modern Ranch house. Character-defining features reflecting the home's regional modernist influences include the emphasis on site-specific design, tailored to the site's existing mature trees and view sheds; a high degree of indoor-outdoor integration achieved

<sup>&</sup>lt;sup>1</sup> Additional information on the life and career of Ms. Sowards is provided in the accompanying landmark nomination application for 807 Bank Street.

<sup>&</sup>lt;sup>2</sup> City of South Pasadena, Planning and Building Department. 2014. *South Pasadena Citywide Historic Context Statement*. Available at: <a href="https://www.southpasadenaca.gov/government/departments/planning-and-building/planning-division">https://www.southpasadenaca.gov/government/departments/planning-and-building/planning-division</a>. Accessed 30 April 2021.

<sup>&</sup>lt;sup>3</sup> City of South Pasadena Municipal Code Section 2.62(a)(2)(D), "Designation Criteria for Landmarks and Historic Districts."

through ample fenestration, connections to the outdoors, sliding-glass doors with adjacent patios, and entrances set flush with the ground; and an emphasis on the horizontal axis.

The Ranch style is reflected in the home's sprawling, one-story footprint; incorporation of rusticizing materials, such as board-and-batten siding and brick; low-pitched roof ending in wide overhanging eaves and exposed rafter tails; and divided light wood-sashes and picture windows. The home's informal, open floor plan is reflective of both the Ranch House and regional modernist influences.

As described in the City of South Pasadena Citywide Historic Context Statement, the Ranch style:

emerged from the 1930s designs of Southern California architect Cliff May, who merged modernist ideas with traditional notions of the working ranches of the American West and...the rustic adobe houses of California's Spanish- and Mexican-era ranchos. The resulting architectural style – characterized by its low horizontal massing, sprawling interior plan, and wood exterior detailing – embodied the mid-20th century ideal of "California living." The Ranch style...epitomized unpretentious architecture... The underlying philosophy of the Ranch house was informality, outdoor living, gracious entertaining, and natural materials.<sup>4</sup>

As further noted in the study's context of "Architecture & Design," theme of "Post-World War II Modernism/ Regional Modernism," and subtheme "Ranch style," Modern Ranch houses that should be considered eligible under this context would display the following features:

Modern Ranches emphasized horizontal planes more than the California Ranch, and included modern instead of traditional stylistic details. Character-defining features included low-pitched hipped or flat roofs, prominent rectangular chimneys, recessed entryways, and wood or concrete block privacy screens. ...

Character-defining features include: One-story; L- or U-shaped plan, often with radiating wings; Low, horizontal massing with wide street façade; Low-pitched hipped or gable roof with open overhanging eaves and wood shakes; Plaster, wood lap, or board-and-batten siding, often with brick or stone accents; Divided light wood sash windows; Wide, covered front porch with wood posts; Attached garage.

The Modern Ranch sub-type may feature flat or low-pitched hipped roof with composition shingle or gravel roofing; metal framed windows.<sup>5</sup>

As noted in this application and the accompanying landmark nomination, the Sowards House reflects all of these characteristics. In addition, the home has very few exterior or interior alterations, easily retaining its historic integrity in all seven areas: location, design, setting, workmanship, materials, association, and feeling.

The property meets the registration requirements defined in the *City of South Pasadena Citywide Historic Context Statement* for landmark listing.



<sup>&</sup>lt;sup>4</sup>South Pasadena Citywide Historic Context Statement (2014), p. 309.

<sup>&</sup>lt;sup>5</sup> South Pasadena Citywide Historic Context Statement (2014), pp. 309-310.

# Summary of Mills Act Application Steps Completed

In February 2021, the property owners prepared and submitted a landmark nomination package to the City of South Pasadena. This landmark nomination was subsequently approved by the Cultural Heritage Commission (CHC) with a recommendation to forward to City Council for approval and addition to the City's Register of Local Landmarks.

In February 2021, the property owners also filed a Letter of Intent to apply for the Mills Act, which was discussed at the Cultural Heritage Commission (CHC) hearing in March 2021. The CHC favorably reviewed the Letter of Intent and created a subcommittee to tour the property and offer input on the proposed landmark nomination and Mills Act workplan items. Commissioner Kris Morrish attended a remote site visit to tour the property and inspect the proposed Mills Act workplan items.

With the Sowards House now over 60 years old, a number of critical preservation/rehabilitation and repair projects are needed for the property. The Mills Act property tax abatement would help the owners complete these projects and ensure the long-term preservation of this important property. The proposed Mills Act workplan priorities are:

- 1. Site stabilization and seismic retrofitting
  - a. This task includes the following phased efforts:
    - i. Geotechnical evaluation and stabilization plan
    - ii. Engineering drawings/plans and specs for site stabilization and seismic upgrades
    - iii. Construction phase, site stabilization/seismic upgrades
- 2. Fireplace Chimney: re-point and flash brick chimney stack
- 3. Roof: remove non-character-defining composition shingles; repair/reinforce roof system as needed; install fire resistant wood-shake roof to restore this original feature

The application also describes additional projects that will be needed in a long-term preservation plan for the home (but have not been added as capitalized expenses in the Mills Act workplan).

This application reflects all feedback and suggestions provided by the CHC to date. Section 2 provides an overview of the application schedule and reporting system; Sections 3 and 4 present the Description of Work Plan and Priorities and the Financial Analysis.

Appendices include photographs (Appendix A), the original Letter of Intent (Appendix B), and documentation for the financial analysis (Appendix C).

As the owners of a distinctive historic property, Ms. Padilla and Dr. Hise understand the importance of ensuring that all repair, maintenance and rehabilitation projects follow the City guidelines and the Secretary of the Interior's Standards for the Treatment of Historic Properties. Each project, as well as the corresponding Standards-compliant treatment approach, is described in more detail in this application.

# 2. Schedule and Reporting System

**Project** Completion Year 1. Site stabilization and seismic retrofitting 2022 a. Geotechnical evaluation and stabilization plan b. Engineering drawings/plans and specs for site stabilization 2025 and seismic upgrades c. Construction phase, site stabilization/seismic upgrades 2028 2. Re-pointing and flashing brick chimney stack 2024 3. Roof repairs and re-sheathing in fire resistant shake shingles 2024 4. Maintenance: Termite inspections/mitigation **Annual inspection** 5. Maintenance: Roof inspections and repairs as needed Triannual inspection 6. Maintenance: Paint inspection and repairs as needed Triannual inspection

## **Noncapitalized Projects**

- 1. Windows and sliding glass doors (repairs/rehabilitation of windows, doors, and screen panels where needed)
- 2. Exterior brick restoration (repairs/repointing of brick planter walls, motor court edge banding, patio surface, and patio seat wall, cap and footing)
- 3. Exterior, refinishing and carpentry work to wood features (including repairs to damaged rafter tails, tongue-and-groove roof sheathing and siding; re-painting)
- 4. Wood deck (remove existing deck, frame, and footings; construct code-compliant replacement deck and guardrail with treated lumber)
- 5. Motor court surface repairs/replacement
- 6. Fence replacement (work to be coordinated with reconstruction of failing retaining wall)
- 7. Garage door (replace nonoriginal door with a more compatible design, based on documentary evidence/original architectural plans)

## Reporting System

The property owners of 807 Bank Street will provide annual written updates to the City of South Pasadena in the final quarter of the year, documenting progress and providing updates and photographs on the Mills Act work plan.

Prior to commencement of work efforts, Certificates of Appropriateness (CoA) will be obtained by the property owners as required by the City of South Pasadena Cultural Heritage Ordinance for each project included in these plans. Progress reports will include detailed work descriptions, photographs of work completed, and copies of permits and CoAs/CHC guidance and input.

# 3. Description of Work Plan and Priorities

Work efforts described in these plans will comply with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

### **Proposed Project & Description**

Est. Cost

**Priority** 

1. Site stabilization and seismic retrofitting (three phases)

\$135,000

High

With its hillside location, the residence shows signs of seismic instability and a failing retaining wall along the eastern elevation. This task includes the following phased efforts: (1) Geotechnical evaluation and stabilization plan (\$25,000); (2) Engineering drawings/plans and specs for site stabilization and seismic upgrades (\$25,000); and (3) Construction phase, site stabilization/seismic upgrades (\$85,000).

In the first phase, a geotechnical evaluation will be prepared by a structural engineer meeting the qualifications set forth in the South Pasadena Cultural Heritage Ordinance to study existing conditions and to recommend a plan for site stabilization, removal/reconstruction of the eastern elevation retaining wall (among other possible site-stabilization efforts), and seismic upgrades to the house. The second phase will include the preparation of engineering drawings and specs for site stabilization and seismic retrofitting, and the final phase will include implementation and construction.

All work will be completed according to industry standards and applicable building codes; project design and implementation will avoid direct or indirect impacts to character-defining features.





Retaining wall at eastern edge of property (left), chain-link fence above (right), and detail of slipping/failing retaining wall (bottom)







# Section 3 Description of Work Plan and Priorities (continued)

## Proposed Project & Description

Est. Cost

**Priority** 

2. Fireplace Chimney: re-point and flash brick chimney stack

\$7,500

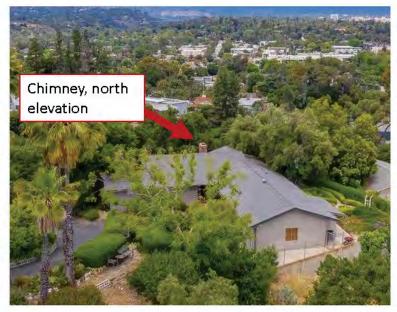
Medium

The brick chimney, located on the north elevation roof, shows signs of failing mortar and need for repointing/flashing.

The priority will be retaining as much original brick as possible. Should any character-defining brick need replacement, it will be replaced in-kind to match existing in materials, profile/size, color, finishes, and other aspects of appearance. Mortar color, texture, and materials will be selected for compatibility in appearance and performance.

Secretary's Standards treatment approach for changes to roof include: identify, retain, and preserve "the functional and decorative features that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolas...chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning."

### Overview of roof shape/form and brick chimney stack





# Section 3 Description of Work Plan and Priorities (continued)

# Proposed Project & Description

Est. Cost

**Priority** 

3. Roof system repairs; restoration of wood-shake shingles

\$65,000

Medium

The prominent, low-pitched cross-gable roof of the Sowards House is one of the property's most important character-defining features. Part of this work effort will include removal of the nonoriginal composition shingles currently sheathing the roof and replacement with fire-resistant wood-shake shingles, to restore this important character-defining feature. Repairs will include evaluating roof system and making repairs and structural reinforcement where needed.

Work will be planned to avoid any character-defining features. Should any character-defining features—such as details of roof eaves, fascia boards, or roof shape/form—be removed, destroyed, or obstructed in the repairs, those features will be replaced in-kind to match existing in appearance.

Secretary's Standards treatment approach for changes to roofs include: identify, retain, and preserve "the functional and decorative features that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolas...chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning."

Overview of prominent, low-pitched roof (façade)



# 4. Mills Act Work Plan, Financial Analysis

| Pr | oposed Project & Description   | Est. Cost  | Schedule |
|----|--|------------|----------|
| 1. | Site stabilization and seismic retrofitting  |            |          |
|    | a. Geotechnical evaluation and stabilization plan  | \$25,000   | 2022     |
|    | <ul> <li>Engineering drawings/plans and specs for site stabilization<br/>and seismic upgrades</li> </ul> | \$25,000   | 2025     |
|    | c. Construction phase, site stabilization/seismic upgrades   | \$85,000   | 2028     |
| 2. | Re-pointing and flashing brick chimney stack   | \$7,500    | 2024     |
| 3. | Roof repairs; re-sheathing in fire-resistant, wood-shake shingles  | \$65,000   | 2024     |
| O  | wner's Total Investment in 807 Bank Street:  | \$ 207,500 |          |
| To | otal Tax Savings for Owners (10-year period)   | \$ 157,915 |          |
| A۱ | verage Annual Cost to the City of South Pasadena:  | \$ 2,518   |          |

# 4. Mills Act Work Plan, Financial Analysis, 807 Bank Street (con't)

#### Mills Act Application, 807 Bank Street, Financial Analysis

Property Address:807 Bank Street, South Pasadena, California 91030Assessor's ID #: 5314-019-021Type:Single-family ResidenceCurrent Assessed Value: \$ 1,535,000Landmark #:City of South Pasadena Historical Landmark (nomination pending)

| REVENUES  | Annual<br>Increase | Current Yr<br>2021 | Year 1<br>2022        | Year 2<br>2023 | Year 3<br>2024 | Year 4<br>2025 | Year 5<br>2026 | Year 6<br>2027 | Year 7<br>2028 | Year 8<br>2029 | Year 9<br>2030 | Year 10<br>2031           |                    |
|---|--------------------|--------------------|-----------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------------------|--------------------|
| Monthly Revenues     Annual Rental Income                                     | 3%                 | 5,000.00           | 5,150.00<br>61,800.00 | 5,304.50       | 5,463.64       | 5,627.54       | 5,796.37       | 5,970.26       | 6,149.37       | 6,333.85       | 6,523.87       | 6,719.58                  |                    |
| 2. Annual Rental Income   | 3%                 | 60,000.00          | 61,800.00             | 63,654.00      | 65,563.62      | 67,530.53      | 69,556.44      | 71,643.14      | 73,792.43      | 76,006.20      | 78,286.39      | 80,634.98                 |                    |
| ANNUAL EXPENSES   |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 3. Insurance  | 5%                 | 1,587.00           | 1,666.35              | 1,749.67       | 1,837.15       | 1,929.01       | 2,025.46       | 2,126.73       | 2,233.07       | 2,344.72       | 2,461.96       | 2,585.06                  |                    |
| 1. Utilities  | 6%                 | 3,126.00           | 3,313.56              | 3,512.37       | 3,723.12       | 3,946.50       | 4,183.29       | 4,434.29       | 4,700.35       | 4,982.37       | 5,281.31       | 5,598.19 <b>Tc</b>        |                    |
| 5. Maintenance  | 5%                 | 15,675.00          | 16,458.75             | 17,281.69      | 18,145.77      | 19,053.06      | 20,005.71      | 21,006.00      | 22,056.30      | 23,159.11      | 24,317.07      | 25,532.92                 | \$207,016.39       |
| 5/7. Management / Other TOTAL EXPENSES  |                    | 0.00               |                       |                |                |                |                |                |                |                |                |                           |                    |
| 8. Sum lines 3 through 7  |                    | \$20,388.00        | \$21,438.66           | \$22,543.73    | \$23,706.04    | \$24,928.57    | \$26,214.47    | \$27,567.02    | \$28,989.72    | \$30,486.20    | \$32,060.34    | \$33,716.17               |                    |
| ANNUAL NET INCOME   |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 9. Line 2 minus line 8  |                    | \$39,612.00        | \$40,361.34           | \$41,110.27    | \$41,857.58    | \$42,601.96    | \$43,341.98    | \$44,076.12    | \$44,802.72    | \$45,520.00    | \$46,226.05    | \$46,918.81               |                    |
| CAPITALIZATION RATE   |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 10. Interest Component  | 4.25%              |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 1. Historic Property Risk   |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| Component   | 4.0%               |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| .2. Property Tax Component  | 1.020%             |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 13. Amortization Component  | 1.5%               |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 14. Total Capitalization Rate   | 10.8%              |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| NEW ASSESSED VALUE<br>15. Mills Act Assessment<br>(Line 9 divided by Line 14) |                    | \$366,438.48       | \$374,866.57          | \$383,488.50   | \$392,308.73   | \$401,331.84   | \$410,562.47   | \$420,005.40   | \$429,665.53   | \$439,547.84   | \$449,657.44   | \$459,999.56              |                    |
| TAXES: AMOUNT TO BE PAID  |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| 16. Tax under Mills Act   |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |
| (Line 15 x .01035146)   |                    | 3,793.17           | 3,880.42              | 3,969.67       | 4,060.97       | 4,154.37       | 4,249.92       | 4,347.67       | 4,447.67       | 4,549.96       | 4,654.61       | 4,761.67                  |                    |
| 17. Current Tax   | 1.02%              | 19,000.00          | 19,193.80             | 19,389.58      | 19,587.35      | 19,787.14      | 19,988.97      | 20,192.86      | 20,398.82      | 20,606.89      | 20,817.08      | To<br>21,029.42 <b>Sa</b> | otal Tax<br>avings |
| 18. Tax Savings   | 2.02 /0            | 15,000.00          | 15,155.00             | 15,505.50      | 15,507.55      | 13,707.11      | 15,500.57      | 20,132.00      | 20,550.02      | 20,000.03      | 20,017.00      | 21,023.12 00              |                    |
| (Line 17 minus line 16)   |                    | 15,206.83          | 15,313.38             | 15,419.91      | 15,526.38      | 15,632.77      | 15,739.05      | 15,845.19      | 15,951.16      | 16,056.93      | 16,162.47      | 16,267.75                 | \$157,915.00       |
|   |                    |                    |                       |                |                |                |                |                |                |                |                | Ar                        | nnual              |
| TAXES: COST TO CITY   |                    |                    |                       |                |                |                |                |                |                |                |                | Av                        | verage             |
| 19. Annual Cost to City   | 26%                | \$2,433.09         | \$2,450.14            | \$2,467.19     | \$2,484.22     | \$2,501.24     | \$2,518.25     | \$2,535.23     | \$2,552.19     | \$2,569.11     | \$2,586.00     | \$2,602.84                | \$2,518.14         |
| •   |                    |                    |                       |                |                |                |                |                |                |                |                |                           |                    |

# Appendix A

Photographic Overview

Figure 1 Neighborhood context, showing top of Bank Street hill, at entrance to 807 Bank Street cul de sac, southwest perspective



Figure 2 Neighborhood context, showing 807 Bank Street cul de sac, west perspective



Figure 3 Site context, 807 Bank Street, hillside parcel and driveway; photo shows west elevation, with nested side-gable, and north elevation, with elevated full-length deck; the residence exhibits a skillful site-specific design and high degree of indoor-outdoor integration



Figure 4 Detail, west elevation, with board-and-batten siding, low-pitched roof with wide overhanging eaves and exposed rafter tails, framed by stepped brick wall and stream rocks



Figure 5 Motor court and façade, facing south and west, with low-pitched, cross-gable roof, L-shaped plan, and use of rusticizing materials such as board-and-batten siding and brick



Figure 6 Detail of façade and entrance patio, with low, curved brick patio, at southwest corner



Figure 7 Detail of façade's south-facing wing, with board-and-batten sheathing, minimal fenestration, and brick detailing at entrance



Figure 8 Detail of façade's west-facing wing, with attached garage; alterations include the garage door and low brick pier in lower right; the residence is otherwise largely unaltered



Figure 9 East elevation overview, showing low-pitched roof, wide, sheltering eaves, and high degree of indoor-outdoor integration on rear elevation of house



Figure 10 Detail, east elevation patio, with sliding glass doors, wrap-around picture windows, and brick pavers curved to accommodate a mature tree



Figure 11 North elevation, overview of elevated wood deck and connections to interior spaces

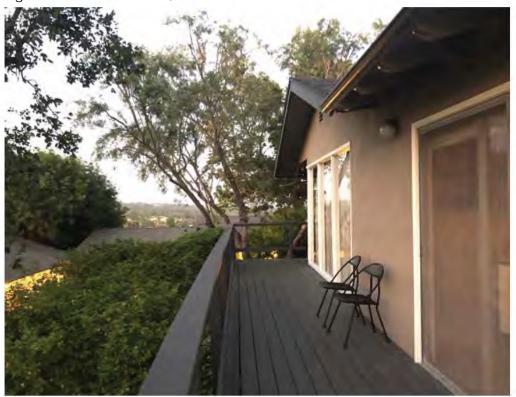


Figure 12 North elevation; interior spaces easily connect to the outdoors through an elevated wood deck



Figure 13 Detail of side gate at southeast corner of property; chain-link fence marks location of the steep hillside descent at the property boundary



Figure 14 Detail of 807 Bank Street's hillside topography and parcel boundary; photo shows edge of retaining wall and site stabilization issues



Figure 15 Interior, foyer. The home's high degree of indoor-outdoor integration is enhanced through the lack of a raised entrance threshold and runner-like band of patterned brick, creating a continuous line from the low, curved entrance patio through the foyer



Figure 16 interior, detail. Master suite opens onto elevated, north elevation deck, allowing for high degree of indoor-outdoor integration







Figure 18 Interior, original fireplace and wood paneling



# Appendix B

Letter of Intent, February 2021

February 15, 2021

Ms. Kanika Kith, Planning Manager City of South Pasadena Planning & Building Department 1414 Mission Street South Pasadena, CA 91030

Re: Mary E. Sowards House (807 Bank St) Intent to Apply for Mills Act Contract

Dear Ms. Kith,

We are writing per our application for City Landmark status which the Cultural Heritage Commission is preparing to consider. This letter conveys our intent to apply for a Mills Act Contract with the City of South Pasadena in order to preserve, restore and rehabilitate key features of the Mary E. Sowards House (1959) designed by architect Theodore Pletsch.

Attached is an inventory of projects that could be undertaken through a Mills Act Contract with the City with photographs for the Commission's review.

We look forward to hearing the Commission's assessment and to learn the steps required to proceed with an application. We are prepared to answer all questions.

Sincerely,

Greg Hise & Lisa Padilla

Greg Hise & Lisa Padilla 807 Bank Street South Pasadena, CA 91030

## **Exterior**

- Roof replacement
- Fireplace stack repair
- Eave/rafter repairs
- Window replacement
- Sliding door & fixed glazing repairs
- Garage door replacement for compatibility with house
- Wood board/batten maintenance















### Interior

- Structural/seismic bolting of house to foundation
- Bathroom #2 repair/renovation
- Renovate original "Screened Porch" that was enclosed (date unknown) for design compatibility with rest of house





## Site

- Retaining wall replacement
- Chain link fence replacement for design compatibility





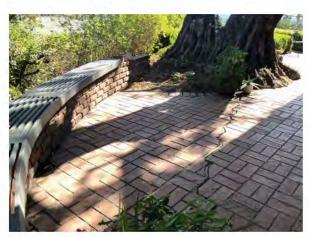
## Site (continued)

- Wood deck, footings & guardrail replacement
- Brick seating wall stabilization
- Brick patio paving, planter walls & entry pedestal repairs/replacement
- Replace asphalt motorcourt with more compatible material
- Original light fixture rehabilitation/re-installation

















# Appendix C

# **Supporting Documents**

- 1. Legal Description of Property
- 2. Los Angeles County Property Tax Statement
- 3. Homeowner's Insurance Bill
- 4. Utility Bill: Southern California Edison, Electric Bill
- 5. Utility Bill: SoCalGas, Gas Bill
- 6. Utility Bill: City of South Pasadena, Water Bill

#### Exhibit A

PARCEL 1: THAT PORTION OF LOT(S) 23 AND 24 OF TRACT NO. 14626, IN THE CITY OF SOUTH COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 305 PAGE(S) 5 AND 6 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT DISTANT SOUTH 72" 53' 37" EAST, A DISTANCE OF 42.20 FEET TO MOST EASTERLY CORNER OF LOT 24: THENCE NORTH 43° 30' 00" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOT 23, A DISTANCE OF 63,23 FEET; THENCE SOUTH 46" 30" EAST, A DISTANCE OF 140.27 FEET, MORE OR LESS, TO A POINT IN THE SOUTHEASTERLY SAID LOT 23, DISTANT SOUTHWESTERLY THEREON, 20,29 FEET FROM THE MOST EASTERLY CORNER OF SAID LOT 23; THENCE SOUTH 52° 43' 00" WEST, ALONG SAID SOUTHEASTERLY A DISTANCE OF 101.31 FEET; THENCE NORTH 46" 30" 00" WEST, A DISTANCE OF 144.78 FEET THE POINT OF BEGINNING. PARCEL 2: AN EASEMENT FOR INGRESS AND EGRESS AND FOR DRIVEWAY AND PUBLIC UTILITY PURPOSES, OVER THOSE PORTIONS OF LOT(S) 22 TO 24, INCLUSIVE OF TRACT NO. 14526, IN THE CITY SOUTH PASADENA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 308 PAGE(S) 5 AND 6 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF COUNTY, WITHIN THE LINES OF THAT CERTAIN COUNTY RECORDER OF SAID COUNTY, THE LINES OF THAT CERTAIN EASEMENT DESCRIBED IN THE DECLARATION OF EASEMENT. RECORDED ON APRIL 10, 1956 AS INSTRUMENT NO, 3664, IN BOOK 50844, PAGE(S) 310, OFFICIAL RECORDS OF SAID COUNTY. \*\*\*END OF LEGAL DESCRIPTION\*\*\*

Lilling Blance Date-

GLEVA ONDO CARDEDLYCLE) DATE FOR DEVELOPING PART 2020

### ANNUAL SECURED PROPERTY TAX BILL

2020

CITIES, COUNTY, SCHOOLS AND ALL OTHER TAXING AGENCIES IN LOS ANGELES COUNTY

#### SECURED PROPERTY TAX FOR FISCAL YEAR JULY 1, 2020 TO JUNE 30, 2021

KEITH KNOX, TREASURER AND TAX COLLECTOR

FOR ASSISTANCE CALL 1(213) 974-2111 OR 1(888) 807-2111, ON THE WEB AT propertylax.lacounty.gov

ASSESSOR'S ID. NO. YR SEQ CK

|   |   | ,  | SOESOURS ID.                  | , NO. | TH SEU | CR  |
|---|---|--|-------------------------------|-------|--------|---|
| PROPERTY IDENTIFICATION<br>ASSESSOR'S ID.NO.: 5314 019 021 20 000                                       | DETAIL OF TAXE  | S DUE FOR<br>AGENCY PHONE  | 5314 019 0<br>NO. RATE        | -     | 20 000 | 56<br>AMOUNT  |
| OWNER OF RECORD AS OF JANUARY 1, 2020<br>SAME AS BELOW  | GENERAL TAX LEVY<br>ALL AGENCIES  |  | 1.000000                      | \$    | 3      | 5,690.02  |
| MAILING ADDRESS  02.5614-02.5614 8661 801 1234- 925579  [13][14][4][4][4][4][4][4][4][4][4][4][4][4][4  | VOTED INDEBTEDNESS<br>METRO WATER DIST<br>COMMNTY COLLEGE<br>UNIFIED SCHOOLS  |  | .003500<br>.005535<br>.141821 | 5     |        | 54.92<br>86.84<br>2,225.17                                  |
| PADILLALISA M 807 BANK ST SOUTH PASADENA CA 91030-3701  ELECTRONIC FUND TRANSFER (EFT) NUMBER 1D#: PIN: | DIRECT ASSESSMENTS SAFE CLEAN WATER SGV MOSQUITO&VCD LIGHT/LANDSCAPE LIBRARY TAX MWD STANDBY #15 USGV MWD CHG FLOOD CONTROL RPOSD MEASURE A | (833) 275-72<br>(800) 273-51<br>(626) 403-73<br>(626) 403-73<br>(866) 807-68<br>(866) 807-68<br>(626) 458-51<br>(833) 265-26 | 67<br>76<br>30<br>64<br>64    | \$    |        | 152,95<br>13,84<br>78,92<br>35,62<br>9,26<br>10,00<br>58,63 |
| SPECIAL INFORMATION   | TRAUMA/EMERG SRV<br>CNTV SAN DIST 16<br>SPUSD PARCEL TAX  | (866) 587-28<br>(562) 908-42<br>(800) 676-75   | 88                            |       |        | 81.11<br>160.00<br>409.50                                   |
|   |   |  |                               |       |        |   |
|   |   |  |                               |       |        |   |

PROPERTY LOCATION AND/OR PROPERTY DESCRIPTION 807 BANK ST SOUTH PASA TRACT # 14526 LOT COM SW 20.29 FT FROM MOST E COR OF LOT 23 TH N 46,30' W COMPLETE DESCRIPTION IN ASSESSOR RECORDS LOTS 23 AND LOT 24

ASSESSOR'S REGIONAL OFFICE
REGION #05 INDEX: TRA:09030
EAST DISTRICT OFFICE
1190 DURFEE AVE.
SOUTH EL MONTE CA 91733
(626)258-6001

ACCT. NO.: PRINT NO.: 751180 BILL ID.:

 TOTAL TAXES DUE
 \$19,097.38

 FIRST INSTALLMENT TAXES
 DUE NOV. 1, 2020
 \$9,548.70

 SECOND INSTALLMENT TAXES
 DUE FEB. 1, 2021
 \$9,548.68

TOTAL 1,576,002 LESS EXEMPTION: HOME 7,000 NET TAXABLE VALUE 1,569,002

ANY RETURNED PAYMENT MAY BE SUBJECT TO A FEE UP TO \$50.00.



#### 9800 Fredericksburg Road - San Antonio, Texas 78288

AMENDED DECLARATIONS PAGE - EFFECTIVE 08/31/20

Named Insured and Residence Premises

Policy Number

\$1,587.32

LISA M PADILLA AND GREG G HISE

807 BANK ST

SOUTH PASADENA, LOS ANGELES, CA 91030-3701

Policy Period From: 06/24/20 To: 06/24/21

(12:01 A.M. standard time at location of the residence premises)

| SECTION I - COVERAGES AND AMOUNTS OF INSURANCE        | W245-4-1    |
|---|-------------|
| COVERAGE A - DWELLING PROTECTION                      | \$500,000   |
| COVERAGE B - OTHER STRUCTURES PROTECTION              | \$250,000   |
| COVERAGE C - PERSONAL PROPERTY PROTECTION             | \$250,000   |
| COVERAGE D - LOSS OF USE PROTECTION (UP TO 12 MONTHS) | \$100,000   |
| SECTION II - COVERAGES AND LIMITS OF LIABILITY        |             |
| Personal Liability - Each Occurrence                  | \$1,000,000 |
| Medical Payments to Others                            | \$5,000     |

We cover only that part of the loss over the deductible stated.
ALL PERILS \$1,000

POLICY PREMIUM for Section I and Section If Coverages Above

CREDITS AND DISCOUNTS (Included in policy premium above.) \$492.24 CR.
Details on the following page. (If applicable)

OTHER COVERAGES AND ENDORSEMENTS

Forms and Endorsements are printed on the following page.

STATE SURCHARGES AND TAXES (Shown below if applicable)

TOTAL POLICY PREMIUM

Including Credits, Discounts, Optional Coverages, Endorsements, State Surcharges and Taxes \$1,587.32

PREMIUM DUE AT INCEPTION. THIS IS NOT A BILL.

LOAN NA

In witness whereof, this policy is signed on 10/05/20

Claffet Games D Syng sac Johnson, Secretary James Syring, President

REFER TO YOUR POLICY FOR OTHER COVERAGES, LIMITS AND EXCLUSIONS.

HO-D1 (07-08)

ATTACH THIS DECLARATION TO PREVIOUS POLICY

B7028-010W

# CALIFORNIA EARTHQUAKE AUTHORITY

BASIC EARTHQUAKE POLICY-HOMEOWNERS
DECLARATIONS

AMENDED DECLARATIONS PAGE - EFFECTIVE 08/31/20

POLICY NUMBER:

POLICY PERIOD: 12:01a.m. Pacific Time

FROM: 06/24/20

TO: 06/24/21

PAGE 7

MAIL MACH-I

NAMED INSURED AND MAILING ADDRESS:

LISA M PADILLA AND GREG G HISE

807 BANK ST

S PASADENA CA 91030-3701

The dwelling covered by this policy is located at the above address unless otherwise stated:

807 BANK ST

SOUTH PASADENA, LOS ANGELES, CA 91030-3701

We provide coverage at the indicated fimits of insurance, subject to the Deductible Clause.

COVERAGE:

......

A. DWELLING

B. EXTENSIONS TO DWELLING

C. PERSONAL PROPERTY

D. LOSS OF USE

OTHER COVERAGES: BUILDING CODE UPGRADES LIMIT OF INSURANCE:

Combined Single Limit

\$500,000

\$100,000

\$25,000

\$10,000

POLICY DEDUCTIBLE: \$50,000

(10 % OF THE "COVERAGE A:
DWELLING" AND "COVERAGE B:
EXTENSIONS TO DWELLING" COMBINED
SINGLE LIMIT OF INSURANCE)
(Note: Please read the DEDUCTIBLE
CLAUSE of this policy.)

POLICY PREMIUM: \$1,327

**POLICY MODIFICATIONS REQUESTED BY YOU** 

NOTE: THIS POLICY MAY BE SURCHARGED

(Please read the Surcharge Clause of this policy)

Mortgagee/Lienholder/Additional Insured (Name and Address):

PLEASE READ YOUR POLICY



For billing and service inquiries 1-800-684-8123 www.sce.com

## Your electricity bill

PADILLA, LISA / Page 1 of 8

| Customer Account   | Date bill prepared<br>03/80/21  | Amount due \$137.73 |
|--|---------------------------------|---------------------|
| 807 BANK ST<br>SOUTH PASADEN A CA<br>91030-3701                    |                                 | Due by 04/19/21     |
|  |                                 |                     |
| Your account sum   | nmary                           |                     |
|  | \$191.88                        |                     |
| Your account sun<br>Previous Balance<br>Payment Received 03 /11/21 | \$191.88<br>-\$191.88           |                     |
| Previous Balance<br>Payment Received 03 /11/21<br>Balance forward  | \$191.88<br>-\$191.88<br>\$0.00 |                     |
| Previous Balance<br>Payment Received 03 //11/21                    | \$191.88<br>-\$191.88           |                     |

## Summary of your billing detail

| Service account | Service address               | Billing period       | Your rate         | New charges |
|-----------------|-------------------------------|----------------------|-------------------|-------------|
| 3-050-8432-48   | 807 BANK ST<br>S PASADENA, CA | 02/25/21 to 03/24/21 | DOMESTIC<br>(SCE) | \$93,36     |
| 3-050-8696-12   | 807 BANK ST<br>S PASADENA, CA | 02/25/21 to 03/24/21 | DOMESTIC          | \$44,37     |

\$137.73

(14-574) Tear here If your contact information has changed please complete the form on the reverse side and return the stub below. Tear here

\*\*\*Tear here\*\*

\*\*\*Customer account\*\*

\*\*\*Amount due by 04/19/21\*

\*\*\$197.73

SOUTHPRA CALIFORNIA EDISON'S EDISON'S SOUTHPRA CALIFORNIA CALIFORN

STMT 03302021 P4

PADILLA LISA 807 BANK ST SOUTH PASADENA, CA91030-3701 We will au tomatically debit he total amount due \$137.73 from your checking account on or after 04/09.21. Your bank may place a hold on these thank prior to that date.

Thank you!



ACCOUNT NUMBER
SERVICE FOR
LISA PADILLA
807 BANK ST
S PASADENA CA 91030-3701

DATE MAILED Apr 15, 2021 24 Hour Service

1-800-427-2200 English 1-800-342-4545 Español 1-800-252-0259 TTY

socalgas.com

H

Page 1 of 2

California is fighting climate change and so can you! Your bill includes a Climate Credit from a state program to cut carbon pollution while also reducing your energy costs. Find but how at EnergyUpgradeCA org/credit

#### **Account Summary**

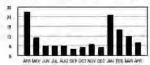
| -        |           | - 18.2 |
|----------|-----------|--------|
|          |           | - 8 2  |
| 04/01/21 | THANK YOU | - 22.0 |
|          |           | \$22.0 |
|          |           |        |

#### **Current Charges**

| Rate: GR -     | Residential |                 | Climat             | te Zone:              | Ва      | sellr | e Allowan           | ice: 49 Ti      | em   | 6               |
|----------------|-------------|-----------------|--------------------|-----------------------|---------|-------|---------------------|-----------------|------|-----------------|
| Mater Numb     | er: 13757   | 509 (Next sche  | duled read         | t date May            | 12 202  | 1)    |                     | Cycle:          | 9    |                 |
| Billing Period | Da          | ys Meter Number | Current<br>Reading | Previous<br>- Reading | = Diffe | rence | Billing<br>x Factor | BTU<br>× Factor | 4    | Total<br>Therms |
| 03/15/21-0     | 4/13/21 29  | 13757509        | 1392               | 1384                  | 8       |       | 1.000               | 1.038           |      | 8               |
| GAS CHA        | ROES        |                 |                    |                       |         |       |                     |                 |      | Amount(\$)      |
| Customer       | Charge      |                 |                    | 29                    | Days    | x S   | 16438               |                 |      | 4 77            |
| Gas Servi      | ce (Detail  | s below)        |                    | 8 Theri               | ns      |       |                     |                 |      |                 |
|                | Bestive     |                 |                    |                       |         |       |                     |                 |      |                 |
| Therms used    | В           |                 |                    |                       |         |       |                     |                 |      |                 |
| Rate/Thorn     | \$1,1687    | 5               |                    |                       |         |       |                     |                 |      |                 |
| Charge         | \$9.35      |                 |                    |                       |         |       |                     | _=              |      | 9,35            |
| California     | Climete C   | Credit          |                    |                       |         |       |                     |                 |      | -22.39          |
|                |             |                 |                    |                       |         |       | Total G             | as Cha          | rge. | -4B.27          |
| TAXES &        | FEES OF     | GAS CHAR        | GES                |                       |         |       |                     |                 |      | Amount(\$)      |
| State Reg      | ulatory Fe  | e               |                    | BT                    | herms   | X S   | 00577               |                 |      | 05              |
| Public Pur     | pose Sun    | charge          |                    | 8 T                   | herms   | X S.  | 07037               |                 |      | 56              |
| South Pas      | adena Ci    | y Users Tax     |                    |                       | \$7.66  | x 7.  | 50%                 |                 |      | -,57            |
|                |             |                 |                    | Total Ta              | axes a  | nd F  | ees on              | Gas Ch          | arg  | es \$.04        |

No payment is due. Your account has a credit balance of \$8,23.

Gas Usage History (Total Therms used)



| 20                    |        |        | 25     |
|-----------------------|--------|--------|--------|
|                       | Apr 20 | Mor 21 | Agr 21 |
| Total Thereis used    | 27     | 12     | 8      |
| Daily average Therms  | 9      | 4      | .3     |
| Days in billing cycle | 29     | 32     | 29     |

Spring is the season for backyard projects and home upgrades! Contact 811 before you dig to keep your family and neighborhood safe. More info at socalgas.com/811

Find your savings! Use the My Account
"Ways to Save" tools for personalized
savings tips in your home to help you save
energy and money. Learn more at
socalgas com/waystosave

SoCalGas' gas commodity cost per merm for your billing period:

Apr. \$31971 Mai \$38982

PLEASE KEEF THIS POINTION FOR YOUR HEDORDS HANOR OF GUARDAN ESTA PARTE PANA BUS REGISTROS I

FLEASE RETURN THIS PORTION WITH YOUR PAYMENT I FAVOR DE DEVILIVER ESTA PARTE CON SU PAGO

SocalGas A Sempra Energy way

ACCOUNT NUMBER

**Total Current Charges -\$8.23** 

Save Paper &

Postage

PAY ONLINE

ER

No payment is due.
Your account has a credit balance of \$8.23.

17 69 r527 r143

LISA PADILLA B07 BANK ST S PASADENA CA 91030-3701

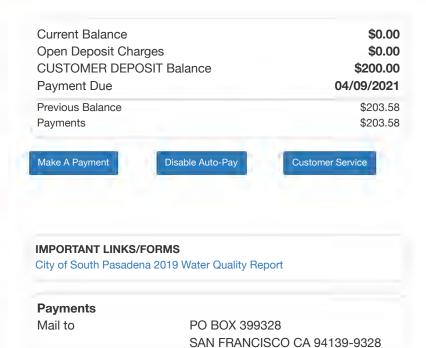
SoCajGas PO BOX C MONTEREY PARK CA 91758-5111 MAKE A PAYMENT

DISABLE AUTO-PAY

CUSTOMER SERVICE

## City of South Pasadena - Customer Portal

| Service Address  | OOZ DANIK OT                           |
|------------------|--|
|                  | 807 BANK ST<br>SOUTH PASADENA CA 91030 |
| Mailing Address  | 807 BANK ST<br>SOUTH PASADENA CA 91030 |
| delayed          |  |
|                  |  |
| Customer Service |  |
| Phone            | (877) 583-7933                         |



Monthly Usage: Last Year v. Current Year

Unit: Gallon

MuniBilling <sup>TM</sup> Security & Refund Policy Privacy Policy

## Exhibit "D"

Standards of Rehabilitation

## The Secretary of the Interior

## Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and the environment.
- 10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

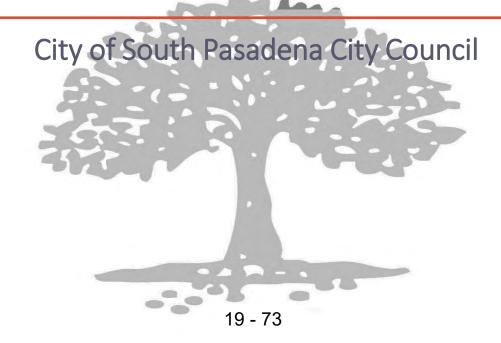
# **ATTACHMENT 2**

June 17, 2021 Cultural Heritage Commission Staff Report (Click Here)

# 807 Bank Street

Mills Act Request 2397-MIL

October 6, 2021



# **PROJECT**

- Mills Act Contract Request for 807 Bank Street
- The property qualifies for the Mills Act incentive program as the landmark designation request was approved by City Council on May 19, 2021 (Historic Landmark # 56).





The home was built in 1959 and was designed by Theodore Pletsch in Modern Ranch architectural style.

# 807 Bank Street











# 807 Bank Street

## **Criteria for Mills Act Contract**

**Financial investment**. Tax benefit would not exceed applicant's proposed financial investment

**Public Benefit**. Work plan will provide a benefit to the public (rehabilitation for continued occupancy or reuse, systems and structural reinforcement upgrades, preserving, maintaining, restoring character-defining features)

**Retroactive Limitation**. Tax benefit will not be used for work that was previously completed or initiated

Limitation on Maintenance. Tax benefit will not be used for routine maintenance work

**Limitations on Interior Work**. Tax benefit will not be used for interior work unless it is necessary for structural integrity, preservation, maintenance, restoration of character-defining features.

**Limitations on Landscaping**. Tax benefit will not be used for landscape unless for specific landscape features

# Mills Act rehabilitation and restoration plan includes:

# Work Plan 2022:

Geotechnical evaluation and stabilization plan (\$25,000)

# Work Plan 2024:

Fireplace Chimney: re-point and flash brick chimney stack (\$7,500) Roof system repairs; re-sheathing in fire resistant wood-shake shingles (\$65,000)

# Work Plan 2025:

Engineering drawings/plans and specs for site stabilization and seismic upgrades (\$25,000)

# Work Plan 2028:

Construction phase, site stabilization/seismic upgrades (\$85,000)

The total cost of the proposed scope of work is \$207,500. The total tax savings for the owners is estimated at \$157,915

# **Cultural Heritage Commission Recommendation:**

The Cultural Heritage Commission recommends that the City Council enter into a Mills Act contract for 807 Bank Street.

# Thank you



# City Council Agenda Report

ITEM NO. 20

DATE:

October 6, 2021

FROM:

Armine Chaparyan, City Manager

PREPARED BY:

Margaret Lin, Interim Director of Planning and Community Development

Marina Khrustaleva, Assistant Planner

SUBJECT:

Project No. 2414-LMN - Approval of a Historic Landmark Designation

for property located 1601 Marengo Avenue (Assessor's Parcel Number 5320-007-001)

#### Recommendation

It is recommended that the City Council conduct a public hearing and adopt a Resolution taking the following actions:

- 1. Find that the property at 1601 Marengo Avenue qualifies under criteria (1), (4), and (7) of the South Pasadena Municipal Code Section 2.63(b), for designation of a Historic Landmark; and
- 2. Designate the property at 1601 Marengo Avenue as a Historic Landmark (Historic Landmark No. 58) pursuant to South Pasadena Municipal Code Section 2.63(c)(9).

**Executive Summary** 

On February 3, 2021, the City received a request from property owners' representatives, Christine Lazzaretto and Molly Iker-Johnson, to designate the property home located at 1601 Marengo Avenue as a City Historic Landmark No. 58. On March 18, 2021, the Cultural Heritage Commission (CHC) created a subcommittee, composed of Commissioners William Cross and Conrado Lopez, as required by South Pasadena Municipal Code Section 2.63(c)(2). The Landmark Subcommittee determined that the property merited consideration by the Commission. On August 19, 2021, the Cultural Heritage Commission voted 4-0 recommending City Council designate 1601 Marengo Avenue as a Historic Landmark.

**Project Description** 

The house at 1601 Marengo Avenue proposed for landmark designation was built in 1907. The Craftsman Style house was identified as a contributor to the eligible Oneonta Park Historic District in the 1991 Citywide Historic Resources Survey. The 2002-2003 and 2015-2016 historic surveys the property was determined eligible individually and as a contributor to the district. Overall, the house at 1601 Marengo Avenue is significant by its character, as an exemplification of a particular architectural style, and as an embodiment of elements of outstanding attention to architectural design, materials, and detail.

#### Commission Review and Recommendation

On August 19, 2021, the CHC reviewed the Historic Landmark nomination application and determined that the proposed property qualifies under criteria (1), (4), and (7) of the South Pasadena Municipal Code

(SPMC) Section 2.63(b) for designation of a City Historic Landmark as listed below. Only one criterion of significance, along with documentation of support by property owners of the proposed Historic Landmark, is required for recommending designation to the City Council.

- (1) Its character, interest or value as a part of the heritage of the community;
- (2) Its location as a site of a significant historic event;
- (3) Its identification (such as the residence, ownership, or place of occupation, etc.) with a person, persons or groups who significantly contributed to the culture and development of the city, state or United States:
- (4) Its exemplification of a particular architectural style of an era of history of the city;
- (5) Its exemplification of the best remaining architectural type in a neighborhood;
- (6) Its identification as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States;
- (7) Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;
- (8) It is either a part of or related to a square, park or other distinctive area which should be developed or preserved according to a plan based on a historic cultural or architectural motif;
- (9) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;
- (10) Its potential for yielding information of archaeological interest; or
- (11) In designating a historic district, its significance as a distinguishable neighborhood or area whose components may lack individual distinction.

The Cultural Heritage Commission subcommittee report states that the proposed property qualifies for designation as Historic Landmark under criteria (1) and (4). The subject house built in the early 20th century represents a significant period of growth in South Pasadena. As an extant example of a residence of this era, it reflects "character, interest or value as a part of the heritage of the community" (Criterion 1). It is also an excellent example of Craftsman residential architecture. It embodies distinctive characteristics of the style and possesses high artistic value, therefore, it is eligible for designation under Criterion 4.

During the CHC hearing on August 19, 2021, the commissioners suggested to add Criterion 7, "embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship," as the character-defining features of the house include such fine exterior and interior details as massive chimney and battered porch piers built of Arroyo stone, latticed attic vents, decorative corbels, five-panel wood doors with brass hardware, and quarter-turn stair with Classical wood newel posts.

### **Findings for Historic Landmark Designation**

In accordance to South Pasadena Municipal Code Chapter 2 Section 2.63 (a)(2)(c), the Cultural Heritage Commission recommended that the subject property be designated for a City Historic Landmark based upon the following criteria:

(A) That the designation of landmark or historic district is consistent with one or more of the purposes set forth in SPMC 2.58B; and

The designation of 1601 Marengo Avenue as a Historic Landmark is consistent with the purpose of the Cultural Heritage Ordinance for identification, protection, enhancement, and preservation of structures, sites, and areas that represent the City's heritage and character. The house represents the first decades of the 20th century that marked on of the greatest population increases in the history of South Pasadena. According to the Historic Resource Assessment Report, the Oneonta Park subdivision developed by Henry Huntington represented 18% of the city's homes by 1910. The new subdivision featured expansive lots with many varieties of ornamental trees. The properties were offered to "the well-to-do who aspire to what is artistic and who appreciate the opportunities here afforded for home building." The first owner and builder of the house, George E. Grier, was an owner of the Pasadena Canning Company. The house built in Craftsman style reflects the influence of the Arts and Crafts movement. Its cost was \$8000 – at that time it meant a high quality of construction and materials with many custom-made details. Thus, the proposed Historic Landmark Designation will help promote the City's sense of place as it will preserve, maintain, and safeguard the City's heritage and character, will reflect the phases of the City's history, and will foster pride in the ownership of the City's historic resources.

(B) That the landmark or historic district meets one or more of the criteria for designation listed in subsection (b) of this section; and

The proposed property qualifies for designation under Criterion (1), "Its character, interest or value as a part of the heritage of the community," Criterion (4), "Its exemplification of a particular architectural style of an era of history of the city" and Criterion (7), "Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship." The house at 1601 Marengo Avenue represents a significant period of residential growth in South Pasadena and is an intact and excellent local example of Craftsman residential architecture. It was determined to be eligible individually and as a contributor to the potential Oneonta Park Historic District.

(C) That the landmark or historic district possesses historic integrity of location, design, setting, materials, workmanship, feeling, or association.

The proposed landmark possesses historic integrity of location, design, setting, materials, workmanship, and feeling. It remains in its original location, retains significant character-defining features, original setting, historic materials, physical evidence of Craftsman era construction techniques and workmanship, feeling, and association with early residential development in the Coty of South Pasadena. Therefore, the house possesses historic integrity.

Detailed analysis of the historic significance of the proposed Historic Landmark is provided in the Historic Resource Assessment Report, included as **Attachment 2**.

### **Environmental Analysis**

In accordance with the California Environmental Quality Act (CEQA), the proposed designation of a historic district is exempt from CEQA under the "common sense exemption," Section 15016(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be understood with certainty that there is no possibility that the designation of a historic district could have a significant effect on the environment, and therefore, is not subject to CEQA.

## **Fiscal Impact**

The designation of a Historic Landmark allows the property to qualify for a Mills Act contract. A Mills Act contract allows a tax reduction (between approximately 40% and 60%) for a property owner who agrees to perform certain restoration and maintenance tasks over a 10-year period. Although the City will see a reduction in property tax revenue (26% per Mills Act contracted property), the benefits of the program include economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

### **Public Notification of Agenda Item**

The public was made aware that this item by virtue of a public notice published in the *South Pasadena Review* on September 24, 2021, its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website, and individual property mailings to those within a 300-foot radius of the proposed Historic Landmark.

#### **Attachments:**

- 1. City Council Resolution and DPR Form
- 2. Staff Report and Attachments from August 19, 2021 CHC meeting

# **ATTACHMENT 1**City Council Resolution

# CITY OF SOUTH PASADENA RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DESIGNATING 1601 MARENGO AVENUE AS A HISTORIC LANDMARK (LANDMARK NO. 58)

**WHEREAS,** Section 2.62 of the South Pasadena Municipal Code, Ordinance No. 2315 ("Cultural Heritage Ordinance") authorizes the Cultural Heritage Commission ("the Commission") to recommend to the City Council the designation of appropriate properties as landmarks; and

WHEREAS, on February 3, 2021, the Planning Division received a Landmark Nomination request from the property owners' representatives, Christine Lazzaretto and Molly Iker-Johnson, for the house located at 1601 Marengo Avenue (Assessor's Parcel Number 5320-007-001); and

WHEREAS, on March 18, 2021, at the regularly scheduled Commission meeting, the Commission reviewed the request for Landmark Designation and appointed the Landmark Subcommittee ("Subcommittee") of two Commission members; and

**WHEREAS,** on April 23, 2021, the Subcommittee conducted a virtual site meeting with the homeowners to tour the property; and

WHEREAS, on June 21, 2021, the Subcommittee formalized their findings and notified staff of their request to carry the Landmark nomination to the full Commission for the Commission's formal vote on the recommendation to City Council for designation; and

**WHEREAS,** on August 19, 2021, the Commission formalized their recommendation to the City Council for designation of the house located at 1601 Marengo Avenue as a Historic Landmark by a vote of 4-0-1, one member recused; and

**WHEREAS,** on October 6, 2021, the City Council of South Pasadena held duly noticed regularly scheduled meeting to provide a public hearing and received public testimony on the proposed Landmark Designation of the house located at 1601 Marengo Avenue.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

#### SECTION 1. ENVIRONMENTAL REVIEW FINDINGS

The City Council has determined that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the "common sense exemption," Section 15016(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be understood with certainty

that there is no possibility that the designation of a historic landmark could have a significant effect on the environment, and therefore, is not subject to CEQA.

### SECTION 2. DESIGNATION OF HISTORIC LANDMARK FINDINGS

Based on the evidence presented at the public hearing, on the evidence contained in the City Council staff report, the Cultural Heritage Commission staff report and associated attachments, and other records of proceedings, the City Council considered the applicable designation criteria contained in the Cultural Heritage Ordinance and makes the following findings, pursuant to SPMC Section 2.63(a)(2) for designation of the house located at 1601 Marengo Avenue:

# (A) That the designation of landmark or historic district is consistent with one or more of the purposes set forth in SPMC 2.58B; and

The designation of 1601 Marengo Avenue as a Historic Landmark is consistent with the purpose of the Cultural Heritage Ordinance for identification, protection, enhancement, and preservation of structures, sites, and areas that represent the City's heritage and character. The house represents the first decades of the 20th century that marked on of the greatest population increases in the history of South Pasadena. According to the Historic Resource Assessment Report, the Oneonta Park subdivision developed by Henry Huntington represented 18% of the city's homes by 1910. The new subdivision featured expansive lots with many varieties of ornamental trees. The properties were offered to "the well-to-do who aspire to what is artistic and who appreciate the opportunities here afforded for home building." The first owner and builder of the house, George E. Grier, was an owner of the Pasadena Canning Company. The house built in Craftsman style reflects the influence of the Arts and Crafts movement. Its cost was \$8000 – at that time it meant a high quality of construction and materials with many custom-made details. Thus, the proposed Historic Landmark Designation will help promote the City's sense of place as it will preserve, maintain, and safeguard the City's heritage and character, will reflect the phases of the City's history, and will foster pride in the ownership of the City's historic resources.

# (B) That the landmark or historic district meets one or more of the criteria for designation listed in subsection (b) of this section; and

The proposed property qualifies for designation under Criterion (1), "Its character, interest or value as a part of the heritage of the community," Criterion (4), "Its exemplification of a particular architectural style of an era of history of the city" and Criterion (7), "Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship." The house at 1601 Marengo Avenue represents a significant period of residential growth in South Pasadena and is an intact and excellent local example of Craftsman residential architecture. It was determined to be eligible individually and as a contributor to the potential Oneonta Park Historic District.

(C) That the landmark or historic district possesses historic integrity of location, design, setting, materials, workmanship, feeling, or association.

The proposed landmark possesses historic integrity of location, design, setting, materials, workmanship, and feeling. It remains in its original location, retains significant character-defining features, original setting, historic materials, physical evidence of Craftsman era construction techniques and workmanship, feeling, and association with early residential development in the Coty of South Pasadena. Therefore, the house possesses historic integrity.

#### SECTION 3. ADDITIONAL FINDINGS FOR HISTORIC LANDMARK

In addition to the findings in Section 2 above, the City Council also makes the findings as required for designation of historic landmark pursuant to SPMC Section 2.63(a), based upon the recommendation of the Cultural Heritage Commission, that the proposed Historic Landmark qualifies for designation under criterion (1) of SPMC Section 2.63(b):

#### (1) Its character, interest or value as a part of the heritage of the community;

The subject house built in the early 20th century represents a significant period of growth in South Pasadena, and it is an extant example of a residence of this era.

#### (4) Its exemplification of a particular architectural style of an era of history of the city;

The subject is an excellent example of Craftsman residential architecture, it embodies distinctive characteristics of the style and possesses high artistic value.

## (7) Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;

The character-defining features of the house include such fine exterior and interior details as massive chimney and battered porch piers built of Arroyo stone, latticed attic vents, decorative corbels, five-panel wood doors with brass hardware, and quarter-turn stair with Classical wood newel posts.

#### SECTION 4. RECORD OF PROCEEDING

The documents and other materials that constitute the record of the proceedings upon which the City Council's decision is based, which include, but are not limited to, the staff reports, as well as all materials that support the staff reports for the proposed designation, are located in the Planning and Building Department of the City of South Pasadena at 1414 Mission Street, South Pasadena, CA 91030. The custodian of these documents is the City Clerk of the City of South Pasadena.

#### **SECTION 5. DETERMINATION**

Based on the evidence presented in the staff report, testimony received during the public hearing, minutes, other records of proceeding, and its findings herein, the City Council hereby approves the designation of 1601 Marengo Avenue as official Historic Landmark Number 58.

#### SECTION 6. CERTIFICATION OF THE RESOLUTION

The City Clerk of the City of South Pasadena shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

#### SECTION 7. FILING WITH THE COUNTY CLERK

The City Council directs the City Clerk to file the appropriate designation with the office of the Los Angeles Registrar-Recorder/County Clerk.

PASSED, APPROVED AND ADOPTED ON this 6<sup>th</sup> day of October 2021.

|   | Diana Mahmud, Mayor         |
|---|-----------------------------|
| ATTEST:   | APPROVED AS TO FORM:        |
| Christina Munoz Acting Deputy City Clerk (seal) | Andrew Jared, City Attorney |

#### CITY OF SOUTH PASADENA CITY CLERK'S DIVISION

# CERTIFICATION OF RESOLUTION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF SOUTH PASADENA)
SS

| I, Lucie Colombo, CMC, CPMC, City Clerk of the City of South Pasadena, do hereby certify that   |
|---|
| Resolution No, was duly and regularly approved and adopted at a Regular meeting of              |
| the City Council on this 6th day of October 2021, by the following votes as the same appears on |
| file and of record in the Office of the City Clerk.   |
| AYES:   |
| NOES:   |
| ABSENT:   |
| ABSTAIN:  |
|   |
|   |
| CHRISTINA MUNOZ   |
| Acting Deputy City Clerk  |

## Exhibit "A"

## State Department of Parks and Recreation Form 1601 Marengo Avenue

| * <b>P2</b> . | Location: | ■ Not for Publication         |            | Unrestricted  |
|---------------|-----------|-------------------------------|------------|---|
| *a.           | County    | Los Angeles County            |            | and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)               |
| *b.           | USGS 7.5' | Quad Los Angeles Date         | 2018       | T <u>1S</u> ; R <u>12W</u> ; <u>SW ¼</u> □ of <u>SW ¼</u> □ of Sec <u>4</u> ;B.M. |
| C.            | Address 1 | .601 Marengo Ave              |            | City South Pasadena Zip 91030   |
| d.            | UTM: (Gi  | ve more than one for large an | ıd/or line | near resources) <b>Zone</b> 11S , 396797 mE/ 3773752 mN                           |

e. Other Locational Data: APN: 5320-007-001

#### \*P3a. Description:

Group. December 2014. \*Attachments: □NONE

□Archaeological Record

□Artifact Record

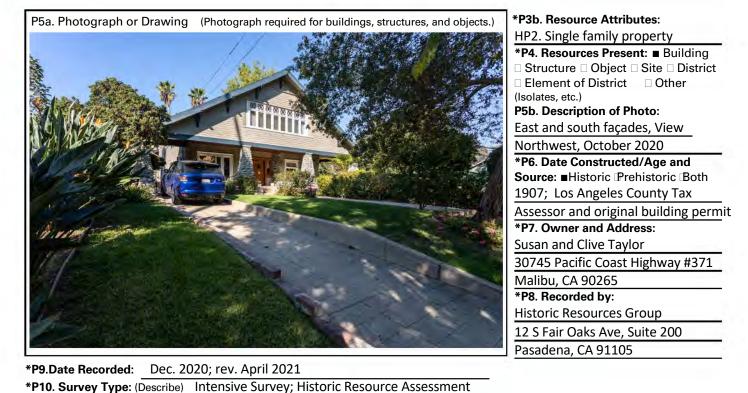
□Location Map

□Photograph Record

□District Record

1601 Marengo Avenue is located on the southwest corner of the intersection of Marengo Avenue and Oak Street in the City of South Pasadena. The property is occupied by a single-family residence and associated detached garage. The residence is set back from the street with a gently sloping front yard, with an expansive lawn and mature landscaping with mature trees, some of which are reportedly the original trees planted on the site. The property is flanked to the south and west by large single-family residences.

The one-and-one-half-story Craftsman style residence is of wood frame construction and has a rectangular plan, simple massing, and asymmetrical composition. It has a front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces. (See Continuation Sheet)



■Continuation Sheet ■Building, Structure, and Object Record

□Linear Feature Record □Milling Station Record □Rock Art Record

□ Other (List):

\*P11. Report Citation: City of South Pasadena. Citywide Historic Context Statement. Prepared by Historic Resources

| B1.           | Historic Name:                        |                       |                              |                         |  |
|---------------|---------------------------------------|-----------------------|------------------------------|-------------------------|--|
| B2.           | Common Name                           | e:                    |                              |                         |  |
| B3.           | Original Use:                         | Single family pro     | perty                        | B4. Present Use:        | Single family property                         |
| *B5.          |                                       | tyle: Craftsman       |                              |                         |  |
| *B6.          |                                       |                       | n date, alterations, and dat | e of alterations)       |  |
| 11/14         |                                       | om residence and ga   |                              |                         |  |
| 4/15/2        | 1936 (Permit #29                      | 74) – Window – repa   | air roof                     |                         |  |
| 2/7/19        | 975 (Permit #801                      | 7) – Re-roof house c  | only w/ 240# compo shing     | gles                    |  |
| 7/3/19        | 979 (Permit #266                      | ) – Kitchen + bathroo | om remodel (non-structu      | ral). Light and ventila | tion to remain same                            |
| 7/3/19        | 979 (Permit #580                      | ) – New 18 x 35 poo   |                              |                         |  |
| 11/10         | /1987 (Permit #5                      | 193) – Remove and     | replace plaster on interio   | r. Re-roof and paint.   | Replace chimney and fireplace and front        |
| colum         | ns.                                   |                       |                              |                         |  |
| 12/4/2        | 1987 (Permit #53                      | 07) – Masonry firep   | aces & collums [sic]. Eart   | hquake repairs (2) pl   | ans  |
| 2/26/2        | 1996 (Permit #18                      | 063) – Foundation r   | etrofit. Anchor sill plate   | to foundation.          |  |
| *B7.          | Moved? ■N                             | lo □Yes □             | Unknown Date:                |                         | Original Location:                             |
| *B8.          | Related Feature                       | es:                   |                              |                         |  |
| B9a.          | Architect:                            |                       |                              | b. Builder:             |  |
| *B10.         | Significance:                         | Context: Theme        | Architecture: Craftsn        | nan Ar                  | ea South Pasadena                              |
|               | Period of Sign                        | ificance 1907 Pro     | operty Type Single far       | nily property Ap        | pplicable Criteria Criteria 1, 4, 7            |
| 1601          | Marengo Aveni                         | ue was identified a   | s eligible in previous h     | istoric resources su    | rveys both individually and as a               |
| contr         | ibutor to the po                      | tential Oneonta P     | ark Historic District, an    | d it is listed in the C | City's Inventory of Historic Resources.        |
| The C         | raftsman style i                      | residence, constru    | cted in 1907, represent      | ts a significant perio  | od of development during which the             |
|               | -                                     |                       |                              | -                       | le of Craftsman residential                    |
|               |                                       |                       |                              |                         | tation of the style stressing simplicity       |
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|               | _                                     |                       |                              | _                       | e of the style and retains all seven           |
|               |                                       | •                     |                              |                         | gnation as a City of South Pasadena            |
| •             |                                       | • .                   |                              | -                       | s an example of early 20 <sup>th</sup> century |
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|               |                                       | sources Inventory. A  |                              |                         |  |
|               |                                       | building permits.     | lugust 15, 2011.             | 10                      |  |
| -             | South Pasadena                        |                       |                              | The water has           |  |
|               |                                       | npany maps. 1910, 1   | 930 1951                     | The second second       |  |
|               |                                       |                       | ırces Technical Report, Ci   | tv                      |  |
|               |                                       |                       | tion Project Environment     |                         | OAK STREET                                     |
|               |                                       | ared for RBF Consult  |                              |                         |  |

Remarks:

\*B14. Evaluator: Christine Lazaretto; Molly Iker-Johnson

\*Date of Evaluation: December 2020; rev. April 2021

B13.

#### **Architecture Description (Continued):**

There are shed roof dormers at the north and south façades, and latticed attic vents at each gable end. There is an exterior arroyo stone chimney at the north façade. At the southeast corner of the house, the roof slope flares over the driveway to form a porte-cochère supported by battered arroyo stone piers with concrete caps. A recessed scored concrete porch with battered arroyo stone piers with concrete caps wraps the north and east façades. The porch is accessed by a concrete path and steps. There is an additional halfheight battered porch pier. Exterior walls are clad in wood clapboard siding, with wood shingles at the eastfacing gable. Fenestration is varied, and consists of wood sash fixed, double-hung, and awning windows with wide wood surrounds with cornices, and wood sills with shaped shoes. Several windows on the east and north (street-facing) façades have diamond-light upper sash or transoms. In the east gable there is an extended sill set into a recess with rounded corners. There is a bay window at the east (primary) façade, clad in arroyo stone, and a set of divided-light wood French doors with wide sidelights. The primary entrance is centered on the east façade. It is set within an arroyo stone recess with rounded corners. It consists of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights. There is a secondary entrance at the north façade, consisting of a single partially glazed wood door with a wide wood surround. There is a back door at the west façade, consisting of a single partiallyglazed wood door.

The primary entrance opens onto a central entrance hall and back hall that bisect the house, with a living room and dining room to the north, and a study, bedrooms, and bathroom to the south. There are hardwood floors, wide wood door and window surrounds, and five-panel wood doors with brass hardware. The central entrance hall and study have tray ceilings of plaster with wood trim; the living and dining rooms have wood beamed plaster ceilings. The central entrance hall provides access to the second floor via a quarter-turn stair with Classical wood newel posts and wood risers, treads, tread returns, stringboards, balusters, and railings. The living room, accessed from the entrance hall via a wide cased opening with wood paneled partial-height walls and square wood columns, has a wood beamed plaster ceiling, an arroyo stone fireplace, a built-in cabinet with leaded glass doors, and a window seat at the bay window. The dining room, accessed from the living room via a wide cased opening with wood paneled partial-height walls and square wood columns, has a wood beamed plaster ceiling, paneled wood wainscoting with a plate rail, and a built-in china cabinet. The small study is accessed from the central entrance hall via a wide cased opening and has a clinker brick fireplace and a built-in bookcase.

The detached garage, situated at the southwest corner of the parcel, has a rectangular plan, simple massing, and asymmetrical composition. The primary automotive entrance is located at the center of the north (primary) façade, and consists of a pair of rolling wood plank doors. There is a cross-gable roof with composition shingle roofing, open eaves with exposed rafter tails, and overhanging rakes with outriggers and knee braces. There are latticed attic vents at the gable ends. Exterior walls are clad in wood clapboard, with wood shingles at the north gable. Fenestration consists of divided-light wood sash windows set in wide wood surrounds with projecting sills. A paneled wood door with a wide wood surround, located to the east of the automotive door, provides pedestrian access.

#### **Significance Statement (Continued):**

#### Criterion 1 (character, interest, or value)

The residence and detached garage at 1601 Marengo Street were constructed in 1907. The early 20th century represents a significant period of growth in South Pasadena. The city has a particularly strong collection of residential neighborhoods that developed in the first two decades of the 20th century, and the city's residential character was largely established during this period. 1601 Marengo Avenue is located in the Oneonta Park development, originally subdivided in 1903, and one of several large-scale subdivisions developed in South Pasadena during this period. Oneonta Park was identified as a potential historic district in the 1991 historic resources survey, a finding that was confirmed in subsequent surveys.

The potential Oneonta Park Historic District represents a collection of one- and two-story single-family residences, set on rectangular lots with deep setbacks, unified by Period Revival and Craftsman style architecture. 1601 Marengo Avenue was identified as a contributor to the potential district, representing early development and settlement patterns in South Pasadena. 1601 Marengo Avenue therefore reflects "character, interest or value as a part of the heritage of the community," as an extant example of early 20th century residential development in South Pasadena and is eligible under Criterion 1.

#### Criterion 4 (exemplifies an architectural style)

According to guidance from the National Park Service, properties that are eligible for their architectural merit should embody the distinctive characteristics of a style or type and/or possess high artistic value. A property that is an example of a recognizable style or property type does not automatically qualify it for designation; typically, the property should be an excellent or rare example of its style or type that distinguishes it from other examples from the period. Due to the high quality of architecture in South Pasadena, properties that are individually eligible for their architectural merit represent excellent or rare examples of their style and retain a high degree of historic integrity. 1601 South Marengo is an intact and excellent local example of Craftsman residential architecture. It has been identified as individually significant for its architectural merit in previous surveys.

The Craftsman style of architecture proved so popular in California that in both historic and contemporary literature, the Craftsman style is often called the "California" style. Examples of the style were widespread in South Pasadena beginning at the turn of the 20<sup>th</sup> century. Its traction was a result of the rapid growth of the area's middle-class population, which embraced a more informal lifestyle, and therefore a more informal style of architecture, than was found in Victorian styles. Pasadena-area architects, in particular, developed their own regional interpretation of the style and incorporated local materials into their designs, including redwood and arroyo stone.

The residence at 1601 Marengo Avenue, constructed in 1907, represents an excellent local example of Craftsman residential architecture. It embodies the distinctive characteristics of the style and possesses

#### **Significance Statement (Continued):**

high artistic value. The residence exemplifies the tenets of the Arts and Crafts movement, and reflects the regional interpretation of the style stressing simplicity of design, integration of the building with its surrounding landscape, and extensive use of local, natural materials, including stones sourced from the nearby Arroyo Seco.

It has distinctive details and retains significant character-defining features its original design, including the front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed wrap-around front porch with heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners at the east gable; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights.

1601 Marengo Avenue exemplifies the Craftsman architectural style and is therefore eligible for local designation under Criterion 4.

#### Criterion 7 (embodiment of elements)

As discussed under Criterion 4 above, 1601 Marengo Avenue represents an excellent local example of Craftsman residential architecture. It embodies the distinctive characteristics of the style; possesses high artistic value; and exemplifies the tenets of the Arts and Crafts movement and the regional interpretation of the style stressing simplicity of design, integration of the building with its surrounding landscape, and extensive use of local, natural materials, including stones sourced from the Arroyo Seco.

The residence has undergone few alterations over time and exhibits high quality of design and evidence of period materials and workmanship. It embodies distinctive elements of the style and retains numerous features reflecting materials and craftsmanship from the period. Significance character-defining features include the front-gable roof with open eaves with shaped rafter tails and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed scored concrete wrap-around front porch; heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights.

1601 Marengo Avenue embodies the elements of Craftsman style architecture, and reflects significant design detail, materials, and craftsmanship from the period. Therefore, it is eligible for local designation under Criterion 7.



North façade, view facing south.



South and west façades, view facing northeast.



West and north façades, view facing southeast.



North and east façades, view facing southwest.



East façade, view facing west.



Foyer and small sitting room, view facing southwest.



Small sitting room with clinker brick fireplace and built-in bookcase, view facing southwest.



Foyer and large sitting room, view facing northwest.



Large sitting room with arroyo stone chimney and built-in cabinet, view facing northwest.



Large sitting room with arroyo stone fireplace and built-in window seat at bay window, view facing east.



Dining room with wood wainscoting, plate rail, and built-in china cabinet, view facing southwest.



Detached garage, view facing southwest.



Contextual view along Marengo Avenue and Oak Street, view facing southwest.

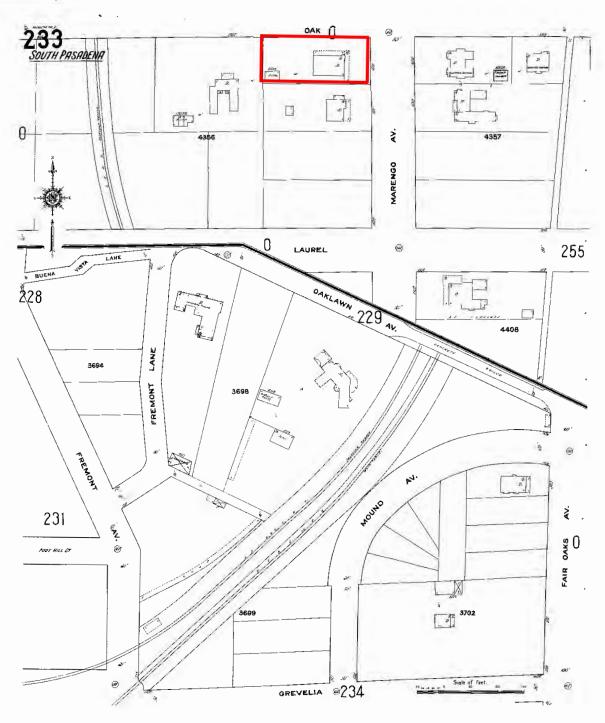


Contextual view along Marengo Avenue, view facing southwest.



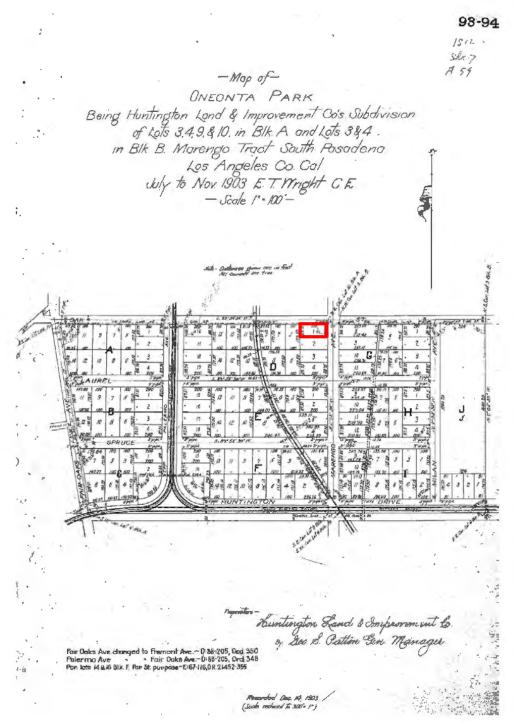
Contextual view along Marengo Avenue, view facing northwest.

#### Sanborn Map:



1910 Sanborn Fire Insurance Map. 1601 Marengo Avenue outlined in red.

#### **Tract Map:**



Map of Oneonta Park subdivision. 1601 Marengo Avenue (Lot 1, Block D) outlined in red.



**DATE:** August 19, 2021

**TO:** Chair and Members of the Cultural Heritage Commission

FROM: Kanika Kith, Planning Manager

**PREPARED BY:** Marina Khrustaleva, Assistant Planner

**SUBJECT:** 1601 Marengo Avenue – Historic Landmark Designation Request

(Project No 2414-LMN)

#### Recommendation

The Cultural Heritage Commission to review and recommend Historic Landmark Designation for 1601 Marengo Avenue to the City Council.

#### **Background**

On February 3, 2021, the applicant's representatives, Christine Lazzaretto and Molly Iker-Johnson, submitted a Letter of Intent to designate 1601 Marengo Avenue as a historic landmark.

On March 18, 2021, the request was presented to the Cultural Heritage Commission (CHC). A Subcommittee composed of commission members William Cross and Conrado Lopez was formed, as required by South Pasadena Municipal Code, Section 2.63(c)(2), to review the submitted materials, and to conduct virtual meeting with the homeowner to inspect the condition of the property.

On February 25, 2021, the subcommittee, homeowner, and applicant representatives participated in the virtual tour of the home. The Subcommittee reviewed the application and Historical Report. In the report dated June 21, 2021, the Subcommittee determined that the property merits consideration by the CHC for Historic Landmark Designation.

#### **Project Description:**

The house at 1601 Marengo Avenue proposed for landmark designation was built in 1907. The Craftsman Style house was identified as a contributor to the eligible Oneonta Park Historic District in the 1991 Citywide Historic Resources Survey. The 2002-2003 and 2015-2016 historic surveys the property was determined eligible individually and as a contributor to the district.

On both sides, the house is flanked by large single-family residences built at the same time, 1900-1910. A map of the area is shown in **Figure 1** below, with subject property outlined in green.

**Rollin St** Oak St Oak St Marengo Ave Laurel St Laurel St

Figure 1: Aerial Image of 1601 Marengo Avenue

#### **Statement of Significance**

As stated in the Historic Resource Assessment Report, prepared by the Historic Resources Group and included as **Attachment 1**, the house on a southwest corner of Marengo Avenue and Oak Street was built in 1907 as a single-family residence with a detached garage. In accordance with the report, some of the primary character-defining features include:

- Rectangular plan, simple massing, and asymmetrical composition
- Front gable roof with composition shingle roofing
- Exterior arroyo stone chimney
- Latticed attic vents
- Heavy, battered porch piers of arroyo stone with concrete caps
- Front door set into an arroyo stone recess with rounded corners
- Central entrance hall and back hall bisecting the house
- Five-panel wood doors with brass hardware
- Quarter-turn stair with Classical wood newel posts

See detailed description of the house in the Historic Resource Assessment Report (**Attachment 1**, pp. 11-14). The residence has undergone minimal alterations, including interior remodel in 1979, repairs after the earthquake damage in 1987, and a seismic retrofit in 1996. The house is set back from Marengo Avenue with a spacious sloping front lawn and mature trees, some of them reportedly planted at the time the house was built.



Figure 2: Photographs of 1601 Marengo Avenue





#### **Criteria for Historic Designation**

Purusant to the South Pasadena Municipal Code (SPMC) Section 2.63(b), the Commission shall use any or all of the following criteria in making a recommendation to the City Council for designation of Historic Landmark property. Only significant criterion along with documentation of support by property owners in the proposed Historic Landmark Designation are required for recommending designation to the City Council.

- (1) Its character, interest or value as a part of the heritage of the community;
- (2) Its location as a site of a significant historic event;
- (3) Its identification (such as the residence, ownership, or place of occupation, etc.) with a person, persons or groups who significantly contributed to the culture and development of the city, state or United States;
- (4) Its exemplification of a particular architectural style of an era of history of the city;
- (5) Its exemplification of the best remaining architectural type in a neighborhood;
- (6) Its identification as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States;
- (7) Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;
- (8) It is either a part of or related to a square, park or other distinctive area which should be developed or preserved according to a plan based on a historic cultural or architectural motif;
- (9) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;
- (10) Its potential for yielding information of archaeological interest; or
- (11) In designating a historic district, its significance as a distinguishable neighborhood or area whose components may lack individual distinction.

The Historical Landmark Subcommittee report states that the proposed Historic Landmark Designation qualifies for designation under Criteria (1) and (4) (see **Atttachment 2**). As described in the Landmark Subcommittee report, the subject house built in the early 20<sup>th</sup> century represents a significant period of growth in South Pasadena. As an extant example of a residence of this era, it reflects "character, interest or value as a part of the heritage of the community" (Criterion 1). It is also an excellent example of Craftsman residential architecture. It embodies distinctive characteristics of the style and possesses high artistic value, therefore, it is eligible for designation under Criterion 4.

#### **Findings for Historic Landmark Designation**

The Landmark Subcommittee recommends that the Cultural Heritage Commission recommends that the City Council make the following findings pursuant to SPMC Section 2.63(a)(2) for Historic Landmark Designation for 1601 Marengo Avenue.

## (A) That the designation of landmark or historic district is consistent with one or more of the purposes set forth in SPMC 2.58B; and

The designation of 1601 Marengo Avenue as a Historic Landmark is consistent with the purpose of the Cultural Heritage Ordinance for identification, protection, enhancement, and preservation of structures, sites, and areas that represent the City's heritage and character. The house represents the first decades of the 20<sup>th</sup> century that marked on of the greatest population increases in the history of South Pasadena. According to the Historic Resource Assessment Report, the Oneonta Park subdivision developed by Henry Huntington represented 18% of the city's homes by 1910. The new subdivision featured expansive lots with many varieties of ornamental trees. The properties were offered to "the well-to-do who aspire to what is artistic and who appreciate the opportunities here afforded for home building." The firs owner and builder of the house, George E. Grier, was an owner of the Pasadena Canning Company. The house built in Craftsman style reflects the influence of the Arts and Crafts movement. Its cost was \$8000 – at that time it meant a high quality of construction and materials with many custom-made details. Thus, the proposed Historic Landmark Designation will help promote the City's sense of place as it will preserve, maintain, and safeguard the City's heritage and character, will reflect the phases of the City's history, and will foster pride in the ownership of the City's historic resources.

## (B) That the landmark or historic district meets one or more of the criteria for designation listed in subsection (b) of this section; and

The proposed property qualifies for designation under Criterion (1), "Its character, interest or value as a part of the heritage of the community," and Criterion (4), "Its exemplification of a particular architectural style of an era of history of the city." The house at 1601 Marengo Avenue represents a significant period of residential growth in South Pasadena and is an intact and excellent local example of Craftsman residential architecture. It was determined to be eligible individually and as a contributor to the potential Oneonta Park Historic District.

## (C) That the landmark or historic district possesses historic integrity of location, design, setting, materials, workmanship, feeling, or association.

The proposed landmark possesses historic integrity of location, design, setting, materials, workmanship, and feeling. It remains in its original location, retains significant character-defining features, original setting, historic materials, physical evidence of Craftsman era construction techniques and workmanship, feeling, and association with early residential development in the Coty of South Pasadena. Therefore, the house possesses historic integrity.

#### **Next Steps:**

The recommendation of the Commission will be presented to the City Council.

#### **Fiscal Impact:**

If the house is designated as a landmark, the applicant has the opportunity to apply for a Mills Act Contract. A Mills Act contract allows a tax reduction (between approximately 40% - 60%) for a property owner who agrees to perform certain restoration and maintenance tasks over a 10-year period. Although the City will see a reduction in property tax revenue (26% per Mills Act contracted property), the benefits of the program include economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

#### **Environmental Review:**

In accordance with the California Environmental Quality Act (CEQA), the project qualifies for an exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15308, Class 8: Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

#### **Public Notification of Agenda Item:**

The public was made aware that this item by virtue of a public notice published in the *South Pasadena Review* on July 2, 2021, its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website, and individual property mailings to those within a 300-foot radius of the proposed district and within the property.

#### **Attachments:**

- 1. Historic Resource Assessment Report
- 2. Subcommittee Report for Historic Landmark Designation
- 3. Staff Report from March 18, 2021

## **ATTACHMENT 1**

Historic Resource Assessment Report



## CITY OF SOUTH PASADENA

#### PLANNING & BUILDING DEPARTMENT

1414 Mission Street • South Pasadena, CA • 91030 • (626) 403-7220

#### CITY LANDMARK or HISTORIC DISTRICT NOMINATION

#### **APPLICATION FORM**

| Case No:                        | ATTENTION ALL ARCHITECTS, DESIGNERS, AND DESIGN PROFESSIONALS:   |
|---------------------------------|--|
| - LHD  Business License Current | Per the South Pasadena Municipal Code Chapter 18, any person who transacts or carries on any business, trade, profession, calling or occupation in the City (regardless of the city in which your office is located), whether or not for profit or livelihood, must first obtain a license from the City. Failure to |
| Office Use Only                 | apply for a business license prior to beginning work may result in late fees. Business license applications are available at the Finance Department. Please note that Planning applications will not be processed until a business license is obtained.  |
|                                 |  |
| SECTION A: Landmark             | Property Information (for Landmark nominations of individual properties)   |
| Project Address:                |  |
| Property Type:                  |  |
| Historic Name:                  |  |
| Potential/Registered Histor     | pric District:   |
| Assessor Parcel No.:            |  |
| Architect(s):                   |  |
| Builder:                        |  |
| Original Use:                   |  |
| Current Use:                    |  |
| Architectural Style:            |  |
| Architectural Period:           |  |
| Construction Materials:         |  |
| Date Structure Built:           | Historic Evaluation Code:  |

#### SECTION B: Historic District Information (for District nomination)

Fill out the table below for all properties to be included in the district, including non-contributors. Use additional sheets if necessary.

| Address | Non-<br>Contributor/<br>Contributor | Building<br>Type | Year<br>Built | Architectural<br>Style | Historic<br>Evaluation<br>Code | Assessor<br>Parcel<br>Number |
|---------|-------------------------------------|------------------|---------------|------------------------|--------------------------------|------------------------------|
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### SECTION C: Property Owner Information (Landmark Nomination) HISTORIC OWNERSHIP INFORMATION George E. Grier Original Owner's Name: Other Significant Owner's: **CURRENT PROPERTY OWNER INFORMATION** Clive and Susan Taylor Owner's Name: 30745 Pacific Coast Highway #371, Malibu, CA 90265 Owner's Address: Telephone (Business): Telephone (Home): sueclivert@ aol com F-mail: Christine Lazzaretto and Molly Iker-Johnson **Applicant's Name:** 12 S. Fair Oaks Avenue, Ste. 200, Pasadena, CA 91105 Applicant's Address: 626-793-2400 626-497-9172 Telephone (Other): Telephone (Business): christine@ historicresourcesgroup.com E-mail: SECTION D: Owner's Consent (for individual Landmark nomination) If you, as owner(s), support the designation of your property as an Historic Landmark, please so signify in the space below: I/we certify that I/we am/are the owners of the property being hereby nominated for designation as an Historic Landmark under the Cultural Heritage Ordinance of the City of South Pasadena, California and hereby consent to said designation of the property as an Historic Landmark. Clive Roy Taylor Feb 3rd, 2021 Owner's Name (print) Owner's Signature Date Feb 3rd, 2021 Susan Taylor Owner's Name (print) Date

LANDMARK / HISTORIC DISTRICT NOMINATION - Application

Owner's Signature

Revised: February 2018

#### SECTION E: Owner's Consent (for inclusion into an Historic District)

If you, as owner(s), support the designation of your property into the nomination of the Historic District, please so signify in the space below:

I/we certify that I/we am/are the owners of the property being included within the Historic District Boundaries being hereby nominated for designation as a Registered Historic District under the Cultural Heritage Ordinance of the City of South Pasadena, California and hereby consent to said designation of the property as part of said Historic District.

| Owner Name | Owner Signature | District Property Address | Date |
|------------|-----------------|---------------------------|------|
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| SECTION F: Proponents.              | /Supporters  |  |
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|                                     | iduals or organizations that have expressemark, or support the Historic District nomins if necessary): |  |
| Name (print)                        | Signature  | Address/Organization   |
| SECTION G: Property/D               | istrict Description  |  |
| NARRATIVE DESCRIPTION               |  |  |
| significance including significance |  | nd any information pertinent to its historic tures, significant owners, occupiers, visitors, eets if necessary). |
|                                     |  |  |
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| a/or an Architectural   | Historian's report (use additio | onal sheets it necessai | ry).                |                       |
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#### SECTION H: Designation Criteria

Criteria and standards for the designation of Landmarks shall include any or all of the following as applicable. Please indicate applicability accordingly. Provide a descriptive narrative of the subject property and any information pertinent to its historic significance including significant exterior and interior architectural features of the property, significant owners, occupiers, visitors, and significant uses or events that took place there.

| 1. | lts c  | character, interest or value as a part of the heritage of the community:  |
|----|--------|---|
| 2. | Its Ic | ocation as a site of a significant historic event:  |
| 3. |        | dentification (such as the residence, ownership, or place of occupation, etc.) with a person, persons<br>groups who significantly contributed to the culture and development of the city, state or United States: |
| 4. | Its e  | exemplification of a particular architectural style of an era of history of the city:   |
| 5. | Its e  | exemplification of the best remaining architectural type in a neighborhood:   |
|    |        |   |

|     | the   | state or the United States:   |
|-----|-------|---|
| 7.  |       | embodiment of elements of outstanding attention to architectural design, engineering, detail design rail, materials or craftsmanship:   |
|     |       |   |
| 3.  |       | either a part of or related to a square, park or other distinctive area which should be developed o served according to a plan based on a historic cultural or architectural motif: |
| ).  |       | unique location or singular physical characteristic representing an established and familiar visua ture of a neighborhood:  |
| 10. | lts p | potential for yielding information of archaeological interest:  |
| 11. |       | designating a historic district, its significance as a distinguishable neighborhood or area whose mponents may lack individual distinction:   |
|     |       |   |

#### SECTION I: CEQA & Filing Fees

#### CEQA:

Historical resources are recognized as part of the environment and must be given consideration in the California Environmental Quality Act (CEQA) process. For the purposes of CEQA, a "historical resource" includes any structure that is listed in or determined to be eligible for listing in the California Register of Historical Resources or included in a local Register of historical resources.

#### FILING FEES:1

| Landmark/District Review: | \$ 1,115.00 <sup>2</sup> |
|---------------------------|--------------------------|
| Public Noticing Fee:      | \$220.00 <sup>3</sup>    |

#### Notes:

- 1. A filing fee is required to process an application for the nomination of a Landmark or registration of an Historic District. All fees are subject to change without notice.
- 2. Most projects are exempt from the California Environmental Quality Act (CEQA). However, Planning Staff will review the proposed project to determine if it will have a significant impact on the historic resource or layout of the historic property. Please note that additional CEQA fees may apply if Planning Staff determines that there could be potential impacts to historic resources.
- 3. The Public Noticing Fee does not include the radius map mailing labels. These are to be provided by the applicant at the time of the application submittal.

#### **SECTION J: Designation Procedures**

Landmarks and Historic Districts shall be established by the City Council in the following manner:

- 1. The commission, upon its own initiative or upon the written request of any person or city agency, may recommend the designation of any cultural resource in the city as a landmark or historic district.
- 2. The commission shall appoint a subcommittee of two members (the "landmark subcommittee") to review all applications for consideration of an improvement, site or natural feature as a landmark or historic district. The landmark subcommittee shall review the application materials and make a preliminary written recommendation, based on such documentation as it may require, as to whether the commission shall consider the improvement, site or natural feature for appropriate designation. The landmark subcommittee, as soon as practicable and prior to the hearing on designation, shall:
  - a. With respect to the proposed designation of a landmark, exercise its best efforts to meet with the owner to obtain such owner's written consent of the proposed designation; and
  - b. With respect to the proposed designation of a historic district, shall have obtained the consent of affected owners in accordance with subsection (a)(4)(D) or (E) of this section. The aforementioned consent shall be obtained by sending a ballot and an impartial opinion of the city attorney to every parcel owner in said district, as to the effect of the designation on the parcels located in the proposed district. The ballot shall provide the owner with the option to consent to or to oppose the proposed historic district designation.

- 3. If the landmark subcommittee determines that the improvement, site or natural feature, which is the subject of the application, merits consideration by the commission, it shall recommend that the commission place the application upon its agenda for its next regularly scheduled meeting for consideration of such designation.
- 4. The commission shall notify the director of the pendency of the consideration. No applications for design review shall be accepted by the planning and building department to construct, alter or demolish any property that is not on the South Pasadena inventory of historical resources within a proposed historic district, subsequent to the date of notice to the director by the commission, while proceedings are pending on such designation; provided, however, that after 180 days have elapsed from the date of the notice, if final action on such designation has not been completed, the applications for design review may be accepted by the planning and building department.
- 5. The commission shall send written notice by certified mail to each directly affected owner of a proposed designation as a landmark or historic district of the date, place, time and purpose of the hearing to consider such designation, at least 20 days prior to the date of the hearing, and shall publish notice of such hearing at least once in a newspaper of general circulation in the city not less than 10 days prior to such hearing.
- 6. The commission shall provide an opportunity to be heard to each affected owner and other interested members of the public. The commission may, if necessary, continue the consideration of designation to its next regularly scheduled meeting.
- 7. The commission shall, within 15 days of its hearing regarding designation or of any continued hearing on the designation, recommend approval in whole or in part, or disapproval in whole or in part, of the application, in writing to the city council.
- 8. The affected owner(s) may object to the decision of the commission by filing with the city clerk a written statement setting forth their objection prior to the hearing before the city council.
- 9. The city council, upon receipt of the recommendation, shall set the matter for hearing within 30 days of the date of filing of the commission recommendation with the city clerk. The council shall cause written notice of the council hearing to be given by registered mail to each affected owner and shall provide a reasonable opportunity for the owner to be heard at the council hearing. The city council shall render its decision thereon within 30 days after the close of the hearing of the city council.
- 10. The city shall notify the affected owner in writing of the final action of the city council with respect to the proposed designation and shall give such owner written notice of any further action which it takes with respect to such designation.
- 11. Failure to send any notice by mail to any affected owner where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. The commission and city council may also give such other notice as they may deem desirable and practicable.
- 12. Upon designation by the city council, the city clerk shall record the city council's declaration in the office of the county recorder of the county.



# PREPARED FOR

Susan and Clive Taylor 30745 Pacific Coast Highway #371 Malibu, CA 90265

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#### INTRODUCTION

In support of a nomination for local designation, we have evaluated the property at 1601 Marengo Avenue (APN 5320-007-001) in the City of South Pasadena, California, for eligibility for designation under the City of South Pasadena Cultural Heritage Ordinance. The property was developed with a Craftsman style single-family residence and detached garage in 1907. Our review included observation of existing conditions on the property; research of building permits and other primary and secondary sources; and a review of previous evaluations and survey data. A site visit was conducted on October 28, 2020. This report concludes that the property (comprising a single-family residence and detached garage) is eligible for listing as a City of South Pasadena Landmark under the following criteria: Criterion 1, reflecting character, interest, and value as an example of early 20<sup>th</sup> century residential development; Criterion 4, exemplifying the Craftsman architectural style; and Criterion 7, embodying the elements of the Craftsman style and reflecting early 20<sup>th</sup> century craftsmanship. This report was originally completed in December 2020, and revised in April 2021 in response to Cultural Heritage Commission comments.

#### **FIGURE 1. SITE MAP**



1601 Marengo Avenue outlined in red.

#### **METHODOLOGY**

1601 Marengo Avenue was evaluated using integrity thresholds and eligibility criteria for listing as a City of South Pasadena Landmark. The field methods and analysis are based on guidance from the National Park Service and the California Office of Historic Preservation for evaluating potential historical resources; eligibility standards developed for the evaluation of potential historic resources in South Pasadena; and an identification of the physical features and evaluation of historic integrity ascertained during the site visit and through building records.

This report was prepared using sources related to the history and development of the property. The following sources were consulted:

- Building permits
- Historic newspaper articles
- Sanborn Fire Insurance maps
- Other primary and secondary sources relevant to the history of the site
- City of South Pasadena, Citywide Historic Context Statement, December 2014
- Previous survey information from 1991, 2002-2003, and 2015-2016 citywide historic resources surveys of South Pasadena

Research, field inspection, and analysis were performed by Christine Lazzaretto, Managing Principal; and Molly Iker-Johnson, Architectural Historian/Staff Photographer, both of whom meet the Secretary of the Interior's Professional Qualifications Standards in Architectural History and History.

#### PREVIOUS EVALUATIONS/DESIGNATIONS

#### **Historic Resources Surveys**

There have been several historic resources surveys conducted in South Pasadena. The first comprehensive historic resources survey was conducted in 1991, with survey updates in 2002-2003. The result of these efforts was the identification of approximately 2,567 eligible properties that were listed in the South Pasadena Inventory of Cultural Resources (the "Inventory").

1601 Marengo Avenue was identified as a contributor to the potential Oneonta Park Historic District in the 1991 Citywide Historic Resources Survey. The 2002-2003 survey concurred with the 1991 finding for the Oneonta Park Historic District, and further noted that 1601 Marengo Avenue was also individually eligible for listing in the National Register of Historic Places.

The City conducted another survey update in 2015-2016, which found that the Oneonta Park Historic District remained eligible for historic designation and concurred that 1601 Marengo Avenue is eligible both individually and as a contributor to the district.

1601 Marengo Avenue is listed in the Inventory with a status code 3S, meaning "appears eligible for National Register as an individual property through survey evaluation," and with a status code 5B, meaning "locally significant both individually (listed, eligible, or appears eligible) and as a contributor to a district that is locally listed, designated, determined eligible, or appears eligible through survey evaluation."

## **Built Environment Resource Directory**

The California Office of Historic Preservation (OHP) maintains the Built Environment Resource Directory ("BERD"), a database of previously evaluated resources throughout the state. The BERD contains information only for cultural resources that have been processed through OHP. This includes resources reviewed for eligibility for the National Register of Historic Places and the California Historical Landmarks programs through federal and state environmental compliance laws, and resources nominated under federal and state registration programs. The property at 1601 Marengo Avenue is not listed in the BERD.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> California Office of Historic Preservation, "Built Environment Resource Directory," 2020, https://ohp.parks.ca.gov/pages/1068/files/Los%20Angeles.csv (accessed November 2020).

#### **HISTORIC CONTEXT**

## Early 20th Century Residential Development

The property at 1601 Marengo Avenue is developed with a single-family residence and an associated detached garage, constructed in 1907. It is located in the Oneonta Park subdivision, a historically middle-class neighborhood, with occupants in the early 20<sup>th</sup> century representing a range of professions as indicated in the table below.

| DATE         | OWNER  |  |  |  |
|--------------|--|--|--|--|
| 1907-1925    | George E. (owner, Pasadena Canning Company),       |  |  |  |
|              | Alma, Dorothy, and Gladys Grier; Achash B.         |  |  |  |
|              | Tredway  |  |  |  |
| 1928         | Elaine V. Heisley (attendant)                      |  |  |  |
| 1930-1931    | Peter J. (proprietor, silver mine) and Eudora E.   |  |  |  |
|              | Osdick; Esther A. Cram (artist)                    |  |  |  |
| 1932         | Orange L., Grace K, and John C. Withrow            |  |  |  |
|              | (carpenter)  |  |  |  |
| 1933-1948    | Ernest C. (retired), Stella, Ruth (music teacher), |  |  |  |
|              | and Alice Roddewig <sup>2</sup>                    |  |  |  |
| 1950-1975    | Harold J. (gardener), Nellie, and William H.       |  |  |  |
|              | Humphrey (store clerk) <sup>3</sup>                |  |  |  |
| 1978-present | Clive (doctor), Susan K., Matthew, Jeremy,         |  |  |  |
|              | Benedict, and Emma Taylor                          |  |  |  |

The first decades of the 20<sup>th</sup> century marked one of the greatest population increases in the history of South Pasadena. The United States Census recorded 4,659 residents in 1910 (compared to 1,001 residents in 1900), which represented a rate of growth exceeded by only three cities in the state.<sup>4</sup> The period was one of immense growth in the city, and development activity reflected the demand for single-family housing. Between 1900 and 1919, the City recorded 145 subdivisions; of those, 91 were subdivided between 1900 and 1909. Advertising for many of the tracts boasted of their location and convenient proximity to the newly constructed Pasadena Short Line.

Several prominent, large-scale subdivisions were developed during this period, many of which were promoted as streetcar suburbs in proximity to downtown Los Angeles. Among these, the Oneonta Park tract, located in the southeastern portion of the city, represented 18 percent of

<sup>&</sup>lt;sup>2</sup> After 1942, Alice Roddewig (then Alice Roberts) was no longer listed at the address.

<sup>&</sup>lt;sup>3</sup> After 1954, William Humphrey was no longer listed at the address.

<sup>&</sup>lt;sup>4</sup> Jane Apostol, South Pasadena 1888-1988: A Centennial History (South Pasadena, CA: South Pasadena Public Library, 1987), 83.

the city's homes by 1910.5 Developed by Henry Huntington, the tract featured expansive lots with lush landscaping, including many varieties of ornamental trees planted under the direction of William Hertrich, the superintendent of Huntington's San Marino Ranch. The Huntington Land & Improvement Company literature explained that the tract was designed "not for the residences of millionaires...but for the well-to-do who aspire to what is artistic and who appreciate the opportunities here afforded for home building."6

During this period, the influence of the Arts and Crafts movement is reflected in South Pasadena's residential neighborhoods. The City retains intact streets and neighborhoods, along with prominent individual examples, illustrating the importance of Arts and Crafts architecture and the role it played in residential development in the early 20<sup>th</sup> century. Southern California, and Pasadena in particular, was a center of the American Arts and Crafts movement; the philosophy, aesthetics, and major proponents and practitioners all influenced South Pasadena during this same period.

# Oneonta Park District

The Oneonta Park District was originally identified as a potential historic district in the 1991 survey of the City of South Pasadena, and re-evaluated during the 2003 and 2015 surveys. The district, situated in the Oneonta Park Tract, consists of the south side of the 1600 to 1900 blocks of Oak Street, the 1600 to 1800 blocks of Laurel and Spruce Streets, and the 1600 to 1800 blocks of Fair Oaks, Marengo, and Milan Avenues. There are 77 contributors and 41 non-contributors and 2 properties not visible from the public right-of-way out of a possible 120 residences in the district. The contributors are modestly sized, one- and two-story, single-family residences, set on rectangular lots with deep setbacks. Period revival and Craftsman style architecture, more than any other characteristic of the district, is its unifying feature. Paved paths (usually concrete) lead from the sidewalk to primary façades. Garages are detached and located at the rear of the parcel, accessed via driveways extending along the side of each parcel from the street. Landscaping consists of lush lawns and mature shrubs and trees. Streets are lined with mature trees, including Norfolk Island pines, Jacarandas, oaks, and palms. The Oneonta Park District also features concrete curbs, gutters, and sidewalks; fluted metal streetlamps; and Arroyo stone, concrete, or clinker brick retaining walls.

#### **Craftsman Architecture**

The residence at 1601 Marengo Avenue was designed in the Craftsman style, one of the predominant architectural styles in South Pasadena. Craftsman architecture grew out of the late-19<sup>th</sup> century English Arts and Crafts movement. A reaction against industrialization and the

<sup>6</sup> Apostol, 49.

<sup>&</sup>lt;sup>5</sup> Sapphos Environmental, Inc., *Historic Resources Technical Report, City of South Pasadena Downtown Revitalization Project Environmental Impact Report*, prepared for RBF Consulting, June 5, 2007, 5-4.

excesses of the Victorian era, the movement stressed simplicity of design, hand-craftsmanship, and the relationship of the building to the climate and landscape. Craftsman architecture developed in the first decade of the 20<sup>th</sup> century as an indigenous California version of the American Arts and Crafts movement, incorporating Southern California's unique qualities. Constructed primarily of stained wood, with wide overhanging eaves, balconies, and terraces extending the living space outdoors, the style embodied the goals of the Arts and Crafts movement.

The style proved so popular in California that in both historic and contemporary literature, the Craftsman style is often called the "California" style.7 Pasadena, South Pasadena's northern neighbor, emerged as one of three American centers for Arts and Crafts architecture in the early 20<sup>th</sup> century.8 The prevalence of the Craftsman house in the Pasadena area in the early part of the 20<sup>th</sup> century was a result of the rapid growth of the middle class population. Architects in the area developed their own regional interpretation of Arts and Crafts architecture, drawing on locally available building materials and climatic conditions. In Pasadena, redwood and other readily-available woods were extensively used, and dark clapboard or shingles were typically used for exterior wall cladding. Boulders from the Arroyo Seco were often used for foundations, porch piers, chimneys, retaining walls, and other decorative elements. Architectural details included articulated wooden structural elements, decorative tilework, and leaded glass windows designed by local artisans.

The Craftsman bungalow dates from the early 1900s through the 1920s. The bungalow's simplicity of form, informal character, direct response to site, and extensive use of natural materials, particularly wood and stone, was a regional interpretation of the reforms espoused by the Arts and Crafts movement's founder, William Morris. Craftsman bungalows generally have rectangular or irregular plans, and are one to one-and-a-half stories tall. They have wood clapboard or shingle exteriors and a pronounced horizontal emphasis, with broad front porches, often composed with stone, clinker brick, or plastered porch piers. Other character-defining features include low-pitched front-facing gable roofs, and overhanging eaves with exposed rafter tails.

As opposed to smaller developer-built or prefabricated bungalows, two-story Craftsman houses were often commissioned for wealthy residents and designed specifically with the homeowner's needs and the physical site in mind. They generally feature a low-pitched gable roof, wide

<sup>&</sup>lt;sup>7</sup> Information about the Arts & Crafts movement in Pasadena excerpted and adapted from U.S. Department of the Interior, National Park Service, *The Residential Architecture of Pasadena, CA, 1895-1918: The Influence of the Arts and Crafts Movement*, National Register of Historic Places Multiple Property Documentation Form, prepared by Lauren Bricker, Robert Winter, and Janet Tearnen for the City of Pasadena, 1998.

<sup>&</sup>lt;sup>8</sup> U.S. Department of the Interior, *The Residential Architecture of Pasadena, CA, 1895-1918*. The others were Oak Park, Illinois, and the San Francisco Bay area.

overhanging eaves with exposed rafter tails, and windows grouped in horizontal bands. A highstyle Craftsman house is distinguished by the quality of the materials and complexity of design and may feature elaborate, custom-designed woodwork, stained glass, and other fixtures.

By World War I, the Craftsman style declined in popularity and was replaced by Period Revival styles. The Craftsman bungalow continued to be built into the 1920s, but was often painted in lighter colors, stripped of its dark wood interiors, or blended with characteristics of various Revival styles.

Character-defining features of Craftsman style architecture include:

- Horizontal massing
- Low-pitched gable roof with rolled or composition shingle roofing
- Wide overhanging eaves with exposed rafter tails, outriggers, or knee braces
- Exterior walls clad in wood shingle, shake, or clapboard siding
- Projecting partial- or full-width, or wrap-around front porch
- Heavy porch piers, often of river stone or masonry
- Wood sash casement or double-hung windows, often grouped in multiples
- Wide front doors, often with a beveled light
- Wide, plain window and door surrounds, often with extended lintels
- Extensive use of natural materials (wood, brick or river stone)
- Detached garage at rear of property

Available building permits are included in Appendix A; detailed photographs of the exterior and interior are in Appendix B.

#### PHYSICAL DESCRIPTION



East façade, view facing west.

1601 Marengo Avenue is located on the southwest corner of the intersection of Marengo Avenue and Oak Street in the City of South Pasadena. The property is occupied by a single-family residence and associated detached garage. The residence is set back from the street with a gently sloping front yard, with an expansive lawn and mature landscaping with mature trees, some of which are reportedly the original trees planted on the site. The property is flanked to the south and west by large single-family residences.

The one-and-one-half-story Craftsman style residence is of wood frame construction and has a rectangular plan, simple massing, and asymmetrical composition. It has a front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces. There are shed roof dormers at the north and south façades, and latticed attic vents at each gable end. There is an exterior arroyo stone chimney at the north façade. At the southeast corner of the house, the roof slope flares over the driveway to form a porte-cochère supported by battered arroyo stone piers with concrete caps. A recessed scored concrete porch with battered arroyo stone piers with concrete caps wraps the north and east façades. The porch is accessed by a concrete path and steps. There is an additional half-height battered porch pier. Exterior walls are clad in wood clapboard siding, with wood shingles at the east-facing gable. Fenestration is varied, and consists of wood sash fixed, doublehung, and awning windows with wide wood surrounds with cornices, and wood sills with shaped shoes. Several windows on the east and north (street-facing) façades have diamond-light upper sash or transoms. In the east gable there is an extended sill set into a recess with rounded corners. There is a bay window at the east (primary) façade, clad in arroyo stone, and a set of divided-light wood French doors with wide sidelights. The primary entrance is centered on the east façade. It is set within an arroyo stone recess with rounded corners. It consists of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights. There is a secondary entrance at the north façade, consisting of a single partially glazed wood door with a wide wood surround. There is a back door at the west façade, consisting of a single partially-glazed wood door.

<sup>&</sup>lt;sup>9</sup> Information provided by property owner, as relayed by Mrs. Humphrey during the 1978 sale of the residence.

The primary entrance opens onto a central entrance hall and back hall that bisect the house, with a living room and dining room to the north, and a study, bedrooms, and bathroom to the south. There are hardwood floors, wide wood door and window surrounds, and five-panel wood doors with brass hardware. The central entrance hall and study have tray ceilings of plaster with wood trim; the living and dining rooms have wood beamed plaster ceilings. The central entrance hall provides access to the second floor via a quarter-turn stair with Classical wood newel posts and wood risers, treads, tread returns, stringboards, balusters, and railings. The living room, accessed from the entrance hall via a wide cased opening with wood paneled partial-height walls and square wood columns, has a wood beamed plaster ceiling, an arroyo stone fireplace, a builtin cabinet with leaded glass doors, and a window seat at the bay window. The dining room, accessed from the living room via a wide cased opening with wood paneled partial-height walls and square wood columns, has a wood beamed plaster ceiling, paneled wood wainscoting with a plate rail, and a built-in china cabinet. The small study is accessed from the central entrance hall via a wide cased opening and has a clinker brick fireplace and a built-in bookcase.

The detached garage, situated at the southwest corner of the parcel, has a rectangular plan, simple massing, and asymmetrical composition. The primary automotive entrance is located at the center of the north (primary) façade, and consists of a pair of rolling wood plank doors. There is a crossgable roof with composition shingle roofing, open eaves with exposed rafter tails, and overhanging rakes with outriggers and knee braces. There are latticed attic vents at the gable Detached garage, view facing ends. Exterior walls are clad in wood clapboard, with wood



southwest.

shingles at the north gable. Fenestration consists of divided-light wood sash windows set in wide wood surrounds with projecting sills. A paneled wood door with a wide wood surround, located to the east of the automotive door, provides pedestrian access.

## **Alterations**

The Craftsman residence at 1601 Marengo Avenue has undergone few alterations since its original construction. In 1936, a window and a portion of the roof were repaired. In 1979, the kitchen and a bathroom were remodeled, and a pool was added to the property. In 1987, the fireplaces, porch piers, and plaster, all of which sustained damage in the Whittier Narrows

<sup>&</sup>lt;sup>10</sup> City of South Pasadena Building Permit 2974, April 15, 1936.

<sup>&</sup>lt;sup>11</sup> City of South Pasadena Building Permit 266, July 3, 1979; City of South Pasadena Building Permit 580, July 3, 1979.

earthquake, were repaired, and a partial fire sprinkler system was added.<sup>12</sup> In 1996, a seismic retrofit was completed, anchoring the sill plate to the foundation.<sup>13</sup>

## **Character-defining Features**

The residence at 1601 Marengo Avenue retains significant character-defining features of its original Craftsman style design on the interior and exterior, including:

- Rectangular plan, simple massing, and asymmetrical composition
- Detached garage
- One-and-one-half-story height
- Front gable roof with composition shingle roofing
- Open eaves with shaped rafter tails and overhanging rakes with decorative bargeboards and shaped knee braces
- Shed roof dormers
- Latticed attic vents
- Exterior arroyo stone chimney
- Porte-cochère supported by battered arroyo stone piers with concrete caps
- Recessed scored concrete wrap-around front porch
- Heavy, battered porch piers of arroyo stone with concrete caps
- Exterior walls clad in wood clapboard siding with wood shingles at the east gable
- Varied fenestration consisting of wood sash fixed, double-hung, and awning windows, some with diamond pane upper sash or transoms
- Wide wood window surrounds with cornices and wood sills with shaped shoes
- Extended sill set into recess with rounded corner at east gable
- Bay window clad in arroyo stone at east façade
- Flush wood front door, with a leaded, diamond-shaped viewport and partialheight casement sidelights
- Front door set into an arroyo stone recess with rounded corners
- Wide, plain window and door surrounds with extended lintels
- Extensive use of natural materials (wood and arroyo stone)
- Detached garage at rear of property
- Central entrance hall and back hall bisecting the house
- Hardwood floors
- Wide window and door surrounds
- Five-panel wood doors with brass hardware

<sup>&</sup>lt;sup>12</sup> City of South Pasadena Building Permit 5193, November 10, 1987; City of South Pasadena Building Permit 5307, December 4, 1987; City of South Pasadena Building Permit 5356, December 14, 1987.

<sup>&</sup>lt;sup>13</sup> City of South Pasadena Building Permit 18063, February 26, 1996.

- Ceilings of plaster with wood trim (central entrance hall and study)
- Wood beamed plaster ceilings (living and dining rooms)
- Quarter-turn stair with Classical wood newel posts
- Wide cased openings with wood partial-height walls and square wood columns providing access to living room from entrance hall and dining room
- Arroyo stone fireplace
- Built-in cabinet with leaded glass doors
- Wood wainscoting with plate rail in dining room
- Built-in china cabinet
- Clinker brick fireplace

#### LOCAL DESIGNATION: EVALUATION CRITERIA

On July 19, 2017, the City of South Pasadena adopted Ordinance No. 2315, which repealed the previous Cultural Heritage Ordinance, adopted February 19, 1992, and replaced it with a new ordinance, effective August 18, 2017.

The City of South Pasadena Cultural Heritage Ordinance as updated in 2017 contains criteria for the local designation of historic resources in Section 2.63(B):

## Designation Criteria for Landmarks and Historic Districts.

Criteria and standards for the designation of landmarks and historic districts shall include any or all of the following, as applicable:

- 1. Its character, interest or value as a part of the heritage of the community;
- 2. Its location as a Site of a significant historic event;
- 3. Its identification (such as the residence, ownership, or place of occupation, etc.) with a person, persons or groups who significantly contributed to the culture and development of the City, state or United States;
- 4. Its exemplification of a particular architectural style of an era of history of the City;
- 5. Its exemplification of the best remaining architectural type in a neighborhood;
- 6. Its identification as the work of a person or persons whose work has influenced the heritage of the City, the state or the United States;
- 7. Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;
- 8. It is either a part of or related to a square, park or other distinctive area which should be developed or preserved according to a plan based on a historic cultural or architectural motif;
- 9. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;
- 10. Its potential of yielding information of archaeological interest; or
- 11. In designating a Historic District, its significance as a distinguishable neighborhood or area whose components may lack individual distinction.

#### Integrity

In addition to meeting one or more eligibility criteria, the Ordinance requires that a property must retain "Historic Integrity of location, design, setting, materials, workmanship, feeling, or association." <sup>14</sup>

Historic integrity is the ability of a property to convey its significance and is defined as the "authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's…historic period." The National Register recognizes seven aspects or qualities that comprise integrity: location, design, setting, materials, workmanship, feeling, and association. To retain historic integrity a property will always possess several, and usually most, of the aspects.

The seven aspects of integrity are defined as follows:

- *Location* is the place where the historic property was constructed or the place where the historic event took place.
- *Design* is the combination of elements that create the form, plan, space, structure, and style of a property.
- *Setting* is the physical environment of a historic property.
- *Materials* are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
- *Workmanship* is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- *Feeling* is a property's expression of the aesthetic or historic sense of a particular period of time.
- Association is the direct link between an important historic event or person and a historic property.<sup>16</sup>

<sup>&</sup>lt;sup>14</sup> City of South Pasadena, Ordinance No. 2315, July 19, 2017, 14.

<sup>&</sup>lt;sup>15</sup> U.S. Department of the Interior, *National Register Bulletin 16: How to Complete the National Register Registration Form* (Washington D.C.: National Park Service) 1997, 4.

<sup>&</sup>lt;sup>16</sup> U.S. Department of the Interior, *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation* (Washington D.C.: National Park Service, 1995), 44-45.

#### HISTORIC RESOURCES ASSESSMENT

## **Evaluation for Local Landmark Designation**

The property at 1601 Marengo Avenue is eligible for listing as a City of South Pasadena Landmark under Criteria 1, 4, and 7, and it retains all seven aspects of Historic Integrity.

## Criterion 1 (character, interest, or value)

The residence and detached garage at 1601 Marengo Street were constructed in 1907. The early 20<sup>th</sup> century represents a significant period of growth in South Pasadena. The city has a particularly strong collection of residential neighborhoods that developed in the first two decades of the 20<sup>th</sup> century, and the city's residential character was largely established during this period. 1601 Marengo Avenue is located in the Oneonta Park development, originally subdivided in 1903, and one of several large-scale subdivisions developed in South Pasadena during this period. Oneonta Park was identified as a potential historic district in the 1991 historic resources survey, a finding that was confirmed in subsequent surveys.

The potential Oneonta Park Historic District represents a collection of one- and two-story single-family residences, set on rectangular lots with deep setbacks, unified by Period Revival and Craftsman style architecture. 1601 Marengo Avenue was identified as a contributor to the potential district, representing early development and settlement patterns in South Pasadena. 1601 Marengo Avenue therefore reflects "character, interest or value as a part of the heritage of the community," as an extant example of early 20<sup>th</sup> century residential development in South Pasadena and is eligible under Criterion 1.

# Criterion 2 (historic event)

Based on guidance from the National Park Service, to be considered for listing for its association with an event, a property "must have an important association with the event [...], and it must retain historic integrity [...It] must be documented, through accepted means of historical or archeological research (including oral history), to have existed at the time of the event or pattern of events and to have been associated with those events[...] Mere association with historic events [...] is not enough, in and of itself, to qualify under [this criterion]: the property's specific association must be considered important as well." <sup>17</sup>

No documentation was found to suggest that specific important events in local, state or national history occurred at 1601 Marengo Avenue. The property is therefore not eligible for local designation under Criterion 2.

<sup>17</sup> National Register Bulletin 15.

# Criterion 3 (identified with an important person or group)

According to guidance from the National Park Service, persons significant in local, state or national history "refers to individuals whose activities are demonstrably important within a local, State, or national historic context. The criterion is generally restricted to those properties that illustrate (rather than commemorate) a person's important achievements." <sup>18</sup>

George E. Grier owned the property at 1601 Marengo Avenue from 1907 to 1925. Although Grier owned and operated the Pasadena Canning Company, there is no evidence to suggest that he significantly contributed to the culture or development of South Pasadena, or to the history or development of the fruit canning industry in Southern California. Similarly, no evidence was found to suggest that subsequent owners and occupants of the property, including Peter J. Osdick, John C. Withrow, Ruth Roddewig, or H.J. Humphrey contributed significantly to the culture or development of South Pasadena.

The property is therefore not identified with a person, persons, or groups who significantly contributed to the culture and development of the city, state or United States. It is not eligible for local designation under Criterion 3.

# Criterion 4 (exemplifies an architectural style)

According to guidance from the National Park Service, properties that are eligible for their architectural merit should embody the distinctive characteristics of a style or type and/or possess high artistic value. A property that is an example of a recognizable style or property type does not automatically qualify it for designation; typically, the property should be an excellent or rare example of its style or type that distinguishes it from other examples from the period. Due to the high quality of architecture in South Pasadena, properties that are individually eligible for their architectural merit represent excellent or rare examples of their style and retain a high degree of historic integrity. 1601 South Marengo is an intact and excellent local example of Craftsman residential architecture. It has been identified as individually significant for its architectural merit in previous surveys.

The Craftsman style of architecture proved so popular in California that in both historic and contemporary literature, the Craftsman style is often called the "California" style. Examples of the style were widespread in South Pasadena beginning at the turn of the 20<sup>th</sup> century. Its traction was a result of the rapid growth of the area's middle-class population, which embraced a more informal lifestyle, and therefore a more informal style of architecture, than was found in Victorian styles. Pasadena-area architects, in particular, developed their own regional

<sup>&</sup>lt;sup>18</sup> National Register Bulletin 15.

interpretation of the style and incorporated local materials into their designs, including redwood and arroyo stone.

The residence at 1601 Marengo Avenue, constructed in 1907, represents an excellent local example of Craftsman residential architecture. It embodies the distinctive characteristics of the style and possesses high artistic value. The residence exemplifies the tenets of the Arts and Crafts movement, and reflects the regional interpretation of the style stressing simplicity of design, integration of the building with its surrounding landscape, and extensive use of local, natural materials, including stones sourced from the nearby Arroyo Seco.

It has distinctive details and retains significant character-defining features its original design, including the front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed wrap-around front porch with heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners at the east gable; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights.

1601 Marengo Avenue exemplifies the Craftsman architectural style and is therefore eligible for local designation under Criterion 4.

# Criterion 5 (best remaining architectural type in the neighborhood)

As described above, the residence at 1601 Marengo Avenue is an excellent example of the Craftsman style. However, Craftsman style single-family residences are prevalent in South Pasadena. This residence was developed as part of the Oneonta Park tract, a large subdivision platted in 1903. 1601 Marengo Avenue, situated along the perimeter of the tract, acts as a gateway to the district and contributes to the overall architectural character of the potential Oneonta Park Historic District, an intact neighborhood of Craftsman and Period Revival single-family residences from the first two decades of the 20th century. 1601 Marengo Avenue has been identified as significant as a contributor to the potential Oneonta Park Historic District and individually for its architectural merit; however, because it is located in a neighborhood with strong architectural cohesion and numerous examples of the Craftsman style, it is not eligible for local designation under Criterion 5.

# Criterion 6 (work of a person whose work was influential)

No architect was listed on the original building permit for the Craftsman style residence at 1601 Marengo Avenue. The residence was constructed by the owner, George E. Grier, who was not influential in the field of architecture or construction. Therefore, the house does not appear to

be eligible for local designation under Criterion 6 as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States.

# Criterion 7 (embodiment of elements)

As discussed under Criterion 4 above, 1601 Marengo Avenue represents an excellent local example of Craftsman residential architecture. It embodies the distinctive characteristics of the style; possesses high artistic value; and exemplifies the tenets of the Arts and Crafts movement and the regional interpretation of the style stressing simplicity of design, integration of the building with its surrounding landscape, and extensive use of local, natural materials, including stones sourced from the Arroyo Seco.

The residence has undergone few alterations over time and exhibits high quality of design and evidence of period materials and workmanship. It embodies distinctive elements of the style and retains numerous features reflecting materials and craftsmanship from the period. Significance character-defining features include the front-gable roof with open eaves with shaped rafter tails and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed scored concrete wraparound front porch; heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights.

1601 Marengo Avenue embodies the elements of Craftsman style architecture, and reflects significant design detail, materials, and craftsmanship from the period. Therefore, it is eligible for local designation under Criterion 7.

## Criterion 8 (part of a square or park)

1601 Marengo Avenue is not a part of or related to a square, park or other distinctive area. It is therefore not eligible for local designation under Criterion 8.

## Criterion 9 (unique location or singular physical characteristic)

1601 Marengo Avenue does not have a unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood. It is therefore not eligible for local designation under Criterion 9.

## Criterion 10 (potential to yield information)

No evidence has been found to suggest that 1601 Marengo Avenue was associated with any historic or prehistoric activity. The potential of the property to yield information of archaeological interest is outside the scope of this study.

# Criterion 11 (Historic District)

1601 Marengo Avenue has been identified as a contributor to the potential Oneonta Park Historic District, which represents an intact collection of residences constructed in the first two decades of the 20<sup>th</sup> century. However, for purposes of this report, the building is being evaluated for individual significance; therefore, Criterion 11 is not applicable.

#### **EVALUATION OF INTEGRITY**

1601 South Marengo Avenue has seen few alterations since its initial construction in 1907. It represents a highly intact example of Craftsman style architecture and retains significant character-defining features of its original design. 1601 Marengo Avenue retains integrity of location, design, setting, materials, workmanship, feeling, and association. Therefore, it retains sufficient Historic Integrity to be eligible for listing as a City of South Pasadena Landmark under Criteria 1, 4, and 7.

- **Location**: The residence at 1601 Marengo Avenue remains in its original location. Therefore, it retains integrity of location.
- **Design:** The residence at 1601 Marengo Avenue retains significant character-defining features of its original Craftsman style design, including the front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed wrap-around front porch with heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners at the east gable; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights. It therefore retains integrity of design.
- **Setting:** The single-family residence and associated detached garage at 1601 Marengo Avenue were constructed in 1907 as part of the Oneonta Park tract. The tract was originally laid out with uniform setbacks, expansive lots, and lush landscaping. The neighborhood was primarily developed in the first two decades of the 20<sup>th</sup> century and retains a strong sense of time place. The property therefore retains integrity of setting.
- Materials: The residence at 1601 Marengo Avenue retains the majority of its historic
  materials, including its wood clapboard and wood shingle siding; heavy, battered
  porch piers of arroyo stone with concrete caps; wood sash double-hung and fixed
  windows; and wide wood entry door with leaded, diamond-shaped viewport. It
  retains integrity of materials.
- **Workmanship:** The residence at 1601 Marengo Avenue retains the physical evidence of its mid-20th century construction techniques, including its wide overhanging eaves, exposed rafter tails, and knee braces; wood sash double-hung and fixed windows, some set in recesses with rounded corners; and arroyo stone chimney and porch piers. It retains integrity of workmanship.

- **Feeling:** The residence at 1601 Marengo Avenue retains integrity of location, design, setting, materials, and workmanship, and continues to convey the aesthetic sense of its early-20<sup>th</sup> century construction and Craftsman style design. It therefore retains integrity of feeling.
- **Association:** The residence at 1601 Marengo Avenue retains integrity of location, setting, design, materials, workmanship, and association, and continues to convey its historic character as a Craftsman style single-family residence, and its association with early residential development in the City of South Pasadena. Therefore, the property retains integrity of association.

#### CONCLUSION

1601 Marengo Avenue was identified as eligible in previous historic resources surveys both individually and as a contributor to the potential Oneonta Park Historic District, and it is listed in the City's Inventory of Historic Resources. The Craftsman style residence, constructed in 1907, represents a significant period of development during which the residential character of South Pasadena was established. It is an excellent example of Craftsman residential architecture, exemplifying tenets of the style and reflecting the regional interpretation of the style stressing simplicity of design and extensive use of local, natural materials. It retains significant character-defining features that reflect the distinctive details and craftsmanship from the period. It is a highly intact example of the style and retains all seven aspects of Historic Integrity. Therefore, 1601 Marengo Avenue is eligible for designation as a City of South Pasadena Landmark under Criteria 1, 4, and 7 for reflecting character, interest, and value as an example of early 20<sup>th</sup> century residential development; exemplifying the Craftsman architectural style; and embodying the elements of the style and early 20<sup>th</sup> century craftsmanship.

#### **BIBLIOGRAPHY**

Apostol, Jane. *South Pasadena 1888-1988: A Centennial History.* South Pasadena, CA: South Pasadena Public Library, 1987.

California Archives. *City Wide Context Statement, City of South Pasadena*. Prepared for the City of South Pasadena Community Development Department, April 14, 2005.

California Historical Resources Inventory. August 15, 2011.

City of South Pasadena building permits.

City of South Pasadena. *Citywide Historic Context Statement*. Prepared by Historic Resources Group. December 2014.

City of South Pasadena directories.

Newspapers.com. Historical newspaper articles.

Sanborn Insurance Company maps. 1910, 1930, 1951.

Sapphos Environmental, Inc. *Historic Resources Technical Report, City of South Pasadena Downtown Revitalization Project Environmental Impact Report.* Prepared for RBF Consulting, June 5, 2007.

- U.S. Department of the Interior. *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation.* Washington D.C.: National Park Service, 1995.
- U.S. Department of the Interior. *National Register Bulletin 16: How to Complete the National Register Register Registration Form.* Washington, D.C.: National Park Service, 1997.
- U.S. Department of the Interior. National Park Service. *The Residential Architecture of Pasadena, CA, 1895-1918: The Influence of the Arts and Crafts Movement.* National Register of Historic Places Multiple Property Documentation Form. Prepared by Lauren Bricker, Robert Winter, and Janet Tearnen for the City of Pasadena. 1998.

## **APPENDIX A: PERMIT HISTORY**

| DATE       | PERMIT# | WORK PERFORMED                  | ARCHITECT/CONTRACTOR | OWNER                         |
|------------|---------|---------------------------------|----------------------|-------------------------------|
| 11/14/1907 |         | New 9-bedroom residence         | George E. Grier      | George E. Grier               |
|            |         | and garage                      |                      |                               |
| 4/15/1936  | 2974    | Window – repair roof            | Roodewig [sic]       | F.B. Wood [sic] <sup>19</sup> |
| 2/7/1975   | 8017    | Re-roof house only w./ 240#     | Alhambra Roofing Co. | Mr. W.H. Humphreys            |
|            |         | compo. shingles                 |                      |                               |
| 7/3/1979   | 266     | Kitchen + bath remodel (non-    | Dennis Shewchuk      | Mr. and Mrs. Taylor           |
|            |         | structural). Light and          |                      |                               |
|            |         | ventilation to remain same.     |                      |                               |
| 7/3/1979   | 580     | New 18 x 35 pool                | Anthony Pools        | Taylor                        |
| 11/10/1987 | 5193    | Remove and replace plaster      | T.K.R. Const. Co.    | Clive + Sue Taylor            |
|            |         | on interior. Re-roof and paint. |                      |                               |
|            |         | Replace chimney and             |                      |                               |
|            |         | fireplace and front columns.    |                      |                               |
| 12/4/1987  | 5307    | Masonry fireplaces & collums    | Converse Consultants | Taylor                        |
|            |         | [sic]. Earthquake repairs (2)   |                      |                               |
|            |         | plans                           |                      |                               |
| 12/14/1987 | 5356    | Fire sprinkler partial system.  | TKR Const. Co.       | Clive + Sue Taylor            |
|            |         | NFPA-13D                        |                      |                               |
| 2/26/1996  | 18063   | Foundation retrofit. Anchor     | ConstrucTech         | Dr. Clive Taylor              |
|            |         | sill plate to foundation.       |                      |                               |

<sup>&</sup>lt;sup>19</sup> The property at 1601 Marengo Avenue was owned and occupied by Ernest C. Roddewig from 1933 through approximately 1948. Therefore, it is likely that the "owner" and "contractor" fields on this permit contain the opposite information: Roddewig was the owner, while F.B. Wood was the contractor.

APPENDIX B: CURRENT CONDITION PHOTOGRAPHS (HISTORIC RESOURCES GROUP, OCTOBER 2020)



East and south façades, view facing northwest.



South and west façades, view facing northeast.



West and north façades, view facing southeast.



North façade, view facing south.



North and east façades, view facing southwest.



East façade, view facing west.



Foyer and small sitting room, view facing southwest.



Small sitting room with clinker brick fireplace and built-in bookcase, view facing southwest.



Foyer and large sitting room, view facing northwest.



Large sitting room with arroyo stone chimney and built-in cabinet, view facing northwest.



Large sitting room with arroyo stone fireplace and built-in window seat at bay window, view facing east.



Dining room with wood wainscoting, plate rail, and built-in china cabinet, view facing southwest.



Detached garage, view facing southwest.



Contextual view along Marengo Avenue and Oak Street, view facing southwest.

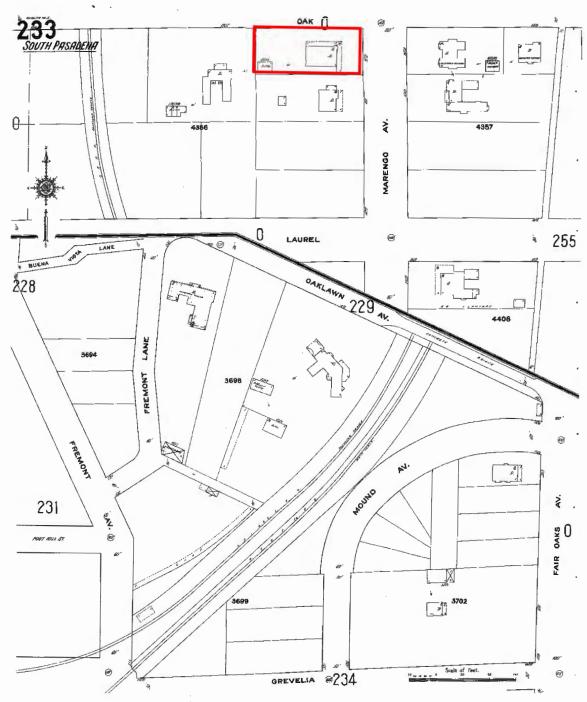


Contextual view along Marengo Avenue, view facing southwest.

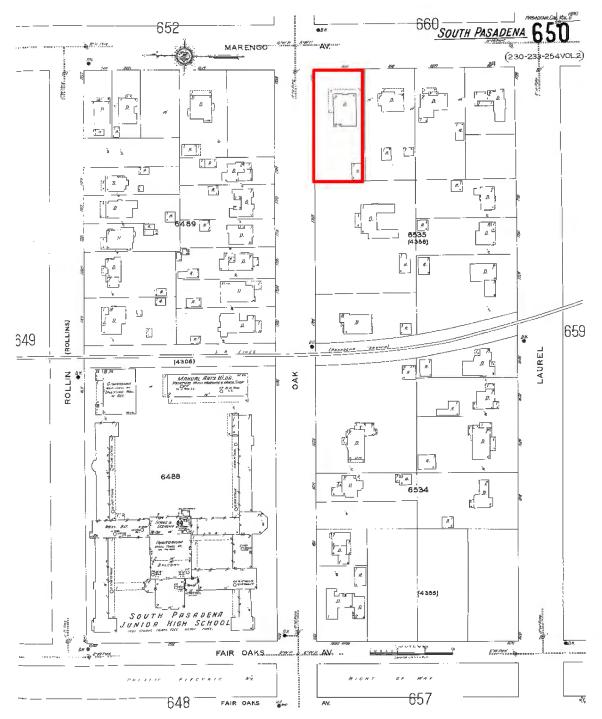


Contextual view along Marengo Avenue, view facing northwest.

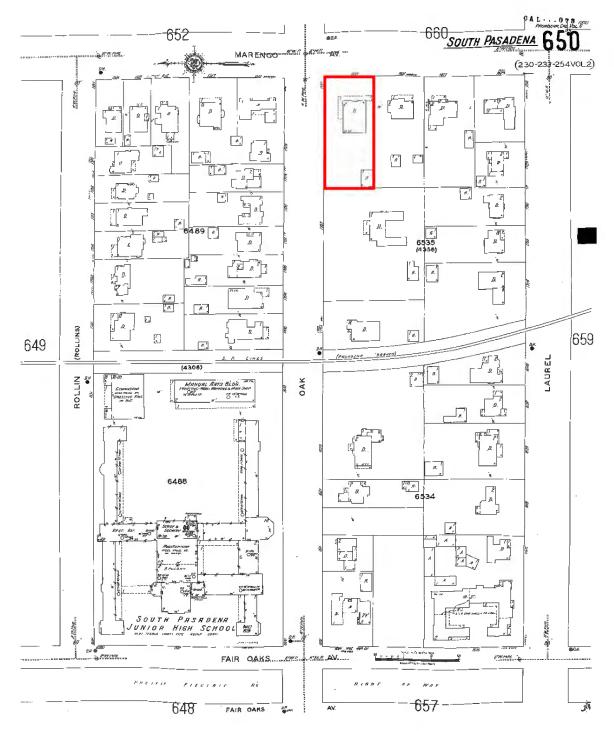




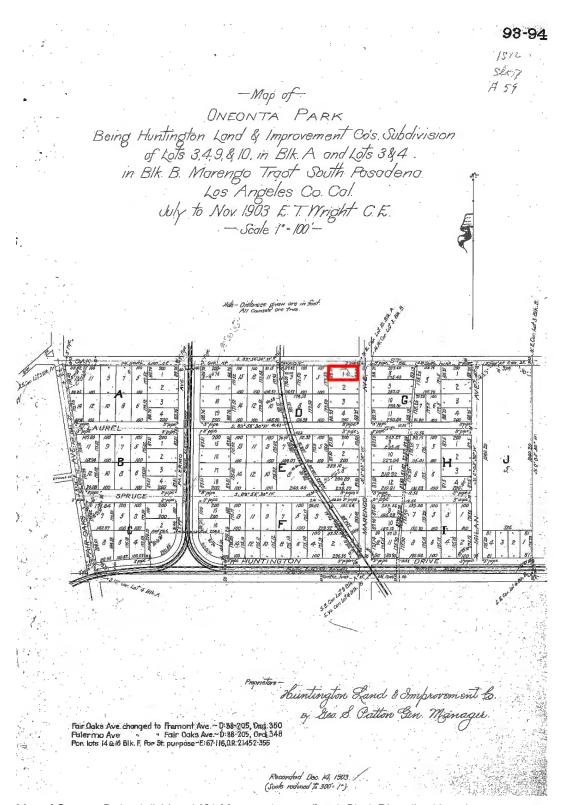
1910 Sanborn Fire Insurance Map. 1601 Marengo Avenue outlined in red.



1930 Sanborn Fire Insurance Map. 1601 Marengo Avenue outlined in red.



1951 Sanborn Fire Insurance Map. 1601 Marengo Avenue outlined in red.



Map of Oneonta Park subdivision. 1601 Marengo Avenue (Lot 1, Block D) outlined in red.

| *P2. | Location: | □ Not for Publication         |           | Unrestricted   |
|------|-----------|-------------------------------|-----------|--|
| *a.  | County    | Los Angeles County            |           | and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary. |
| *b.  | USGS 7.5' | Quad Los Angeles Date         | 2018      | B T <u>1S</u> ; R <u>12W; SW ¼ □ of SW ¼ □ of Sec 4;B.M.</u>       |
| C.   | Address 1 | .601 Marengo Ave              |           | City South Pasadena Zip 91030                                      |
| d.   | UTM: (Gi  | ve more than one for large an | d/or line | near resources) <b>Zone</b> 11S , 396797 mE/ 3773752 mN            |

Other Locational Data: APN: 5320-007-001

#### \*P3a. **Description:**

Group, December 2014. \*Attachments: □NONE

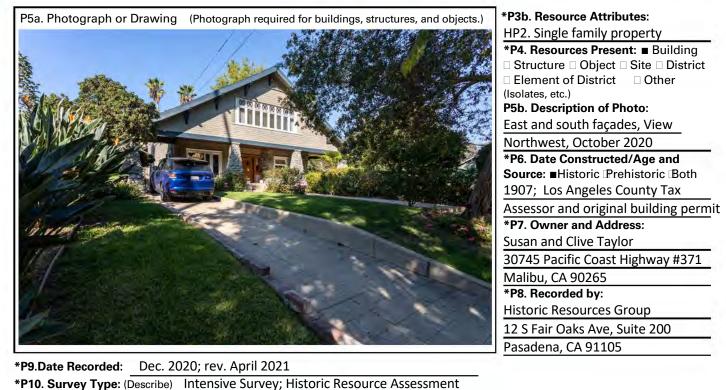
□Archaeological Record

□Photograph Record

□Artifact Record

1601 Marengo Avenue is located on the southwest corner of the intersection of Marengo Avenue and Oak Street in the City of South Pasadena. The property is occupied by a single-family residence and associated detached garage. The residence is set back from the street with a gently sloping front yard, with an expansive lawn and mature landscaping with mature trees, some of which are reportedly the original trees planted on the site. The property is flanked to the south and west by large single-family residences.

The one-and-one-half-story Craftsman style residence is of wood frame construction and has a rectangular plan, simple massing, and asymmetrical composition. It has a front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces. (See Continuation Sheet)



\*P11. Report Citation: City of South Pasadena. Citywide Historic Context Statement. Prepared by Historic Resources ■Continuation Sheet □Location Map ■Building, Structure, and Object Record □District Record □Linear Feature Record □Milling Station Record □Rock Art Record ☐ Other (List):

| B1. Historic Name:  |   |                    |                    |                   |                     |   |  |  |  |  |  |
|---|---|--------------------|--------------------|-------------------|---------------------|---|--|--|--|--|--|
| B2.   | <b>Common Name</b>  | :                  |                    |                   |                     |   |  |  |  |  |  |
| B3.   | Original Use:   | Single family pr   | operty             | В                 | 4. Present Use:     | Single family property                  |  |  |  |  |  |
| *B5.  | Architectural St  | yle: Craftsman     |                    |                   |                     |   |  |  |  |  |  |
| *B6.  | <b>Construction Hi</b>  | story: (Construct  | on date, alterat   | ions, and date o  | f alterations)      |   |  |  |  |  |  |
| 11/14,  | 11/14/1907 - New 9-room residence and garage                    |                    |                    |                   |                     |   |  |  |  |  |  |
| 4/15/1936 (Permit #2974) – Window – repair roof   |   |                    |                    |                   |                     |   |  |  |  |  |  |
|   |   | 7) – Re-roof house |                    |                   |                     |   |  |  |  |  |  |
|   |   |                    |                    | non-structural)   | . Light and ventila | tion to remain same                     |  |  |  |  |  |
|   | , ,   | – New 18 x 35 po   |                    |                   |                     |   |  |  |  |  |  |
| 11/10,  | /1987 (Permit #5:   | 193) – Remove and  | l replace plaste   | er on interior. F | Re-roof and paint.  | Replace chimney and fireplace and front |  |  |  |  |  |
| colum   |   |                    |                    |                   |                     |   |  |  |  |  |  |
|   | •   | 07) – Masonry fire |                    |                   |                     | ans                                     |  |  |  |  |  |
| 2/26/1  | 1996 (Permit #180   | 063) – Foundation  | retrofit. Anch     | or sill plate to  | foundation.         |   |  |  |  |  |  |
| *B7.  | Moved? ■N   | lo 🗆 Yes           | Unknown            | Date:             |                     | Original Location:                      |  |  |  |  |  |
| _   | Related Feature   | s:                 |                    |                   |                     |   |  |  |  |  |  |
| B9a.  | Architect:  |                    |                    |                   | b. Builder:         |   |  |  |  |  |  |
| *B10.   | •   | Context: Theme     |                    | ıre: Craftsmaı    |                     | rea South Pasadena                      |  |  |  |  |  |
|   |   | ficance 1907 P     |                    |                   |                     | oplicable Criteria Criteria 1, 4, 7     |  |  |  |  |  |
| 1601 Marengo Avenue was identified as eligible in previous historic resources surveys both individually and as a  |   |                    |                    |                   |                     |   |  |  |  |  |  |
| contributor to the potential Oneonta Park Historic District, and it is listed in the City's Inventory of Historic Resources.  |   |                    |                    |                   |                     |   |  |  |  |  |  |
| The Craftsman style residence, constructed in 1907, represents a significant period of development during which the   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| residential character of South Pasadena was established. It is an excellent example of Craftsman residential  |   |                    |                    |                   |                     |   |  |  |  |  |  |
| architecture, exemplifying tenets of the style and reflecting the regional interpretation of the style stressing simplicity   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| of design and extensive use of local, natural materials. It retains significant character-defining features that reflect the  |   |                    |                    |                   |                     |   |  |  |  |  |  |
| distinctive details and craftsmanship from the period. It is a highly intact example of the style and retains all seven   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| aspects of Historic Integrity. Therefore, 1601 Marengo Avenue is eligible for designation as a City of South Pasadena   |   |                    |                    |                   |                     |   |  |  |  |  |  |
|   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| Landmark under Criteria 1, 4, and 7 for reflecting character, interest, and value as an example of early 20 <sup>th</sup> century   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| residential development; exemplifying the Craftsman architectural style; and embodying the elements of the style and early 20 <sup>th</sup> century craftsmanship. (See Continuation Sheet) |   |                    |                    |                   |                     |   |  |  |  |  |  |
|   | •   | ource Attributes:  |                    | =                 |                     |   |  |  |  |  |  |
| B11.<br>*R12  | References:   | ource Attributes:  | (List attributes a | and codes)        |                     |   |  |  |  |  |  |
|   |   | sadena 1888-1988   | : A Centennial     | History South     |                     |   |  |  |  |  |  |
| Apostol, Jane. South Pasadena 1888-1988: A Centennial History. South Pasadena, CA: South Pasadena Public Library, 1987.   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| California Historical Resources Inventory. August 15, 2011.   |   |                    |                    |                   |                     |   |  |  |  |  |  |
|   | City of South Pasadena building permits.                        |                    |                    |                   |                     |   |  |  |  |  |  |
| City of South Pasadena directories.   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| Sanborn Insurance Company maps. 1910, 1930, 1951.   |   |                    |                    |                   |                     |   |  |  |  |  |  |
| Sannhos Environmental, Inc. Historic Resources Technical Report, City   |   |                    |                    |                   |                     |   |  |  |  |  |  |
|   | of South Pasadena Downtown Revitalization Project Environmental |                    |                    |                   |                     |   |  |  |  |  |  |
|   | Impact Report. Prepared for RBF Consulting, June 5, 2007.       |                    |                    |                   |                     |   |  |  |  |  |  |

B13.

Remarks:

\*B14. Evaluator: Christine Lazaretto; Molly Iker-Johnson

\*Date of Evaluation: December 2020; rev. April 2021

#### **Architecture Description (Continued):**

There are shed roof dormers at the north and south façades, and latticed attic vents at each gable end. There is an exterior arroyo stone chimney at the north façade. At the southeast corner of the house, the roof slope flares over the driveway to form a porte-cochère supported by battered arroyo stone piers with concrete caps. A recessed scored concrete porch with battered arroyo stone piers with concrete caps wraps the north and east façades. The porch is accessed by a concrete path and steps. There is an additional halfheight battered porch pier. Exterior walls are clad in wood clapboard siding, with wood shingles at the eastfacing gable. Fenestration is varied, and consists of wood sash fixed, double-hung, and awning windows with wide wood surrounds with cornices, and wood sills with shaped shoes. Several windows on the east and north (street-facing) façades have diamond-light upper sash or transoms. In the east gable there is an extended sill set into a recess with rounded corners. There is a bay window at the east (primary) façade, clad in arroyo stone, and a set of divided-light wood French doors with wide sidelights. The primary entrance is centered on the east façade. It is set within an arroyo stone recess with rounded corners. It consists of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights. There is a secondary entrance at the north façade, consisting of a single partially glazed wood door with a wide wood surround. There is a back door at the west façade, consisting of a single partiallyglazed wood door.

The primary entrance opens onto a central entrance hall and back hall that bisect the house, with a living room and dining room to the north, and a study, bedrooms, and bathroom to the south. There are hardwood floors, wide wood door and window surrounds, and five-panel wood doors with brass hardware. The central entrance hall and study have tray ceilings of plaster with wood trim; the living and dining rooms have wood beamed plaster ceilings. The central entrance hall provides access to the second floor via a quarter-turn stair with Classical wood newel posts and wood risers, treads, tread returns, stringboards, balusters, and railings. The living room, accessed from the entrance hall via a wide cased opening with wood paneled partial-height walls and square wood columns, has a wood beamed plaster ceiling, an arroyo stone fireplace, a built-in cabinet with leaded glass doors, and a window seat at the bay window. The dining room, accessed from the living room via a wide cased opening with wood paneled partial-height walls and square wood columns, has a wood beamed plaster ceiling, paneled wood wainscoting with a plate rail, and a built-in china cabinet. The small study is accessed from the central entrance hall via a wide cased opening and has a clinker brick fireplace and a built-in bookcase.

The detached garage, situated at the southwest corner of the parcel, has a rectangular plan, simple massing, and asymmetrical composition. The primary automotive entrance is located at the center of the north (primary) façade, and consists of a pair of rolling wood plank doors. There is a cross-gable roof with composition shingle roofing, open eaves with exposed rafter tails, and overhanging rakes with outriggers and knee braces. There are latticed attic vents at the gable ends. Exterior walls are clad in wood clapboard, with wood shingles at the north gable. Fenestration consists of divided-light wood sash windows set in wide wood surrounds with projecting sills. A paneled wood door with a wide wood surround, located to the east of the automotive door, provides pedestrian access.

#### **Significance Statement (Continued):**

#### *Criterion 1 (character, interest, or value)*

The residence and detached garage at 1601 Marengo Street were constructed in 1907. The early 20th century represents a significant period of growth in South Pasadena. The city has a particularly strong collection of residential neighborhoods that developed in the first two decades of the 20th century, and the city's residential character was largely established during this period. 1601 Marengo Avenue is located in the Oneonta Park development, originally subdivided in 1903, and one of several large-scale subdivisions developed in South Pasadena during this period. Oneonta Park was identified as a potential historic district in the 1991 historic resources survey, a finding that was confirmed in subsequent surveys.

The potential Oneonta Park Historic District represents a collection of one- and two-story single-family residences, set on rectangular lots with deep setbacks, unified by Period Revival and Craftsman style architecture. 1601 Marengo Avenue was identified as a contributor to the potential district, representing early development and settlement patterns in South Pasadena. 1601 Marengo Avenue therefore reflects "character, interest or value as a part of the heritage of the community," as an extant example of early 20th century residential development in South Pasadena and is eligible under Criterion 1.

#### Criterion 4 (exemplifies an architectural style)

According to guidance from the National Park Service, properties that are eligible for their architectural merit should embody the distinctive characteristics of a style or type and/or possess high artistic value. A property that is an example of a recognizable style or property type does not automatically qualify it for designation; typically, the property should be an excellent or rare example of its style or type that distinguishes it from other examples from the period. Due to the high quality of architecture in South Pasadena, properties that are individually eligible for their architectural merit represent excellent or rare examples of their style and retain a high degree of historic integrity. 1601 South Marengo is an intact and excellent local example of Craftsman residential architecture. It has been identified as individually significant for its architectural merit in previous surveys.

The Craftsman style of architecture proved so popular in California that in both historic and contemporary literature, the Craftsman style is often called the "California" style. Examples of the style were widespread in South Pasadena beginning at the turn of the 20<sup>th</sup> century. Its traction was a result of the rapid growth of the area's middle-class population, which embraced a more informal lifestyle, and therefore a more informal style of architecture, than was found in Victorian styles. Pasadena-area architects, in particular, developed their own regional interpretation of the style and incorporated local materials into their designs, including redwood and arroyo stone.

The residence at 1601 Marengo Avenue, constructed in 1907, represents an excellent local example of Craftsman residential architecture. It embodies the distinctive characteristics of the style and possesses

#### **Significance Statement (Continued):**

high artistic value. The residence exemplifies the tenets of the Arts and Crafts movement, and reflects the regional interpretation of the style stressing simplicity of design, integration of the building with its surrounding landscape, and extensive use of local, natural materials, including stones sourced from the nearby Arroyo Seco.

It has distinctive details and retains significant character-defining features its original design, including the front-gable roof with composition shingle roofing, open eaves with shaped rafter tails, and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed wrap-around front porch with heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners at the east gable; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights.

1601 Marengo Avenue exemplifies the Craftsman architectural style and is therefore eligible for local designation under Criterion 4.

#### Criterion 7 (embodiment of elements)

As discussed under Criterion 4 above, 1601 Marengo Avenue represents an excellent local example of Craftsman residential architecture. It embodies the distinctive characteristics of the style; possesses high artistic value; and exemplifies the tenets of the Arts and Crafts movement and the regional interpretation of the style stressing simplicity of design, integration of the building with its surrounding landscape, and extensive use of local, natural materials, including stones sourced from the Arroyo Seco.

The residence has undergone few alterations over time and exhibits high quality of design and evidence of period materials and workmanship. It embodies distinctive elements of the style and retains numerous features reflecting materials and craftsmanship from the period. Significance character-defining features include the front-gable roof with open eaves with shaped rafter tails and overhanging rakes with decorative bargeboards and shaped knee braces; exterior walls clad in wood clapboard siding with wood shingles at the east gable; recessed scored concrete wrap-around front porch; heavy, battered porch piers of arroyo stone with concrete caps; varied fenestration consisting of wood sash double-hung and fixed windows, some with diamond-pane upper sash or transoms; extended sill set into a recess with rounded corners; and a primary entrance set into an arroyo stone recess with rounded corners, consisting of a flush wood door with a leaded, diamond-shaped viewport and partial-height casement sidelights.

1601 Marengo Avenue embodies the elements of Craftsman style architecture, and reflects significant design detail, materials, and craftsmanship from the period. Therefore, it is eligible for local designation under Criterion 7.



North façade, view facing south.



South and west façades, view facing northeast.



West and north façades, view facing southeast.



North and east façades, view facing southwest.



East façade, view facing west.



Foyer and small sitting room, view facing southwest.



Small sitting room with clinker brick fireplace and built-in bookcase, view facing southwest.



Foyer and large sitting room, view facing northwest.



Large sitting room with arroyo stone chimney and built-in cabinet, view facing northwest.



Large sitting room with arroyo stone fireplace and built-in window seat at bay window, view facing east.



Dining room with wood wainscoting, plate rail, and built-in china cabinet, view facing southwest.



Detached garage, view facing southwest.



Contextual view along Marengo Avenue and Oak Street, view facing southwest.

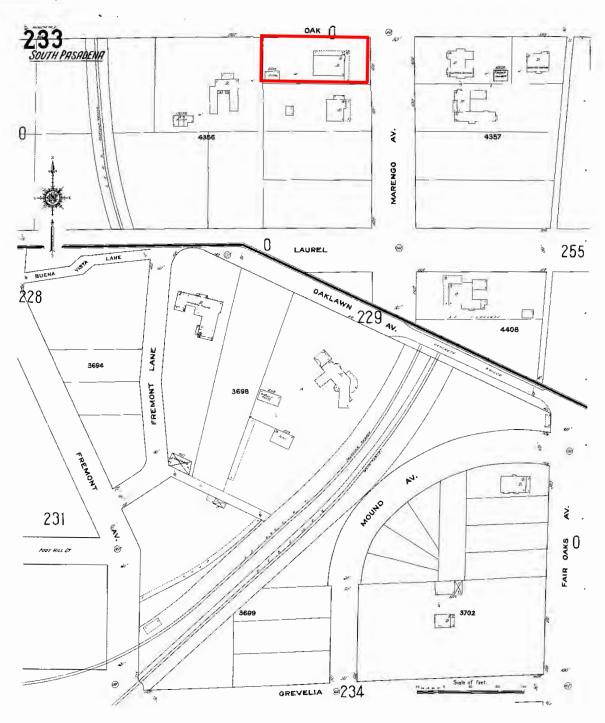


Contextual view along Marengo Avenue, view facing southwest.



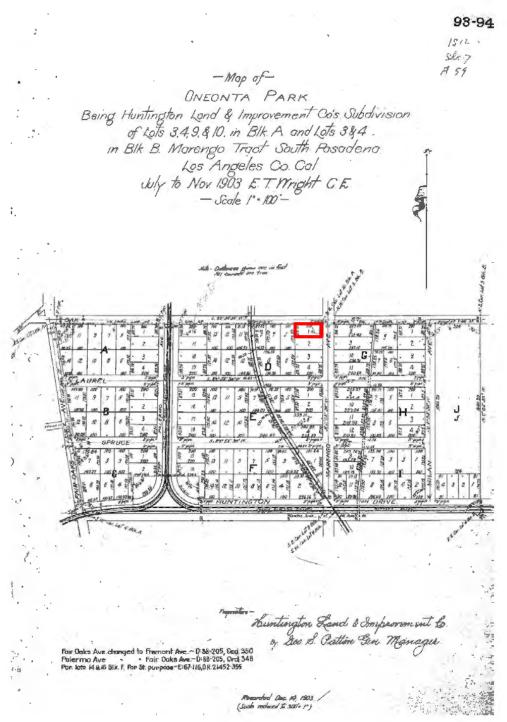
Contextual view along Marengo Avenue, view facing northwest.

#### Sanborn Map:



1910 Sanborn Fire Insurance Map. 1601 Marengo Avenue outlined in red.

#### **Tract Map:**



Map of Oneonta Park subdivision. 1601 Marengo Avenue (Lot 1, Block D) outlined in red.

## **ATTACHMENT 2**

Subcommittee Report for Historic Landmark Designation

CHC Landmark Subcommittee Report, Draft June 21 2021
Conrado Lopez, Commission Member
William Cross, Commission Member

**1601 Marengo Avenue**: Review of Application for Landmark Designation

#### Introduction

The City of South Pasadena received an application for Landmark Designation for the home at 1601 Marengo Avenue on February 3, 2021. At the meeting of the Cultural Heritage Commission (CHC) on March 18, 2021, a Landmark Designation subcommittee consisting of Conrado Lopez, Commission Member and William Cross, Commission Member was appointed to review the application. The Landmark Designation subcommittee reviewed the application materials, met with the property owner virtually on April 23, 2021 and toured the property at that time. This report presents the Landmark Designation subcommittee's recommendation on the ability of the proposed application to meet the designation criteria required for Register of a Landmark per SPMC 2.63(b)(1-11) explaining with brief facts the way in which the property was important to the local, state or national history during the period of significance. It would also include significant themes and historic contexts to which the property relates.

#### **Background**

The house at 1601 Marengo Avenue proposed for landmark designation was built in 1907. The Craftsman Style house was identified as a contributor to the eligible Oneonta Park Historic District in the 1991 Citywide Historic Resources Survey. The 2002-2003 and 2015-2016 historic surveys the property was determined eligible individually and as a contributor to the district. Attach History from Historian report

#### Criteria for considering the merits of a Landmark Designation

Criteria and standards for the designation of a landmark shall include any or all of the following, as applicable:

- (1) Its character, interest or value as a part of the heritage of the community;
- (2) Its location as a site of a significant historic event;
- (3) Its identification (such as the residence, ownership, or place of occupation, etc.) with a person, persons or groups who significantly contributed to the culture and development of the city, state or United States;
- (4) Its exemplification of a particular architectural style of an era of history of the city;

- (5) Its exemplification of the best remaining architectural type in a neighborhood;
- (6) Its identification as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States;
- (7) Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;
- (8) It is either a part of or related to a square, park or other distinctive area which should be developed or preserved according to a plan based on a historic cultural or architectural motif;
- (9) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;
- (10) Its potential for yielding information of archaeological interest; or
- (11) In designating a historic district, its significance as a distinguishable neighborhood or area whose components may lack individual distinction.

#### Recommendation on Landmark Designation

In conclusion, pursuant to South Pasadena Municipal Code Section 2.63, we recommend that 1601 Marengo Avenue be granted Landmark Designation based on its consistency with Criteria (1) and (4) of South Pasadena Municipal Code Section 2.63(b). The subject house built in the early 20th century represents a significant period of growth in South Pasadena. As an extant example of a residence of this era, it reflects "character, interest or value as a part of the heritage of the community" (Criterion 1). It is also an excellent example of Craftsman residential architecture. It embodies distinctive characteristics of the style and possesses high artistic value, therefore, it is eligible for designation under Criterion 4.

The proposed landmark possesses historic integrity of location, design, setting, materials, workmanship, and feeling. It remains in its original location, retains significant character-defining features, original setting, historic materials, physical evidence of Craftsman era construction techniques and workmanship, feeling, and association with early residential development in the Coty of South Pasadena.

# ATTACHMENT 3

Staff Report from March 18, 2021



**DATE:** March 18, 2021

**TO:** Chair and Members of the Cultural Heritage Commission.

FROM: Kanika Kith, Planning Manager

**PREPARED BY:** Aneli Gonzalez, Management/Planning Intern

SUBJECT: 1601 Marengo Avenue– Historic Landmark Designation Request

#### Recommendation

It is recommended that the Cultural Heritage Commission appoint a subcommittee to review a request for a Historic Landmark Designation.

#### Discussion/Analysis

On February 5, 2021, the applicant's representative of 1601 Marengo Avenue, Molly Iker-Johnson, submitted a request to designate the home as a historic landmark property. A history of the property report, prepared by Christine Lazzaretto and Molly Iker-Johnson from Historic Resources Group is included as **Attachment 1**.

1601 Marengo is located on the southwest corner of Marengo Avenue and Oak Street. As stated in the report, the home was built in 1907 as a single-family residence with a detached garage. The architectural style is Craftsman and was built during the Arts and Crafts movement. In accordance with the report, some of the primary character defined features found in the home are:

- Rectangular plan, simple massing, and asymmetrical composition
- Front gable roof with composition shingle roofing
- Exterior arroyo stone chimney
- · Latticed attic vents
- Heavy, battered porch piers of arroyo stone with concrete caps
- Front door set into an arroyo stone recess with rounded corners
- Central entrance hall and back hall bisecting the house
- Five-panel wood doors with brass hardware
- Quarter-turn stair with Classical wood newel posts

Staff recommends that the Commission appoint a subcommittee to review this request in further detail. Owners are not interested in applying for the Mills Act Contract this year.

#### **Next Steps**

Planning staff will arrange a virtual site visit with the homeowner and the subcommittee to inspect and discuss the property in question for landmark designation.

The appointed subcommittee will review the submitted materials and prepare a report to the Cultural Heritage Commission to make a recommendation to City Council.

#### **Fiscal Impact**

A Mills Act contract allows a tax reduction (between approximately 40% - 60%) for a property owner who agrees to perform certain restoration and maintenance tasks over a 10-year period. Although the City will see a reduction in property tax revenue (26% per Mills Act contracted property), the benefits of the program include economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

#### **Environmental Analysis**

The Mills Act Contract qualifies for an exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15308, Class 8: Actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

#### **Public Notification of Agenda Item**

The public is made aware of this item by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### **Attachment:**

1. History of the Property

## **ATTACHMENT 2**

Staff Report and Attachments from August 19, 2021 CHC meeting (Click Here)

# 1601 Marengo Avenue

Project No. 2414-LMN
Historic Landmark Designation
October 6, 2021



# **PROJECT**

Historic Landmark Designation Request for a property located at 1601 Marengo Avenue



On August 19, 2021, the Cultural Heritage Commission reviewed the Historic Landmark application and voted 4-0 recommending that the City Council designate property at 1601 Marengo Avenue as a Historic Landmark (Historic Landmark No. 58).



The Craftsman house was built in 1907 as a single-family residence with a detached garage.



The residence has undergone minimal alterations.

## **Criteria for Historic Designation**

- 1. Its character, interest or value as a part of the heritage of the community;
- 2. Its location as a site of a significant historic event;
- 3. Its identification (such as the residence, ownership, or place of occupation, etc.) with a person, persons or groups who significantly contributed to the culture and development of the city, state or United States;
- 4. Its exemplification of a particular architectural style of an era of history of the city;
- 5. Its exemplification of the best remaining architectural type in a neighborhood;
- 6. Its identification as the work of a person or persons whose work has influenced the heritage of the city, the state or the United States;
- Its embodiment of elements of outstanding attention to architectural design, engineering, detail design, detail, materials or craftsmanship;
- 8. It is either a part of or related to a square, park or other distinctive area which should be developed or preserved according to a plan based on a historic cultural or architectural motif;
- 9. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood;
- 10. Its potential for yielding information of archaeological interest; or
- 11. In designating a historic district, its significance as a distinguishable neighborhood or area whose components may lack individual distinction.

# **Recommendation:**

The Cultural Heritage Commission recommends that the City Council designate the property at 1601 Marengo Avenue as a Historic Landmark (Historic Landmark No. 58).



Thank you!



## City Council Agenda Report

ITEM NO. 21

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager A

PREPARED BY:

Lucy Demirjian, Assistant to the City Manager

SUBJECT:

Caltrans Surplus Properties Disposition Update; Establishing Ad Hoc for Implementation Phase; Authorizing Issuance of Request for Proposals for Property Inspection and Repair Estimates; and Authorizing Evaluation of

Funding Options for Acquisition and Rehabilitation of Properties

#### Recommendation

It is recommended that the City Council:

1. Consider establishing a City Council ad hoc Implementation Committee for the next phase of the California Department of Transportation (Caltrans) Surplus Properties Disposition; and

Authorize issuance of a Request for Proposals (RFP) for property inspection and repair estimate
professionals for homes presently unoccupied homes, and homes being considered for
acquisition when existing tenants choose not to purchase; and

3. Authorize evaluation of funding opportunities for acquisition and rehabilitation, and prepare a home and portfolio financial feasibility analysis to support the acquisition and rehabilitation of the Caltrans properties.

### Update on Legislation

Senate Bill 381 advanced through several committees and passed the legislature thanks to the leadership and tremendous efforts by Senator Portantino. The bill was signed by Governor Newsom on September 28, 2021. As an urgency measure, the bill will go into effect immediately, requiring the preparation of emergency regulations by Caltrans. The bill will serve as a roadmap for the disposition of surplus Caltrans properties located in the City of South Pasadena.

SB 381 allows for the sale of homes to current tenants, addresses the blight of unoccupied and dilapidated properties to restore neighborhoods, and creates much-needed affordable housing in the City. The legislation sets deadlines for Caltrans to expeditiously sell properties to all current tenants in good standing, at every income level. It also provides the City with the opportunity to purchase unoccupied properties at original acquisition price, and substantially rehabilitate and maintain such as affordable housing.

In the coming months, there will be many policy choices that require further investigation, research, and community input. Staff plans for continued community outreach to provide an understanding of the bill and discussion on policies for the city-acquired properties.

Staff also plans to meet with Caltrans to establish a good working relationship as the emergency regulations are prepared.

To provide the City Council with a better understanding of the financial considerations to acquire and rehabilitate the Caltrans surplus properties, an inspection should be conducted, by a qualified inspector, to identify the scope of repairs necessary to rehabilitate each of the 22 unoccupied properties. In addition, an analysis of available funding opportunities will enable the City Council to make more informed decisions on how to proceed with the property acquisitions.

#### **Discussion**

The City Council should review the responsibilities of the Legislative and Non-Legislative ad hoc committees and consider establishing a new Implementation Ad Hoc Committee to assist staff and consultants on the next phase of the City's Caltrans disposition strategy. This will include participation in stakeholder discussions, review of policy options and implementation of the new regulations provided for in the recent law. The Committee will also be asked to provide input to staff on what is to be included in the Request for Proposals (RFP) for inspection and repair estimates. The Committee will also review available funding options before making recommendations to the full City Council on how to proceed with the acquisition of the unoccupied properties.

Council is also requested to 1) authorize CivicStone and staff to issue an RFP for professionals to conduct property inspections, prepare repair estimates, and 2) authorize CivicStone to prepare a financial feasibility analysis with possible funding sources that will support the acquisition and rehabilitation of the Caltrans properties. These tasks are included in the current scope of work with CivicStone. Staff recommends initiating both activities simultaneously and with the approval of Council.

#### Property Inspections and Repair Estimates

CivicStone will prepare and coordinate the process of an RFP that would allow the city to hire a qualified company to inspect all the homes being considered for acquisition. The cost of repair estimate will be used in the financial feasibility analysis for each home and include applicable historic preservation repairs. The scope of repairs prepared by the selected inspection company will be used in the future to solicit general contractors to provide proposals to complete the repairs.

This task relies upon Caltrans granting access to each of the unoccupied properties. The RFP would be written to include both the unoccupied properties and the option to add additional properties if a current tenant decides to not purchase the home in which they currently reside.

The RFP will be prepared and issued, and staff will review and present the proposals to Council for consideration and approval to hire a qualified company. This entire process is estimated to take approximately 2-3 months. It will include meetings with staff, update meetings with the Implementation Committee, preparing a repair standard to determine the appropriate level of repairs, preparing the Request for Proposal, reviewing and discussing proposals with applicants, and preparing recommendations for Council consideration.

CivicStone estimates the total cost of these activities to be \$7,500 - \$9,000. The cost for the inspection is typically required by the Buyer in real estate transitions. By hiring professionals for the inspection and cost estimates, the city will ensure that the city has the information it needs from a company with proper experience and knowledge about the repair standards and historic ordinance requirements are hired, instead of leaving the inspection duties to Caltrans.

#### Home and Portfolio Financial Analysis

CivicStone will explore potential funding sources for the acquisition and rehabilitation of all the homes that a tenant does not purchase. Each home will have their own project *pro forma* while also providing an entire portfolio analysis. The portfolio analysis can then be tied into the overall operations/ administrative analysis/budget of a Community Land Trust or other Housing Related Entity that will serve as a steward over the homes not purchased by the existing tenants. The financial modeling will be scalable to include any number of homes that may not be purchased by the current tenants of the occupied homes.

The financial modeling will be set up to change various policy parameters to be determined after community input and Council direction. These policy parameters will allow a "what-if" analysis on rent versus sale, various financing options, and tenant income and rental mix. This home and portfolio financial feasibility analysis is estimated to take 2-3 months to complete and will include preparing the various spreadsheets, funding research, meetings with staff and the Implementation Committee for updates and feedback, a community meeting policy discussion, and preparing recommendations for Council consideration. CivicStone estimates the total cost of these activities to be \$13,500 to \$15,000.

#### **Next Steps**

- 1. October/early November Joint community meeting with Senator Portantino's office regarding implementation on new legislation.
- 2. November 2021 City Council approval of an RFP for a Property Inspection and Repair Estimate.
- 3. January 2022 City Council approval of a Professional Services Agreement for a Property Inspection and Repair Estimate.

As the City moves forward on the next phase of the Caltrans surplus property disposition, it is important to reiterate for the community that there will be many opportunities for further discussion and decisions to be made that involve local policy choices that are not conditional upon Caltrans.

#### **Legal Review**

This report was reviewed by the City Attorney.

#### **Financial Review**

The recommended actions of this report require no additional funding. The issuance of an RFP and exploration of funding sources are included in the existing scope of work for CivicStone. Once proposals are received and reviewed, the approval of a contract will be presented to the City Council at a future date with funding recommendations. CivicStone has billed for \$27,330 for work completed under its contract approved by City Council in April.

#### **Public Notification of Agenda Item**

The public was made aware that this item to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website, and publication in the *South Pasadena Review* newspaper.

#### **Attachments**

- 1. SB 381 Summary and Factsheet
- 2. SB 381 text
- 3. Surplus properties and acquisition cost

## ATTACHMENT 1 SB 381 Summary

#### **SB381 Summary**

SB 381 gives current tenants of single-family and multi-family residences new opportunities to purchase properties. The City of South Pasadena will be able to sell historical homes at fair market value and use the funds generated to reinvest in affordable housing. The legislation also recognizes local historic properties and provides for a new opportunity for the subsequent sale of historic properties at fair market with proceeds staying in South Pasadena to create more affordable housing. The measure requires that for every historical home that is sold, the City must create three affordable housing units. In addition, the bill provides that Caltrans must start to sell unoccupied units by June 30, 2022 and allows the City of South Pasadena to buy properties at acquisition price, which must be used for affordable rentals for 55 years and affordable home ownership for 45 years.

Timeline of actions by City Council and the ad hoc committees related to the disposition of surplus properties:

| March 17, 2021 | City Council approved the sponsorship of draft legislation introduced by Senator Portantino, with the understanding that the bill would continue to evolve pursuant to community input. To that end, Council directed staff and the Ad Hoc Caltrans Housing Subcommittee to engage the community and receive public input.   |
|----------------|--|
| March 25, 2021 | Legislative Ad Hoc and staff attended a community forum sponsored by the South Pasadena Preservation Foundation (SPPF) regarding the Foundation's proposal to reach agreement with Caltrans on the disposition of surplus residential properties. The forum provided the opportunity to hear comments, questions, and suggestions from the community.  |
| March 29, 2021 | City and Senator Portantino hosted a community forum to explain SB 381 and answer questions from the community. After introductory remarks by Mayor Mahmud and Senator Portantino, a 15-minute presentation was delivered that provided an overview of SB 381 and provided a list of proposed amendments to SB 381 based on feedback received during the March 17 City Council meeting, correspondence to the City, and the March 25 SPPF community forum. |
| April 7, 2021  | City Council considered the proposed amendments outlined in this report.  After some discussion, there was consensus that additional public input was needed. The item was continued to April 21, 2021.  |
| April 14, 2021 | City hosted a community focus group discussion on, to hear different perspectives from a panel of 10 individuals discussing how to best meet the challenges associated with Caltrans' disposition of its surplus properties.   |
| April 21, 2021 | Staff presented amendments to SB 381 in response to public input received from the Community Forum. The City Council 4, 1 (Zneimer), to approved the recommendation presented by staff concerning SB 381. The Council directed staff to bring back an agenda item to facilitate creation of a new ad hoc committee, with a different purpose from the "legislative" ad hoc committee.  |
| April 21, 2021 | City Council approved a contract with CivicStone, LLC to determine, prepare, and implement a surplus property acquisition and rehabilitation strategy. This effort will involve up to 68 properties currently owned by Caltrans within the City that have been identified and detailed in the attached list of surplus properties.   |

| May 5, 2021       | City Council appointed Mayor Pro Tem Cacciotti and Coucilmember             |  |
|-------------------|---|--|
|                   | Primuth to a "non-legislative" ad hoc committee, discrete from the SB 381   |  |
|                   | ad hoc committee, which would among other tasks, engage in potential        |  |
|                   | negotiations with Caltrans, research and recommend potential creation of a  |  |
|                   | land trust, research and recommend financing strategies for purchase of     |  |
|                   | surplus properties.   |  |
| June 24, 2021     | California Transportation Commission was presented with an action item on   |  |
|                   | the sale of 626 Prospect and ultimately decided to delay action until their |  |
|                   | next meeting in August 18-19. Mayor Pro Tem Cacciotti and                   |  |
|                   | Councilmember Primuth provided testimony during the hearing.                |  |
| June, 2021        | Earlier in June, the City issued a Temporary Restraining Order (TRO) on     |  |
|                   | behalf of the 12-unit residential property at 626 Prospect Avenue. The City |  |
|                   | won a preliminary injunction preventing Caltrans from selling 626 Prospect  |  |
|                   | Avenue to Pasadena Friendship Church. A trial was set for May 2022,         |  |
|                   | during which the city will make its case for why Caltrans violated the law  |  |
|                   | when it offered the property to Friendship Pasadena Church and should       |  |
|                   | instead be ordered to sell it to City's housing authority.                  |  |
| July 21, 2021     | The City Council received updates from both the Legislative and Non-        |  |
|                   | Legislative Caltrans Surplus Properties Disposition Ad Hoc Committees.      |  |
| August 14, 2021   | The Non-Legislative Ad Hoc Committee met with Senator Portantino and        |  |
| _                 | CTC members to tour select Caltrans properties in the City and discuss      |  |
|                   | various issues and concerns voiced by the community.                        |  |
| August 18, 2021   | The City Council received updates from both the Legislative and Non-        |  |
|                   | Legislative Caltrans Surplus Properties Disposition Ad Hoc Committees.      |  |
| September 1, 2021 |   |  |
|                   | result of Senator Portantino's discussions with Caltrans and HCD.           |  |
| September 9, 2021 | Amendments crossed on the Assembly floor and passed the legislature onto    |  |
|                   | Governor's desk.  |  |
| September 28,     | SB 381 signed by Governor Newsom (Oakland, CA)                              |  |
| 2021              |   |  |

## ATTACHMENT 2 SB 381 Factsheet

## SB 381 (Portantino) Surplus residential property: priorities and procedures: City of South Pasadena.

#### **BACKGROUND**

California Department of Transportation (Caltrans) currently owns approximately 460 properties in the State Route 710 (SR 710) corridor, including 330 homes and 103 multi-family housing units. These properties were originally purchased in the corridor with the intent to eventually remove the structures and construct an extension to the existing SR 710 freeway to close a 4.5-mile unconstructed gap between the City of Alhambra and the City of Pasadena.

Early in 2017, Caltrans begun dispensing of properties as required by SB 416 (Liu, 2013) and the Roberti Act. SB 416 and the Roberti Act govern the sale of surplus property and outline the priority order of who can purchase. In 2019, the Governor signed SB 7 (Portantino), which put the final nail in the coffin of the SR 710 extension project.

To date, Caltrans has sold less than 15 properties and will be looking to move forward with the disposition of the other approximately 445 properties this year.

These approximately 445 properties include both occupied and unoccupied (vacant) residential single- family units, multi-family units, and nonresidential/commercial properties.

#### **PROBLEM**

Now that it has been determined that the SR710 freeway gap between Alhambra and Pasadena can no longer be built, cities in the corridor have expressed a need for legislative changes to the current sales process, specifically, the City of South Pasadena. These changes will allow for a more direct intervention by South Pasadena in purchasing properties, thereby allowing them to increase the supply and quality affordable housing outcome in their jurisdiction.

Current statue allows cities to purchase only occupied and unoccupied multi-family units, but cities must still compete with other Housing Related Entities (HREs) to win the bid.

Additionally, current statute sets the sales price for cities at a "reasonable price", determined by various factors. However, a substantial number of these homes need significant repairs and at the same time must be rented or sold at amounts based upon affordable income criteria.

SB 381 proposes changes in the disposition process to make it economically viable for the City of South Pasadena to purchase, substantially rehabilitate, maintain, and administer an affordable housing program and help address the local housing crisis and blight that has been going on in their communities for decades.

#### **SUMMARY**

#### This bill\* would:

- 1) Offer to current tenants of single-family and multi-family residences, the opportunity to purchase the property first.
- 2) Expeditiously offer unoccupied properties to the City at the original acquisition price paid by Caltrans.
- 3) Allow the City to purchase properties at their acquisition price after current tenants reject or do not qualify to purchase the properties in which they reside.
- 4) Allow the City to establish and transfer ownership to a city-approved non-profit housing related entity that would act as a steward over the portfolio of surplus properties and ensure high-quality property maintenance and property management practices.
- 5) All properties would be purchased at acquisition price with a 55-year for rentals and 45 year for homeownership covenant on the land.
- 6) Proceeds from the subsequent sales would be reinvested into the City of South Pasadena to maintain affordable housing.

#### RECENT AMENDMENTS

- 1) Moves up fair market value sales to before HRE (Housing Related Entity)
- 2) Allows for multifamily units to be purchased at fair market value
- 3) South Pasadena can sell historical homes at fair market value and use the funds generated to reinvest in affordable housing in South Pasadena with a 3 to 1 ratio. South Pasadena must create 3 affordable housing units: either build new units or acquire rental units with a 55 year or 45 years covenant for sale of single family homes.
- 4) Sets timelines for Caltrans to start to sell unoccupied units by June 30, 2022 and to adopt emergencies regulations within 6 months
- 5) Funds generated by sell of single family homes with 45 year covenant must be used for affordable housing in South Pasadena
- 6) Housing Related Entities can buy at acquisition price

<sup>\*</sup>includes urgency clause.

#### **EXISTING LAW**

Under existing law, specified single-family residences must first be offered to their former owners or present occupants, as specified. Existing law then requires the property to be offered to housing-related entities, as provided, prior to placing the property up for sale for fair-market value.

Existing law establishes priorities and procedures for the disposition of surplus residential properties in the SR 710 corridor, giving priority to current owners at fair market value, current occupants that meet certain income-qualifications "at an affordable price," housing-related public and private affordable housing entities at a price necessary to maintain affordability, as specified, and then to occupants and persons who intend to be owner occupants at fair market value. With respect to properties offered to specified income-qualified buyers, Caltrans must provide repairs required by lenders and government housing assistance programs prior to the sale or provide the occupants with a replacement dwelling.

Existing law also requires Caltrans to give priority to purchase surplus nonresidential property at market value in use to tenants in good standing who currently rent, lease, or otherwise legally occupy the property.

Existing law, known as the Administrative Procedure Act, governs the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law establishes procedures for the adoption of emergency regulations, including requiring that the state agency make a finding that the adoption of a regulation or order of repeal is necessary to address an emergency, as defined. Under existing law, a

regulation, amendment, or repeal adopted as an emergency regulatory action may only remain in effect for up to 180 days, unless the adopting agency complies with specified requirements relating to notice of regulatory action and public comment.

#### **SUPPORT**

City of South Pasadena (Sponsor) Heritage Housing Pasadena

#### **OPPOSITION**

3 Individuals

Version: 9/8/2021

# **ATTACHMENT 3 Property acquisition cost**

PHASE 1 ACQUISITION — 22 properties consisting of all the Multi-Family and Single-Family vacant properties. There are two vacant land properties one of which is the community gardens (1028 Magnolia-price unknown). 1110 Glendon has a \$0 price because it was purchase with 1134 Glendon which is occupied - \$60,700). Estimated Phase 1 = \$2.24M.

<u>PHASE 2 ACQUISITION</u>— 6 tenant-occupied Multi-Family properties. Some of the 39 tenant-occupied Single-Family properties may decline or not qualify to purchase. Unknow acquisition price for Phase 2 acquisition.

| Category/Type/Address   | Count | <b>Acquisition Price</b> |
|-------------------------|-------|--------------------------|
| MFR                     | 4     | \$637,922                |
| 1010 HOPE STREET        | 1     | \$386,122                |
| 626 PROSPECT AVENUE     | 1     | \$180,100                |
| 908 MONTEREY ROAD       | 1     | \$43,700                 |
| 1039 GREVELIA STREET    | 1     | \$28,000                 |
| VACANT                  | 2     | \$31,265                 |
| 215 FAIRVIEW AVENUE     | 1     | \$31,265                 |
| 1028 MAGNOLIA STREET    | 1     | \$0                      |
| SFR                     | 17    | \$1,510,350              |
| 1011 FOOTHILL STREET    | 1     | \$24,000                 |
| 1015 COLUMBIA STREET    | 1     | \$42,000                 |
| 1110 GLENDON WAY        | 1     | \$0                      |
| 1131 COLUMBIA STREET    | 1     | \$62,500                 |
| 1707 MERIDIAN AVENUE    | 1     | \$19,600                 |
| 216 FAIRVIEW AVENUE     | 1     | \$24,000                 |
| 217 FREMONT AVENUE      | 1     | \$43,600                 |
| 225 FREMONT AVENUE      | 1     | \$47,400                 |
| 302 FAIRVIEW AVENUE     | 1     | \$22,750                 |
| 530 ORANGE GROVE AVENUE | 1     | \$310,000                |
| 534 ORANGE GROVE AVENUE | 1     | \$42,000                 |
| 535 MERIDIAN AVENUE     | 1     | \$550,000                |
| 540 PROSPECT AVENUE     | 1     | \$33,500                 |
| 773 BONITA DRIVE        | 1     | \$200,000                |
| 808 VALLEY VIEW ROAD    | 1     | \$34,000                 |
| 822 VALLEY VIEW ROAD    | 1     | \$34,300                 |
| 901 BONITA DRIVE        | 1     | \$20,700                 |
| Grand Total             | 23    | \$2,179,537              |

| MFR 6 \$556,00  1043 MAGNOLIA STREET 1 \$55,60  1134 GLENDON WAY 1 \$60,70  226 1/2 BEACON AVENUE 1 \$71,00  705 BONITA DRIVE 1 \$305,000  825 BONITA DRIVE 1 \$305,000  907 SUMMIT DRIVE 1 \$37,700  5FR 39 \$3,549,48  1005 BUENA VISTA STREET 1 \$72,400  1019 FOOTHILL STREET 1 \$31,100  1019 FOOTHILL STREET 1 \$22,200  1035 FOOTHILL STREET 1 \$145,000  1035 FOOTHILL STREET 1 \$145,000  1041 FOOTHILL STREET 1 \$26,010  1101 FOOTHILL STREET 1 \$26,010  1101 FOOTHILL STREET 1 \$33,500  1101 FOOTHILL STREET 1 \$33,500  1101 COLUMBIA STREET 1 \$33,500  1107 FOOTHILL STREET 1 \$33,500  1107 FOOTHILL STREET 1 \$33,500  1108 AURILL STREET 1 \$32,700  1321 MERIDIAN AVE 1 \$27,700  1321 MERIDIAN AVENUE 1 \$31,800  1722 GILLETTE CRESCENT 1 \$22,500  1724 GILLETTE CRESCENT 1 \$22,500  1724 GILLETTE CRESCENT 1 \$22,500  1724 GILLETTE CRESCENT 1 \$23,000  2028 BERKSHIRE AVENUE 1 \$303,000  2028 BERKSHIRE AVENUE 1 \$303,000  2028 BERKSHIRE AVENUE 1 \$34,800  316 FAIRVIEW AVENUE 1 \$33,600  316 FAIRVIEW AVENUE 1 \$32,600  529 PROSPECT CIRCLE 1 \$42,900  400 PROSPECT CIRCLE 1 \$33,600  405 PROSPECT AVENUE 1 \$32,600  529 PROSPECT AVENUE 1 \$32,600  537 PROSPECT AVENUE 1 \$32,600  538 DONITA DRIVE 1 \$32,600  539 RONITA DRIVE 1 \$33,600  885 ONEONTA DRIVE 1 \$334,800  385 DAINTA DRIVE 1 \$334,800  385 DAINTA DRIVE 1 \$34,800  386 DONITA DRIVE 1 \$33,000  985 DAINTA DRIVE 1 \$334,800  385 DAINTA DRIVE 1 \$334,800  385 DAINTA DRIVE 1 \$334,800  385 DAINTA DRIVE 1 \$34,800  386 DONITA DRIVE 1 \$34,800  386 DONITA DRIVE 1 \$34,800  387 FLORES DE ORO 1 \$6623,000  903 MONTEREY ROAD 1 \$334,800  916 LYNDON STREET 1 \$18,900   | Category/Type/Address   | Count | Acquisition Price |
|---|-------------------------|-------|-------------------|
| 1043 MAGNOLIA STREET 1134 GLENDON WAY 126 1/2 BEACON AVENUE 1 \$71,000 705 BONITA DRIVE 1 \$305,000 907 SUMMIT DRIVE 1 \$33,500 907 SUMMIT DRIVE 1 \$33,549,484 1005 BUENA VISTA STREET 1 \$1,240 1019 FOOTHILL STREET 1 \$25,281 1021 FOOTHILL STREET 1 \$23,200 1035 FOOTHILL STREET 1 \$23,200 1035 FOOTHILL STREET 1 \$24,001 1036 FOOTHILL STREET 1 \$25,281 1021 FOOTHILL STREET 1 \$26,011 1030 FOOTHILL STREET 1 \$26,011 1031 FOOTHILL STREET 1 \$33,500 1101 COLUMBIA STREET 1 \$42,01- 1101 COLUMBIA STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$25,400 1107 FOOTHILL STREET 1 \$27,500 1321 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$22,500 1724 GILLETTE CRESCENT 1 \$22,500 1724 GILLETTE CRESCENT 1 \$23,730 2042 ALPHA AVENUE 1 \$31,800 2058 BERKSHIRE AVENUE 1 \$33,000 2058 BERKSHIRE AVENUE 1 \$33,000 2058 BERKSHIRE AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$33,000 316 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 316 BONITA DRIVE 1 \$32,000 318 ADPHA AVENUE 1 \$34,800 316 BONITA DRIVE 1 \$32,000 318 ADPHA DRIVE 1 \$32,000 318 ADPHA DRIVE 1 \$33,000 316 BONITA DRIVE 1 \$34,800 317 BONITA DRIVE 1 \$32,000 318 ADPHA DRIVE 1 \$32,000 318 ADPHA DRIVE 1 \$32,000 319 BONITA DRIVE 1 \$33,000 314,000 315 BONITA DRIVE 1 \$34,800 316 BONITA DRIVE 1 \$34,800 317 BONITA DRIVE 1 \$32,000 318 ADPHA DRIVE 1 \$32,000 319 BONITA DRIVE 1 \$34,800 319 BONITA DRIVE 1 \$34,800 319 BONITA DRIVE 1 \$32,000 319 BONITA DRIVE 1 \$32,000 319 BONITA DRIVE 1 \$32,000 310 BONITA DRIVE 1 \$33,000 314,000 315 BONITA DRIVE 1 \$34,000 315 BONITA DRIVE 1 \$34,000 316 LYNDON STREET 1 \$42,000 317 BONITA DRIVE 1 \$33,000 310 BONITA    |                         |       | \$556,000         |
| 1134 GLENDON WAY 1  | 1043 MAGNOLIA STREET    | 1     | \$55,600          |
| 705 BONITA DRIVE 825 BONITA DRIVE 907 SUMMIT DRIVE 1 \$305,000 907 SUMMIT DRIVE 1 \$37,700 SER 39 \$3,549,48- 1005 BUENA VISTA STREET 1 \$72,400 1008 HOPE STREET 1 \$31,100 1019 FOOTHILL STREET 1 \$25,28: 1021 FOOTHILL STREET 1 \$23,200 1035 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$146,601 1101 COLUMBIA STREET 1 \$42,01- 1101 PINE STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1108 AURILL STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$187,500 1325 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$24,600 1822 FAIRVIEW AVENUE 1 \$303,000 2028 BERKSHIRE AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$303,000 1529 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT AVENUE 1 \$32,600 1540 BONITA DRIVE 1 \$34,800 845 BANK STREET 1 \$42,000 885 ONEONTA DRIVE 1 \$34,800 916 LYNDON STREET 1 \$18,800   | 1134 GLENDON WAY        | 1     | \$60,700          |
| 705 BONITA DRIVE 825 BONITA DRIVE 907 SUMMIT DRIVE 1 \$305,000 907 SUMMIT DRIVE 1 \$37,700 SER 39 \$3,549,48- 1005 BUENA VISTA STREET 1 \$72,400 1008 HOPE STREET 1 \$31,100 1019 FOOTHILL STREET 1 \$25,28: 1021 FOOTHILL STREET 1 \$23,200 1035 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$146,601 1101 COLUMBIA STREET 1 \$42,01- 1101 PINE STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1108 AURILL STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$187,500 1325 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$24,600 1822 FAIRVIEW AVENUE 1 \$303,000 2028 BERKSHIRE AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$303,000 1529 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT AVENUE 1 \$32,600 1540 BONITA DRIVE 1 \$34,800 845 BANK STREET 1 \$42,000 885 ONEONTA DRIVE 1 \$34,800 916 LYNDON STREET 1 \$18,800   | 226 1/2 BEACON AVENUE   | 1     | \$71,000          |
| 825 BONITA DRIVE 1 \$305,000 907 SUMMIT DRIVE 1 \$37,700  FOR 39 \$3,549,48  1005 BUENA VISTA STREET 1 \$72,400 1019 FOOTHILL STREET 1 \$31,100 1019 FOOTHILL STREET 1 \$23,200 1030 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$18,673 1041 FOOTHILL STREET 1 \$26,010 1019 FOOTHILL STREET 1 \$18,673 1041 FOOTHILL STREET 1 \$26,010 1101 COLUMBIA STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1108 GUENA VISTA STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$188,000 11321 MERIDIAN AVE 1 \$27,700 1321 MERIDIAN AVE 1 \$27,700 1322 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$17,500 2028 BERKSHIRE AVENUE 1 \$410,000 2028 BERKSHIRE AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$34,800 311 FAIRVIEW AVENUE 1 \$34,800 311 FAIRVIEW AVENUE 1 \$32,600 1529 PROSPECT CIRCLE 1 \$42,900 1533 PROSPECT CIRCLE 1 \$42,900 1545 BONITA DRIVE 1 \$33,600 156 BONITA DRIVE 1 \$34,800 157 BONITA DRIVE 1 \$30,500 1585 BONITA DRIVE 1 \$34,800 1585  | 705 BONITA DRIVE        | 1     | \$26,000          |
| 907 SUMMIT DRIVE  5FR  39  \$3,549,486  1005 BUENA VISTA STREET  1008 HOPE STREET  1019 FOOTHILL STREET  1021 FOOTHILL STREET  1030 FOOTHILL STREET  1030 FOOTHILL STREET  1031 FOOTHILL STREET  1035 FOOTHILL STREET  1041 FOOTHILL STREET  1056,011  1101 COLUMBIA STREET  1101 PINE STREET  1101 PINE STREET  1101 FOOTHILL STREET  11131 GLENDON WAY  1121 MERIDIAN AVE  1122 GILLETTE CRESCENT  1124 GILLETTE CRESCENT  1124 GILLETTE CRESCENT  1124 GILLETTE CRESCENT  1124 GILLETTE CRESCENT  1224,600  1821 MERIDIAN AVENUE  1131 MERIDIAN AVENUE  1141 STA,500  2028 BERKSHIRE AVENUE  1151 FAIRVIEW AVENUE  1151 FAIRVIEW AVENUE  1151 FAIRVIEW AVENUE  1151 PROSPECT CIRCLE  1151 PROSPECT CIRCLE  1151 PROSPECT CIRCLE  1151 PROSPECT AVENUE  1152 SA,600  1152 PROSPECT AVENUE  1153 PROSPECT AVENUE  1153 PROSPECT AVENUE  1153 PROSPECT AVENUE  1153 PROSPECT AVENUE  1154 SA,600  1158 BONITA DRIVE  1158 BONITA DRIVE  1159 BONITA DRIVE  1159 BONITA DRIVE  1159 BONITA DRIVE  1159 BONITA DRIVE  1150 BONITA DRIVE  1150 BONITA DRIVE  1150 BONITA DRIVE  1150 BONITA DRIVE  1151 PROSPECT AVENUE  1151 PROSPECT AVENUE  1151 BONITA DRIVE  1151 BONITA   | 825 BONITA DRIVE        | 1     | \$305,000         |
| \$FR 39 \$3,549,48  1005 BUENA VISTA STREET 1 \$72,400  1008 HOPE STREET 1 \$31,100  1019 FOOTHILL STREET 1 \$25,28  1021 FOOTHILL STREET 1 \$23,200  1030 FOOTHILL STREET 1 \$145,900  1035 FOOTHILL STREET 1 \$18,673  1041 FOOTHILL STREET 1 \$26,010  1101 FOOTHILL STREET 1 \$26,010  1101 FOOTHILL STREET 1 \$26,010  1101 FOOTHILL STREET 1 \$33,500  1107 FOOTHILL STREET 1 \$33,500  1107 FOOTHILL STREET 1 \$188,000  1109 COLUMBIA STREET 1 \$52,400  1131 GLENDON WAY 1 \$27,700  1321 MERIDIAN AVE 1 \$27,500  1325 MERIDIAN AVENUE 1 \$31,800  1722 GILLETTE CRESCENT 1 \$24,600  1724 GILLETTE CRESCENT 1 \$24,600  1821 MERIDIAN AVENUE 1 \$17,500  2028 BERKSHIRE AVENUE 1 \$303,000  2028 BERKSHIRE AVENUE 1 \$303,000  316 FAIRVIEW AVENUE 1 \$34,800  316 FAIRVIEW AVENUE 1 \$34,800  316 FAIRVIEW AVENUE 1 \$34,800  316 FAIRVIEW AVENUE 1 \$32,000  529 PROSPECT CIRCLE 1 \$42,900  533 PROSPECT CIRCLE 1 \$32,000  533 PROSPECT AVENUE 1 \$32,000  533 PROSPECT AVENUE 1 \$30,500  805 BONITA DRIVE 1 \$30,500  885 ONEONTA DRIVE 1 \$34,800  903 MONTEREY ROAD 1 \$34,800  916 LYNDON STREET 1 \$42,000  903 MONTEREY ROAD 1 \$34,800  916 LYNDON STREET 1 \$18,900   | 907 SUMMIT DRIVE        | 1     |                   |
| 1005 BUENA VISTA STREET 1 \$31,100 1008 HOPE STREET 1 \$31,100 1019 FOOTHILL STREET 1 \$25,281 1021 FOOTHILL STREET 1 \$23,200 1030 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$18,672 1041 FOOTHILL STREET 1 \$26,010 1019 INE STREET 1 \$26,010 1101 PINE STREET 1 \$26,010 1101 PINE STREET 1 \$33,500 1109 COLUMBIA STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$27,700 1321 MERIDIAN AVE 1 \$27,700 1321 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$31,800 1724 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$31,500 2028 BERKSHIRE AVENUE 2028 BERKSHIRE AVENUE 2028 BERKSHIRE AVENUE 2042 ALPHA AVENUE 1 \$303,000 215 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$32,600 529 PROSPECT CIRCLE 1 \$42,900 533 PROSPECT CIRCLE 1 \$33,600 529 PROSPECT AVENUE 1 \$33,600 529 PROSPECT AVENUE 1 \$30,500 815 BONITA DRIVE 1 \$34,800 815 BONITA DRIVE 1 \$30,500 815 BONITA DRIVE 1 \$30,500 816 BONITA DRIVE 1 \$34,800 817 BONITA DRIVE 1 \$34,800 818 BONITA DRIVE 1 \$34,800 818 BONITA DRIVE 1 \$30,500 818 BONITA DRIVE 1 \$34,800 818 BONITA DRIVE 1 \$33,000 918 MONTEREY ROAD 1 \$34,800 918 MONTEREY ROAD 1 \$34,800 918 MONTEREY ROAD 1 \$33,000 918 MONTEREY ROAD 1 \$33,000 911 MONTEREY ROAD 1 \$33,000 911 MONTEREY ROAD 1 \$33,000 916 LYNDON STREET 1 \$18,800   | SFR .                   | 39    |                   |
| 1008 HOPE STREET 1 \$31,100 1019 FOOTHILL STREET 1 \$25,280 1021 FOOTHILL STREET 1 \$23,200 1030 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$146,670 1041 FOOTHILL STREET 1 \$26,010 1101 COLUMBIA STREET 1 \$26,010 1101 PINE STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$127,700 1321 MERIDIAN AVE 1 \$27,700 1321 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVE 1 \$27,500 1326 MERIDIAN AVE 1 \$22,500 1724 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$17,500 2018 ALPHA AVENUE 1 \$17,500 2018 ALPHA AVENUE 1 \$17,500 2028 BERKSHIRE AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$32,600 529 PROSPECT CIRCLE 1 \$42,900 533 PROSPECT CIRCLE 1 \$42,900 533 PROSPECT AVENUE 1 \$32,000 546 BONITA DRIVE 1 \$34,800 845 BANK STREET 1 \$26,000 845 BANK STREET 1 \$27,000 885 ONEONTA DRIVE 1 \$34,800 885 ONEONTA DRIVE 1 \$34,800 885 ONEONTA DRIVE 1 \$34,800 903 MONTEREY ROAD 1 \$34,800 903 MONTEREY ROAD 1 \$34,800 903 MONTEREY ROAD 1 \$33,000 903 MONTEREY ROAD 1 \$33,000 901 LYNDON STREET 1 \$18,900   | 1005 BUENA VISTA STREET | 1     | \$72,400          |
| 1019 FOOTHILL STREET 1 \$23,200 1030 FOOTHILL STREET 1 \$145,900 1035 FOOTHILL STREET 1 \$18,673 1041 FOOTHILL STREET 1 \$26,010 1101 COLUMBIA STREET 1 \$26,010 1101 PINE STREET 1 \$33,500 1107 FOOTHILL STREET 1 \$188,000 1107 FOOTHILL STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$188,000 1109 COLUMBIA STREET 1 \$188,000 1131 GLENDON WAY 1 \$27,700 1321 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVE 1 \$27,500 1325 MERIDIAN AVENUE 1 \$31,800 1722 GILLETTE CRESCENT 1 \$22,500 1724 GILLETTE CRESCENT 1 \$24,600 1821 MERIDIAN AVENUE 1 \$410,000 2028 BERKSHIRE AVENUE 1 \$410,000 2028 BERKSHIRE AVENUE 1 \$303,000 225 FAIRVIEW AVENUE 1 \$34,800 311 FAIRVIEW AVENUE 1 \$34,800 316 FAIRVIEW AVENUE 1 \$34,800 317 PROSPECT CIRCLE 1 \$42,900 517 PROSPECT CIRCLE 1 \$42,900 518 PROSPECT CIRCLE 1 \$32,000 519 PROSPECT AVENUE 1 \$32,000 518 BONITA DRIVE 1 \$34,800 518 BONITA DRIVE 1 \$34,800 518 BONITA DRIVE 1 \$32,000 518 BONITA DRIVE 1 \$34,800 519 BONITA DRIVE 1 \$34,800 519 BONITA DRIVE 1 \$34,800 519 BONITA DRIVE 1 \$32,000 518 BONITA DRIVE 1 \$34,800 519 BONITA DRIVE 1 | 1008 HOPE STREET        | 1     |                   |
| 1021 FOOTHILL STREET       1       \$23,200         1030 FOOTHILL STREET       1       \$145,900         1035 FOOTHILL STREET       1       \$18,673         1041 FOOTHILL STREET       1       \$26,010         1101 COLUMBIA STREET       1       \$42,014         1101 PINE STREET       1       \$33,500         1107 FOOTHILL STREET       1       \$188,000         1109 COLUMBIA STREET       1       \$52,400         1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$22,500         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$31,500         2028 BERKSHIRE AVENUE       1       \$303,000         2028 BERKSHIRE AVENUE       1       \$303,000         215 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         400 PROSPECT CIRCLE       1       \$32,600         529 PROSPECT AVENUE   | 1019 FOOTHILL STREET    | 1     |                   |
| 1030 FOOTHILL STREET 1  | 1021 FOOTHILL STREET    | 1     |                   |
| 1035 FOOTHILL STREET       1       \$18,673         1041 FOOTHILL STREET       1       \$26,016         1101 COLUMBIA STREET       1       \$42,014         1101 PINE STREET       1       \$33,500         1107 FOOTHILL STREET       1       \$188,000         1109 COLUMBIA STREET       1       \$52,400         1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1724 GILLETTE CRESCENT       1       \$22,500         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         2025 FAIRVIEW AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         317 FOSPECT CIRCLE       1       \$32,600         495 PROSPECT CIRCLE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE  |                         |       |                   |
| 1041 FOOTHILL STREET 1 1010 COLUMBIA STREET 1 1010 PINE STREET 1 1 1017 FOOTHILL STREET 1 1 109 COLUMBIA STREET 1 1 100 COLUMBIA STREET 1 100 COLUMBIA S  |                         |       |                   |
| 1101 COLUMBIA STREET       1       \$42,01-         1101 PINE STREET       1       \$33,500         1107 FOOTHILL STREET       1       \$188,000         1109 COLUMBIA STREET       1       \$52,400         1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         2025 FAIRVIEW AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         495 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$32,600         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,000         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1  |                         |       |                   |
| 1101 PINE STREET       1       \$33,500         1107 FOOTHILL STREET       1       \$188,000         1109 COLUMBIA STREET       1       \$52,400         1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         2025 FAIRVIEW AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,000         801 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         845 BANK STREET       1  |                         |       |                   |
| 1107 FOOTHILL STREET       1       \$188,000         1109 COLUMBIA STREET       1       \$52,400         1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         317 FAIRVIEW AVENUE       1       \$32,600         495 PROSPECT CIRCLE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,000         801 BONITA DRIVE       1       \$34,800         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$27,000         885 ONEONTA DRIVE       1  |                         |       |                   |
| 1109 COLUMBIA STREET       1       \$52,400         1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         2025 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$32,600         495 PROSPECT CIRCLE       1       \$32,600         511 PROSPECT AVENUE       1       \$321,000         529 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,600         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1  |                         |       |                   |
| 1131 GLENDON WAY       1       \$27,700         1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         2025 FAIRVIEW AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$32,000         815 BONITA DRIVE       1       \$26,400         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$27,000         885 ONEONTA DRIVE       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       <  |                         |       |                   |
| 1321 MERIDIAN AVE       1       \$27,500         1325 MERIDIAN AVENUE       1       \$31,800         1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$303,000         2025 FAIRVIEW AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$34,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         512 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$239,000         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$27,000         885 ONEONTA DRIVE       1       \$314,000         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1  |                         |       |                   |
| 1325 MERIDIAN AVENUE 1722 GILLETTE CRESCENT 1724 GILLETTE CRESCENT 1821 MERIDIAN AVENUE 1 \$17,500 2018 ALPHA AVENUE 2028 BERKSHIRE AVENUE 2042 ALPHA AVENUE 21 \$303,000 225 FAIRVIEW AVENUE 21 \$34,800 311 FAIRVIEW AVENUE 21 \$34,800 316 FAIRVIEW AVENUE 21 \$34,800 316 FAIRVIEW AVENUE 25 PROSPECT CIRCLE 26 \$495 PROSPECT CIRCLE 27 \$42,900 28 PROSPECT AVENUE 29 PROSPECT AVENUE 20 \$33 PROSPECT AVENUE 21 \$32,600 25 PROSPECT AVENUE 21 \$32,000 25 PROSPECT AVENUE 21 \$30,500 25 PROSPECT AVENUE 21 \$30,500 26 PROSPECT AVENUE 21 \$30,500 27 PROSPECT AVENUE 21 \$30,500 28 PROSPECT AVENUE 21 \$30,500 28 PROSPECT AVENUE 21 \$30,500 28 PROSPECT AVENUE 21 \$34,800 28 PROSPECT AVENUE 21 \$34,800 28 PROSPECT AVENUE 22 \$400 24 PROSPECT AVENUE 24 \$400 25 PROSPECT AVENUE 25 PROSPECT AVENUE 26 \$400 27 PROSPECT AVENUE 27 PROSPECT AVENUE 28 PROSPECT AVENUE 29 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 21 \$32,000 21 \$33,000 21 \$34,800 22 PROSPECT AVENUE 21 \$34,800 22 PROSPECT AVENUE 23 PROSPECT AVENUE 24 \$40,000 25 PROSPECT AVENUE 25 PROSPECT AVENUE 26 PROSPECT AVENUE 27 PROSPECT AVENUE 28 PROSPECT AVENUE 29 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 21 \$32,000 21 \$32,000 22 PROSPECT AVENUE 21 \$32,000 22 PROSPECT AVENUE 22 PROSPECT AVENUE 23 PROSPECT AVENUE 24 \$20,000 25 PROSPECT AVENUE 25 PROSPECT AVENUE 26 PROSPECT AVENUE 26 PROSPECT AVENUE 27 PROSPECT AVENUE 28 PROSPECT AVENUE 29 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 21 \$32,000 21 \$32,000 22 PROSPECT AVENUE 21 \$32,000 22 PROSPECT AVENUE 22 PROSPECT AVENUE 23 PROSPECT AVENUE 24 \$40,000 25 PROSPECT AVENUE 25 PROSPECT AVENUE 26 PROSPECT AVENUE 26 PROSPECT AVENUE 27 PROSPECT AVENUE 29 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 21 \$32,000 21 \$32,000 22 PROSPECT AVENUE 21 \$32,000 22 PROSPECT AVENUE 21 \$32,000 22 PROSPECT AVENUE 25 PROSPECT AVENUE 26 PROSPECT AVENUE 26 PROSPECT AVENUE 27 PROSPECT AVENUE 28 PROSPECT AVENUE 29 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 20 PROSPECT AVENUE 21 PROSPECT AVENUE 21 PROSPECT AVENUE                                  |                         |       |                   |
| 1722 GILLETTE CRESCENT       1       \$22,500         1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$23,733         2042 ALPHA AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,000         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$32,000         801 BONITA DRIVE       1       \$239,000         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1   |                         |       |                   |
| 1724 GILLETTE CRESCENT       1       \$24,600         1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$23,733         2042 ALPHA AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$34,800         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$321,000         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$329,000         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         845 BANK STREET       1       \$27,000         885 ONEONTA DRIVE       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$33,000         911 MONTEREY ROAD       1       \$33   |                         | _     |                   |
| 1821 MERIDIAN AVENUE       1       \$17,500         2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$23,733         2042 ALPHA AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$32,600         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         845 BANK STREET       1       \$42,000         845 BANK STREET       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$33,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 2018 ALPHA AVENUE       1       \$410,000         2028 BERKSHIRE AVENUE       1       \$23,733         2042 ALPHA AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$324,000         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         845 BANK STREET       1       \$27,000         854 BANK STREET       1       \$27,000         885 ONEONTA DRIVE       1       \$314,000         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$33,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 2028 BERKSHIRE AVENUE       1       \$23,733         2042 ALPHA AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$32,600         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$33,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 2042 ALPHA AVENUE       1       \$303,000         225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$321,000         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$30,500         815 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$34,800         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         885 ONEONTA DRIVE       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$33,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 225 FAIRVIEW AVENUE       1       \$19,800         311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 311 FAIRVIEW AVENUE       1       \$34,800         316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 316 FAIRVIEW AVENUE       1       \$24,860         400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$33,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 400 PROSPECT CIRCLE       1       \$83,600         495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 495 PROSPECT CIRCLE       1       \$42,900         511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$27,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 511 PROSPECT AVENUE       1       \$32,600         529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 529 PROSPECT AVENUE       1       \$321,000         533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 533 PROSPECT AVENUE       1       \$26,400         801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 801 BONITA DRIVE       1       \$30,500         815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 815 BONITA DRIVE       1       \$239,000         816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900  |                         |       |                   |
| 816 BONITA DRIVE       1       \$34,800         845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
| 845 BANK STREET       1       \$42,000         854 BANK STREET       1       \$27,000         863 MONTEREY ROAD       1       \$314,000         885 ONEONTA DRIVE       1       \$26,500         887 FLORES DE ORO       1       \$623,000         903 MONTEREY ROAD       1       \$28,000         911 MONTEREY ROAD       1       \$33,000         916 LYNDON STREET       1       \$18,900   |                         |       |                   |
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| Grand Total 45 \$4,105,484  |                         |       | \$18,900          |
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### City Council Agenda Report

ITEM NO. 22

DATE:

October 6, 2021

FROM:

Arminé Chaparyan, City Manager

PREPARED BY:

Ed Donnelly, Public Safety Commission Sub-Committee Lisa Watson, Public Safety Commission Sub-Committee

SUBJECT:

Receive and File Report on Unarmed Traffic Enforcement Officers

#### Recommendation

It is recommended that the City Council receive and file the report on Unarmed Traffic Enforcement Officers.

#### **Commission Review and Recommendation**

This matter was reviewed by the Public Safety Commission on September 13, 2021. The Commission recommends that the City Council not move forward with the implementation of an unarmed traffic enforcement program.

#### **Executive Summary**

Public Safety Commissioners Ed Donnelly and Lisa Watson conducted research into investigating the viability of instituting this type of program in South Pasadena. No formal programs were currently in place within the United States due to conflicts with state penal codes, or abroad. Alternative technology options, including red light cameras and speed cameras were also researched and discussed.

#### **Community Outreach**

No additional outreach beyond public notification of the agenda item was conducted, though the research completed by the Sub-Committee included conversations with local activist groups and resources outside the City, along with City staff members.

#### Discussion/Analysis

Three newly proposed UTE programs were identified and investigated. The three municipalities that have proposed or passed ordinances to establish UTE programs are Berkeley, CA; Cambridge, MA; and Philadelphia, PA. A two-pronged approach was taken to explore how these cities were implementing the launch of UTE. The Sub-Committee made direct contact with City Council members or City Manager/Mayor's staff in the three cities and requested that SPPD staff make direct agency to agency contact with the corresponding police departments.

#### Berkeley, CA

In July of 2020, the Berkeley City Council, with the endorsement and support of Mayor Jesse Arreguin, passed an omnibus package to reimagine public safety. The concept included the creation of a new City Department of Transportation. Under the purview of the newly created BerkDOT is the creation of an unarmed traffic enforcement department. The Sub-Committee contacted Trano Trachtenberg, Legislative Aide, to Mayor Arreguin. Mr. Trachtenberg provided meeting minutes from the Berkeley Transportation Commission's February 2021 meeting that included an extensive report on the practicalities of creating the new department of transportation. It is noted in the report from Liam Garland, Berkeley's Public Works Director, that "enforcement of traffic violations set forth by non-sworn personnel could violate state law. Until state law changes, such a shift in function outside of BPD may be preempted. The City Council adopted a resolution on December 15, 2020, requesting the California legislature enact legislation to give municipalities greater flexibility in traffic enforcement."

When contacted by the SPPD staff, the Berkeley PD Traffic Bureau reported there had been no plan implemented, only a discussion by the political leadership to explore the idea. As of this time, the implementation of UTE in Berkeley has been completely halted until such time that the California Penal Code is amended to allow for the issuing of citations by non-sworn officers. The City passed an ordinance that prevents police officers from enforcing minor traffic infractions. This ordinance may trigger litigation from the State for police negligence, litigation from the ACLU for negligence in enforcing laws fairly for all residents, and class action litigation from residents impacted by negligence in enforcing existing laws.

#### Cambridge, MA

In July of 2020 and subsequently September of 2020, the Cambridge, MA City Council put forth a proposal to establish a UTE program. Policy Order POR 2020 #178 proposed that primary traffic enforcement be transferred from the Cambridge Police Department to unarmed personnel from the Traffic and Parking Department, Public Works, Health & Human Services, or another appropriate agency.

The Sub-Committee conversed with the Councilors who sponsored this effort, Councilor Quinton Zondervan and Councilor Jivan Sobrinhio-Wheeler, by email, phone, and Zoom meetings. The Cambridge City Council and Public Safety Committee discovered that Massachusetts law precludes non-sworn officers from issuing traffic citations. A transcript of the October 14, 2020, Cambridge Public Safety Committee meeting is included as an attachment to this document. When contacted by SPPD staff, the Cambridge PD noted that the proposal had been rejected entirely due to current state rules and regulations. As of this time, the implementation of a UTE program in Cambridge has been completely halted until Massachusetts state law is amended to allow for the issuing of citations by non-sworn officers. The Councilors report that they have abandoned this program and refocused their efforts to establish a CAHOOTS model mental health response team.

#### Philadelphia, PA

In May 2019, voters in Philadelphia approved the creation of a corps of public safety enforcement officers. The responsibilities of this proposed uniformed but unarmed team are to

assist police with code enforcement and regulating traffic, especially a widespread scourge of double-parked cars. Though this ordinance was passed, funding for this program has not been approved, and it has been delayed until possibly 2022. The Sub-Committee received no response from the Philadelphia Mayor or City Manager's staff. The SPPD reports that they contacted their colleagues at the Philadelphia PD, confirming that this program has not been implemented.

#### Additional UTE type programs

In addition to the three UTE proposals cited above, other similar programs were investigated by the Sub-Committee. To ensure a comprehensive understanding of alternative traffic enforcement concepts, three additional programs were examined.

#### New Orleans

The City of New Orleans has contracted a private company, On Scene Services (OSS), to handle accident investigations. The New Orleans Police Department is currently understaffed, and the City was looking for ways to ease the burden on police resources. The employees of OSS are primarily retired police officers with experience in traffic enforcement. When an accident is reported, employees of OSS are sent to conduct an investigation at the scene of the collision. If there is evidence of criminal activity, the New Orleans Police are called to handle arrests and citations. In incidents where there is no apparent criminal activity, the OSS employees compile a report submitted to the NOPD for review and insurance companies that cover the motorists involved in the accident. Other than this contractor's accident response service, the City of New Orleans does not have an active UTE program.

#### The United Kingdom Highways Agency

The United Kingdom (UK) Highways Agency has uniformed traffic officers that patrol local highways in marked squad cars. Through email correspondence and Zoom meetings, the UK Highway Agency shared the details of this program. Though they are uniformed and patrol roads similarly to police, the traffic officers are responsible solely for traffic flow. These responsibilities include clearing accidents, removing debris, reporting damage, initiating necessary repairs, and traffic control during significant public events. In the event of any criminal behavior, they do not respond but call the appropriate police agency. While there is a tradition of police foot patrols in London that do not carry firearms, this does not extend to traffic enforcement as the situation is fraught with the possibility of violence during a traffic stop. The UK does not currently have any active UTE program.

#### New Zealand

The New Zealand National Police Force had a decades-long UTE program that began as early as when automobiles were introduced to the country. This program was implemented for roughly sixty years until it was ended in 1993. In the country's history, thirty-one percent of officers killed in the line of duty died during traffic stops. The deaths of officers include both unarmed and armed officers. Due to the dangerous nature of making traffic stops, the responsibilities of the unarmed patrols were assimilated into the regular duties of the National Police. New Zealand does not currently have an active UTE program.

#### **Technology for Traffic Enforcement**

Aside from the use of unarmed personnel, the Sub-Committee explored the use of technological solutions to enforce traffic regulations. Current approaches to this largely revolve around the use of automated camera systems. Automated camera systems effectively identify infractions when motorists exceed the speed limit or have illegally crossed through an intersection during a red light. Cameras are not effective at enforcing any other types of traffic infractions. The Sub-Committee looked into the possibility of deploying these camera systems in South Pasadena.

#### Red Light Cameras

Red Light Cameras are legal in California; however, the citations issued by mail are unenforceable because they are not issued by a sworn officer and have no impact on the driver's DMV record. Because it is widely known by motorists that red light cameras citations do not need to be paid, most cities in California have discontinued their use.

The City of Los Angeles has not used automated red-light cameras since 2011. The ACLU has also voiced its opposition to automated red light cameras as a possible infringement of resident's privacy rights. While the ACLU has not brought any litigation explicitly addressing the use of red-light cameras, they remain opposed to using any surveillance systems in public areas.

#### **Speed Cameras**

The use of automated radar-activated cameras to enforce speed infractions is not currently legal in California. In February 2021, a bill was introduced to the California Assembly by Reps. Chiu and Freidman to approve the use of these types of camera systems. AB550 would authorize a pilot program to use speed cameras in Los Angeles, Oakland, San Jose, San Francisco, and one additional Southern California city that has not yet been named.

If this bill passes, the ACLU will most likely bring immediate litigation for privacy concerns against any municipality that deploys a speed camera system as they previously have done in Davenport, IA.

A second bill introduced in the California Senate by Senator Susan Rubio, SB735, has been met with opposition by both police unions and the ACLU. Per amendments, SB735 is strictly limited to providing for the use of speed cameras only in currently identified school zones. The full text of both AB550 and SB735 are included as an attachment in this report.

#### Additional approaches to achieve the goal of equitable traffic enforcement.

The Sub-Committee also explored additional alternatives to reduce the disproportionate enforcement of traffic along racial and ethnic lines. There are two pragmatic approaches to achieve this in the absence of an unarmed patrol or technology systems: police policy review and officer training.

#### **SPPD Policy**

In 2020 the PSC undertook a substantial review of SPPD policy regarding the use of force. This review found that SPPD policy largely met or exceeded the policy requirements of the 8Can'tWait Campaign with the exception of the outdated Use of Force Continuum concept. This

is reflected in the minimal use of force deployed during traffic stops by SPPD officers, as noted above. Additional policy review may be required once more comprehensive data about the racial and ethnic makeup of motorists stopped in South Pasadena is available in preparation for RIPA reporting requirements.

#### **SPPD Training**

Since November of 2020, SPPD personnel have participated in ongoing training courses aimed at reducing bias and increasing the use of de-escalation during interactions with the public. This includes:

- 1. Bias and Racial Profiling
- 2. Crisis-Intervention and De-Escalation Training
- 3. Implicit Bias Training (Conducted by staff from the Museum of Tolerance)
- 4. Threat Assessment and De-Escalation Strategy
- 5. De-Escalation
- 6. Diversity, Equity, and Inclusion Awareness

Chief Solinsky reports that this training is required department-wide and is ongoing on a regular basis. As the new CAD system is launched and data can be collected, it can be used to analyze the effectiveness of these training programs regarding traffic enforcement.

#### **Findings**

- 1. California Penal Code Section 830.1 reserves the power to issue moving citations to sworn peace officers. Until such time that this is changed through legislation, the use of Unarmed Traffic Enforcement cannot be legally conducted and is therefore moot. The PSC should monitor for any legislative changes in the future, at which time this approach can be revisited.
- 2. In the event that any of the municipalities studied by the Sub-Committee do enact a UTE program without changes to state law, the results should be monitored and analyzed by the PSC and the City. The review should consider the implementation of this type of approach, including any strategies that allow for deploying a UTE team without changes to the California Penal Code.
- 3. The PSC and City should monitor the outcomes of AB550 and SB735. If either of these bills becomes law, the PSC and City should monitor the results to determine if speed cameras systems effectively reduce harm from speeding motorists and whether the burden of litigation is prohibitive.
- 4. The SPPD must continue officer training to ensure constant reductions of the interference of bias as they conduct traffic enforcement stops.
- 5. The PSC, the City, and the SPPD should conduct a timely review of racial and ethnic data of motorists that are stopped for traffic violations as it is collected with the new CAD system.

The review should be ongoing and, if necessary, should cause review and changes to policy and training dependent on the results.

#### **Alternatives Considered**

- 1. Technological options for traffic enforcement (red light cameras, speed cameras)
- 2. De-escalation process training

#### **Next Steps**

- 1. Monitor outcomes of speed camera legislation
- 2. Continue ongoing robust training program

#### **Background**

In 2015 the California Legislature passed AB953, The Racial and Identity Profiling Act (RIPA). This law compels police agencies throughout the State to provide statistics regarding racial and ethnic data for each interaction their officers have with the public. To provide oversight for this program, the RIPA advisory board was created. RIPA went into effect in 2018 with the State's largest law enforcement agencies and is being rolled out through 2023 to include every law enforcement agency statewide. The South Pasadena Police Department will begin collecting statistical data for an April 2023 submission to the Department of Justice (DOJ).

In their 2021 Annual Report, the RIPA board reported that people of color are stopped for daytime traffic infractions at more than double the rate of Caucasians. In addition, black motorists and passengers were more than twice as likely to be detained, handcuffed, or removed from vehicles as white individuals. Similar statistics have been seen across the nation. Along with general calls for police reform in the wake of the murder of George Floyd by a Minneapolis Police officer in May of 2020, this data has prompted academic and political calls for Unarmed Traffic Enforcement (UTE) programs to be developed.

Earlier this year, City Council directed the Public Safety Commission (PSC) to study the potential of UTE to reduce the number of violent encounters during traffic stops. The PSCs Sub-Committee on UTE, consisting of Commissioners Watson and Donnelly, were tasked with investigating the viability of instituting this type of program in South Pasadena. The Sub-Committee's mandate was broad and included conversations with local activist groups, South Pasadena Police (SPPD) Chief Solinsky, police department staff, and additional resources from outside the City.

The Sub-Committee's work commenced with collecting and reviewing statistics regarding traffic enforcement, use of force, and bias both locally in California and nationwide. In the later stages of the Sub-Committee's work, this expanded to include inquiries into the use of unarmed traffic officers in other municipalities in the United States, the United Kingdom, and New Zealand. The data and resources reviewed, including the aforementioned 2021 RIPA report, have been included as a comprehensive attachment to this document.

On a typical day, approximately 135,000 cars travel on South Pasadena streets. In addition, State Route 110 passes directly through the center of the City. This volume of traffic constitutes a

substantial public safety concern and is fraught with the possibility of property damage, injury, and death. In response to persistent requests by residents for more rigorous traffic enforcement, the SPPD instituted a Traffic Bureau in 2019 consisting of two officers patrolling on a motorcycle and one in a patrol car. In 2020, SPPD responded with an officer to 26,858 calls, with an additional 32,159 received for other services. These totals include 3,788 traffic stops; 2,170 citations; 1,018 warnings and 509 arrests. SPPD officers reported the use of force in only three of these stops. The current SPPD dispatch and reporting system does not track race or ethnicity data for traffic enforcement in an actionable way. The updated Computer Assisted Dispatch (CAD) system deployed by SPPD this year in preparation for RIPA reporting requirements will track this data. It will be readily available for analysis in April 2023.

The Sub-Committee researched existing and proposed UTE programs throughout the country. This research included academic and journalistic sources, direct conversation with persons involved in implementing UTE policies, review of ordinances, meeting minutes, email correspondence, and Zoom meetings. In the course of this investigation, no formal UTE program was identified or found to be currently operating in the United States.

#### **Fiscal Impact**

There is no fiscal impact associated with the discussion of this report. There may be additional costs related should the PSC be directed to continue further research or conduct community outreach. Should a UTE program be implemented when legally permissible, there will likely be significant fiscal impacts in creating a new department or potential litigation.

#### **Environmental Analysis**

The action considered is exempt from the California Environmental Quality Act (CEQA), as it is not considered a "project" pursuant to Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment.

#### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

#### Attachments:

- 1. 2021 Annual Racial and Identity Profiling Act Report
- 2. Transcript of the October 14, 2020, Cambridge Massachusetts Public Safety Committee
- 3. Text of AB550
- 4. Text of SB735
- 5. Berkeley 2-2021 Fair and Impartial Policing Report
- 6. CA v, Goldsmith Red Light Cameras Lawsuit
- 7. Philadelphia Bill 18081801 Full Text
- 8. Cambridge POR 2020 #178 Full Text
- 9. South Pasadena 2014 Traffic Flow Study

- 10. SPPD Traffic Function and Responsibility Policy11. PSC UTE Sub-Committee Chart of Contacts

### **ATTACHMENT 1**

2021 Annual Racial and Identity Profiling Act Report

RACIAL &

DENTITY

PROFILING

**A**DVISORY

BOARD

ANNUAL REPORT 20 21

### RACIAL AND IDENTITY PROFILING ADVISORY (RIPA) BOARD

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- **CHIEF DAVID SWING** (*Co-Chair*), Chief, Pleasanton Police Department; Representative of the California Police Chiefs Association
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- **ANGELA SIERRA**, Attorney Advisor, California Department of Justice, Division of Operations; Designee of the Attorney General of California
- **BRENDON WOODS**, Alameda County Public Defender; Representative of the California Public Defenders Association

The Racial and Identity Profiling Advisory (RIPA) Board would like to thank the following staff from the California Department of Justice for their assistance and contributions to this report:

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The RIPA Board would like to thank this year's outgoing Board members Sheriff David Robinson, Micah Ali, Oscar Bobrow, Pastor J. Edgar Boyd, Andrea Guerrero, Edward Medrano, Douglas Oden, Timothy P. Silard, and Timothy Walker for their tremendous contributions and pioneering work on the Racial and Identity Profiling Advisory Board.

The RIPA Board looks forward to working with newly appointed Commissioner of the California Highway Patrol Amanda Ray, who will replace Commissioner Warren Stanley, who has retired from the California Highway Patrol after over 38 years of service. We will miss Commissioner Stanley and we wish him a long and happy retirement.

The RIPA Board thanks Alfred Palma from the California Department of Justice for his diligence and for serving as the travel coordinator to the Board since its inception.

The RIPA Board thanks the Commission on Peace Officer Standards and Training (POST) for its partnership and looks forward to continuing to build on this collaboration.

The RIPA Board thanks Jack Glaser, Ph.D., Professor, Goldman School of Public Policy, University of California, Berkeley; and Emily Owens, Ph.D., Professor, Department of Criminology, Law and Society and Department of Economics, University of California, Irvine, for their expertise and guidance in preparing this year's report.

The RIPA Board appreciates the participation of community members, advocates, members of law enforcement, researchers, and other stakeholders. Public participation is essential to this process, and the RIPA Board thanks all Californians who have attended meetings, submitted letters or email, and otherwise engaged with the work of the Board. We thank the public for continuing its engagement with the RIPA Board as we switched to a 100% virtual platform in light of the COVID-19 pandemic. We look forward to receiving the invaluable input from the public and hope to see you in person again in the near future.

The RIPA Board acknowledges the many challenges facing our communities in 2020, including COVID-19, and wishes everyone a happy and safe 2021!

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#### **EXECUTIVE SUMMARY**

California's Racial and Identity Profiling Advisory Board (Board) is pleased to release its fourth Annual Report ("Report"). The Report provides recommendations from the Board for all stakeholders – law enforcement agencies, policymakers, Commission on Peace Officer Standards Training (POST), community members, and advocates – to push for policy reform, rooted in best practices, to help all law enforcement agencies eliminate racial and identity profiling and improve law enforcement and community relations. This year's Report analyzes, for the first time, a full year of Racial and Identity Profiling Act (RIPA) stop data, from January 1, 2019 to December 31, 2019, from Wave 1 and 2 agencies. In addition to analysis of the stop data, the Report provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, practices, and trainings on topics that intersect with bias and racial and identity profiling.

#### Recommendations for Law Enforcement Agencies

**Policies**: The Board has drawn from a range of law enforcement, academic, governmental, and nonprofit organizations with expertise in addressing racial and identity profiling to provide recommendations to law enforcement agencies. These recommendations do not represent the full extent of best practices, but they provide a starting point upon which agencies can build.

Accountability is a key aspect for effective policing, especially with respect to the elimination of bias. This year's Report identifies the primary categories that make up accountability systems, and the Board hopes to continue its research with the goal of recommending best practices for each category in future years. The Report also continues the Board's work from its 2020 Report with a review of bias-free policing policies for Wave 2 agencies and a follow-up review of the changes made by Wave 1 agencies after last year's review.

The Report also contains recommendations related to calls for service. The Board provides an exemplar agency policy on preventing bias by proxy, provides ideas for protocols to approach calls for service that may be bias-based, and recommends that agencies adopt their own policy and train both dispatchers and officers on this important subject. For example, the Report discusses a research-based approach referred to as "adding friction" – or causing officers or community members to pause before reporting suspicious activity or initiating a stop – and discusses how that approach can help curb racial profiling. Moreover, the Report looks at how law enforcement agencies have historically responded to mental health crises and examines several types of crisis intervention strategies from around the country for law enforcement to consider with their community stakeholders.

*Civilian Complaints*: Agency-level information regarding the numbers of civilian complaints (2016-2019) is provided for Wave 1 and 2 reporting agencies. Additionally, the Board has included a review of the Wave 2 agencies' complaint forms, a discussion of Early Intervention Systems (EIS) to identify and "flag" at-risk behavior by officers and intervene where necessary, and a discussion of feedback received from law enforcement agencies regarding the actions they have taken in response to the Board's recommendations about complaint procedures.

The Board recommends that law enforcement agencies (LEAs) investigate all complaints fairly and thoroughly and communicate that commitment to the public. To achieve this, agencies must ensure members of the public and employees can easily submit complaints and that there is a system for recording and tracking them. The Board recommends that agencies identify ways to increase the community's involvement in considering the creation or expansion of independent civilian complaint review boards and community-centered mediation resources.

AB 953 Survey: To better understand how law enforcement has used the data analysis and recommendations presented by the Board in its last three reports, the California Department of Justice ("Department") surveyed Wave 1, 2 and 3 agencies. The survey also looked at how agencies engaged in RIPA data analysis and other actions taken by agencies to advance the goals of RIPA. The responses received from 25 of those agencies helped the Board to identify actions that LEAs are taking to advance the goals of RIPA.

Survey questions generally addressed the following areas:

- Use of Board recommendations and findings;
- Use of stop data for accountability purposes;
- Adoption of model bias-free policing policy language;
- Actions taken in response to best practices recommendations regarding civilian complaint procedures and forms; and
- Stop data analysis practices and resources.

The agency responses to the survey are presented throughout the Report and in Appendix E. The Board hopes that this information will be a valuable tool to help identify agency accountability and the positive ways that law enforcement has used the Board's Report to implement policy reform. For example, several law enforcement agencies reported that they reviewed the stop data with multiple levels of staff at their agencies and were using the Report to analyze concerning trends or patterns in their own stop data.

#### Recommendations for Community Members

The Report contains recommendations that advocates and community members can use to engage with policymakers and law enforcement to improve policies and accountability. The Board hopes that community members will work with law enforcement and policymakers to implement community-based solutions generally, and specifically, to respond to mental health related emergencies and develop community-centered approaches for responding to biasbased incidents. The Board encourages communities to engage with law enforcement to implement its recommendations for best practices for bias-free policing policies, civilian complaints, and accountability highlighted in the Report. The Board appreciates and thanks all of the members of the community for attending Board meetings and providing public comment and hopes community members will continue to provide the rich ideas and discussion at future meetings.

#### Recommendations for Policymakers

To reduce the disparities between groups who are more and less likely to come into contact with law enforcement, the Board urges policymakers to engage with impacted communities to prioritize housing, education, health care, and broader criminal justice system reforms, in addition to changes to law enforcement agency practices. The Board further recommends that policymakers fund and prioritize community-based solutions to respond to health-related emergencies and socioeconomic issues, such as being unhoused. In the Report, the Board has included eight examples of crisis intervention strategies. This research has laid the groundwork for the Board to develop best practices and model policy recommendations for crisis response in 2021. The Board recommends that the Legislature continue oversight of Mental Health Services Act funding and examine how counties are using Public Safety Realignment funding for community-based services instead of law enforcement activities to meet the rehabilitation goals under state law.

The Board recommends that policymakers require law enforcement agencies to adopt policies addressing bias by proxy and mandate basic training and continuing education courses on bias by proxy prevention for police dispatchers and officers. The Board recommends that policymakers strengthen data collection regarding bias-based calls for service, and study programs for responding to bias-based calls that focus on accountability and repairing the harms caused by these calls. Additionally, the Board recommends that the legislature increase the frequency with which in-service officers receive training to prevent racial and identity profiling practices.

Regarding civilian complaints, the Board renews its request for the legislature to address the conflict between state and federal law by amending Penal Code section 148.6, as the requirements set out by the Penal Code can have a chilling effect on the submission of civilian complaints.

#### Recommendations for POST

This year several Board members had the opportunity to review two trainings related to racial and identity profiling that were in the pre-production stage within POST, an independent state agency that is tasked with providing minimum selection and training standards for California law enforcement. One of the Board's statutory duties is to work with POST on training recommendations related to racial and identity profiling. This year, the Board recommends that POST emphasize the various perspectives of communities impacted by profiling. The training should include prominent components on officer accountability, officer reporting obligations and protections, and active bystander or peer intervention skills. The Board recommends that the training incorporate evidence-based research and data illustrating the disparate treatment of racial and other identity groups. The Board also recommends that officers receive training to mitigate the influence of bias on their behavior.

The Board reiterates the importance of dispatchers receiving mandatory training on how to identify and handle bias-based calls for service. The Board recommends that POST consider including a three-step protocol that includes "adding friction" for addressing bias-based calls for officer and dispatcher training.

The Board appreciates POST's participation at Board meetings and receiving POST's invitations to assist in the development of some of the trainings related to racial and identity profiling; however, the Board recommends formalizing a collaboration schedule, which will allow the Board to work closely with POST throughout the development and production process for future courses and course updates.

#### Potential Sources of Disparities Observed in the Stop Data

Consistent with the Board's mandate to evaluate and eliminate racial and identity profiling in policing, the Report explores several potential driving forces shaping the patterns of stop data disparities revealed in the last two years of data collection. The Report discusses explicit bias, including recent examples of racist social media postings by law enforcement officers, and how this unchecked explicit bias may lead to some of the stop data disparities we have observed. The Report further summarizes several studies that may explain how implicit biases may shape officers' interactions. Officers who are unaware of or not actively working to overcome their biases may consequently rely on them in their decision-making and interactions with the public and this could be a contributing factor in the disparities shown in the stop data. The Report contextualizes the issues of explicit and implicit biases within the larger systemic structural inequities that influence the frequency with which officers interact with people of certain races, ethnicities, or identities.

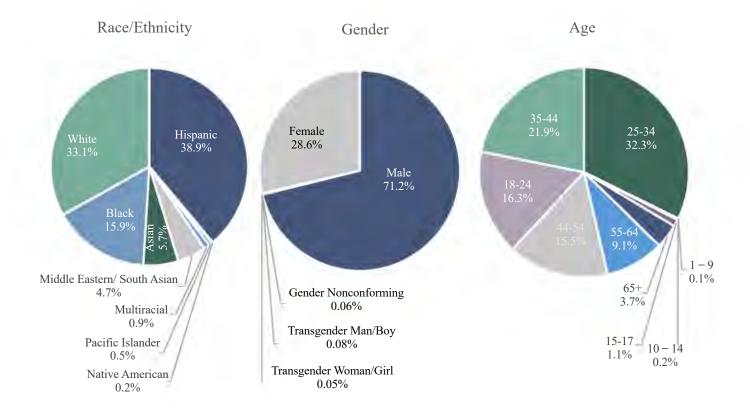
Given the multiple possible sources of disparities observed in the stop data, the Report encourages a multi-pronged approach and provides examples of ways agencies can reduce explicit and implicit bias. The Board also invites other stakeholders to think broadly – beyond the confines of law enforcement reform – about how to reduce inequities in other systems that directly or indirectly contribute to the disparities in the stop data.

#### Findings Regarding RIPA Stop Data

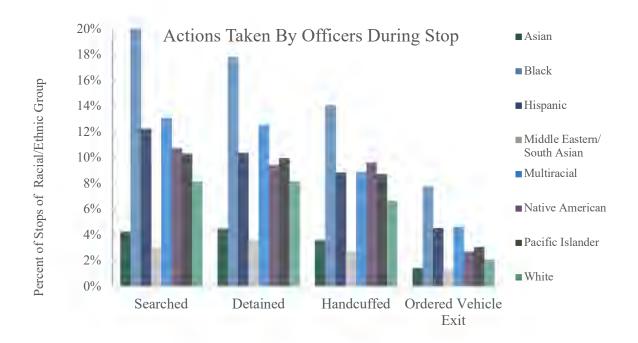
The 15 largest law enforcement agencies in California, referred to as Wave 1 and Wave 2 agencies in this Report, collected data on pedestrian and vehicle stops and submitted these data to the Department.<sup>1</sup> Reporting agencies collected data on 3,992,074 million stops between January 1, 2019 and December 31, 2019. The California Highway Patrol conducted the most stops (54.4%) of all reporting agencies, which was expected given the size and geographic jurisdiction of the agency and its primary mission with respect to highway safety. Below are some highlights from this year's analysis:

- Individuals perceived to be Hispanic (38.9%), White (33.1%), or Black (15.9%) comprised the majority of stopped individuals; officers stopped individuals of the other five racial/ethnic groups enumerated in the stop data form collectively in 12.1% of stops.
- Individuals perceived to be between the ages of 25 and 34 (32.3%) constituted the largest proportion of stopped individuals of any one age group.

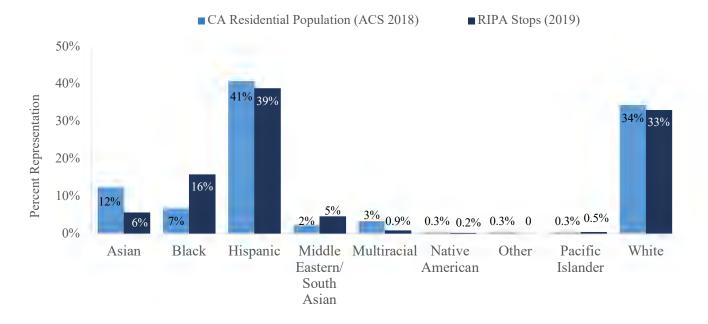
<sup>&</sup>lt;sup>1</sup> Wave 1 agencies are the eight largest agencies in the state, which were required to start submitting stop data to the Department by April 1, 2019. Wave 2 agencies are the seven next largest agencies, which were required to start submitting stop data to the Department by April 1, 2020.



- Less than 1 percent of stopped individuals were perceived to be LGBT.
- Officers perceived 1.1 percent of the individuals they stopped to have one or more disabilities. Of those perceived to have a disability, the most common disability reported by officers was a mental health condition (63.3%).
- The most commonly reported reason for a stop across all racial/ethnic groups was a traffic violation (85.0%), followed by reasonable suspicion that the person was engaged in criminal activity (12.1%).
- Officers searched, detained on the curb or in a patrol car, handcuffed, and removed from vehicles more Black individuals than White individuals, despite stopping more than double the number of White individuals (1,322,201) than Black individuals (635,092).

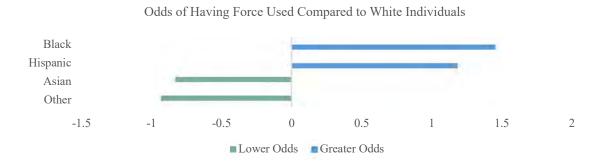


 To provide context for the racial distribution of stopped individuals, the Board compared the stop data distribution to residential population data from the United States Census Bureau from 2018, the most recent available year at the time of the analysis. Black individuals represented a higher proportion of stopped individuals than their relative proportion of the population in the ACS dataset.

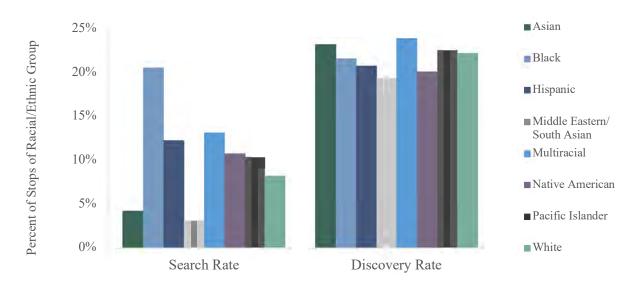


Results of the Veil of Darkness analysis indicated that darkness (when it is presumably
more difficult to perceive an individual's identity) decreased the rates at which Black
and Hispanic individuals were stopped compared to White individuals.

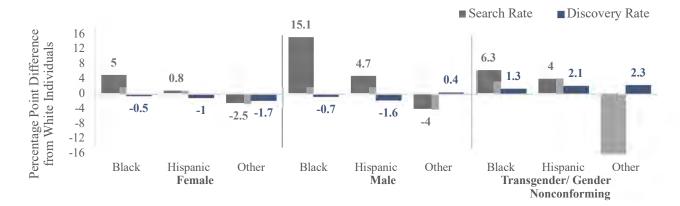
Black and Hispanic individuals were more likely to have force used against them compared to White individuals, while Asian and other individuals were less likely.
 Specifically, compared to White individuals, the odds of having force used during a stop were 1.45 times and 1.18 times greater for Black and Hispanic individuals, respectively, than White individuals. The odds of force being used during stops of Asian or Other individuals were 0.83 and 0.93 times lower, respectively, compared to White individuals.



 Search discovery rate analyses showed that individuals perceived as Black, Hispanic, and Native American had higher search rates despite having lower rates of discovering contraband compared to individuals perceived as White.

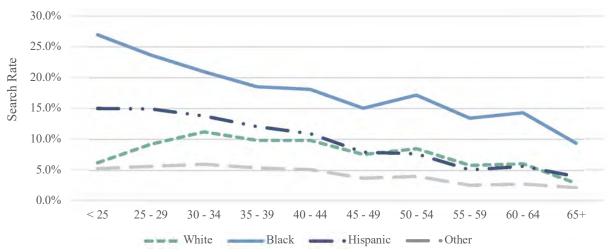


A vast majority of stopped individuals were perceived as either (cisgender) male (71.2%; 2,841,218) or (cisgender) female (28.6%; 1,143,261), with all other gender groups collectively constituting less than 1 percent of the data. Within each gender group, Black and Hispanic cisgender males and cisgender females had higher search rates but lower discovery rates in comparison to White cisgender males and females. Black and Hispanic transgender/gender nonconforming individuals had higher search and discovery rates than White transgender/gender nonconforming individuals.

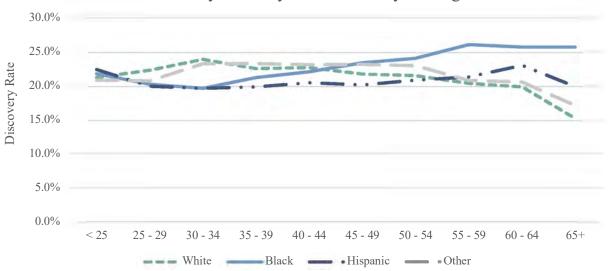


- In comparison to White individuals (47.0%), individuals from all other racial/ethnic groups (Black, Hispanic, and Other) perceived to have a mental health condition had higher search rates (52.8% 56.3%). Black and Hispanic individuals perceived to have other types of disabilities had higher search rates than White individuals perceived to have other types of disabilities. Additionally, Black and Hispanic individuals perceived to have no disability had higher search rates in comparison to White individuals perceived to have no disability.
- The proportion of searched individuals that fall within each age category generally decreases as the age categories get higher; officers perceived over 50% of individuals they searched to be less than 40 years old, and over 80% of individuals they searched to be less than 55 years old. Black individuals were searched at the highest rate of all the race/ethnicity groups for all age categories. For the younger age groups, racial/ethnic disparities were larger, while disparities in search discovery rates were smaller. The data show that officers searched younger Black and Hispanic individuals at rates that were disproportionately high when compared to younger White individuals, despite discovering contraband or evidence from younger Black, Hispanic, and White individuals during a comparable proportion of these stops.





#### Discovery Rates by Race/Ethnicity and Age

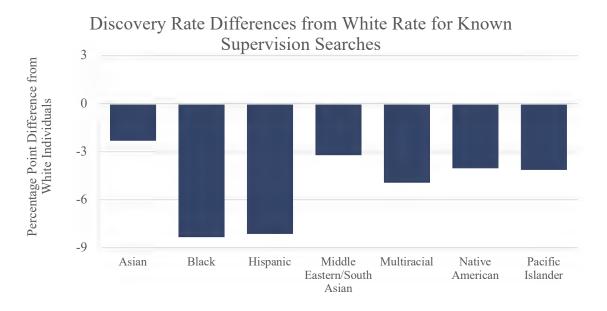


• The proportion of stopped individuals whom officers asked for consent to perform a search varied widely between racial/ethnic groups, from a low of 0.7% of Middle Eastern/South Asian individuals to a high of 5.1% of Black individuals. Officers asked for consent to search Black individuals (5.1%) at twice the rate that they asked White individuals (2.5%). Officers also performed "consent only" searches (where the only basis for the search was that the stopped individual provided consent) of Black individuals (2.4%) at a rate twice the rate they performed these consent only searches of White individuals (1.2%). Despite having higher consent only search rates than White

individuals, Black and Hispanic individuals had lower rates of discovery of contraband or evidence for consent searches than White individuals.



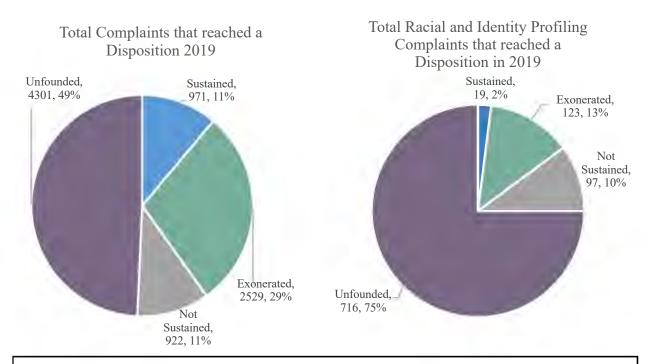
• Stopped individuals perceived to be Black had the highest proportion of any racial/ethnic group stopped based on the officer's knowledge that the person was on probation, parole or other supervised status (1.2%), while Middle Eastern/South Asian individuals (0.1%) had the lowest proportion. The proportion of stopped individuals whom officers reported they searched based solely upon a search condition of supervision varied between racial/ethnic groups, from a low of 0.2% of Middle Eastern/South Asian individuals to a high of 3.4% of Black individuals. The discovery rates for these condition-of-supervision searches were lower for all racial/ethnic groups of color than they were for White individuals.



#### Findings Regarding Civilian Complaint Data

The Report includes an analysis of complaints of racial or identity profiling received in 2019 by the 452 law enforcement agencies subject to RIPA's stop data reporting requirements. Of these agencies, 146 (39.7%) reported 1,153 complaints alleging racial or identity profiling, 955 of which reached disposition in 2019. The figure below displays the proportions of complaints reported by stop data reporting agencies that reached disposition in 2019 broken down by disposition type.

#### Disposition Distribution of 2019 Complaints



#### Complaint Disposition Key

<u>Sustained:</u> investigation disclosed sufficient evidence to prove truth of allegation in complaint by preponderance of evidence.

**Exonerated:** investigation clearly established that employee's actions that formed basis of allegations in complaint were not a violation of law or agency policy.

<u>Not sustained:</u> investigation failed to disclose sufficient evidence to clearly prove or disprove complaint's allegation.

**Unfounded:** investigation clearly established that allegation is not true.

Agency-Level Data Snapshot: 2019 Civilian Complaints for Wave 1 and 2 Agencies

Table 1 displays civilian complaint totals broken down for Wave 1 and 2 agencies. The table provides the following information: the total number of complaints reported; the number of complaints reported alleging racial or identity profiling; and the number of sworn personnel each agency employed in 2019.<sup>2</sup>

Table 1: Complaints Reported in 2019 by Agency

| Reporting<br>Wave | Agency  | Total<br>Complaints<br>Reported | Total Profiling<br>Complaints<br>Reported | Total Sworn<br>Personnel |
|-------------------|---|---------------------------------|---|--------------------------|
| 1                 | California Highway Patrol                     | 353                             | 21  | 7,230                    |
| 1                 | Los Angeles County Sheriff's Department       | 1,010                           | 68  | 9,565                    |
| 1                 | Los Angeles Police<br>Department              | 2,205                           | 426                                       | 10,002                   |
| 1                 | Riverside County Sheriff's Department         | 33                              | 0   | 1,788                    |
| 1                 | San Bernardino County<br>Sheriff's Department | 113                             | 39  | 1,927                    |
| 1                 | San Diego County Sheriff's<br>Department      | 214                             | 74  | 2,601                    |
| 1                 | San Diego Police Department                   | 102                             | 25  | 1,764                    |
| 1                 | San Francisco Police<br>Department            | 842                             | 0   | 2,279                    |
| 2                 | Fresno Police Department                      | 231                             | 13  | 806                      |
| 2                 | Long Beach Police<br>Department               | 182                             | 9   | 817                      |
| 2                 | Oakland Police Department                     | 1,215                           | 36  | 740                      |
| 2                 | Orange County Sheriff's Department            | 129                             | 11  | 1,888                    |
| 2                 | Sacramento County Sheriff's Office            | 205                             | 5   | 1,348                    |
| 2                 | Sacramento Police<br>Department               | 146                             | 6   | 678                      |
| 2                 | San Jose Police Department                    | 205                             | 36  | 1,150                    |

<sup>&</sup>lt;sup>2</sup> Sworn personnel totals are calculated from the information contained within the Law Enforcement Personnel file available at https://openjustice.doj.ca.gov/data. The DOJ collects the Law Enforcement Personnel data through a one-day survey taken on October 31 of each reporting year.

#### Conclusion

The Board remains committed to fulfilling the promise of the Racial and Identity Profiling Act to eliminate racial and identity profiling and improve law enforcement-community relations. The stop data results demonstrate there is significant work to be done to prevent further disparities in who is stopped, how they are treated when stopped, and the outcomes of those stops. The Board hopes that all stakeholders will review its data analyses and recommendations – rooted in evidence-based best practices – regarding bias-free policing, bias by proxy, civilian complaint processes and forms, accountability, and early intervention, and explore crisis intervention models to inform data-driven policy and practice reforms.

## INTRODUCTION

"A man dies when he refuses to stand up for that which is right. A man dies when he refuses to stand up for justice. A man dies when he refuses to take a stand for that which is true."

#### - Martin Luther King Jr.

It has now been five years since the passage of the Racial and Identity Profiling Act of 2015 and more than four years since the Racial and Identity Profiling Advisory (RIPA) Board first convened to begin its work to eliminate racial and identity profiling and improve diversity and racial and identity sensitivity in law enforcement.<sup>3</sup> The RIPA Board began its work in July of 2016 amidst a backdrop of painful high-profile shootings involving the police. Even though years have passed and important reforms were enacted, we find ourselves in a similar position today, facing more painful incidents of officer shootings and excessive force disproportionately affecting Black, Indigenous, and other people of color. As our nation is grappling with these incidents and the crisis due to the COVID-19 global pandemic, our country is in a pivotal time.

The work to eliminate racial and identity profiling, as well as improve law enforcement and community relations, is continuous. From its inception, the RIPA Board laid an important foundation for collecting data on police behavior during stops, reviewing complaint processes, analyzing police training courses, reviewing law enforcement policies on bias, and addressing emerging practices regarding calls for service, bias by proxy, gender equity, and the deployment of police to respond to people experiencing mental health crises.

Given the current climate in our country, we recognize now more than ever the urgency of the RIPA Board's pioneering work on the elimination of bias and racial profiling in policing. With several new members joining our Board this year, we are well poised to continue the work before us. The Board is comprised of academics, community representatives, clergy, policy and legal advocates, and law enforcement leaders, who not only create a forum for the Board and the public to discuss strategies for improving police practices, but also put those strategies into practical solutions. The Board's work is enhanced by the diverse perspectives, backgrounds, and areas of expertise of its members. Together, the Board and its stakeholders share the common goals of improving law enforcement-community relations, building trust, making policing equitable, and striving to make all Californians feel respected and safe. This mission can only be achieved through collaboration, transparency, and accountability. The Board's goal is to drive policy to reform policing and positively impact everyone.

## Law Enforcement's Role in History

Law enforcement agencies and officers serve an important public safety role in our society, but over the course of history, the role of police has expanded more and more into addressing underlying social problems and inequities in our communities.<sup>4</sup> Author Alex S. Vitale posits that part of our misunderstanding about the nature of policing is that we cannot turn police officers

<sup>&</sup>lt;sup>3</sup> Cal. Pen. Code, § 13519.4, subd. (j)(1).

<sup>&</sup>lt;sup>4</sup> Donella, How Much Do We Need the Police, NPR (June 3, 2020)

<sup>&</sup>lt;a href="https://www.npr.org/sections/codeswitch/2020/06/03/457251670/how-much-do-we-need-the-police">https://www.npr.org/sections/codeswitch/2020/06/03/457251670/how-much-do-we-need-the-police</a> (as of Dec. 14, 2020).

into friendly community outreach workers when police have the legal capacity to use violence in situations where the average citizen would be arrested.<sup>5</sup> Thus, when our policymakers delegate certain community caretaking functions, the use of violence increases, because police are trained and equipped to utilize tools of force: control holds, handcuffs, pepper spray, electronic stun weapons, and guns, ultimately leading to arrest and incarceration.<sup>6</sup>

Given the nature of policing in the United States, it is not much of a leap to understand why many individuals have a fear of police, and, as such, this fear should be a part of the discussion about policing in this country. This fear is experienced, spoken about, and passed on from generation to generation, and it is very real, especially for Black, Indigenous, and other people of color. Some of this fear stems from the history of policing in this country, and in particular, Slave Patrols, which were in effect from 1704 in some southern states until the end of the Civil War.<sup>7</sup> The duties of those officers were to uphold the institution of slavery to benefit the White majority, and their policing activities included searching quarters, dispersing gatherings, and preventing and suppressing uprisings of enslaved people.<sup>8</sup> Southerners began to see Slave Patrols as the true instrument of law enforcement,<sup>9</sup> and their role was to oppress enslaved Black people to protect the property rights of Whites without regard for the welfare of Black Americans.

Throughout American history, law enforcement has also been deployed in other contexts to enforce unjust laws and policies, including the forcible removal of Indigenous communities from their native lands, the arrest of suffragettes working for women's right to vote, 10 Japanese internment, 11 the criminalization of the LGBTQ community, 12 and the targeting of immigrants by local and federal authorities. 13 In addition, there are numerous examples of law enforcement officers meeting peaceful protestors with force and aggression. 14 The use of law enforcement to suppress the rights of marginalized and disempowered groups is a thread that has unfortunately continued for centuries in America, and it is often felt most significantly by heavily-policed communities. Both these images of police misconduct and the history of law

<sup>&</sup>lt;sup>5</sup> Ibid.

<sup>6</sup> Ibid

<sup>&</sup>lt;sup>7</sup> Kappeler, *A Brief History of Slavery and the Origins of American Policing*, Eastern Ky. U. (Jan. 7, 2014) <a href="https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing">https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing</a>> (as of Dec. 14, 2020); see also Waxman, *How the U.S. Got its Police Force*, Time (May 18, 2017) <a href="https://time.com/4779112/police-history-origins/">history-origins/</a>> (as of Dec. 14, 2020) (policing in American developed differently depending on the region and community [rural/urban]). 

<sup>8</sup> Hansen, *Slave Patrols: An Early Form of American Policing* (July 10, 2019) National Law Enforcement Museum <a href="https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/">https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/</a>> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>10</sup> Wild, c. 1910-1920 Suffragettes vs. Police: The Women Prepared to go to Prison for the Vote (Jan. 12, 2015) Mashable. <a href="https://mashable.com/2015/01/12/suffragettes-vs-police">https://mashable.com/2015/01/12/suffragettes-vs-police<> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>11</sup> See, e.g., Korematsu v. United States (1944) 323 U.S. 214.

<sup>&</sup>lt;sup>12</sup> See, e.g., *Bowers v. Hardwick* (1986) 478 U.S. 186; History, *Stonewall Riots* (June 26, 2020)

<sup>&</sup>lt;a href="https://www.history.com/topics/gay-rights/the-stonewall-riots">https://www.history.com/topics/gay-rights/the-stonewall-riots</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>13</sup> National Immigration Law Center, *SB 1070 Four Years Later* (April 23, 2014) <a href="https://www.nilc.org/issues/immigration-enforcement/sb-1070-lessons-learned/">https://www.nilc.org/issues/immigration-enforcement/sb-1070-lessons-learned/</a> (as of Dec. 14, 2020); National Immigration Law Center, *President Trump's Raids on Immigrant Communities* (Feb. 27, 2017) <a href="https://www.nilc.org/issues/immigration-enforcement/trump-raids-on-immigrant-communities/">https://www.nilc.org/issues/immigration-enforcement/trump-raids-on-immigrant-communities/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>14</sup> What the 1960s can teach us about modern-day protests (Interview with Omar Wasow, Professor at Princeton U.), NPR News Hour (May 31, 2020) <a href="https://www.pbs.org/newshour/show/what-the-1960s-can-teach-us-about-modern-day-protests">https://www.pbs.org/newshour/show/what-the-1960s-can-teach-us-about-modern-day-protests</a> (as of Dec. 14, 2020).

enforcement's role in American society from its inception remain in the forefront of the public's mind.

Today's law enforcement personnel did not create these historical fears in our communities, yet the fear exists. In order to repair and heal those wounds, police must acknowledge and work within the context of that negative history and systemic violence that has and continues to be directed at marginalized communities. Our police and our communities can, however, change that fear with every interaction. Respect and dignity among individuals should prevail even if someone is taken into custody.

The Board's hope is that fear, panic, dread, anxiety, and distrust will not continue to be the first emotions that arise when an individual sees someone in a police uniform. We raise this dark history because systemic change is not solely about reactive policy change; it also requires a long-term commitment to reconsider the way things have been done and develop new models to move forward.

#### The Call for Justice

The year 2020 has been unprecedented in so many respects, but in particular with respect to widespread frustration against law enforcement. In March, Breonna Taylor was killed in her Louisville, Kentucky apartment as she lay asleep in bed when officers entered her home in a botched "No Knock" search warrant. The month of May brought the horrific death, captured on video, of George Floyd in Minneapolis, Minnesota. In June, Rayshard Brooks was killed by police in Atlanta, Georgia, and in August, Jacob Blake was shot multiple times in the back and partially paralyzed in Kenosha, Wisconsin. These acts of violence all resulted in protests, curfews, backlash, and calls from the community for justice.

This year we have seen unprecedented numbers of people marching across the globe in support of Black Lives Matter. Law enforcement agencies, academics, governmental entities, community members, and advocates have begun to examine their own biases and how to implement reforms, fund community-based solutions, and engage in other actions that will result in a more inclusive society. Local, state, and federal governments have made commitments to listen – but it will take bold action at all levels of government to change the core problems that lead to systemic injustice.

## How Data Can Create Change

The RIPA Board's analysis of the data collected will help identify racial and identity profiling and inform concrete actions or policies that can eliminate disparities. Law enforcement agencies and officers are required to submit information on stops made by officers, including their perceptions regarding the identities of the persons stopped, actions taken during the stops, and the stops' outcomes. In this year's annual report, as in previous years, the RIPA Board shares

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<sup>&</sup>lt;sup>15</sup> Officer Chauvin, who is White, kept his knee on Mr. Floyd's neck for at least eight minutes and 15 seconds. A video analyzed by the New York Times shows that Chauvin did not remove his knee even after Mr. Floyd lost consciousness and for a full minute and 20 seconds after paramedics arrived at the scene. (Hill et al., *How George Floyd Was Killed in Police Custody*, New York Times (May 31, 2020) <a href="https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html">https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html</a> (as of Dec. 14, 2020).

detailed findings for the public, law enforcement, and other government officials, including analyses, review, and recommendations regarding:

- Civilian complaint data associated with stops made by officers;
- Law enforcement training on racial and identity profiling;
- Policies and practices used by law enforcement agencies across the state; and
- Evidence-based research on the impact of implicit bias and explicit bias in policing.

The data collected includes several categories: 1) information regarding the stop, 2) information regarding the officer's perception of the person stopped, and 3) information regarding the officer themselves. Table 1 shows in detail each element officers are required to report.<sup>17</sup>

## Table 1: Officer Reporting Requirements

## **Information Regarding Stop** 1. Date, Time, and Duration 2. Location 3. Reason for Stop 4. Was Stop in Response to Call for Service? Actions Taken During Stop 6. Contraband or Evidence Discovered 7. Property Seized 8. Result of Stop Information Regarding Officer's Perception of Person Stopped 1. Perceived Race or Ethnicity 2. Perceived Age 3. Perceived Gender 4. Perceived to be LGBT 5. Limited or No English Fluency 6. Perceived or Known Disability Information Regarding Officer 1. Officer's Identification Number 2. Years of Experience 3. Type of Assignment

1

<sup>&</sup>lt;sup>16</sup> Cal. Pen. Code, § 13519.4, subd. (j)(3)(D).

<sup>&</sup>lt;sup>17</sup> For more information on the specific data collected, see State of California Department of Justice (2017) AB 953: Template Based on the Final Regulations <a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/regs-template.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/regs-template.pdf</a> (as of Dec. 14, 2020).

This is the first year the Board has a full year's worth of data collected from the 15 largest law enforcement agencies in California regarding the perceived race or identity of the person stopped. We hope law enforcement across the state will use the RIPA stop data and the Board's recommendations and analyses to strengthen their policies and practices — and, in turn, better serve our communities. In the coming years, nearly every law enforcement agency within the state of California will be responsible for collecting this information.

Table 2: Collection and Reporting Deadlines by "Wave"

| Reporting<br>Wave | Size of<br>Agency | Data Collection<br>Begins | Data Must be<br>Reported to DOJ | Approx. # of<br>Agencies |
|-------------------|-------------------|---------------------------|---------------------------------|--------------------------|
| 1                 | 1,000+            | July 1, 2018              | April 1, 2019                   | 8                        |
| 2                 | 667-999           | Jan. 1, 2019              | April 1, 2020                   | 7                        |
| 3                 | 334-666           | Jan. 1, 2021              | April 1, 2022                   | 10                       |
| 4                 | 1-333             | Jan. 1, 2022              | April 1, 2023                   | 400+                     |

The findings in this year's report show similar disparities to last year's report and reveal some key findings. In stops with discretionary searches, it was more probable for Black and Hispanic individuals to be searched compared to White individuals, despite also being less likely to be found in possession of contraband or evidence. In other words, officer searches of non-White individuals tended to be less successful at finding contraband or evidence, even though they were searched more often. Black individuals not only had the highest rate of being searched by police, but also the highest rate of being detained on the curb or in a patrol car, handcuffed, and removed from a vehicle by order.

This report provides a unique opportunity and obligation for a public Board like the RIPA Board to speak and to act. Now is the time for bold and aggressive leadership by law enforcement Chiefs, Sheriffs, and Commissioners to use this data and their resources to help reduce the inequality and adverse outcomes experienced by individuals because of their race, ethnicity, identity, or disability. It also provides opportunities for legislators to make needed legislative changes identified by the Board. With new data coming in every year, it is time to redouble our efforts for the future. The time is now to build on the foundation laid by the Board and push forward to create the changes our communities demand. The RIPA Board will continue to be vigilant, visible, and outspoken in working towards this change.

# EXPLICIT BIAS, IMPLICIT BIAS, AND OTHER DRIVING FORCES FOR STOP DATA DISPARITIES

The RIPA Board's mandate is to evaluate and eliminate racial and identity profiling in policing. Penal Code section 13519.4 subdivision (e) defines racial and identity profiling as "the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description."

How we understand the problem of racial and identity profiling shapes where we look for solutions, and therefore, it is critical to evaluate the factors that give rise to disparities in the first place. RIPA stop data collected in 2018 and 2019 reveal patterns of disparities in law enforcement interactions with civilians. As revealed in the 2020 report, individuals perceived to be Black were searched at nearly three times the rate of individuals perceived to be White. Similarly, officers arrested individuals perceived to be Black at nearly 1.6 times the rate as individuals perceived to be White. In order to encourage lasting, holistic, and proactive policy change, it is important to confront the driving forces behind such disparities. Below the Board looks at two likely driving forces – implicit and explicit biases.

#### Implicit Bias

Implicit biases held by law enforcement officers may explain differential treatment of certain races and identity groups. Implicit biases arise from the natural functioning of the human brain and refer to the beliefs or attitudes a person holds that can shape their understanding, actions, and decisions in an unconscious manner. Relying on their implicit biases, individuals may make unconscious associations in an attempt to quickly make sense of a complex, highly evolving environment. <sup>21</sup>

Implicit biases are shared by the general public and, in recent years, they have become a common part of the national dialogue on race and law enforcement reform. When implicit biases are rooted in negative stereotypes of particular races, ethnicities, or other identities, they may cause people to act in ways that can have a negative impact on others. This is true even if a person's implicit bias conflicts with their consciously-held or self-professed beliefs.<sup>22</sup>

<sup>&</sup>lt;sup>18</sup> See Racial and Identity Profiling Advisory Board, Supplemental Technical Report 2020 ("2020 RIPA Technical Report") (2020) p. 10 <a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-tech-report-2020.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-tech-report-2020.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>19</sup> *Id.* at p. 45.

<sup>&</sup>lt;sup>20</sup> Bennett, Introduction to Implicit (Unconscious) Bias (2019) 89 The Advoc. (Texas) 35, 35.

<sup>&</sup>lt;sup>21</sup> Krieger Hamilton, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity* ((1995) 47 Stan. L. Rev. 1161, 1187 [citing Vinacke, *Stereotypes As Social Concepts* (1957) 45 J. Soc. Psychol. 229, 229].

<sup>&</sup>lt;sup>22</sup> Richardson, *Police Efficiency and the Fourth Amendment* (2012) 87 Ind. L.J. 1143, 1148.

In the context of policing, implicit biases may help explain some of disparities seen in stops.<sup>23</sup> For example, studies show that people's attention is drawn more quickly to Black individuals, especially young Black men, than to White individuals.<sup>24</sup> Researchers reason that this "attentional bias" relates to people's unconscious belief – formed as the result of inaccurate societal messaging, policies, and practices – that Black men are threatening,<sup>25</sup> and people pay more attention to faces that are stereotypically associated with threat.<sup>26</sup> Relatedly, researchers have also observed that when White participants view Black faces, there is increased activity in the regions of the brain associated with threat and fear processing, disgust reactions, and social stereotyping.<sup>27</sup> This attentional bias and brain activity associated with threat and fear, among other processes, may explain disproportionate stops of Black individuals in some jurisdictions. That is, officers may have an attentional bias towards Black individuals, and may experience brain activity associated with threat and fear processing, which causes the officers to pay more attention to Black individuals and, in turn stop them at disproportionate rates.

Another study of more than 950 online participants demonstrated that people inaccurately perceive Black men as larger, and for some participants, as more threatening than similarly-sized White men.<sup>28</sup> In these types of studies, the race of the participant typically does not have much of an impact as to the perception of Black men's size, reflecting that what is affecting a person's perception is *exposure* to the stereotype (e.g., from having lived in a society that has created and broadly reinforced negative stereotypes about certain identities) rather than necessarily agreeing with the stereotype on a conscious level.<sup>29</sup> In one experiment, researchers showed participants a series of color photographs of White and Black male faces and asked them to estimate each man's height and weight based on the face alone.<sup>30</sup> Participants – regardless of race – estimated the Black men to be larger than White men.<sup>31</sup> White participants also judged the Black men as more capable of harm.<sup>32</sup> Participants, in turn, judged that use of force against Black men was more justified than the force used against White men.<sup>33</sup> In

<sup>&</sup>lt;sup>23</sup> Our discussion generally focuses on implicit bias as it relates to Black and White individuals because research has primarily focused in that area. The Board acknowledges there is a significant need for research on implicit bias as it relates to people of other races, ethnicities, and identities.

<sup>&</sup>lt;sup>24</sup> Richardson, *Police Efficiency and the Fourth Amendment* (2012) 87 Ind. L.J. 1143, 1150 [citing Trawalter, et al., *Attending to Threat: Race-Based Patterns of Selective Attention* (2008) 44 J. Experimental Soc. Psychol. 1322, 1324].

<sup>&</sup>lt;sup>26</sup> Guillermo, et al., *Attentional Biases Toward Latinos* (2016) 38 Hisp. J. of Behav. Sci., 264, 274 <a href="http://psych.colorado.edu/~jclab/pdfs/Guillermo%20&%20Correll%20(2016)%20attention%20to%20latinos.pdf">http://psych.colorado.edu/~jclab/pdfs/Guillermo%20&%20Correll%20(2016)%20attention%20to%20latinos.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>27</sup> Specifically, the amygdala, the anterior insula, and the anterior temporal lobe regions of the brain—which are involved in threat processing, disgust reactions, and social stereotyping, respectively—are activated when White participants view Black faces. Salmanowitz, *Unconventional Methods for A Traditional Setting: The Use of Virtual Reality to Reduce Implicit Racial Bias in the Courtroom* (2016) 15 U.N.H.L. Rev. 117, 123 [citations omitted].

<sup>&</sup>lt;sup>28</sup> See generally Wilson, et al., *Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat* (2017) 113 J. Personality and Soc. Psychol. 59.

<sup>&</sup>lt;sup>29</sup> *Id.* at pp. 74-75.

<sup>&</sup>lt;sup>30</sup> *Id.* at p. 63.

<sup>&</sup>lt;sup>31</sup> *Id.* at pp. 70-71.

<sup>&</sup>lt;sup>32</sup> *Id.* at pp. 69-70. Notably, Black participants did not judge Black men as more capable of harm, leading researchers to posit that while Black participants hold onto the same "size stereotypes," they do so without the "associated group-based threat." *Id.* at 70. In other words, "Black targets presumably are judged [by Black participants] as larger merely as a result of stereotypes, and not because of a threat looming mechanism." *Id.* 

<sup>&</sup>lt;sup>33</sup> *Id.* at pp. 70-71.

another experiment, participants estimated men with darker skin and more "prototypically" Black facial features to be larger than similarly-sized men with lighter skin and less "prototypically" Black facial features.<sup>34</sup> These results suggest that societal messaging can affect what an individual may unconsciously perceive to be true or not true about a particular group.

Other studies have also shown that people implicitly and inaccurately associate Black individuals with crime, due to broader societal messaging, policies, and practices that shape unconscious biases. Priming people with an image of a Black person's face sped up participants' visual processing of crime-related objects, while priming them with an image of a White person's face slowed down their processing of those same crime-related objects. <sup>35</sup> Specifically, researchers studied how long it took White male participants to recognize blurred objects slowly becoming clearer after they were first subliminally primed with either White faces or Black faces (e.g., were shown the images so quickly as to not be able to consciously report having even seen them). It took participants less time to recognize crime-related objects (e.g., knife or gun) after they viewed Black faces than after they viewed White faces. <sup>36</sup> Moreover, this association between Black individuals and crime is bidirectional; "Black faces and Black bodies can trigger thoughts of crime, [and] thinking of crime can trigger thoughts of Black people." <sup>37</sup>

These unconscious negative responses to Black individuals may conflict with a person's consciously-held beliefs<sup>38</sup> and may shape a variety of law enforcement interactions. For example, an officer may not have racist views toward Black individuals, but nonetheless may stop this group more frequently because the officer is acting on unchecked implicit bias that causes them to pay closer attention to Black individuals even if there is no criminal behavior.<sup>39</sup> Indeed, the RIPA 2019 stop data shows that the search rates for Black individuals were higher than for White individuals, despite the fact that the discovery rate of contraband/evidence was higher for White individuals.<sup>40</sup> This suggests that officers suspect Black individuals of carrying weapons more frequently than White individuals and thus search Black individuals at a higher rate even if the data does not support such an association.<sup>41</sup>

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<sup>&</sup>lt;sup>34</sup> Wilson, et al., Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat (2017) 113 J. Personality and Soc. Psychol. 59, 70-72.

<sup>&</sup>lt;sup>35</sup> "'Priming' is a cognitive phenomenon that reveals how exposing people to photos, symbolic representations, or members of stereotyped groups activates a vast network of stereotypes about that group. Psychologists define priming as the incidental activation of knowledge structures, such as trait concepts and stereotypes, by the current situational context." Smith, et al., *The Impact of Implicit Racial Bias on the Exercise of Prosecutorial Discretion* (2012) 35 Seattle U. L. Rev. 795, 798 [citation and internal quotation marks omitted].

<sup>&</sup>lt;sup>36</sup> Eberhardt, et al., *Seeing Black: Race, Crime, and Visual Processing* (2004) 87 J. Personality & Soc. Psychol. 876, 881 <a href="https://web.stanford.edu/~eberhard/downloads/2004-SeeingBlackRaceCrimeandVisualProcessing.pdf">https://web.stanford.edu/~eberhard/downloads/2004-SeeingBlackRaceCrimeandVisualProcessing.pdf</a> (as of Dec. 14, 2020). <sup>37</sup> *Id.* at p. 876.

<sup>&</sup>lt;sup>38</sup> Jolls, et al., *The Law of Implicit Bias* (2006) 94 Cal. L. Rev. 969, 970-71 [citing Greenwald, et al., *Implicit Bias: Scientific Foundations* (2006) 94 Calif. L. Rev. 945, 955-56].

<sup>&</sup>lt;sup>39</sup> Richardson, *Police Efficiency and the Fourth Amendment* (2012) 87 Ind. L.J. 1143, 1150 [citing Trawalter, et al., *Attending to Threat: Race-Based Patterns of Selective Attention* (2008) 44 J. Experimental Soc. Psychol. 1322, 1324].

<sup>40</sup> See Table 5, Discovery-rate analysis, at p. 61.

<sup>&</sup>lt;sup>41</sup> Eberhardt, et al., *Seeing Black: Race, Crime, and Visual Processing* (2004) 87 J. Personality & Soc. Psychol. 876, 881 <a href="https://web.stanford.edu/~eberhard/downloads/2004-SeeingBlackRaceCrimeandVisualProcessing.pdf">https://web.stanford.edu/~eberhard/downloads/2004-SeeingBlackRaceCrimeandVisualProcessing.pdf</a> (as of Dec. 14, 2020).

#### Explicit Bias

Another factor that may contribute to disparities in stop data is explicit bias. The following examples demonstrate that, despite state law and agency policies that strictly prohibit biasbased policing, there are officers who display explicit biases against individuals of certain racial or identity groups. And, as a result, these individuals may act on their biases in deciding who to stop and how to interact with the individuals they stop.

Explicitly racist or bigoted social media posting among law enforcement appears to be a widespread problem nationwide, as brought to light by advocates, including The Plain View Project. The Plain View Project, formed in 2016, examined the Facebook accounts of 2,900 officers from eight departments across the country and an additional 600 retired officers from those same departments, and now maintains an active database. The Plain View Project found thousands of troubling Facebook posts that included racist or otherwise offensive language. As a result, several departments conducted investigations of their officers. The Philadelphia Police Department, for example, placed 72 officers on administrative leave while it conducted an investigation.

California agencies have likewise had to address explicit bias within their ranks. As one example, the partner of an active San Jose Police Department officer earlier this year detailed the existence of a private Facebook group, "10-70DSJ," where former and current SJPD officers have exchanged racist posts for years. <sup>45</sup> In this Facebook group, one retired officer described Black Lives Matter activists as "racist idiots," "un-American" and "enemies' that the police 'swore an oath against.'" An active officer commented in another post that "black lives don't really matter." Another retired officer posted a fake advertisement for "Sharia Barbie," a barbie wearing a hijab and with a black eye that "comes with jihab [sic], bruises, & Quran [with] stoning accessories available for additional purchase." That same retired officer once commented that he would "re-purpose the hijabs into nooses." Similarly, an officer who at the time of the exposé taught "race-bias policing" in the Training Unit, posted an image that stereotyped all Muslims as terrorists. The San Jose Police Department has since placed four officers on administrative leave pending an investigation, and the Santa Clara County District Attorney's Office dismissed 14 criminal cases involving the officers who posted in the Facebook

<sup>&</sup>lt;sup>42</sup> The Plain View Project, About the Project <a href="https://www.plainviewproject.org/about">https://www.plainviewproject.org/about</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>43</sup> Andone, *This group found thousands of offensive Facebook comments by police. Here's what you should know,* CNN.com (June 20, 2019) < https://www.cnn.com/2019/06/20/us/plain-view-project-what-is/index.html> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>45</sup> Paulsen, *Racism and Hate behind the Blue Wall: Exposing Secret Law Enforcement Facebook Group* (June 26, 2020) <a href="https://blog.usejournal.com/racism-and-hate-behind-the-blue-wall-exposing-secret-law-enforcement-facebook-groups-6cf23a596a98">https://blog.usejournal.com/racism-and-hate-behind-the-blue-wall-exposing-secret-law-enforcement-facebook-groups-6cf23a596a98</a> (as of Dec. 14, 2020); ABC7 News, *4 San Jose police officers put on leave amid investigation into alleged racist Facebook posts* (June 28, 2020) <a href="https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/">https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>46</sup> ABC7 News, 4 San Jose police officers put on leave amid investigation into alleged racist Facebook posts (June 28, 2020) <a href="https://abc7news.com/san-jose-police-department-report-news-sipd-facebook/6275266/">https://abc7news.com/san-jose-police-department-report-news-sipd-facebook/6275266/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>47</sup> Paulsen, *Racism and Hate behind the Blue Wall: Exposing Secret Law Enforcement Facebook Group* (June 26, 2020) <a href="https://blog.usejournal.com/racism-and-hate-behind-the-blue-wall-exposing-secret-law-enforcement-facebook-groups-6cf23a596a98">https://blog.usejournal.com/racism-and-hate-behind-the-blue-wall-exposing-secret-law-enforcement-facebook-groups-6cf23a596a98</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>48</sup> Ibid.

<sup>&</sup>lt;sup>49</sup> Ibid.

group because the integrity of those cases were compromised by the racist posts.<sup>50</sup> Other California agencies, such as the Los Angeles County Sheriff's Department and San Francisco Police Department, have also had to address biased social media posted by their deputies and officers.<sup>51</sup>

These examples of explicit biases among law enforcement agencies – both nationwide and in this state – suggest that the problem is far more widespread than most people might believe. Critically, these examples trigger a deeper concern about affiliations with white supremacist and extremist groups. Indeed, the Federal Bureau of Investigation cautioned that "[d]omestic terrorism investigations focused on militia extremists, white supremacist extremists, and sovereign citizen extremists often have identified active links to law enforcement officers..." <sup>52</sup>

These affiliations have a real world impact on the communities officers are tasked with serving and protecting. In a highly publicized set of incidents, Philadelphia Police Department officers did not intervene when violent mobs, mostly comprised of White men, attacked Black Lives Matter protestors earlier this year.<sup>53</sup> Officers in the same department also socialized with men wearing Proud Boys regalia and carried a Proud Boys flag at a "Back the Blue" party at the Fraternal Order of Police Lodge.<sup>54</sup>

While the exact scale of explicit racism in law enforcement agencies is difficult to measure, there are numerous examples to suggest a significant problem that could negatively impact officers' interactions with the public. Indeed, these examples raise concerns about "[w]ho might be sitting in jail because what looked like an objective stop, what looked like a clean interaction, may actually have been driven by bigotry." Thus, any efforts to address stop data disparities would necessarily need to look at the forms, and scope, of explicit bias within individual law enforcement agencies.

## Systemic Disparities May Feed into Stop Data Disparities

While explicit and implicit biases may be contributing factors to the disparities found in stop data, they are a part of a larger complex of driving forces. That is, explicit and implicit biases

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<sup>&</sup>lt;sup>50</sup> KPIX 5, Santa Clara County DA Dismisses Cases Involving Officers Who Posted Racist Facebook Messages (Oct. 22, 2020) <a href="https://sanfrancisco.cbslocal.com/2020/10/22/santa-clara-county-da-dismissing-cases-officers-racist-facebook-messages/">https://sanfrancisco.cbslocal.com/2020/10/22/santa-clara-county-da-dismissing-cases-officers-racist-facebook-messages/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>51</sup> Chabria, When cops abuse social media, the results are explosive: 'One post can become a movement,' Los Angeles Times (Oct. 13, 2020) <a href="https://www.latimes.com/california/story/2020-10-13/cops-social-media-dangerous-combo-era-racial-reckoning">https://www.latimes.com/california/story/2020-10-13/cops-social-media-dangerous-combo-era-racial-reckoning</a> [describing a Facebook post by a Los Angeles County Sheriff's Captain, stating that Andres Guardado, a Salvadoran American killed by a deputy in Gardena, "chose his fate"] (as of Dec. 14, 2020); Fuller, San Francisco Police Chief Releases Officers' Racist Texts, N.Y. Times (April 29, 2016) < <a href="https://www.nytimes.com/2016/04/30/us/san-francisco-police-orders-officers-to-complete-anti-harassment-class.html">https://www.nytimes.com/2016/04/30/us/san-francisco-police-orders-officers-to-complete-anti-harassment-class.html</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>52</sup> Federal Bureau of Investigation, Counterterrorism Policy Directive and Policy Guide (April 1, 2015) 89 <a href="https://assets.documentcloud.org/documents/3423189/CT-Excerpt.pdf">https://assets.documentcloud.org/documents/3423189/CT-Excerpt.pdf</a> (as of Dec. 14, 2020); Levin, *White supremacists and militias have infiltrated police across US, report says*, The Guardian (Aug. 27, 2020) <a href="https://www.theguardian.com/us-news/2020/aug/27/white-supremacists-militias-infiltrate-us-police-report">https://www.theguardian.com/us-news/2020/aug/27/white-supremacists-militias-infiltrate-us-police-report</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>53</sup> German, White Supremacist Links to Law Enforcement are an Urgent Concern, Brennan Center (Sept. 1, 2020) <a href="https://www.brennancenter.org/our-work/analysis-opinion/white-supremacist-links-law-enforcement-are-urgent-concern">https://www.brennancenter.org/our-work/analysis-opinion/white-supremacist-links-law-enforcement-are-urgent-concern</a> (as of Dec. 14, 2020).

 <sup>54</sup> Ibid.
 55 ABC7 News, 4 San Jose police officers put on leave amid investigation into alleged racist Facebook posts (June 28, 2020)
 <a href="https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/">https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/</a> (as of Dec. 14, 2020).

may, in part, explain individual officer behavior, but there are other systemic factors that impact certain racial, ethnic, and other identity groups that help to explain stop disparities in the aggregate. 56 Biases and systemic inequities found in other systems, and the interconnectedness of those other systems with the criminal justice system, may result in officers interacting more frequently with people from certain races, ethnicities, and identities, which in turn renders those individuals more vulnerable to certain types of treatment by officers during those interactions.<sup>57</sup> Any analysis of stop data disparities – and the policies to address those disparities – should take into account underlying systemic inequalities. Indeed, overlooking the systemic contributing factors to racial disparities "can guide policy attitudes and preferences in ways that perpetuate [those very] disparities."58

#### Larger Societal Constructs Render Some People More Vulnerable to **Police Interactions**

Larger systemic and social oppression can inform officers' decisions – both directly and indirectly – to interact more with certain groups and in different ways, and thus lead to stop data disparities. Criminal behavior alone cannot explain those disparities.<sup>59</sup> For example, changing demographics of a city may drive local governing bodies to increase police presence in Black and Latinx neighborhoods, which, in turn, increases the likelihood that officers have more contacts with people in those neighborhoods. Further, the changing demographics of a neighborhood may increase calls for service driven by explicit or bias by proxy,  $^{61}$  as discussed in more detail later in this Report (page 83).

One study observed that development in certain neighborhoods in New York City was associated with an increase in low-level arrests in the same neighborhoods. 62 Specifically, these neighborhoods saw between 0.2 percent and 0.3 percent more discretionary arrests with every 5 percent increase in their property values.<sup>63</sup> Another analysis found that a neighborhood in Harlem – where the White resident population increased from 2 percent to 10 percent in just six years between 2000 and 2016 and the median home values almost doubled (adjusted for

<sup>&</sup>lt;sup>56</sup> Hetey, et al., The Numbers Don't Speak for Themselves: Racial Disparities and the Persistence of Inequality in the Criminal Justice System (2018) 27(3) Current Directions Psychol. Sci. 183, 185

<sup>&</sup>lt;a href="https://journals.sagepub.com/doi/pdf/10.1177/0963721418763931">https://journals.sagepub.com/doi/pdf/10.1177/0963721418763931</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>57</sup> *Ibid*.

<sup>58</sup> Ibid.

<sup>&</sup>lt;sup>59</sup> For example, a study of stops by Oakland Police Department found that Black individuals were stopped, searched, handcuffed, and arrested at higher rates than White individuals, and this disparity remained significant, even after researchers controlled for neighborhood crime rates and racial demographics. (Stanford SPARQ, Strategies for Change: Research Initiatives and Recommendations to Improve Police Community Relations in Oakland, Calif. (2016)

<sup>&</sup>lt;a href="https://stanford.app.box.com/v/Strategies-for-Change">https://stanford.app.box.com/v/Strategies-for-Change</a> (as of Dec. 14, 2020).

<sup>60</sup> Beck, Policing Gentrification: Stops and Low-Level Arrests during Demographic Change and Real Estate Reinvestment (Jan. 8, 2020) 19:1 City and Community 245, 248 <a href="https://onlinelibrary.wiley.com/doi/full/10.1111/cico.12473">https://onlinelibrary.wiley.com/doi/full/10.1111/cico.12473</a> [describing a study that found that gentrification in New York City was associated with more police stops] (as of Dec. 14, 2020).

<sup>61</sup> Johnson, Co-Opting the Police: What can be done about "Profiling by Proxy?" (Apr. 2, 2019) Nat. Police Foundation <a href="https://www.policefoundation.org/co-opting-the-police-what-can-be-done-about-profiling-by-proxy/">https://www.policefoundation.org/co-opting-the-police-what-can-be-done-about-profiling-by-proxy/</a> (as of Dec. 14, 2020). 62 Beck, Policing Gentrification: Stops and Low-Level Arrests during Demographic Change and Real Estate Reinvestment (Jan. 8, 2020) 19:1 City and Community 245, 248 <a href="https://journals.sagepub.com/doi/pdf/10.1111/cico.12473">https://journals.sagepub.com/doi/pdf/10.1111/cico.12473</a> (as of Dec. 14, 2020).

<sup>63</sup> Ibid. Specifically, neighborhoods saw an increase of 0.2 percent for "order-maintenance" arrests, which are arrests for quality-of-life offenses "like disorderly conduct, property damage, or trespassing," and an increase of 0.3 percent for "proactive" arrests, which are arrests that are "not easily visible" and require an officer "to pursue and search a suspect" such as "drug possession, weapon possession, and driving while intoxicated." Id. at p. 247.

inflation) – received 3,000 quality-of-life complaints in one block between 2015 and 2017, up from just 130 complaints in the previous three years.<sup>64</sup> As these studies suggest, larger social forces have an impact on policing and may explain some stop data disparities. All stakeholders should be aware of these dynamics when seeking to reduce disparities and achieve reforms.

Other systemic inequities may also lead members of certain racial and identity groups to live in poverty, which itself results in "a substantially higher rate of involvement with the juvenile and criminal justice systems" because of the disproportionate policing of lower-income neighborhoods. Transgender individuals, for example, are more likely to live in poverty and experience higher unemployment and homelessness than cisgender individuals because they face systemic discrimination in education, employment, and housing. Transgender individuals, in turn, may be more likely than cisgender individuals to participate in underground economies (such as sex work) to survive. Doing so renders them more vulnerable to arrests for "quality of life" crimes.

After a person becomes entangled in the criminal justice system, additional systemic barriers keep them further entrenched in the system. Research demonstrates that a "criminal record has a significant negative impact on hiring outcomes, even for applicants with otherwise appealing characteristics," and Black applicants with a record saw a 60 percent drop in the likelihood of getting a callback or job offer – twice the same drop-off for otherwise identical White applicants with a record (30 percent). Individuals with criminal records also face serious barriers to housing. Federal law, for example, prohibits persons convicted of certain crimes from securing public housing and other forms of federally-assisted housing. And, many landlords routinely exclude individuals with criminal records from private housing. In sum, job

<sup>&</sup>lt;sup>64</sup> Vo, They Played Dominoes Outside Their Apartment For Decades. Then The White People Moved In And Police Started Showing Up, BuzzFeed (June 29, 2018) <a href="https://www.buzzfeednews.com/article/lamvo/gentrification-complaints-311-new-york">https://www.buzzfeednews.com/article/lamvo/gentrification-complaints-311-new-york</a> (as of Dec. 14, 2020).

<sup>65</sup> U.S. Dept. of J., Nat. Inst. of Corrections, Policy Review and Development Guide, Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings (2015) <a href="https://info.nicic.gov/sites/info.nicic.gov.lgbti/files/lgbti-policy-review-guide-2\_0.pdf">https://info.nicic.gov/sites/info.nicic.gov.lgbti/files/lgbti-policy-review-guide-2\_0.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>66</sup> See, e.g., Stolper, Community Service Society, *New Neighbors and the Over-Policing of Communities of Color* (Jan. 6, 2019) <a href="https://www.cssny.org/news/entry/New-Neighbors">https://www.cssny.org/news/entry/New-Neighbors</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>67</sup> See generally Grant et al., National Center for Transgender Equality & National Gay and Lesbian Task Force, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (2011)

<sup>&</sup>lt;a href="https://transequality.org/sites/default/files/docs/resources/NTDS\_Exec\_Summary.pdf">https://transequality.org/sites/default/files/docs/resources/NTDS\_Exec\_Summary.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>68</sup> Carpenter, et al., *Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof* (2017) 24 Wm. & Mary J. Women & L. 5, 38, n. 40.

<sup>69</sup> Ibid.

<sup>&</sup>lt;sup>70</sup> For example, prosecutors are less likely to plea bargain with and offer a reduction in charges to Black defendants than White defendants, and when they do offer plea bargains, prosecutors are more likely to include prison time for Black defendants. Similarly, federal prosecutors are twice as likely to charge Black defendants with offenses that carry a mandatory minimum sentence than similarly situated White defendants. (Avery, et al., *Racial Bias in Post-Arrest and Pretrial Decision Making: The Problem and A Solution* (2019) 29 Cornell J.L. & Pub. Pol'y 257, 265 [citations omitted].)

<sup>&</sup>lt;sup>71</sup> Pager, et al., Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records (2009) 63 Annals of Am. Acad. of Pol. and Soc. Sci., 195, 199

<sup>&</sup>lt;a href="https://scholar.harvard.edu/files/pager/files/annals">https://scholar.harvard.edu/files/pager/files/annals</a> sequencingdisadvantage.pdf> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>72</sup> National Housing Law Project, An Affordable Home on Reentry (2018) pp. 7-8 <a href="https://www.nhlp.org/wp-content/uploads/2018/08/Rentry-Manual-2018-FINALne.pdf">https://www.nhlp.org/wp-content/uploads/2018/08/Rentry-Manual-2018-FINALne.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>73</sup> Crowell, A Home of One's Own: The Fight Against Illegal Housing Discrimination Based on Criminal Convictions, and Those Who are Still Left Behind (2017) 95 Tex. L. Rev. 1103, 1105-06.

and housing insecurity can push a person further into poverty and, in turn, increase their interactions with law enforcement.

## <u>Criminal Justice System Involvement and the Impact on the Type of Policing Actions Taken</u>

Moreover, once involved in the system, the type of interactions a person subsequently has with law enforcement may create additional disparities. Mass incarceration and other disparities in the criminal justice system disproportionately impact Black individuals. Black individuals, for example, account for 30 percent of those on probation or parole. The waiver of Fourth Amendment protections against unwarranted searches and seizures is a fairly standard probation or parole supervision term, which permits officers to search a supervised person without probable cause and based on their discretion. The RIPA 2018 stop data showed that individuals perceived to be Black were almost three times as likely to be searched as individuals perceived to be White. In 23.9 percent of stops involving a search of a person perceived to be Black, the officer provided the basis for search as a condition of their supervision; in comparison, officers conducted the same type of searches on only 18.8 percent of individuals perceived to be White. These disparities invite further research into whether officers assume that Black individuals are on supervision (e.g., have a criminal record), and in turn ask Black individuals about their supervision status more frequently than they ask White individuals. The Board hopes to delve into this question more deeply in next year's report.

#### Policy Decisions to Reduce Stop Data Disparities

Because there are likely multiple sources of the disparities we observe, effectively reducing these disparities will necessarily require a multi-pronged approach. One prong would be to address explicit bias. Law enforcement agencies, for example, could use the background check

<sup>74</sup> The Pew Charitable Trusts, Community Supervision Marked by Racial and Gender Disparities (Dec. 6, 2018)

<a href="https://www.pewtrusts.org/en/research-and-analysis/articles/2018/12/06/community-supervision-marked-by-racial-and-gender-disparities">https://www.pewtrusts.org/en/research-and-analysis/articles/2018/12/06/community-supervision-marked-by-racial-and-gender-disparities</a> (as of Dec. 14, 2020); Chanin, et al., Traffic Enforcement Through the Lens of Race: A Sequential Analysis of Post-Stop Outcomes in San Diego, California (2018) 29(6-7) Crim. Justice Pol. Rev. 561, 564

<a href="https://spa.sdsu.edu/documents/Traffic\_enforcement.pdf">https://spa.sdsu.edu/documents/Traffic\_enforcement.pdf</a> (as of Dec. 14, 2020).)

<sup>75</sup> See generally *United States v. Knights* (2001) 534 U.S. 112; *Samson v. California* (2006) 547 U.S. 843.

<sup>&</sup>lt;sup>76</sup> See 2020 RIPA Technical Report, supra note 18, at p. 11; see also Chanin, supra note 74, at pp. 564-65 ["Similarly, officer discretion is used in determining whether a driver or passenger is on probation or parole. In each case, this discretionary authority may be applied differently based on driver race . . . . On the other hand, once it is determined that a driver/passenger is on probation or parole, the officer has full legal authority to conduct a search. Indeed, Ridgeway (2006) notes that departmental policy in some jurisdictions advises officers to conduct these searches. Moreover, people of color—and men especially— are disproportionately more likely to be on parole or probation relative to the general population . . . . Together, these factors complicate efforts to make meaning of any disparities identified in Fourth waiver searches.") <sup>77</sup> In one notable example, an off-duty Black officer was pulled over by fellow officers in his predominantly Black neighborhood for a minor traffic violation and was first asked whether he was on probation or parole. The situation escalated to the point where officers slammed the off-duty officer to the ground. The off-duty officer sued and the court concluded that the officers' actions could be viewed by a jury as motivated by the off-duty officer's race. The court reasoned that the question about supervision status was not relevant to a traffic stop and that a "reasonable juror could conclude that this occurred because [the off-duty officer] was an African American man driving in a predominantly African American neighborhood . . . ." (Adamson v. City of San Francisco (N.D. Cal. Sept. 17, 2015) No. 13-CV-05233-DMR, 2015 WL 5467744, at \*8.) The court allowed the off-duty officer to proceed with a Ralph Act claim, which provides that "[a]ll persons within [California] have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property" because of race. (Cal. Civ. C. §§ 51.7(a), 51(b).)

included as part of the hiring process to evaluate explicit biases, 78 and monitor agency-issued cell phones and computers to ensure employees do not use those devices to exchange racist or other offensive content. Additionally, in an approach similar to The Plain View Project, agencies could proactively conduct a review of their personnel's social media to identify problematic behavior and discipline officers to demonstrate to the entire agency that racist or bigoted viewpoints are not tolerated.<sup>79</sup>

Another component of a multi-pronged approach is for law enforcement agencies to work to manage how implicit biases affect officers' behavior through training and education.<sup>80</sup> Managing implicit biases improves policing and is consistent with the tenets of procedural justice.

As noted above, efforts to reduce disparities observed in stop data cannot be limited to rooting out officers with explicit biases or finding ways for officers to override their implicit biases. Rather, addressing biases among individual officers should be components of a larger, more comprehensive approach to reducing stop data disparities. Any meaningful effort to address stop data disparities must recognize and address the structural dimensions of those disparities. For example, law enforcement agencies can also train officers on the impact urban development has on policing, including how it can lead to increased stops or arrests in a particular neighborhood, and on how to use critical thinking skills to recognize whether a call for service is premised by bias by proxy, rather than on criminal activity.<sup>81</sup> Law enforcement agencies should take other steps to remove structural practices that contribute to misconceptions about race and identity; for example, agencies can decline to post mug shot photographs.82

Further, responsibility to address disparities extends beyond law enforcement. Policymakers must contextualize these disparities and acknowledge that others within the broader criminal justice system, including attorneys and judges, play a part in creating and maintaining structural inequities that increase the frequency of law enforcement's interactions, including stops, with certain racial and identity groups. The Board urges policymakers to prioritize not only changes to law enforcement agency practices, but also to policies involving housing, education, health care, and criminal justice in order to remediate the disparities created by these and other systems.

<sup>78</sup> Of course, it is possible that these vetting efforts could drive bias further underground; that is, officers might be able to hide their explicit biases by knowingly providing "appropriate" answers in the hiring process to evade scrutiny. Agencies should be mindful of this concern when determining measures to evaluate officers for bias in the hiring process.

<sup>&</sup>lt;sup>79</sup> The Plain View Project, About the Project <a href="https://www.plainviewproject.org/about">https://www.plainviewproject.org/about</a>> (as of Dec. 14, 2020).

<sup>80</sup> Two ways agencies can do this is by increasing positive contacts with members of a group against whom a person is biased and "counter-stereotyping," which involves exposure to information that contradicts a stereotype of a group. Both strategies disrupt the neural pathways that associate members of a group with a certain negative stereotype. (Paterson & Edwards, Implicit Injustice: Using Social Science to Combat Racism in the United States, 2015 Harv. J. Racial & Ethnic Just. Online 1, 20–21 (2015) [citing Calvin Lai, Reducing implicit racial preferences, 143 J. Experimental Psychology 1765, 1766].)

<sup>81</sup> See Racial and Identity Profiling Advisory Board, Annual Report 2020 (Jan. 1, 2020) pp. 54-57

<sup>&</sup>lt;a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf</a> (as of Dec. 14, 2020).

<sup>82</sup> Egelko, San Francisco to Stop Releasing Suspect Mug Shots in Effort to Prevent Racial Bias, S.F. Chronicle (July 1, 2020) <a href="https://www.sfchronicle.com/crime/article/San-Francisco-police-to-stop-releasing-suspect-15379672.phps">https://www.sfchronicle.com/crime/article/San-Francisco-police-to-stop-releasing-suspect-15379672.phps</a> (as of Dec. 14, 2020).

## **ANALYSIS OF 2019 STOP DATA**

In 2019, the 15 largest law enforcement agencies in California collected data on 3,992,074 pedestrian and vehicle stops and submitted these data to the DOJ. These data include information regarding more stops than were collected the previous year because the 2019 data includes records from both Wave 1 and Wave 2 agencies from January 1 to December 31, 2019. The 2018 RIPA stop data only included the eight largest agencies in California and records submitted between July 1 and December 31, 2018. These differences are significant and should be considered if data comparisons are made between these two years.

All of the data collected include demographic information of stopped individuals, as *perceived* by the officer, as well as a range of descriptive information designed to contextualize the reason for the stop, actions taken during the stop, and resolution of the stop. The purpose of collecting these data is to document law enforcement interactions with the public and determine whether certain populations are subject to disparate treatment during stops based upon the officer's perception of that person's identity.

Individuals may self-identify *differently* than how an officer may perceive them. This distinction is critical to the purpose of collecting these stop data and reflects the primary task assigned to the Board, which is to eliminate racial and identity profiling -- based on how *officers perceive* someone -- and improve diversity and racial and identity awareness in law enforcement. This is the context under which RIPA data should be analyzed and interpreted.

For this year's report, the Board presents stop data analyses in three different sections:

- 1. The first section provides a breakdown of each identity group followed by their rates of experiencing stop outcomes.
- 2. The second section attempts to create benchmarks (i.e., reference points) by which to compare the stop data results and measure disparities. These benchmarks include comparisons to residential population data and tests for equality of outcomes at different points during the stop. These outcome-based tests explore search outcomes, the impact of daylight (i.e., when it might be easier to see race or other identity characteristics) on who is stopped, and the rates of force used by law enforcement.
- 3. The third section focuses on the intersections of race/ethnicity by gender, age and disability type. The third section also explores search and discovery rates specifically for consent and supervision searches.

<sup>&</sup>lt;sup>83</sup> Gov. Code § 12525.5(g)(2) defines a "stop" as any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

## 1.1 Stop Data Demographics

#### 1.1.1 Identity Demographics of those Who Were Stopped

Officers collect perceived identity-related information on six key demographics: race/ethnicity, gender, age, lesbian-gay-bisexual-transgender (LGBT) identity, English fluency, and disability. Officers are *not* permitted to ask individuals to self-identify for RIPA stop data collection purposes. Thus, all demographic data in this report reflects the perceptions of officers and may differ from how some stopped individuals self-identify.

Race/Ethnicity. Officers perceived the highest proportion of individuals they stopped to be Hispanic (38.9%; 1,552,485), followed by White (33.1%; 1,322,201), Black (15.9%; 635,092), Asian (5.7%; 228,790), Middle Eastern/South Asian (4.7%; 187,128) and all other groups (1.7%; includes 0.5% or 21,092 Pacific Islander, 0.2% or 8,271 Native American, and 0.9% or 37,015 Multiracial individuals). Officers may select multiple racial/ethnic categories per individual when recording stop data. All stopped individuals perceived to be part of multiple racial/ethnic groups were categorized as Multiracial, to avoid counting the same stopped individual in multiple racial/ethnic groups.

*Gender*. RIPA regulations contain five gender categories, including male, female, transgender man/boy, transgender woman/girl, and gender nonconforming.<sup>84</sup> A vast majority of stopped individuals were perceived as either (cisgender) male (71.2%; 2,841,218) or (cisgender) female (28.6%; 1,143,261), with all other groups collectively constituting less than 1 percent of the data.<sup>85</sup>

**Age.** Individuals perceived to be between the ages of 25 and 34 were stopped more than any age group (32.3%; 1,288,541). Individuals perceived to be below the age of 10 accounted for the smallest proportion (<0.1%; 1,927) of stopped individuals amongst all the age groups.<sup>86</sup>

<sup>&</sup>lt;sup>84</sup> These categories match those found in the regulations informing RIPA stop data collection (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(5)(A)(1-5)). For the purposes of this report, "male" refers to cisgender males and "female" refers to cisgender females.

<sup>&</sup>lt;sup>85</sup> The other groups were perceived as follows: transgender man/boy (0.08%; 3,294), transgender woman/girl (0.05%; 1,870), and gender non-conforming (0.06%; 2,431).

<sup>&</sup>lt;sup>86</sup> Stopped individuals perceived to be less than 10 years of age constituted less than one of every 500 individuals stopped. However, the Department is currently exploring the possibility that, in some cases, officers may have (1) incorrectly recorded the age of these stopped individuals (i.e. typographical errors) or (2) recorded data in cases that are not reportable under Section 999.227 (b) of the RIPA regulations (i.e. recording data for young passengers not suspected of committing a violation whom also did not have reportable actions taken towards them).

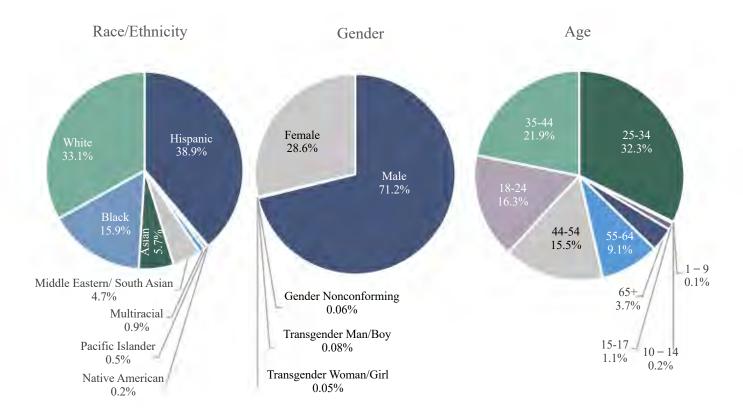


Figure 1. Race/Ethnicity, Gender, and Age Distributions of 2019 RIPA Stop Data

*LGBT.* Stops of individuals perceived to be LGBT comprised less than 1 percent (26,382) of the data.<sup>87</sup>

*Limited English Fluency.* Officers perceived approximately 4.1 percent (164,907) of stopped individuals to have limited or no English fluency.

**Disability.** Officers perceived 1.2 percent (46,035) of the individuals they stopped to have one or more disabilities. Of those perceived to have a disability, the most common disability reported by officers was mental health condition (63.3%; 29,124).<sup>88</sup>

## 1.1.2 Primary Reason for Stop

Officers may only report one reason for stop and it must be the *primary* reason. In instances where multiple reasons may apply, officers can only select the primary reason that informed their decision to initiate a stop. Officers may select from eight different primary reasons for stop which include both pedestrian and vehicle stops. The most common reason provided for a stop was a traffic violation (85%), followed by reasonable suspicion that the individual stopped was engaged in criminal activity (12.1%).<sup>89</sup> The law requires an officer to have reasonable

<sup>&</sup>lt;sup>87</sup> Officers perceived 0.66 percent of stopped individuals to be LGBT.

<sup>88</sup> Individuals perceived to have multiple disabilities—including mental health conditions—are not included in this statistic.

<sup>&</sup>lt;sup>89</sup> Although officers may have reasonable suspicion when initiating stops for traffic violations, the regulations state that officers should not select the "reasonable suspicion" value when the reason for stop is a traffic violation. Instead, officers should select the "traffic violation" value as the primary reason for stop (Cal. Code Regs. tit. 11 § 999.226, subd. (a)(10)(A)(2)).

suspicion before they can detain/stop an individual. Reasonable suspicion is a legal standard in criminal law that requires an officer to point to specific articulable facts that would lead a reasonable person to believe that a crime is, was, or is about to occur. Reasonable suspicion to stop someone is also established whenever there is any violation of law. Reasonable suspicion requires more than just an officer having a hunch that the person committed a crime, but is a lesser standard than probable cause, which is required to arrest someone. All other reasons for the stop collectively made up less than 3 percent of the data and are categorized together for the purposes of graphical representation in the following sections.

**Race/Ethnicity.** Out of all the racial/ethnicity groups in the data, Middle Eastern/South Asian individuals had the highest proportion of their stops reported as traffic violations (95.4%) and the lowest proportion of their stops reported as reasonable suspicion (4%). Black individuals had the lowest proportion of their stops reported as traffic violations (74.7%) and the highest proportion of their stops reported as reasonable suspicion (21%). Black individuals had the highest proportion of any racial/ethnic group (4.3%) of their stops reported in the categories grouped together as "Other" in Figure 2, while Middle Eastern/South Asian individuals had the lowest proportion (0.6%) of their stops fall into these categories.

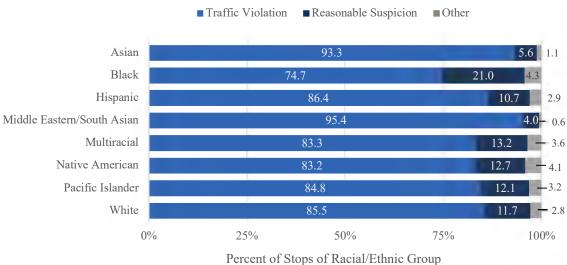


Figure 2. Primary Reason for Stop by Perceived Race/Ethnicity

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<sup>&</sup>lt;sup>90</sup> "Reasonable suspicion" is currently being used to capture stops where an officer suspects criminal activity, but also stops where officers initiate contact for community caretaking purposes without suspecting an individual of criminal activity because no distinct value exists within the RIPA regulations for solely community caretaking contacts. Approximately 4.9 percent of stops initiated for reasonable suspicion were due to community caretaking functions. Given the small percentage, community caretaking stops were not separated out from the reasonable suspicion stops. This designation in the regulations was not meant to suggest that homelessness and people with mental health conditions are engaging in criminal activity; rather, the DOJ is aware of this issue and working on a resolution.

 $<sup>^{91}</sup>$  Other reasons for stop that the officer could report included consensual encounter resulting in a search (1.1%), mandatory supervision (0.7%), warrants/wanted person (0.7%), truancy (0.4%), investigation to determine whether student violated school policy (<0.1%), and possible violations of the Education Code (<0.1%).

**Gender**. Females had the highest proportion of their stops reported as traffic violations (88.0%) and the lowest proportion of their stops reported as reasonable suspicion (9.9%). Transgender women/girls had the lowest proportion of their stops reported as traffic violations (35.3%) and the highest proportion of their stops reported as reasonable suspicion (56.9%).



Figure 3. Primary Reason for Stop by Perceived Gender

Percent of Stops of Gender Group

**Age.** Individuals perceived to be 65 years or older had the highest proportion of their stops reported as traffic violations (91.0%) and had the lowest proportion of their stops reported as reasonable suspicion (7.6%). Individuals perceived to be between the ages of 10 and 14 had the lowest proportion of their stops reported as traffic violations (20.1%) and the highest proportion of their stops be reported as reasonable suspicion (60.9%). <sup>92</sup>

<sup>&</sup>lt;sup>92</sup> The data shows an unexpected number of reported traffic violations for people too young to hold a provisional permit or driver's license. This could partially be explained cases where officers (1) incorrectly recorded the age of the stopped individuals, (2) recorded data for passengers in the vehicles they stop, or (3) recorded violations of bicycle or motorized scooter laws.

■ Traffic Violation ■ Reasonable Suspicion 1-9 22.9 65.9 10-14 60.9 15-17 30.5 58.8 18-24 86.7 10.8 25-34 84.5 123 35-44 84.7 3.0 45-54 85.3 12.1 55-64 86.4 65 +91.0 7.6 1.4 25% 50% 75% 100% 0%

Figure 4. Primary Reason for Stop by Perceived Age Group

Percent of Stops of Age Group

*LGBT*. Individuals perceived to be LGBT had a lower proportion of their stops reported as traffic violations (61.8%) and a higher proportion of their stops reported as reasonable suspicion (31.9%) than individuals who officers did not perceive to be LGBT (85.2% traffic violations and 11.9% reasonable suspicion).

**Limited English Fluency**. Individuals perceived to have limited English fluency had a lower proportion of their stops reported as traffic violations compared to individuals whom officers perceived to be fluent in English (83.1% and 85.1%, respectively). The opposite was true of reasonable suspicion stops where individuals perceived to have limited English fluency had a higher proportion of their stops reported under this category than individuals perceived as English fluent (14.8% and 11.9%, respectively).

**Disability**. Stopped individuals perceived as having a disability had a lower proportion of their stops reported as traffic violations (18.8%) and a higher proportion of their stops for reasonable suspicion (69.6%) than those not perceived to have a disability (85.8% traffic violations and 11.4% reasonable suspicion).<sup>93</sup>

<sup>&</sup>lt;sup>93</sup> Part of the reason why individuals perceived to have a disability have a much higher proportion of their stops reported as reasonable suspicion stops than individuals not perceived to have a disability is due to how community caretaking contacts are currently captured within the RIPA data. As mentioned in note 90, stops for community caretaking are captured in the reasonable suspicion data element. Only 0.3 percent of individuals without a disability were stopped for community caretaking purposes, compared to 22.5 percent of stopped individuals with a disability.

#### 1.2 Calls for Service

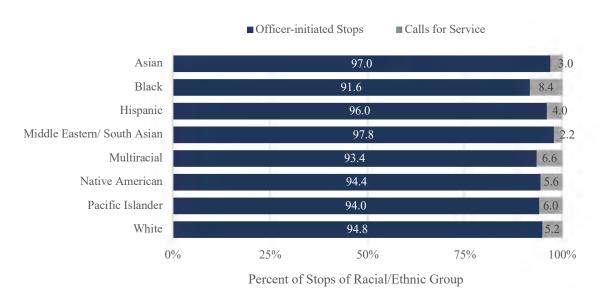
RIPA regulations require that officers indicate if a stop was made in response to a call for service, radio call, or dispatch. 94 Officers reported making stops in response to calls for service approximately 5 percent of the time. 95

**Race/Ethnicity.** Stops were initiated in response to a call for service at the highest rates for Black individuals (8.4%) and the lowest rates for Middle Eastern/South Asian individuals (2.2%).

#### **Key Terms**

- Call for service a stop made in response to a call for service, radio call or dispatch
- Officer-initiated a stop not made in response to a call for service, radio call or dispatch



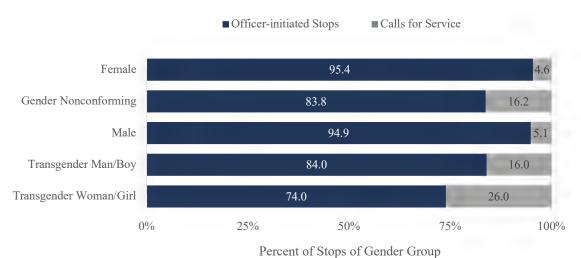


**Gender.** Stopped individuals perceived to be transgender women/girls had the highest rate of being stopped in response to a call for service (26.0%) while stopped individuals perceived to be female had the lowest rate (4.6%).

<sup>&</sup>lt;sup>94</sup> An interaction that occurs when an officer responds to a call for service is only reported if it meets the definition of a "stop" as set forth in section 999.224, subd. (a)(14) of the RIPA regulations. A call for service is not a reason for stop value under the RIPA regulations. Rather, officers indicate whether or not a stop was made in response to a call for service in addition to providing a primary reason for stop (Cal. Code Regs, tit. 11 § 999.226, subd. (a)(11)).

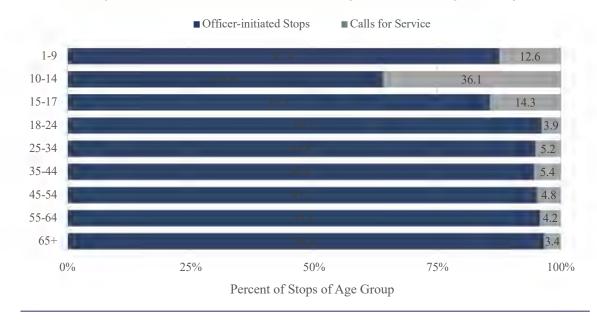
<sup>&</sup>lt;sup>95</sup> Given that stops for traffic violations constitute a majority of the data, but are less prone to be made in response to a call for service, these analyses were also conducted while excluding data from stops where officers indicated that the primary reason for the stop was a traffic violation. See Appendix Table A.3 for all statistics.

Figure 6. Call for Service Status by Perceived Gender



**Age.** Stopped individuals perceived to be between the ages of 10 and 14 had the highest rate of being stopped in response to a call for service (36.1%) whereas individuals aged 65 or higher had the lowest rate (3.4%).

Figure 7. Call for Service Status by Perceived Age Group



**LGBT.** Stopped individuals perceived as LGBT had a higher rate (15.4%) of being stopped in response to a call for service than individuals whom the officers did not perceive to be LGBT (4.9%).

**Limited English Fluency.** Stopped individuals whom officers perceived to have limited or no English fluency had a higher rate of being stopped in response to a call for service (6.4%) compared to English fluent individuals (4.9%).

**Disability.** Stopped individuals perceived as having a disability had a substantially higher rate of being stopped in response to a call for service (47.9%) compared to those whom officers did not perceive to have a disability (4.5%).

## 1.3 Actions Taken During Stop by Officers

Officers can select up to 23 different actions taken during the stop, (which do not include the actions categorized as stop results, such as arrest). These actions include, for example, asking someone to exit a vehicle, conducting a search, and handcuffing someone (separate from arresting that person). A stopped individual may have multiple reported actions taken towards them in a single stop. Overall, an average of 0.5 actions were taken by officers during a stop and actions were taken on 19.0% of stopped individuals. Put another way, officers did not submit any reportable actions taken during the majority of the stops they conducted. Looking only at stops in which actions were recorded, the average number of recorded actions taken by officers was 2.5. The average number of actions taken during stops was also calculated for each identity group and can be found in Appendix A.5.97

Across all stops, the most common action taken by officers was a search of property or person (11.3%), followed by curbside or patrol car detention (10.2%), handcuffing (8.4%)<sup>98</sup>, and verbally ordered removal from a vehicle (3.9%).<sup>99</sup> Each other action was reported for less than 2 percent of individuals stopped.<sup>100</sup>

**Race/Ethnicity.** Compared to other races/ethnicities, stopped individuals perceived to be Black had the highest rate of being searched (20.5%), detained on the curb or in a patrol car (17.8%), handcuffed (14.1%), and removed from a vehicle by order (7.7%). Officers searched, detained on the curb or in a patrol car, handcuffed, and removed from vehicles more Black individuals than White individuals, despite stopping more than double the number of White individuals than Black individuals. Stopped individuals perceived to be Middle Eastern/South Asian had the lowest rate for each of these actions (ranging between 1.3 and 3.6%).

<sup>&</sup>lt;sup>96</sup> See Appendix Tables A.6 through A.9 for breakdowns by identity group for all other actions taken during stops, including those where no actions were taken.

<sup>&</sup>lt;sup>97</sup> See Appendix Table A.4 for all descriptive statistics.

<sup>&</sup>lt;sup>98</sup> A report of "handcuffing" an individual in this section does not mean that the officers arrested the individual. Section 1.4 of this chapter discusses arrests. Additionally, Appendix Table A.10 displays what percentage of individuals handcuffed had each of the following three stop results: arrested, no action taken, and result of stop other than an arrest or no action taken. Of the individuals handcuffed, officers arrested 58.1 percent, took some other form of action for 32.5 percent, and took no action towards 9.4 percent of individuals.

<sup>&</sup>lt;sup>99</sup> Searches of person or property are captured in separate data fields and were combined for this analysis. Curbside and patrol car detainments are also recorded in distinct data fields and were combined.

 $<sup>^{100}</sup>$  Other actions include: person removed from vehicle by physical contact (0.2%), field sobriety test (1.5%), canine removed from vehicle or used to search (<0.1%), firearm pointed at person (0.4%), firearm discharged (<0.1%), electronic control device used (<0.1%), impact projectile discharged (<0.1%), canine bit or held person (<0.1%), baton or other impact weapon (<0.1%), chemical spray (<0.1%), other physical or vehicle contact (0.4%), person photographed (0.5%), asked for consent to search person (2.7%), received consent to search person (80.0%), asked for consent to search property (1.7%), received consent to search property (71.2%), property seized (0.8%), vehicle impounded (1.2%), written statement (<0.1%), or none (81.0%).  $^{101}$  See Appendix Table A.5 for a breakdown of the number of stopped individuals from each identity group and actions taken during the stop.

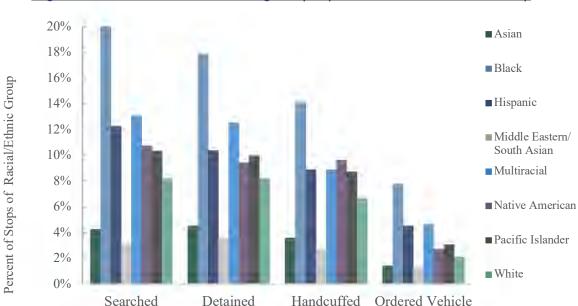


Figure 8. Actions Taken During Stop by Perceived Race/Ethnicity

**Gender.** Stopped individuals perceived as transgender women/girls had the highest rate of being searched (32.6%), detained on the curb or in a patrol car (36.1%), and handcuffed (33.7%); gender-nonconforming individuals had the highest rates of being removed from a vehicle by order (11.7%). Stopped individuals perceived as (cisgender) females had the lowest rate for each of these actions (ranging from 2.6 to 7.4%).

Exit

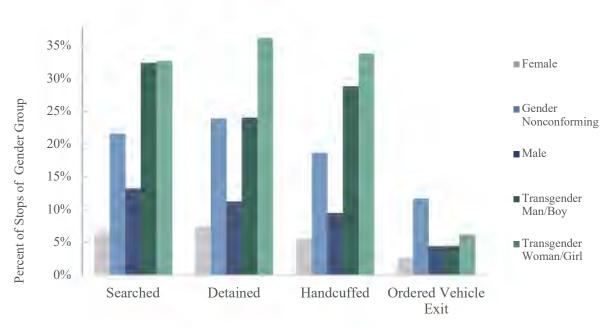


Figure 9. Actions Taken During Stop by Perceived Gender

**Age.** Stopped individuals perceived to be between the ages of 10 and 14 had the highest rate of being searched (34.7%), detained on the curb or in a patrol car (33.6%), and handcuffed (30.2%), while those perceived to be between 15 and 17 had the highest rates of being removed from a vehicle by order (7.9%). Those aged 65 or higher consistently had the lowest rate for each of these actions (ranging from 0.9 to 4.5%).

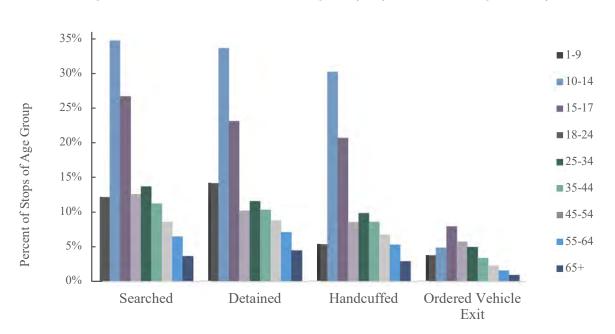


Figure 10. Actions Taken During Stop by Perceived Age Group

*LGBT*. Stopped individuals perceived to be LGBT also had a higher rate of being searched (21.9%), detained on the curb or in a patrol car (20.8%), handcuffed (20.1%), and removed from a vehicle by order (4.7%) than individuals not perceived to be LGBT (11.3% searched, 10.1% detained, 8.3% handcuffed, 3.9% removed from vehicle by order).

Limited English Fluency. Stopped individuals perceived to have no or limited English fluency had a higher rate of being searched (13.5%), detained on the curb or in a patrol car (11.5%), handcuffed (10.9%), and removed from a vehicle by order (5.3%) than those perceived to speak English fluently (searched 11.2%, detained 10.1%, handcuffed 8.3%, removed from vehicle by order 3.8%).

**Disability.** Individuals perceived to have a disability were searched (43.4%), detained on the curb or in a patrol car (39.4%), and handcuffed (45.1%) at a rate higher than those perceived not to have a disability (searched 11.0%, detained 9.8%, and handcuffed 7.9%). Stopped individuals perceived to have a disability had a lower rate of being removed from a vehicle by order (3.4%) compared to those who were not perceived as having a disability (3.9%).

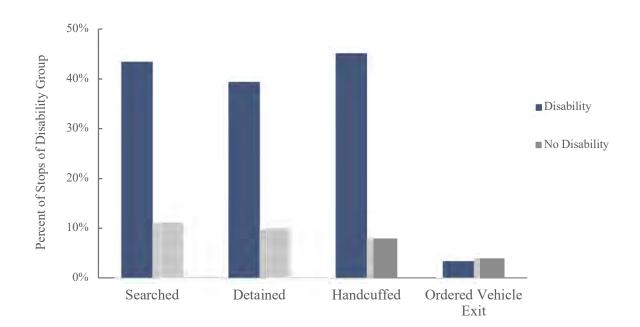


Figure 11. Actions Taken During Stop by Perceived Disability Group

## 1.4 Result of Stop

Officers can select up to 11 different stop disposition (or outcome) categories when recording stop data. Officers may select multiple dispositions per stop where necessary (e.g., an officer cited an individual for one offense and warned them about another). Individuals were most often issued a citation (53.1%), followed by a warning (24.8%), and then arrest (11.3%). Each of the other results represented less than 10 percent of the data. 103

Race/Ethnicity. Compared to other races/ethnicities, stopped individuals perceived as Middle Eastern/South Asian had the highest rate of being cited (68.3%), while individuals perceived to be Native American had the highest rate of being warned (28.0%) or arrested (14.7%). Stopped individuals perceived as Black had the lowest rate of being cited (39.1%) whereas stopped individuals perceived as Middle Eastern/South Asian had the lowest rate of being warned (21.9%) or arrested (5.3%).

<sup>&</sup>lt;sup>102</sup> Arrests here include three different result types: in-field cite and release (4.8% of stopped individuals), custodial arrest without a warrant (5.0% of stopped individuals), and custodial arrest with a warrant (1.7% of stopped individuals). It is possible for multiple arrest conditions to apply to the same individual in a single stop.

<sup>&</sup>lt;sup>103</sup> Other result categories included no action (8.0%), field interview card completed (5.6%), noncriminal/caretaking transport (0.4%), contacted parent/legal guardian (0.1%), psychiatric hold (0.7%), contacted U.S. Department of Homeland Security (<0.1%), referred to a school administrator (<0.1%), or referred to a school counselor (<0.1%).

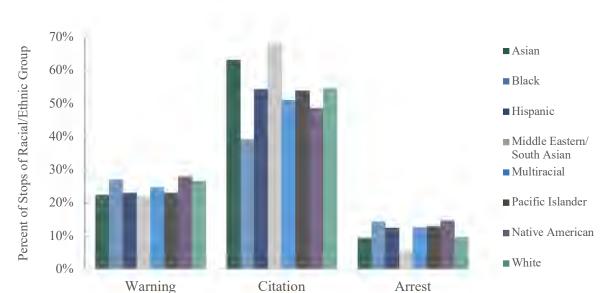


Figure 12. Stop Result by Perceived Race/Ethnicity

**Gender.** Citation rates ranged from 18.5 percent of stopped individuals perceived as transgender women/girls to 57.3 percent of stopped individuals perceived as (cisgender) females. Warning rates ranged from 18.8 percent of stopped individuals perceived as gender nonconforming to 25.3 percent of stopped individuals perceived as (cisgender) males. Finally, compared to other gender identities, stopped individuals perceived as transgender women/girls had the highest rate of being arrested (27.9%) while stopped individuals perceived as (cisgender) females had the lowest rate (10.5%).

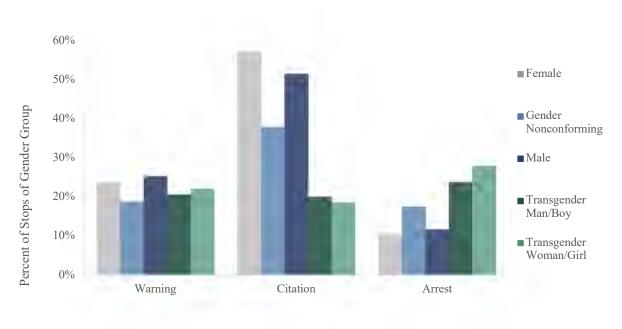


Figure 13. Stop Result by Perceived Gender

**Age.** Citation rates for those who were stopped ranged from 9.1 percent for individuals perceived as 10 to 14 year olds to 56.5 percent of individuals perceived as 18 to 24 year olds. Warning rates across age groups of stopped individuals ranged from a low of 13.3 percent of individuals perceived as 10 to 14 years old to a high of 29.9 percent of individuals perceived as 65 and older. Compared to other age groups, stopped individuals perceived as 10 and 14 also had the highest rate of being arrested (20.7%) while stopped individuals perceived as 1 to 9 year olds had the lowest rate (7.8%).<sup>104</sup>

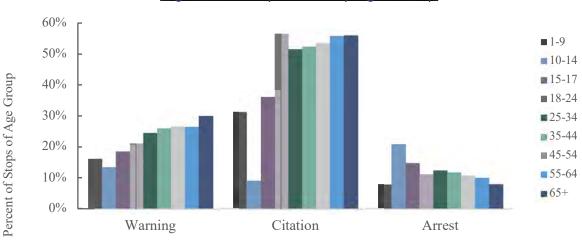


Figure 14. Stop Result by Age Group

**LGBT.** Stopped individuals perceived as LGBT had a lower rate of being cited (33.9%) or warned (21.1%) while having a higher rate of being arrested (22.4%) than individuals whom officers did not perceive to be LGBT (cited 53.2%, warned 24.8%, arrested 11.3%).

**Limited English Fluency**. Stopped individuals officers perceived to have no or limited English fluency had a lower rate of being cited (51.8%) while having a higher rate of being warned (25.3%) or arrested (13.4%) when compared to individuals perceived to speak English fluently (cited 53.2%, warned 24.8%, arrested 11.2%).

**Disability.** Stopped individuals perceived as having a disability had lower rates of being cited (9.5%) or warned (14.6%) and higher rates of being arrested (20.2%) than those perceived to not have a disability (cited 53.6%, warned 24.9%, arrested 11.2%).

## 1.5 Tests for Racial/Ethnic Disparities

There is no consensus in the literature about what analyses are best for identifying racial profiling or racially biased policing and no single approach is perfect. For this reason, the following section contains multiple commonly used analyses designed to identify differences in

<sup>&</sup>lt;sup>104</sup> The unexpectedly high number of arrests for individuals perceived to be below 15 years of age may partially be explained by incorrectly recorded age values, but we cannot know for sure.

various elements of police stops across the perceived racial/ethnic identities of stopped individuals. These tests for racial/ethnic disparities include:

- a comparison to residential population data;
- an analysis of search discovery rate;
- an analysis of stop frequencies by time of day; and
- an analysis examining use of force rates.

Each of these analyses tests for racial/ethnic disparities in a different manner. As a result, each type of analysis will have its own methodological strengths and weaknesses. A detailed description of the methodology for each analysis in this section is available in Appendix B, along with discussions of some considerations and limitations for each analytical approach.<sup>105</sup>

## 1.5.1 Residential Population Comparison

Comparing stop data to the underlying residential population is a commonly used methodology. An assumption of this type of comparison is that the distribution of who is stopped would be similar to who resides within a comparable geographic region. However, this is not always the case, as people may travel a considerable distance from where they live for a number of reasons (e.g., to go to work, visit family). Here, the Board used residential population demographics from the United States Census Bureau's 2018 American Community Survey (ACS) to provide a benchmark for what might be the expected demographic breakdown of the 2019 stop data. <sup>106</sup> For example, we would expect approximately a third of the individuals stopped by law enforcement to be White since White individuals constitute approximately a third of the population in the regions of California served by the Wave 1 and Wave 2 agencies. It is important to note that disparities between stop population proportions and residential population proportions for each racial/ethnic group can be caused by several factors which include, but are not limited to, potential differences in offending rates and officer bias.

Apart from the CHP, none of the Wave 1 and 2 agencies conduct operations widely across the entire State of California. Accordingly, the ACS demographic estimates were adjusted to better represent the jurisdictions of law enforcement agencies whose data are included in this report, rather than comparing against the whole state population.<sup>107</sup>

Figure 15 displays the racial/ethnic distribution of stopped individuals from the 2019 RIPA Stop Data alongside the weighted distribution from the ACS. These analyses were repeated for all reporting municipal agencies, excluding California Highway Patrol, and for each individual agency; those individual results can be found in Appendix Table C.1. As explained above, all

 $<sup>^{105}</sup>$  See Racial and Identity Profiling Advisory Board, Annual Report 2020 (Jan. 1, 2020) pp. 30-31

<sup>&</sup>lt;a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf</a> (as of Dec. 14, 2020).

 $<sup>^{\</sup>rm 106}$  2019 ACS data were not available at the time these analyses were performed.

<sup>&</sup>lt;sup>107</sup> See Appendix B.1 for a full description of the methodology.

race/ethnicity data reported under RIPA is based on officer perceptions, while the ACS data is self-reported.  $^{108}$ 

Overall, the disparity between the proportion of stops and the proportion of residential population was greatest for Multiracial and Black individuals. Multiracial individuals were stopped 70.7 percent less frequently than expected, while Black individuals were stopped 140.9 percent more frequently than expected. The proportion of stops corresponding to White individuals most closely matched estimates from residential population data (3.44% less frequent than expected). Compared to White individuals, the greatest disparities between stop data and residential population data estimates occurred for Black and Multiracial individuals. The disparity for Black individuals was 2.5 times as great as the disparity for White individuals. For Multiracial individuals, the disparity was 0.3 times as great as the disparity for White individuals.

This indicates that Black individuals were significantly more likely to be stopped relative to their share of the residential population—compared to White individuals—while Multiracial individuals were significantly less likely to be stopped. After excluding California Highway Patrol records from the analysis, the data continued to show the greatest disparities in these estimates for Multiracial and Black individuals. Compared to White individuals, the disparity between stop data and residential population estimates for all municipal agencies increased for all groups except for Asian and Middle Eastern/South Asian individuals.

<sup>&</sup>lt;sup>108</sup> See Appendix B.1 for further discussion of the limitations to this type of analysis.

<sup>&</sup>lt;sup>109</sup> See Appendix Table C.1 for all descriptive statistics.

<sup>&</sup>lt;sup>110</sup> Stop data classifying the race/ethnicity of stopped individuals is based upon officer perception. Some research indicates that it is more difficult to classify the race of multiracial individuals than to classify the race of monoracial individuals and that people may often classify multiracial individuals as monoracial. See Chen & Hamilton, *Racial Ambiguities: Racial categorization of multiracial individuals* (2012) 48 J. of Experimental Social Psychology 152; lankilevitch et al., *How Do Multiracial and Monoracial People Categorize Multiracial Faces*? (2020) 11(5) Soc. Psychological and Personality Science 688.

■ CA Residential Population (ACS 2018) ■ RIPA Stops (2019) 50% 40% Percent Representation 30% 33% 20% 16% 10% 3% 0.9% 0.3% 0.5% 0.3% 0.2% 0.3% 0% White Asian Black Hispanic Native Other Pacific Middle Multiracial Islander Eastern/ American South Asian

Figure 15. Residential Population Comparison to Stop Data

## 1.5.2 Discovery-rate Analysis

These data show police generally search each racial/ethnicity group at different rates. Researchers have developed an empirical test for distinguishing how much of this disparity may be explained by biased officer behavior. The test attempts to measure the efficiency of searches by comparing the rate at which contraband or evidence is discovered across racial/ethnicity groups. One assumption of the test is that if officers are less likely to find contraband after searching people of a particular identity group, then those individuals are objectively less suspicious and may be searched, at least in part, because of their perceived identity.<sup>111</sup> Using this framework, we tested for differential treatment by conducting comparisons of search and discovery rates across identity groups.<sup>112</sup>

**Descriptive Analysis.** Overall, officers searched 11.3 percent of all stopped individuals and they discovered contraband or evidence in 21.4 percent of those searches. Search and discovery rates varied widely

#### **Discovery Rates**

These analyses measure the rates at which contraband or evidence is discovered in stops where a search was performed. In the 2020 RIPA report, these analyses were called "search yield rates." They are also often referred to in research literature as "hit rates." The Board believes that "discovery rates" is a more transparent term than "search yield rates" and that it helps speak more directly to the data being analyzed, given that these analyses make use of data element referred to as "Contraband or Evidence Discovered" in the RIPA regulations.

between racial/ethnic groups. Specifically, search rates ranged from 3.1 percent of stopped individuals perceived as Middle Eastern/South Asian to 20.5 percent of stopped individuals

<sup>&</sup>lt;sup>111</sup> See Appendix B.2 for a discussion of the limitations to this type of analysis.

<sup>112</sup> Knowles et al., Racial Bias in Motor Vehicle Searches: Theory and Evidence (2001) 109 J. Pol. Econ. 203.

perceived as Black. Individuals perceived as White were searched 8.2 percent of the time. The 12.3 percentage point difference in search rates between stopped Black and White individuals had the following impact: although officers stopped 687,109 more individuals perceived to be White than individuals perceived to be Black, officers searched 22,096 more Black individuals than White individuals. Search discovery rates did not vary as widely between racial/ethnic groups as did search rates. Discovery rates ranged from 19.3 percent of stopped individuals perceived as Middle Eastern/South Asian individuals to 23.9 percent of stopped individuals perceived as Multiracial. The discovery rate for stopped individuals perceived as White was 22.2 percent.

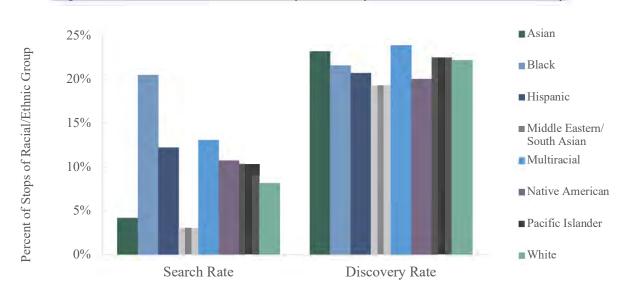


Figure 16. Search and Discovery Rates by Perceived Race/Ethnicity

For this Report, we compared the search and discovery rates for each group to those for individuals perceived as White. All racial/ethnic groups of color had higher search rates than individuals perceived as White, except for individuals perceived as Asian and Middle Eastern/South Asian. Discovery rates were also lower for most groups compared to individuals perceived as White; those perceived as Pacific Islander, Asian, or Multiracial had higher discovery rates. Individuals perceived as Black, Hispanic, and Native American had higher search rates despite having lower rates of discovering contraband compared to individuals perceived as White.

<sup>&</sup>lt;sup>113</sup> Officers searched more individuals perceived to be Hispanic (190,167) than individuals perceived to be White (108,248). However, officers also stopped more Hispanic individuals (1,552,485) than White individuals (1,322,201) but not Black individuals (635,092).

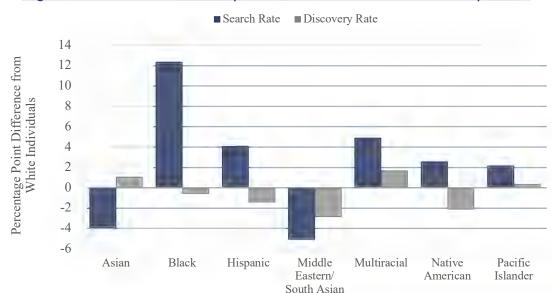


Figure 17. Racial/Ethnic Disparities in Search and Discovery Rates

*Multivariate Analysis.* To consider how multiple variables (i.e., multivariate), alongside the perceived race/ethnicity of the stopped individual, are associated with decisions by officers to search and whether officers discovered contraband or evidence, these data were also analyzed using statistical models.<sup>114</sup> One key consideration is the level of discretion available to officers in their decision to conduct a search in the first place. Some searches are based on protocol and are often required under departmental policy, such as during an arrest, vehicle inventory, or search warrant; these administrative types of searches afford little to no discretion to the officer in their decision to initiate a search. Other types of searches are conducted in situations where more discretion is available to the officer and are likely based on some subjective threshold of suspicion that contraband or evidence may be found. Examples of these types of searches include those conducted because an officer smelled contraband or when officers suspect the individual of having a weapon. Previous research has shown that these discretionary

#### **Statistical Significance Testing**

These tests provide a common framework for evaluating evidence provided by data against a specific hypothesis. For example, the hypothesis tested by the discovery-rate analysis is, "Searches of stopped individuals from racial/ethnic groups of color and White individuals are equally likely to reveal contraband." But, if the test provides strong enough evidence that disparities between groups are larger than can reasonably be explained by chance alone, then we can say that our findings are statistically significant. In other words, the evidence provided by the data renders as very low the likelihood that chance explains the resulting disparity.

searches tend to be conducted disparately, and individuals of certain racial/ethnic groups of

<sup>&</sup>lt;sup>114</sup> See Appendix B.2 for a full description of the methodology.

color have a greater chance of being subjected to discretionary searches.<sup>115</sup> As such, the multivariate analysis was applied to (1) search rates overall, (2) discovery rates during discretionary searches, and (3) discovery rates during administrative searches.

The results showed multiple statistically significant differences in search and discovery rates across racial/ethnicity groups, especially when comparing individuals perceived as Black or Hispanic to individuals perceived as White (see Table 3). Compared to White individuals, it was more probable for Black (+1.8% points) and Hispanic (+0.4% points) individuals to be searched despite being less likely to be found in possession of contraband or evidence in stops with discretionary searches (-1.9% points and -1.3% points, respectively). 116 However, the difference in discovery rates between White and Black individuals during stops with administrative searches was not statistically significant. Asian individuals (-2.1% points) and those from racial/ethnic groups that were combined together<sup>117</sup> (-1.8% points) were also less likely to be searched compared to White individuals, but did not have a significant difference in the rate of contraband or evidence discovered during stops with discretionary searches. 118 Both Hispanic individuals (-1.3% points) and those from the combined group (-2.9% points) were less likely to have contraband or evidence discovered in stops with administrative searches. These analyses were repeated for all municipal agencies excluding California Highway Patrol and for each individual agency alone in order to consider the impact of different locales on the findings; these results can be found in the Appendix. 119

<u>Table 3. Summary of Multivariate Discovery Rate Analysis Findings by</u> Race/Ethnicity

| Group    | Search Rates | Discovery Rates        |                         |  |
|----------|--------------|------------------------|-------------------------|--|
|          |              | Discretionary Searches | Administrative Searches |  |
| Asian    | *** ↓ 2.1%   | ↓ 0.7%                 | ↓ 0.8%                  |  |
| Black    | *** ↑ 1.8%   | ***                    | ↓ 0.4%                  |  |
| Hispanic | *** ↑ 0.4%   | ***                    | ***                     |  |
| Other    | ***          | ↓ 1.1%                 | ***                     |  |

Note. Values represent percentage point difference compared to the rate for White individuals, with arrows indicating the direction of the difference. Statistically significant disparities are indicated with asterisks;

<sup>&</sup>lt;sup>115</sup> Ridgeway, Assessing the Effect of Race Bias in Post-traffic Stop Outcomes Using Propensity Scores (2006) 22 J. Quantitative Criminology 1.

<sup>&</sup>lt;sup>116</sup> See Appendix Table C.2.1.1 for model statistics.

<sup>&</sup>lt;sup>117</sup> Individuals perceived to be Middle Eastern/South Asian, Multiracial, Native American, or Pacific Islander were combined into one group in order to gain the statistical power needed to conduct these multivariate analyses.

<sup>&</sup>lt;sup>118</sup> See Appendix Table C.2.2.1 for model statistics.

<sup>&</sup>lt;sup>119</sup> See Appendix Tables C.2.1.1, C2.2.1 and C.2.3.1 for model statistics.

#### 1.5.3 Veil of Darkness Analysis

A key problem in exploring racial disparities is establishing the proper benchmark against which to compare the racial/ethnic distribution of individuals stopped by law enforcement. One approach presumes that it may be more difficult for police to perceive the race/ethnicity of an individual prior to stopping them after dark than during daylight. In other words, to the extent that it is harder to identify someone at night, we would expect darkness to decrease the likelihood that individuals of racial/ethnic groups of color are disproportionately stopped relative to White individuals. This hypothesis is called the veil of darkness (VOD) which has been used by researchers to test for racial/ethnic disparities in law enforcement encounters.

The Intertwilight Period. The most conventional version of the VOD approach, followed here, is to only examine vehicle stops that occur during the intertwilight period. The reason for this is that the intertwilight period spans the hours of the day that are light during one part of the year and dark during the other because of daylight saving time; this period occurs twice on any given day, once around dawn and once around dusk. Stops made during the lighter portion of this period (i.e., after sunrise but before sunset) are compared to stops made during the darker portion of this period. Figure 18 shows an example of both morning and evening intertwilight periods for stops made in Sacramento using RIPA data.

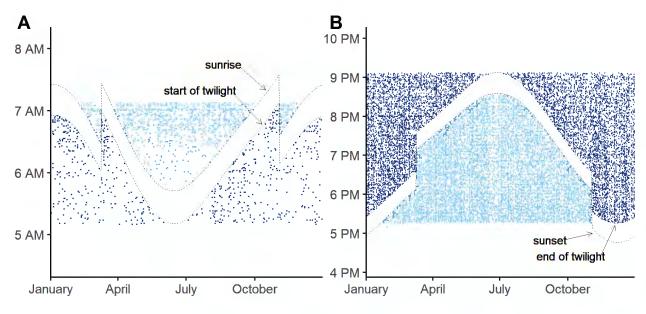


Figure 18. Morning and Evening Intertwilight Periods for Sacramento

Notes: Each dot represents a single stop made by law enforcement in Sacramento on a given day and time. Light blue dots represent stops made during daylight. Dark blue dots represent stops made after dark. Only stops made

<sup>&</sup>lt;sup>120</sup> Civil twilight is defined as the illumination level sufficient for most ordinary outdoor activities to be done without artificial lighting before sunrise or after sunset. Therefore, it is dark outside when civil twilight ends; civil twilight ends when the sun is six degrees below the horizon.

within the morning (A) and evening (B) intertwilight periods were included in the analysis. Stops made between the start of civil twilight and sunrise (white band) were excluded from the morning intertwilight period. Stops made between sunset and the end of civil twilight (white band) were excluded from the evening intertwilight period. Stops that occurred within the white-banded area were excluded because the lighting conditions during this period are more difficult to classify as either dark or light. Discontinuities in the curves in March and November reflect Daylight Saving Time adjustments.

Multivariate Analysis. These analyses take into account how multiple variables (e.g., time of day, location) may contribute to disparities in stops made in the dark compared to those in the light. 121 As mentioned previously, this analysis only includes data for individuals stopped for traffic violations during the morning and evening intertwilight periods. 122 Stops made in response to a call for service were also excluded from this analysis because officers utilized information from a third party (e.g., dispatcher or caller) when making the decision to stop the individuals in these cases; the VOD test is best applied to stops where officers are making stops solely based on their own judgement. These filtering criteria were applied to the data in order to approximate the conditions under which the VOD hypothesis would be most accurate. Finally, the four racial/ethnic groups who were least frequently stopped were combined into a single group to increase statistical power for the test; these groups included individuals perceived to be Middle Eastern/South Asian, Multiracial, Native American, and Pacific Islander.

The results showed that some racial/ethnic groups were stopped at different rates, relative to White individuals, depending on visibility conditions. Darkness decreased the rates at which Black (-0.5% points) and Hispanic (-1.4% points) individuals were stopped compared to White individuals; individuals from the racial/ethnic groups that were combined together (-0.8% points) also collectively had lower rates of being stopped during darkness. 123 Given the large number of stops submitted by California Highway Patrol as compared to the municipal agencies, the analyses were repeated while excluding CHP data. This analysis continued to show darkness decreasing the probability of being stopped during the intertwilight period for Black (-1.5% points) and Hispanic (-1.0% points) individuals. 124 These results suggest that individuals of certain racial/ethnic groups of color may be more likely to be stopped when it is easier to perceive their race/ethnicity. These disparities could reflect biased police behavior or the effect of some factor that is not yet being considered by this test. 125

### 1.6 Use of Force Analysis

California law provides that "[a]ny peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance." 126 State law strictly provides when an officer may reasonably use deadly force; it is universally accepted that deadly force is the

<sup>&</sup>lt;sup>121</sup> See Appendix B.3 for a full description of the methodology.

<sup>122</sup> Traffic Violations include all categories of "Reason for Stop" defined under Section 999.226, subd. (a)(10)(A)(1) of the RIPA Regulations.

<sup>&</sup>lt;sup>123</sup> See Appendix Table C.3 for model statistics.

<sup>&</sup>lt;sup>124</sup> See Appendix Table C.3 for model statistics.

<sup>&</sup>lt;sup>125</sup> See Appendix B.3 for a discussion of the limitations surrounding VOD.

<sup>&</sup>lt;sup>126</sup> Cal. Pen. Code, § 835a, subd. (b).

highest level of force that an officer could use. <sup>127</sup> However, there are no guidelines in California as to what constitutes the range or continuum of force between the lowest level of force and deadly force. Additionally, the specific data elements collected under RIPA have never been adapted to reflect any existing use-of-force continuum.

The Board offers two approaches for examining use of force across racial/ethnic groups. <sup>128</sup> The first uses a modified version of a use-of-force continuum from the National Institute of Justice to compare escalating levels of force between racial/ethnicity groups. <sup>129</sup> The second applies a statistical test to determine whether force was used disparately between White individuals and individuals from racial/ethnic groups of color. These data show that use of force is generally rare in California and is reported in about one percent of stops. However, the Board recognizes that, despite the low occurrence rate relative to other actions that officers take during stops, the gravity of the outcomes of many incidents that involve uses of force necessitates the examination of these data for disparate outcomes.

**Use-of-force Continuum.** Of the 23 actions that officers can report for RIPA, at least nine constitute types of force. These nine actions have been divided into three separate categories based on the level of force used, including lethal, less-lethal, and other physical or vehicle force. Table 4 displays what actions taken by officers during stops were grouped into each of the level of force categories. Lethal use of force was used against 0.004 percent (154) of stopped individuals. Less-lethal force was used against 0.4 percent (16,795) of stopped individuals. Actions constituting limited force were used against 0.6 percent (23,795) of stopped individuals.

<sup>&</sup>lt;sup>127</sup> Ibid.

<sup>&</sup>lt;sup>128</sup> The California Department of Justice issues a Use of Force Incident Reporting Annual Report, also known as the URSUS Report (see <a href="https://data-openjustice.stg.doj.ca.gov/sites/default/files/2020-06/USE%20OF%20FORCE%202019.pdf">https://data-openjustice.stg.doj.ca.gov/sites/default/files/2020-06/USE%20OF%20FORCE%202019.pdf</a> (as of Dec. 14, 2020)). However, the types of use of force incidents covered by the URSUS Report are more narrowly defined than the incidents collected and reported under RIPA.

<sup>&</sup>lt;sup>129</sup> See National Institute of Justice, The Use-of-Force Continuum <a href="https://nij.ojp.gov/topics/articles/use-force-continuum">https://nij.ojp.gov/topics/articles/use-force-continuum</a> (as of Dec. 14, 2020).

<sup>130</sup> Section 999.226, subd. (a)(12)(A)(15) of the RIPA regulations defines the "Other physical or vehicle contact" data element within the "Action Taken by Officer During Stop" variable. Officers are instructed to select this data element when they use a number of different use of force types, such as hard hand controls or forcing someone to the ground. This data element is also what officers are instructed to select when they utilize a carotid restraint. The Department has previously noted that carotid restraints often involve a needlessly high risk of causing unnecessary and accidental serious bodily injury (see Cal. Dept. of J., Sac. Police Dept. Rep. and Recommendations (2019), pp. 16, 25, 78 <a href="https://oag.ca.gov/system/files/attachments/press-docs/spd-report.pdf">https://oag.ca.gov/system/files/attachments/press-docs/spd-report.pdf</a> (as of Dec. 7, 2020)). However, since carotid restraints are not distinguished from the other types of force captured under the "Other physical or vehicle contact" data element, it is possible that some instances when officers used this type of force are categorized under the other physical or vehicle force category in these analyses. This categorization is a reflection of how the data are collected under the RIPA regulations and not a reflection of the Department's view on the use of carotid restraints.

Table 4. Use of Force Categories and Applicable RIPA Actions

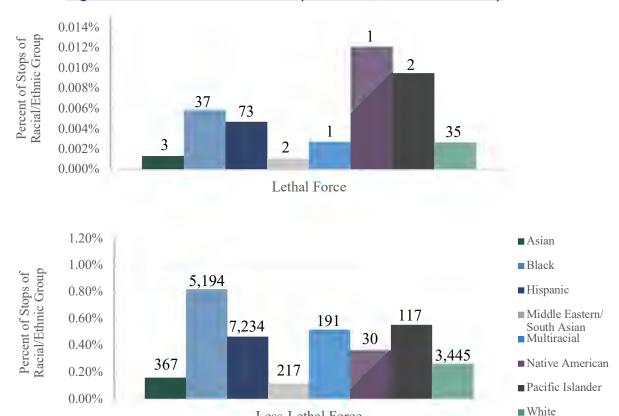
| Lethal force               | Less-lethal force  | Other physical or vehicle force  |
|----------------------------|--|--|
| Firearm discharged or used | <ul> <li>Electronic control device used</li> <li>Impact projectile discharged or used</li> <li>Canine bit or held person</li> <li>Baton or other impact weapon used</li> <li>Firearm pointed at person<sup>131</sup></li> <li>Chemical spray used</li> </ul> | <ul> <li>Person removed from vehicle by physical contact</li> <li>Other physical or vehicle contact. This refers to any of the following contacts by the officer, when the purpose of such contact is to restrict movement or control a person's resistance: any physical strike by the officer; instrumental contact with a person by an officer; or the use of significant physical contact by the officer.</li> </ul> |

Less than 0.1 percent of stopped individuals from each racial/ethnic group had lethal force used against them. The total number of individuals who had lethal force used against them by perceived racial/ethnic group included three Asian, 37 Black, 73 Hispanic, two Middle Eastern/South Asian, one Native American, two Pacific Islander, 35 White, and one Multiracial individual. Black individuals had the highest rates of less-lethal force (0.8%) and other physical or vehicle force (1.1%) used by officers against them during a stop, while Middle Eastern/South Asian individuals had the lowest rates (0.1% and 0.3%, respectively).

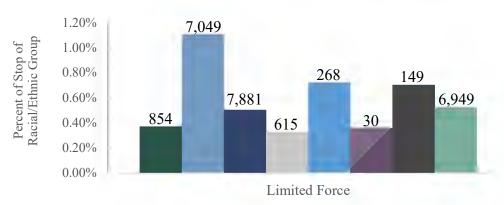
<sup>&</sup>lt;sup>131</sup> California Government Code section 12525.2, subdivision (b)(4), requires the California Department of Justice to annually collect data related to certain types of force. The Department of Justice classifies the threat of a firearm as a type of force that must be reported to the Department per URSUS. (See Use of Force Incident Reporting (July 2019) Data Elements and Values Defined, p. 7 <a href="https://data-openjustice.stg.doj.ca.gov/sites/default/files/dataset/2019-">https://data-openjustice.stg.doj.ca.gov/sites/default/files/dataset/2019-</a>

<sup>07/</sup>URSUS%202018%20Context\_062519.pdf> (as of Dec. 14, 2020)). Given that the threat of a firearm is inherent to the intentional pointing of a firearm at another person, pointing a firearm was classified as a use of force in this set of analyses, for consistency with other use of force reporting within California. Not all agency policies in California categorize pointing a firearm at a person as a reportable use of force.

Figure 19. Use of Force Rates by Perceived Race/Ethnicity



Less-Lethal Force



Multivariate Analysis. To consider the impact of the stopped individuals' perceived race/ethnicity and multiple other factors on whether any use of force occurred during a stop, these data were analyzed using statistical models. 132 Data for the four racial/ethnic groups least frequently stopped by officers were combined into a single group to increase the sample size for the test; these groups included Middle Eastern/South Asian, Multiracial, Native American, and Pacific Islander individuals.

<sup>&</sup>lt;sup>132</sup> See Appendix B.4 for a full description of the methodology.

The analysis showed that Black and Hispanic individuals were more likely to have force used against them compared to White individuals, while Asian and other individuals were less likely. Specifically, compared to Whites, the odds of having force used during a stop were 1.45 times and 1.18 times greater for Black and Hispanic individuals, respectively. The odds of force being used during stops of Asian or other individuals were 0.83 and 0.93 times lower, respectively, compared to White individuals. Excluding the data from California Highway Patrol, which contributed a majority of the stop data records, had little impact on these disparities. 134

### 1.7 Report-Specific Analyses

### 1.7.1 Intersectional Analyses

The Board recognizes that many aspects of an individual's identity may intersect, resulting in different experiences during encounters with law enforcement. Disparities in stop frequencies and outcomes between racial/ethnicity groups, for example, may be best explained when considering how the outcomes for perceived race/ethnicity intersect with a person's perceived gender. Accordingly, the search discovery rate analysis was extended to racial/ethnic group comparisons within gender and disability groups.

#### **Reminder Regarding Identity Group Data**

Gov. Code § 12525.5(b)(6) states, "[t]he perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped." This means that identity characteristics collected under RIPA are a reflection of officer perception, rather than self-identification by stopped individuals. It is important to note that stopped individuals may self-identify differently than how an officer perceives them.

### 1.7.1.1 Race/Ethnicity by Gender

Less than 1 percent (7,595) of individuals stopped in 2019 were perceived to be transgender or gender nonconforming. Among the stopped individuals perceived to be transgender or gender nonconforming, 43.4 percent were perceived to be a transgender man/boy, 32.0 percent were perceived to be gender nonconforming, and the remaining 24.6 percent were perceived to be a transgender woman/girl. Data for transgender and gender nonconforming individuals were combined due to low numbers, in order to increase statistical power. Thus, the following three gender groups will be discussed in the analyses: (cisgender) male, (cisgender) female, transgender/gender nonconforming.

<sup>&</sup>lt;sup>133</sup> See Appendix Table C.4 for model statistics.

<sup>&</sup>lt;sup>134</sup> See *ibid*.

**Descriptive Analysis.** Officers searched 6.5 percent of (cisgender) females they stopped and discovered contraband or evidence during 20.9 percent of these stops where they conducted searches. Among all racial/ethnicity groups, Black and Hispanic (cisgender) females were searched at a higher rate (10.7% and 6.5% respectively) in comparison to White (cisgender) females (5.7%). Despite having higher search rates, Black and Hispanic (cisgender) females had lower search discovery rates (21% and 20.5% respectively) than White (cisgender) females (21.5%). (Cisgender) females from the combined racial/ethnic groups had lower search (3.2%) and discovery rates (19.8%) in comparison to White (cisgender) females.

Approximately 13.2 percent of (cisgender) males were searched by officers and contraband or evidence was discovered on 21.5 percent of (cisgender) males whom officers searched. Black (24.5%) and Hispanic (cisgender) males (14.1%) had higher search rates in comparison to White (cisgender) males (9.4%) while (cisgender) males from the combined racial/ethnic groups had lower search rates (5.4%). Despite having higher search rates, Black and Hispanic (cisgender) males whom officers searched had lower discovery rates (21.7% and 20.8% respectively) in comparison to White (cisgender) males (22.4%). (Cisgender) males from the combined racial/ethnic groups had the highest discovery rate (22.8%).

Officers searched 29 percent of the transgender/gender nonconforming individuals they stopped; they discovered contraband or evidence on 20.2 percent of transgender/gender nonconforming individuals whom they searched. Despite large differences in search rates, discovery rates in the stops of individuals perceived to be transgender/gender nonconforming were similar to the discovery rates in stops of individuals perceived to be cisgender. Across racial/ethnic groups, search rates varied greatly amongst individuals whom officers perceived to be transgender/gender nonconforming. Hispanic and Black transgender/gender nonconforming individuals had higher search rates (36.7% and 34.4% respectively) than White transgender/gender nonconforming individuals (30.4%), while transgender/gender nonconforming individuals from the combined racial/ethnic groups had lower search rates (12.9%). Discovery rates for White transgender/gender nonconforming individuals were lower (18.8%) than the discovery rates for all other racial/ethnic groups for transgender/gender nonconforming individuals (20.1% - 21.1%).

Figure 20. Search Rates by Perceived Race/Ethnicity and Gender

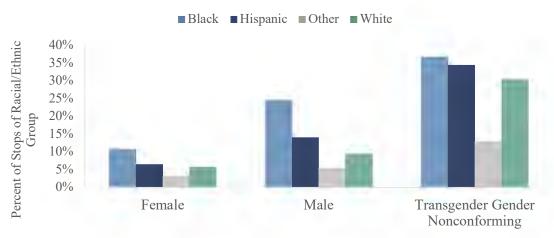


Figure 21. Discovery Rates by Perceived Race/Ethnicity and Gender

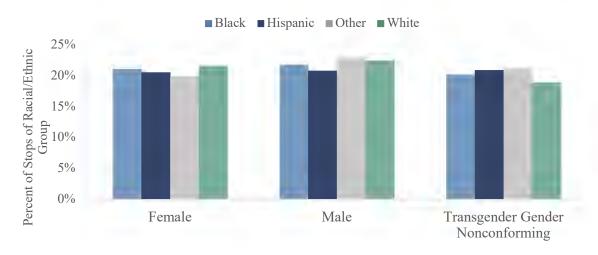
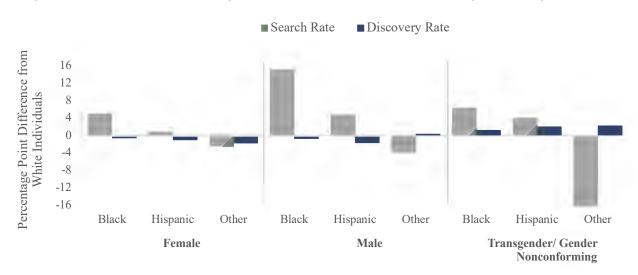


Figure 22. Racial/Ethnic Disparities in Search and Discovery Rates by Gender



Multivariate Analysis. The descriptive analyses show racial/ethnic disparities in search and discovery rates within each perceived gender group of stopped individuals. To consider how multiple variables, including the perceived race/ethnicity of the stopped individuals of each gender category, are associated with decisions by officers to search and whether officers discovered contraband or evidence, these data were analyzed using multivariate statistical models. 135 As with the previous discovery-rate analysis, the multivariate analysis was applied to (1) search rates overall, (2) discovery rates during discretionary searches, and (3) discovery rates during administrative searches (see Table 5).

The results of these analyses showed statistically significant differences when comparing Black and Hispanic (cisgender) males to White (cisgender) males. 136 Black and Hispanic (cisgender) males were more likely to be searched (+2.2% points and +0.7% points respectively) than White (cisgender) males, while also being less likely to have contraband or evidence discovered (-1.7% points and -1.0% points respectively) during stops with discretionary searches. Hispanic (cisgender) males were also less likely to have contraband or evidence discovered (-1.3% points) in stops with administrative searches in comparison to White (cisgender) males; no statistically significant differences in administrative search discovery rates were observed between White and Black (cisgender) males. While (cisgender) males from the combined racial/ethnic groups were less likely to be searched (-2.2% points) than White (cisgender) males, the tests did not yield statistically significant differences for discretionary or administrative search discovery rates.

Officers were more likely to search (+0.2% points) and were less likely to discover contraband or evidence during stops in which they conducted discretionary searches of Black (cisgender) females than White (cisgender) females (-3.4% points). The difference in discovery rates during stops with administrative searches between Black and White (cisgender) females was not statistically significant. Hispanic (cisgender) females were less likely to be searched (-0.4% points) and had lower discretionary and administrative discovery rates (-2.2% and -2.5% points, respectively) than White (cisgender) females. Officers were less likely to search (cisgender) females from the combined racial/ethnic groups (-1.3% points) and less likely to discovery contraband or evidence during stops with administrative searches (-3.3% points) in comparison to White (cisgender) females. There were no statistically significant differences in discovery rates for discretionary searches between (cisgender) females within the combined racial/ethnic groups and White (cisgender) females.

<sup>&</sup>lt;sup>135</sup> See Appendix B.2 for a full description of the methodology.

<sup>&</sup>lt;sup>136</sup> See page 50 for a simplified definition of statistically significant.

<u>Table 5. Summary of Multivariate Discovery Rate Analysis Findings by Perceived Race/Ethnicity and Gender</u>

|   |          | Cooyah                | Discovery Rates           |                            |
|---|----------|-----------------------|---------------------------|----------------------------|
| Group                                   |          | Search<br>Rates       | Discretionary<br>Searches | Administrative<br>Searches |
|   | Black    | *** ↑ 2.2%            | *** ↓ 1.7%                | ↓ 0.4%                     |
| Male                                    | Hispanic | *** <sup>↑</sup> 0.7% | *** ↓ 1.0%                | *** ↓ 1.3%                 |
|   | Other    | *** ↓ 2.2%            | ↓ 0.9%                    | ↓ 1.3%                     |
| Female                                  | Black    | *↑ 0.2%               | *** ↓ 3.4%                | ↓ 0.8%                     |
|   | Hispanic | *** ↓ 0.4%            | ** ↓ 2.2%                 | *** ↓ 2.5%                 |
|   | Other    | *** ↓ 1.3%            | ↓ 1.0%                    | * ↓ 3.3%                   |
| Transgender/<br>Gender<br>Nonconforming | Black    | <b>1</b> 0.3%         | <b>↑</b> 7.4%             | ↑ 7.4%                     |
|   | Hispanic | <b>1.9%</b>           | <b>↓</b> 3.6%             | <b>11.0%</b>               |
|   | Other    | <b>↓</b> 1.6%         | ↓ 18.0%                   | ↓ 4.8%                     |

Note. Values represent percentage point difference compared to the rate for White individuals, with arrows indicating the direction of the difference. Statistically significant disparities are indicated with asterisks; \*\*\* p < 0.001; \*\* p < 0.01; \* p < 0.05.

### 1.7.1.2 Race/Ethnicity by Disability

Analyses were also repeated for the intersection of perceived racial/ethnicity and disability groups. Less than 2 percent (46,035) of individuals stopped in 2019 were perceived to have a disability. The most common perceived disability was a mental health condition; officers reported mental health condition as the disability type for 63.3 percent of stopped individuals perceived to have a disability. Due to relatively small numbers of stopped individuals perceived to have some of the disability types, disability groups were categorized into the following three groups to increase statistical power: no disability, mental health condition, and other disability. 138

**Descriptive Analysis.** Overall, police officers searched 51.8 percent of stopped individuals who were perceived to have a mental health condition, and contraband or evidence was discovered on 12.5 percent of these individuals whom officers searched. In comparison to White individuals (47.0%), individuals from all other racial/ethnic groups (Black, Hispanic, and Other) perceived to have a mental health condition had higher search rates (52.8% - 56.3%). For

<sup>&</sup>lt;sup>137</sup> Individuals perceived to have multiple disabilities—including cases where one of the disabilities is a mental health condition—are not included in this statistic.

<sup>&</sup>lt;sup>138</sup> The "other" types of disabilities include the following disability groups: blind (4.9%), deafness (15.4%), developmental disability (8.9%), hyperactivity disorder (0.2%), multiple disabilities (20.9%), speech impairment (13.3%), and other (36.6%). Percentages presented in parentheses in the preceding sentence are relative to the total number (16,911) of individuals categorized into the "other" disability group for these analyses.

discovery rates, all other racial/ethnic groups perceived to have a mental health condition had higher discovery rates (12.5% - 13.4%) than those who were White (11.3%).

Officers searched 28.9 percent (4,887) of individuals perceived to have other types of disabilities and discovered contraband or evidence during 20.7 percent of stops where they performed a search. Black and Hispanic individuals perceived to have other types of disabilities had higher search rates (36.2% and 33.9% respectively) in comparison to White individuals perceived to have other types of disabilities (24.9%). Discovery rates were higher for Black individuals perceived to have other types of disabilities (22.5%) than for White individuals (20.3%). Hispanic individuals perceived to have other types of disabilities had lower discovery rates (20.0%) compared to White individuals. Individuals perceived to have other types of disabilities from the combined racial/ethnic groups had lower search (16.5%) and discovery rates (18.7%) than White individuals.

Officers searched 11 percent (432,183) of individuals with no perceived disabilities and discovered contraband or evidence on 21.7 percent of these individuals. Across racial/ethnic groups, Black and Hispanic individuals with no perceived disabilities were searched at a higher rate (20% and 12% respectively) than White individuals with no perceived disability (7.8%). Black and Hispanic individuals with no perceived disabilities also had lower discovery rates (21.9% and 20.9% respectively) when compared to White individuals with no perceived disability (22.8%). Individuals with no perceived disabilities from the combined racial/ethnic groups were searched at a lower rate (4.5%) but had a higher discovery rate (22.9%) than White individuals.

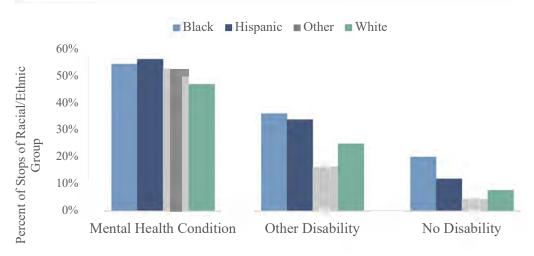


Figure 23. Search Rates by Perceived Race/Ethnicity and Disability.

Figure 24. Search Discovery Rates by Perceived Race/Ethnicity and Disability.

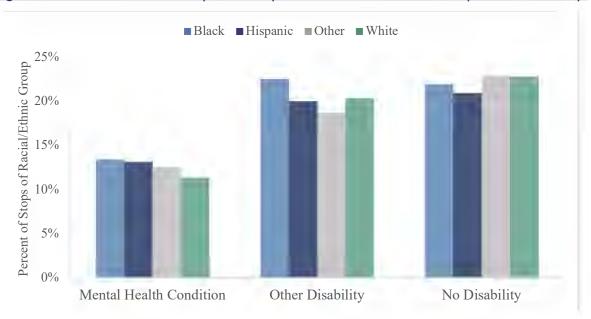
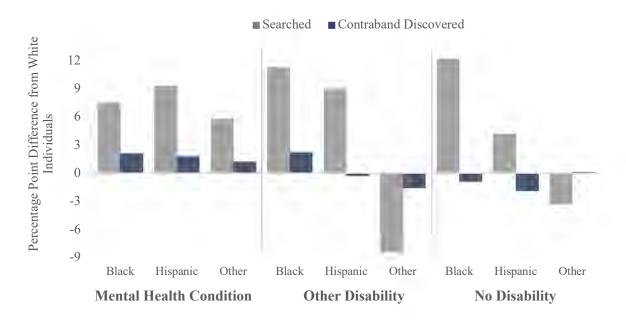


Figure 25. Racial/Ethnic Disparities in Search and Discovery Rates by Disability Group



**Multivariate Analysis.** As with the race/ethnicity by gender analyses, multivariate analyses were used to help consider how multiple variables, including the race/ethnicity of the stopped individuals of each disability category, are associated with officers' decisions to search and the likelihood of discovering contraband or evidence. The multivariate analysis was applied to (1) search rates overall, (2) discovery rates during discretionary searches, and (3) discovery rates during administrative searches (see Table 6).

Results for administrative searches revealed that Black individuals perceived to have a mental health condition were more likely to have contraband or evidence discovered (+5.9% points) than White individuals perceived to have a mental health condition. However, for search rates and discretionary search discovery rates, the analysis found no statistically significant differences between White and Black individuals perceived to have a mental health condition. Similarly, no statistically significant differences were found in search or discovery rates (either discretionary or administrative) for Hispanic individuals or for individuals from the combined racial/ethnic groups perceived to have a mental health condition. Additionally, tests did not yield any statistically significant differences in the search or discovery rates for those perceived to have an "other" type of disability for Black individuals, Hispanic individuals, or individuals from the racial/ethnic groups that were combined.<sup>140</sup>

For discretionary searches, Black and Hispanic individuals with no perceived disabilities were more likely to be searched (+1.8% points and +0.7% points respectively) but less likely to be found in possession of contraband or evidence (-2.2% points and -1.6% points respectively) than White individuals with no perceived disabilities. However, for administrative searches, no significant disparities in discovery rates were found between Black and White individuals with no perceived disabilities. For administrative searches, Hispanic individuals with no perceived disabilities were less likely to have contraband or evidence discovered (-1.3% points) in comparison to White individuals with no perceived disabilities. Individuals from the combined racial/ethnic groups with no perceived disabilities were less likely to be searched (-1.8% points) in comparison to White individuals with no perceived disabilities. For administrative searches, individuals from the combined racial/ethnic groups with no perceived disabilities were less likely to have contraband or evidence discovered (-1.8% points) in comparison to White individuals with no perceived disabilities. For the discretionary search discovery rate, no statistically significant differences were found between individuals with no perceived disabilities from the combined racial/ethnic groups and White individuals with no perceived disabilities.

 $<sup>^{\</sup>rm 139}$  See Appendix B.2 for a full description of the methodology.

<sup>&</sup>lt;sup>140</sup> See Appendix Table C.2.3.3 for model statistics.

Table 6. Summary of Multivariate Discovery Rate Analysis Findings

by Perceived Race/Ethnicity and Disability

| Group Search<br>Rates |          | Discovery Rates       |                           |                            |
|-----------------------|----------|-----------------------|---------------------------|----------------------------|
|                       |          |                       | Discretionary<br>Searches | Administrative<br>Searches |
|                       | Black    | <b>↑</b> 1.1%         | ↓ 0.3%                    | ** <b>↑</b> 5.9%           |
| Mental<br>Health      | Hispanic | <b>1</b> 2.0%         | <b>↑</b> 2.0%             | <b>↑</b> 1.5%              |
| Health                | Other    | * ↑ 3.0%              | ↓ 2.2%                    | <b>1.8%</b>                |
|                       | Black    | *** ↑ 1.8%            | *** ↓ 2.2%                | ↓ 0.5%                     |
| None                  | Hispanic | *** <sup>↑</sup> 0.7% | *** ↓ 1.6%                | *** ↓ 1.3%                 |
|                       | Other    | *** ↓ 1.8%            | ↓ 0.8%                    | ** ↓ 1.8%                  |
|                       | Black    | <b>1</b> 2.7%         | <b>↑</b> 7.0%             | ↑ 10.6%                    |
| Other<br>Disability   | Hispanic | <b>1.0%</b>           | ↓ 3.4%                    | ↑ 3.9%                     |
| Disability            | Other    | ↓ 0.0%                | <b>↓</b> 7.8%             | ↓ 6.7%                     |

Note. Values represent percentage point difference compared to the rate for White individuals, with arrows indicating the direction of the difference. Statistically significant disparities are indicated with asterisks; \*\*\* p < 0.001; \*\* p < 0.01; \* p < 0.05.

## 1.7.1.3 Search and Discovery Rates by Perceived Race/Ethnicity and Age

The following section examines search and discovery rates by perceived race/ethnicity and age. Findings generally indicated that younger individuals were searched at a higher rate than older individuals. Individuals between the ages of 25 to 29 were searched at the highest rate (14.0%), followed by individuals less than 25 years old (13.7%); individuals 65 years of age or older were searched at the lowest rate (3.6%).

Examining search rates by race/ethnicity and age, Black individuals less than 25 years old were searched at the highest rate (27.0%) within their racial/ethnic group. Recall that Black individuals were searched at the highest rates out of all racial/ethnic groups. Hispanic individuals younger than 25 years of age were searched at a higher rate (15.0%) than other age groups within their racial/ethnic group. For White individuals and individuals from the Other racial/ethnic group, individuals between the ages of 30 and 34 were searched at the highest rates (11.2% White; 6.0% Other). 141

<sup>&</sup>lt;sup>141</sup> As with the previous intersectional analyses, stopped individuals perceived to be Asian, Middle Eastern or South Asian, Native American, Pacific Islander, or Multiracial were combined into the "Other" category.

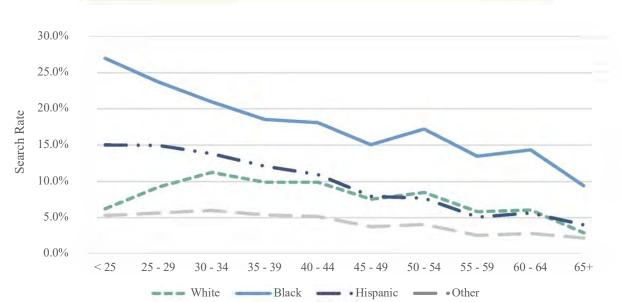


Figure 26. Search Rates by Perceived Race/Ethnicity and Age

Search rates were also calculated as difference scores between each racial/ethnic group and White individuals. Black individuals had higher search rates than White individuals in every age group. Officers searched a higher proportion of Hispanic individuals whom they stopped than White individuals for all age ranges less than 50 years old. Individuals from other combined racial/ethnic groups had lower search rates than White individuals in all age groups.

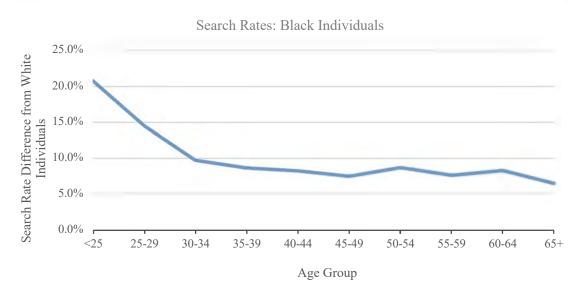
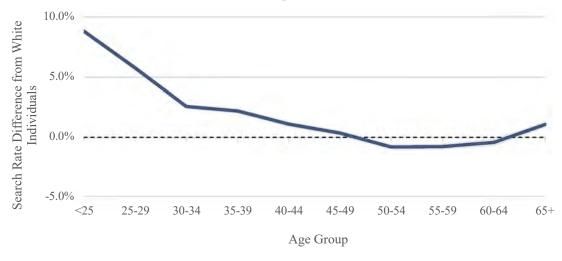
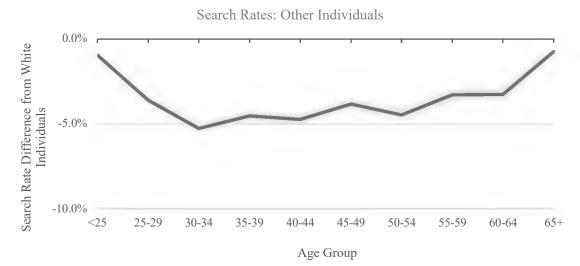


Figure 27. Search Rate Differences by Perceived Race/Ethnicity and Age







The differences in discovery rates across race/ethnicity and age were not as large as the racial/ethnic differences for search rates. White individuals had the widest range in discovery rates across age groups, while Hispanic individuals had the smallest range. <sup>142</sup> Discovery rates for Black individuals started out lower and increased with age, ranging from 19.7 percent for individuals between the ages of 30 and 34 to 26.1 percent for individuals between the ages of 55 and 59. Discovery rates for Hispanic individuals were less variable across age groups and ranged from a low of 19.7 percent for individuals between the ages of 30 and 34 to a high of 23.1 percent for individuals between the ages of 60 and 64. For White individuals, discovery rates generally decreased across age groups and ranged from 15.3 percent for individuals 65 years of age and older to 24.0 percent for individuals between the ages of 30 and 34. For the category consisting of all combined remaining racial/ethnic groups, discovery rates ranged from

The discovery rate range across the age categories was 6.4 percent for Black individuals, 3.4 percent for Hispanic individuals, 6.1 percent for individuals from the grouped race/ethnicity category, and 8.7 percent for White individuals.

17.2 percent for individuals 65 years of age and older to 23.4 percent for individuals between the ages of 35 and 39.

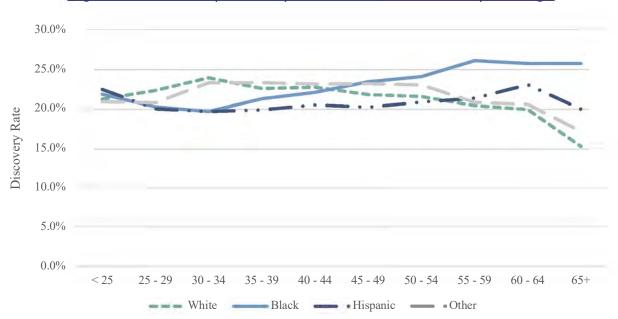
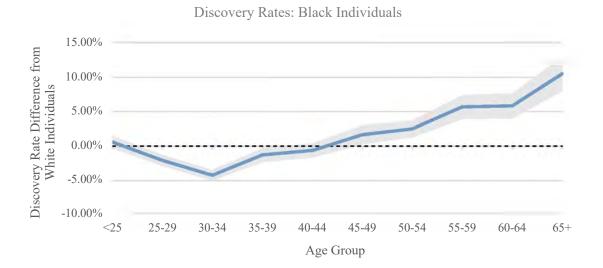
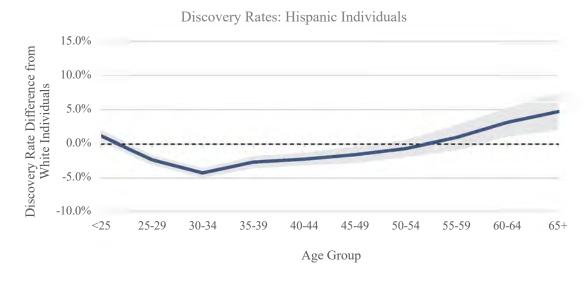


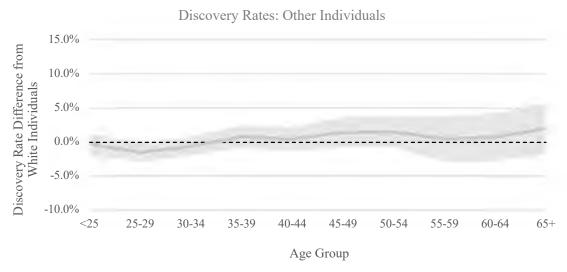
Figure 28. Discovery Rates by Perceived Race/Ethnicity and Age

Discovery rates were also calculated as differences between each racial/ethnic group and White individuals. It is possible that differences in discovery rates will occur by chance. The more data that is collected for RIPA, the more confident we can be about the generalizability of the findings. Confidence intervals, shown in the gray shaded regions, include a range of plausible values that discovery rates could take with more data. If zero is not contained in the confidence interval, then we can say that the difference is large enough to rule out chance. As shown in the following figure, there do not seem to be significant differences in discovery rates between individuals in the Other group and White individuals. However, for Black individuals, discovery rates appear to be lower than rates for White individuals between the ages of 25 and 39, and higher for individuals aged 45 and above. Hispanic individuals had lower discovery rates than White individuals between the ages of 25 and 49, and higher rates from age 60 and older.

Figure 29. Discovery Rate Differences by Perceived Race/Ethnicity and Age







### 1.7.2 Consent Search and Discovery Rates

One type of search, called a "consent search," occurs when a police officer requests permission to search an individual's person, car, or residence and the person agrees voluntarily. A discretionary search occurs when an officer does not suspect any specific criminal wrongdoing warranting a search, but asks for consent to search nonetheless. In this context, a person has the right to decide whether to give the officer permission to search. Many individuals agree to searches because they do not know that they can refuse the search or mistakenly believe that they must allow the search because the police are asking them to submit to one.

In the RIPA data, officers may indicate whether they asked for consent to search in two separate data fields: "Asked for consent to search person" and "Asked for consent to search property." Officers may also indicate whether they received consent to perform a search from the stopped individual. The rate at which officers asked for consent to perform a search ranged from 0.7 percent of stopped individuals perceived to be Middle Eastern/South Asian to 5.1 percent of stopped individuals perceived to be Black. Officers who asked individuals for consent to perform a search reported the highest rates of consent given for White individuals (89.4%) and the lowest rates for Black individuals (66.3%). Of stops where officers indicated individuals consented to a search, Hispanic individuals were searched at the highest rates (78.1%) while Pacific Islander individuals were searched at the lowest rates (68.9%). The descriptive statistics for all groups and analyses discussed in this section is found in the Appendix. 146

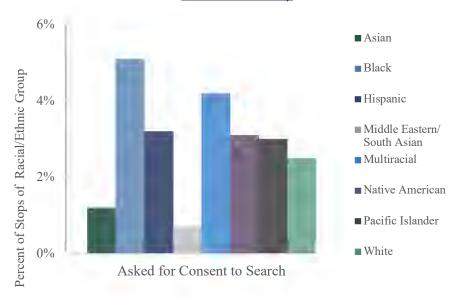
<sup>&</sup>lt;sup>143</sup> See Fla. v. Royer (1983) 460 U.S. 491, 497.

<sup>&</sup>lt;sup>144</sup> See *U. S. v. Drayton* (2002) 536 U.S. 194, 202.

 $<sup>^{\</sup>rm 145}$  See Appendix Table A.12 for consent rates by race/ethnicity.

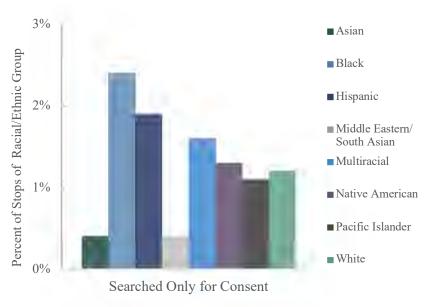
<sup>&</sup>lt;sup>146</sup> See Appendix A.12 for all descriptive statistics.

Figure 30. Stopped Individuals Asked for Consent to Search by Perceived Race/Ethnicity



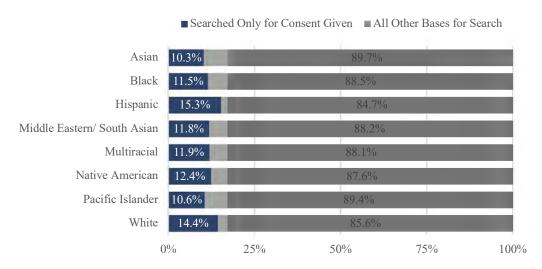
Under RIPA, officers must indicate the basis for the search by selecting up to 13 different criteria, including consent given. When applicable, officers may indicate that they had multiple bases for performing a search. However, officers provided "consent given" as the sole basis for the searches they performed for 62,323 (1.6%) stops. The rate at which these "consent searches" occurred varied considerably for each racial/ethnic group, ranging from 0.4 percent of Asian individuals to 2.4 percent of Black individuals who were stopped; the rate for Black individuals was almost six times the rate for Asian individuals.

Figure 31. Stopped Individuals Searched Only for Consent by Perceived Race/Ethnicity



A part of this disparity might be explained by differences in the rates at which each group is searched by law enforcement generally, but not necessarily by differences in the proportion of all searches that officers conducted for consent only. In fact, the proportion of each group's searches based solely on consent were less variable than other types of searches. Asian individuals (10.3%) had the lowest proportion of their searches conducted only for consent while Hispanic individuals had the highest proportion (15.3%); the rate for Hispanic individuals was roughly 1.5 times the rate of Asian individuals. As mentioned in earlier discussion, when asked by officers, not all racial/ethnic groups gave consent to searches at the same rate. Differences in consent rates can have an effect on differences in the proportion of all searches that were for consent only. For example, Black individuals had a lower rate of giving consent for searches when asked than all other racial/ethnic groups. This likely drove down the proportion of searches that were for consent only for Black individuals below what it would have been, had black individuals consented at higher rates.

Figure 32. Proportion of Searches Conducted Only for Consent by Perceived Race/Ethnicity



Percent of Searches of Racial/Ethnic Group

Previous analyses in this report have focused on discovery rates for discretionary searches overall, which included consent searches. In this section, discovery rates are presented and compared only for consent searches and for discretionary searches that exclude consent given as a basis for search. However, it is important to note that—unlike many other types of searches—consent only searches do not include an element that may establish probable cause, which likely impacts the interpretation of these discovery rates.

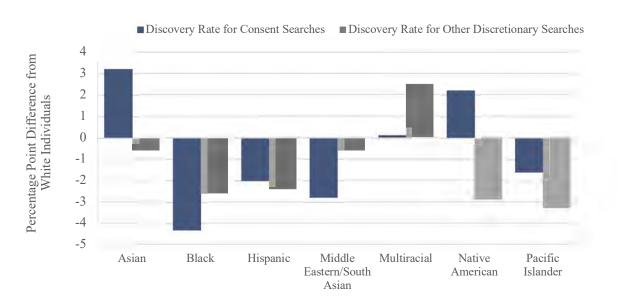
For consent searches, discovery rates were highest for Asian individuals (16.5%) and the lowest for Black individuals (9.0%). For discretionary searches that exclude consent given as a basis for search, discovery rates were highest for Multiracial individuals (26.4%) and lowest for Pacific Islander individuals (20.6%). These results indicate that discovery rates between racial/ethnic

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<sup>&</sup>lt;sup>147</sup> These discretionary search analyses exclude searches where the individual gave consent in combination with other search bases.

groups were more variable for consent searches than for other discretionary searches. Consent searches also generally had lower discovery rates than other discretionary searches. Discovery rates are presented in the following figure for each racial/ethnic group as differences from White individuals; White individuals had a discovery rate of 13.3 percent for consent searches and 23.9 percent for other discretionary searches. In comparison, contraband or evidence was discovered in 12,102 (21.3%) stops of Black individuals involving other discretionary searches.





Given the disparities in consent only searches and discovery rates, and that neither state nor federal law requires officers to suspect any criminal wrongdoing before they request consent to search a person or their property, an obvious question is raised: should individuals be subjected to a search if, based on the officer's perception, the individual is innocent of engaging in apparent criminal activity? Some states, including Minnesota, <sup>148</sup> New Jersey, <sup>149</sup> and Rhode Island, <sup>150</sup> have imposed rules on consent searches, either through their legislature or court rulings. <sup>151</sup> For example, New Jersey's Senate Judiciary Committee in 2001 found that the

<sup>&</sup>lt;sup>148</sup> See State v. Fort (Minn. 2003) 660 N.W.2d 415, 416.

<sup>&</sup>lt;sup>149</sup> See *State v. Carty* (2002) 170 N.J. 632 [finding that consent searches violated the state constitution and holding that evidence seized as a result of consent search in the absence of reasonable suspicion shall be suppressed.]

<sup>&</sup>lt;sup>150</sup> See R.I. Gen. Laws, § 31-21.2-5 (the state also requires reasonable suspicion for police to use a drug sniffing dog) ["(a) Unless there exists reasonable suspicion or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation, if there is reasonable suspicion or probable cause of criminal activity; (b) No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle which is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity."]

<sup>&</sup>lt;sup>151</sup> Am. Civ. Liberties Union Foundation, Campaign Against Racial Profiling (Apr. 2006) Consent Search Bans <a href="https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.aclu.org%2Ffiles%2Fimages%2Fasset\_upload\_file1">https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.aclu.org%2Ffiles%2Fimages%2Fasset\_upload\_file1</a> 25\_28283.doc> (as of Dec. 14, 2020).

"possible utility of consent searches is outweighed by the violations of civil rights accompanying their abuse" <sup>152</sup> and recommended that the state prohibit such searches. Additionally, agencies in California have limited the use of consent searches. From 2001 to 2006, <sup>153</sup> the CHP issued a moratorium on consent searches of vehicles after evidence presented in a class action lawsuit showed that Hispanic or Latinx individuals were three times as likely to be searched and Black individuals were twice as likely to be searched than those identified as White. <sup>154</sup> The Board hopes to review the data surrounding consent searches and analyze this issue further in future reports. <sup>155</sup>

### 1.7.3 Supervision Search and Discovery Rates

In California, there are multiple forms of state and local supervision, including parole, <sup>156</sup> probation, <sup>157</sup> post-release community supervision (PRCS), <sup>158</sup> and mandatory supervision. <sup>159</sup> If a person is on supervision, they may be searched by officers only if it is an explicit term of the

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<sup>&</sup>lt;sup>152</sup> N.J. Sen. Judiciary Com., Rep. of the N.J. Sen. Judiciary Com. Investigation of Racial Profiling and the N.J. State Police (June 11, 2001) p. 87 <a href="https://www.njleg.state.nj.us/RacialProfiling/sjufinal.pdf">https://www.njleg.state.nj.us/RacialProfiling/sjufinal.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>153</sup> Since 2006, however, the department has resumed the practice of conducting consent searches.

<sup>&</sup>lt;sup>154</sup> Rodriguez v. Cal. Highway Patrol (N.D. Cal. 2000) 89 F. Supp. 2d 1131; Am. Civ. Liberties Union of Northern Cal., ACLU of Northern CA Hails Landmark Racial Profiling Settlement (Feb. 27, 2003) <a href="https://www.aclu.org/press-releases/aclu-northern-ca-hails-landmark-racial-profiling-settlement">https://www.aclu.org/press-releases/aclu-northern-ca-hails-landmark-racial-profiling-settlement</a> (as of Dec. 14, 2020).

<sup>155</sup> This year, Ken Barone and Dr. Matthew Ross, from The Institute for Municipal and Regional Policy (IMRP) at Central Connecticut State University, presented to the RIPA Stop Data Subcommittee on data analysis methodologies. Since 2011, they have been conducting stop data analysis of law enforcement agencies in Connecticut and several other states. The Board believes that these types of analyses are important to help agencies develop data-driven strategies to eliminate racial and identity profiling. One such data-driven example the researchers shared involved the practice of consent searches within the Hamden Police Department. The researchers from IMRP discovered a significant disparity in the race/ethnicity of individuals asked for consent to search and a low yield rate of contraband discovered from those searches. In response, the Hamden Police Chief prohibited consent searches. After this policy change, the racial/ethnic disparity in the stop data regarding who was searched significantly decreased and the search yield rate increased dramatically from 7 percent to close to 80 percent. Again, this shows how the data can be used to direct resources toward effective policing strategies. Subsequently, the state of Connecticut passed legislation that significantly limited consent searches. The new law provides, in part, that "[n]o law enforcement official may ask an operator of a motor vehicle to conduct a search of a motor vehicle or the contents of the motor vehicle that is stopped by a law enforcement official solely for a motor vehicle violation" (2020 Bill Text Conn. H.R. 6004A § 21 (21)(a)(1)). The Board would like to examine this and other data-driven strategies in future years.

<sup>&</sup>lt;sup>156</sup> Parole is a period of supervision that follows a state prison sentence and the person remains under the control of the California Department of Corrections and Rehabilitation's Division of Adult Parole Operations. People on parole are supervised by parole agents, and must follow certain requirements or "conditions" of parole. Cal. Code Regs., tit. 15, § 2355; Root & Rebound, What are the main types of supervision in California? <a href="https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/">https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/</a>> (as of Dec. 14, 2020).

<sup>157 &</sup>quot;Probation is a type of supervision that a judge orders at trial as *part of the original sentence*, either as an alternative to incarceration OR in addition to incarceration." Root & Rebound, *What are the main types of supervision in California?* <a href="https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/">https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/</a> (as of Dec. 14, 2020). Probation can be formal (meaning the individual has to check in with a probation officer) or informal (meaning there is no assigned probation officer). Cal. Pen. Code, § 1203.

<sup>&</sup>lt;sup>158</sup> PRCS is a form of supervision when the individual released from state prison after incarceration for a non-violent, non-serious, non-sexual crime is placed under supervision by county probation officers, instead of being placed on state parole. Cal. Pen. Code § 3450; Cal. Code Regs., tit. 15, §§ 3079-3079.1.

<sup>159 &</sup>quot;Mandatory Supervision is a form of supervision provided for through a process called 'split sentencing,' a judge can split the time of a sentence between a jail term and a period of supervision by a county probation officer." Root & Rebound, What are the main types of supervision in California? <a href="https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/">https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/</a> (as of Dec. 8, 2020); Cal. Pen. Code § 1170 (h)(5)(B).

person's supervision conditions. <sup>160</sup> Further, sometimes conditions of supervision allow for search of specific items – such as a cellphone – while others do not. <sup>161</sup>

In 2019, Wave 1 and 2 agencies reported making 28,015 (0.7%) stops where the primary reason for stop was that the stopped individual was known to be on parole, probation, PRCS or mandatory supervision (hereafter collectively referred to as "known supervision"). <sup>162</sup> Stopped individuals perceived to be Black had the highest proportion of their group stopped for known supervision (1.2%) while Middle Eastern/South Asian individuals (0.1%) had the lowest proportion. A majority (76.6%) of individuals who were stopped for known supervision were searched. Black individuals stopped for known supervision had the highest rates of being subject to a search (79.5%) while Native American individuals had the lowest rates (64.9%). <sup>163</sup> The descriptive statistics for all groups and analyses discussed in this section may be found in the Appendix. <sup>164</sup>

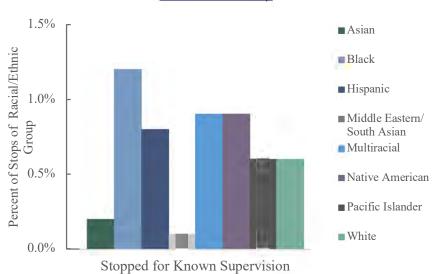


Figure 34. Individuals Stopped for Known Supervision by Perceived Race/Ethnicity

<sup>&</sup>lt;sup>160</sup> People v. Sanders (2003) 31 Cal. 4th 318, 333; People v. Reyes (1998) 19 Cal. 4th 743, 750-754; In re Jaime P. (2006) 40 Cal. 4th 128.

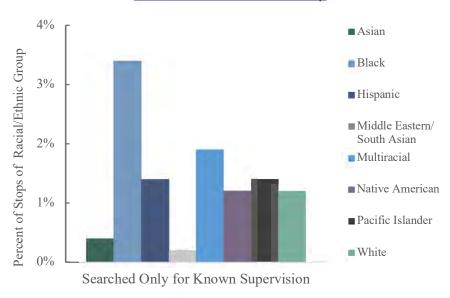
<sup>&</sup>lt;sup>161</sup> U.S. v. Lara (9th Cir. 2016) 815 F.3d 605, 610; see also Riley v. Cal. (2014) 573 U.S. 373, 403.

<sup>&</sup>lt;sup>162</sup> RIPA data regulations define the "known supervision" primary reason for stop category as, "Known to be on parole/probation/PRCS/mandatory supervision." The regulations indicate that "[t]he officer shall select this data value if the officer stopped the person because the officer knows that the person stopped is a supervised offender on parole, on probation, on post-release community supervision (PRCS), or on mandatory supervision. The officer shall not select this data value if the officer learns that the person has this status only after the person is stopped," (Cal. Code Regs, § 999.226, subd. (a)(10)(A)(3)). Under the law in California, an officer must know that the individual is under supervision and that they have a specific search condition *prior* to conducting a supervision related search. A search made without awareness of whether the individual is under supervision, and when there is no other legal basis for search, cannot be justified by the officer's later-acquired knowledge that the individual is under supervision. *People v. Sanders* (2003) 31 Cal. 4th 318, 333; *People v. Reyes* (1998) 19 Cal. 4th 743, 750-754; *In re Jaime P.* (2006) 40 Cal. 4th 128. Moreover, if evidence is obtained as the result of that unjustified search, it will be suppressed or excluded from any court proceeding. *People v. Sanders* (2003) 31 Cal. 4th 318, 335.

<sup>163</sup> Search rates in stops made for known supervision for all racial/ethnic groups: Asian (78.5%), Black (79.5%), Hispanic (77.6%), Middle Eastern/South Asian (75.4%), Multiracial (76.6%), Native American (64.9%), Pacific Islander (71.4%), and White (72.0%).

Under the RIPA regulations, officers may only indicate that the reason for stop was known supervision when the officer knew this information prior to initiating the stop. However, officers can indicate supervision status as a basis for search regardless of when this status is learned. As such, only 28,015 individuals were stopped for known supervision, but 96,328 individuals were searched due to their supervision status. In cases where an officer performs a search pursuant to a condition of supervision, the officers must indicate that a basis for the search was "Condition of parole/probation/PRCS/mandatory supervision" (hereafter collectively referred to as "condition of supervision"). Condition of supervision was the sole search basis reported for 63.5 percent of these searches while the other 36.5 percent included additional search bases in combination with condition of supervision. Rates of searches where the only basis was known supervision varied between racial/ethnic groups; rates ranged from 0.2 percent of Middle Eastern/South Asian individuals to 3.4 percent of Black individuals who were stopped. Middle Eastern/South Asian individuals (7.6%) also had the lowest proportion of their searches conducted solely due to a condition of supervision while Black individuals had the highest number and proportion (21,905; 16.8%) of their searches occur for this reason. In comparison, 15,328 searches (14.2%) were conducted solely due to a condition of supervision for White individuals.

Figure 35. Stopped Individuals Searched Only for Condition of Supervision by Perceived Race/Ethnicity



Discovery rates in this section are reported for condition of supervision searches alone and for discretionary searches that exclude condition of supervision as a basis for search. Overall, discovery rates for condition of supervision searches alone (17.4%) were lower than discovery rates for other discretionary searches (20.0%). For condition of supervision searches, discovery rates were highest for White individuals (23.4%) and lowest for Black individuals (15.1%), a difference of 8.3 percentage points from the highest to the lowest rate. Officers discovered contraband during stops with condition of supervision searches of White individuals more times (3,584) than during stops with condition of supervision searches of Black (3,314) and Hispanic

(3,267) individuals, despite officers performing thousands more searches of this type for Black and Hispanic individuals (21,905 and 21,386 searches, respectively) than for White individuals (15,328 searches). For discretionary searches that exclude condition of supervision as a basis for search, Multiracial individuals (23.2%) had the highest discovery rates while Pacific Islander individuals (19.1%) had the lowest rates, a range of 4.1 percent. These results show that discovery rates between racial/ethnic groups were more variable for known supervision searches than for other discretionary searches. Additionally, known supervision searches generally had lower discovery rates than other discretionary searches. The rates are also presented for each racial/ethnic group as differences from White individuals in the following figure; White individuals had a discovery rate of 23.4 percent for condition of supervision searches and 19.3 percent for other discretionary searches.

■ Discovery Rate for Known Supervision Searches ■ Discovery Rate for Other Discretionary Searches 5 Percentage Point Difference from White Individuals 3 -3 -5 -7 -9 Asian Black Hispanic Middle Multiracial Native Pacific Eastern/South American Islander

Figure 36. Discovery Rates for Condition of Supervision Searches and Other Discretionary Searches by Perceived Race/Ethnicity

## How is Law Enforcement Using RIPA Data?: Survey Responses Regarding Stop Data Analysis

Asian

To find out how law enforcement agencies are using RIPA data, the Department surveyed Wave 1, 2, and 3 agencies in summer 2020. The agencies' responses helped the Board to understand the impact of the data analysis and Board recommendations within law enforcement agencies and to identify the actions agencies are taking to advance the goals of RIPA.

The survey was distributed to 15 Wave 1 and Wave 2 agencies and 11 Wave 3 stop data collection agencies. Wave 1 and Wave 2 agencies were included in the full survey (26

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<sup>&</sup>lt;sup>165</sup> See Appendix Table A.13 for condition of supervision search and discovery rates.

questions), and Wave 3 agencies were included in the portions that did not pertain to data analysis (13 questions), as they had not yet begun collecting data at the time of the survey.

Survey questions addressed:

- use of Board recommendations and findings;
- use of stop data for accountability purposes;
- adoption of model bias-free policing policy language;
- actions in response to best practices recommendations regarding civilian complaint procedures; and
- stop data analysis practices and resources.

Appendix Tables E.2 and E.3 provide the list of questions asked in each survey.

As of October 29, 2020, 25 of the 26 agencies surveyed had responded; the only agency that did not respond was Sacramento County Sheriff's Office. For the responding agencies, a captain or lieutenant answered for fourteen agencies, other command staff responded for seven agencies, and an administrator, program analyst, program manager, or IT supervisor responded for four agencies. Frequencies were calculated for each question requiring a 'Yes' or 'No' response. Qualitative content analyses were conducted to identify and summarize themes and patterns manifested in the responses to open-ended questions.

Long Beach Police Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, San Diego Police Department, and San Francisco Police Department indicated that they used the stop data analyses in the 2020 RIPA Board Report to identify trends in their stop data. Long Beach, Los Angeles, and San Diego Police Departments indicated that they used the Report to develop additional analyses aimed at identifying patterns in their stop data.

"SDPD has looked at the stop data provided in the Annual Report to develop analysis related to low/high discretionary stops, specifically related to the Department's procedures and culture, yield rates, and post-stop outcomes"

- San Diego PD

"The Department is using the Report as a guide in its review and analysis of its data to identify trends and patterns"

- Long Beach PD

Ten of the 14 Wave 1 and 2 agencies that responded reported that they analyze stop data.

#### **Agencies Reported That They Analyze Stop Data**

California Highway Patrol Oakland PD San Diego PD
Long Beach PD Orange County SD San Francisco PD

Los Angeles County SD
Los Angeles PD
San Bernardino County SD
San Diego County SD

| Agencies Specified That They Analyze the Following    |   |  |   |
|---|---|--|---|
| Reason for Stop                                       | Actions Taken during<br>Stop                              | Data regarding<br>Searches                     | Result of Stop  |
| Los Angeles PD Oakland PD Orange County SD            | Orange County SD<br>San Bernardino SD<br>San Francisco PD | Oakland PD<br>Orange County SD<br>San Diego PD | Los Angeles PD<br>Oakland PD<br>Orange County SD      |
| San Bernardino SD<br>San Diego PD<br>San Francisco PD |   | San Francisco PD                               | San Bernardino SD<br>San Diego PD<br>San Francisco PD |

The San Francisco Police Department additionally reported that they analyzed complaints of bias. The Oakland Police Department indicated that they conduct analyses with respect to race and the Orange County Sheriff's Department indicated that they conduct analyses of stops and perceived age, English proficiency, LGBT identity, gender, race, and disability.

Los Angeles Police Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, and San Diego Police Department indicated that they use population estimates for benchmark comparisons. Los Angeles Police Department reported that they additionally use crime statistics and suspect description data for comparison. San Francisco Police Department reported using trends over time and geographic districts for benchmark comparisons. California Highway Patrol indicated that they are currently collecting data on all public contacts, including non-discretionary contacts (e.g., traffic crashes, disabled motorists, etc.), to use as more precise benchmarks.

"The annual report is useful, and provides solid recommendations and insights into other agencies and data, but local analysis is essential to advancing the goals of RIPA. Also, this analysis has to be done by outside groups that begin in a position of neutrality, have expertise, and credibility" - San Diego PD

"SFPD conducted analysis to better understand search hit rate by type of search as compared to sister agencies across the state" - San Francisco PD The Survey also asked law enforcement agencies whether they collected any data in addition to what is required by RIPA. Six of the 14 Wave 1 and 2 agencies that responded indicated that they collect additional data elements other than those mandated by RIPA regulations. Long Beach and Sacramento Police Departments reported that their stop data collection includes

whether the perception of the identity characteristics of the stopped person was made prior to the detention. Long Beach Police Department also indicated that they collect the following data elements: "Does the person live in Long Beach?", "Attending a Special Event?", "Is this Event Action Plan Related Activity?" Los Angeles Police Department reported they require officers' explanation of the reason for stop to include a description of the violation or code. Oakland Police Department indicated that their data collection

"SDPD requires any field interview to be documented in RIPA, and does not allow the officer to document it as a consensual contact. Field Interviews give the impression the person contacted is not free to leave and the data collected is entered into a database"

- San Diego PD

includes whether the reason for stop was "intelligence led" and information about the officers' regularly assigned squad and assigned squad specifically at the time of the stop. San Diego Police Department reported that they collect data for field interviews and data about the beat where the stop occurred. San Francisco Police Department indicated that they collect additional data elements when there is a use of force.

California Highway Patrol and Long Beach Police Department indicated that they are inquiring about working with an academic institution and Los Angeles and Oakland Police Departments reported they are already working with an academic institution to analyze their data. San Diego Police Department and San Diego County Sheriff's Department both indicated that they have contracted with a non-profit research organization for an independent analysis of their data.

"The Sheriff's Department contracted with the Center for Police Equity (CPE). They are an outside non-profit research company. CPE is currently reviewing the data. Once they are finished the findings will be released to the department and the public" - San Diego County SD

"We have engaged outside academics (two separate groups), the Inspector General's Office, and have created a RIPA Steering committee made of Department and Civilian members" – Los Angeles PD

Eleven of the 14 Wave 1 and 2 agencies that responded indicated that they review stop data with staff.

"There are a couple levels of discussion; one involves members of the Chief's Executive Committee which looks at broad trends and patterns. Data has also been discussed with supervisors, and officers, as well as with community groups"

- San Diego PD

"Information and data analysis was provided to commanders with talking points to share with the community and discuss at briefings."

- San Bernardino County SD

"The department is currently reviewing the data set with Executive Staff to analyze benchmarks and trends and identify next steps" - Long Beach PD

"Statistics for officers with the most stops are reviewed at monthly Risk Management meetings at the Area level."

- Oakland PD

Ten of the 14 Wave 1 and 2 agencies that responded indicated that they analyze stop data. Six of the 14 Wave 1 and 2 agencies that responded indicated that they shared their findings with the public (Los Angeles County SD, Los Angeles PD, San Bernardino County SD, San Diego County SD, San Diego PD, and San Francisco PD). Los Angeles Police Department, San Diego County Sheriff's Department and San Francisco Police Department indicated that they make agency-generated reports available to the public. San Bernardino County Sheriff's Department reported having created a data dashboard.

Several agencies indicated that they share their findings with external oversight bodies. The Los Angeles County Sheriff's Department reported sharing their findings with the Office of Inspector General for Los Angeles County and the Civilian Oversight Commission for Los Angeles County. The Los Angeles Police Department also stated that they are working with the Office of the Inspector General. Oakland Police Department indicated that they are working with a federal monitoring team and San Francisco Police Department reported presenting their findings to the San Francisco Police Commission.

"Findings were captured in the Department's public quarterly reporting, and presented to the SFPD's Commission ... The police commission is interested in both in using the data to provoke public policy discussions and, increasingly, in contributing analytic questions that the data may help answer."

— San Francisco PD

## Agencies Reported Using the Following Approaches to Hold Staff Accountable for the Submission of Stop Data

| Departmental Policy     | Management-Level Officer<br>Review                          | Internal Audit Procedures             |
|-------------------------|---|---------------------------------------|
| CHP<br>San Francisco PD | CHP Oakland PD Riverside County SD San Bernardino County SD | Los Angeles County SD<br>San Diego PD |

"The LASD regularly audits stops and back seat detentions within the Antelope Valley stations' response area. The entire contact is analyzed along with how the call was cleared...The LASD internal audits for all stations within the Department are posted for the public on-line and shared with the Office of Inspector General for Los Angeles County and the Civilian Oversight Commission for Los Angeles County.

– Los Angeles County SD

"Riverside County Sheriff has built a compliance verification tool for command staff and their management teams to use."

- Riverside County Sheriff

"Daily reviews are conducted by watch commanders to ensure compliance and deficiencies are corrected immediately" - San Bernardino SD

"SDPD developed internal inspection procedures to make sure stop data is accurate, collected and submitted" – San Diego PD

Six agencies (Bakersfield PD, Fresno PD, Long Beach PD, Los Angeles County SD, Riverside County SD, San Francisco PD) indicated that there were some barriers to analyzing the data or exporting it to analyze it, including difficulty in creating reports, auditing the data, or integrating the data collection systems with other departments systems. Five agencies indicated that additional funding for staff and other resources was necessary to conduct stop data analyses (CHP, Sacramento PD, San Bernardino County SD, San Diego County SD, San Diego PD).

Agencies identified additional resources that would assist them in analyzing their stop data. Fresno Police Department indicated that additional training would be helpful. San Francisco Police Department indicated that model analyses would be helpful and San Diego County Sheriff's Department specified that guidelines for "Veil of Darkness" analysis would be helpful.

Agencies were asked about some of the challenges they encountered with data analysis. CHP reported that the volume of data being collected, maintained, and reviewed is challenging (since CHP stopped more than 2 million individuals in 2019). Los Angeles County Sheriff's

Department determined that a more robust internal auditing ability is required for their reporting system. San Francisco Police Department reported that commute/tourist/daytime population considerations present a challenge for the analysis of population benchmarks (e.g., while the population of San Francisco is approximately 800,000 residents, this number can balloon to 1.5 million during the day). Long Beach Police Department also indicated that it had been challenging to identify benchmark data sets.

Four agencies provided comments regarding the data elements included in the regulations. Oakland Police Department commented that the regulations regarding the reporting of community caretaking incidents should be changed and San Francisco Police Department commented that the use of geocoding to report the precise locations of stops should be allowed. San Jose Police Department commented that a data element should be added to report the actions taken by the person who was stopped, for example the actions taken by a subject preceding an officer's use of force. San Diego Police Department commented that a data element regarding officers' perception of whether the person stopped was unhoused should be added.

# RACIAL AND IDENTITY PROFILING POLICIES AND ACCOUNTABILITY

Any police action based on racial profiling or other biases alienates the public, fosters distrust of police, and undermines legitimate law enforcement efforts. For this reason, it is imperative that every California law enforcement agency have a strong commitment to bias-free policing throughout their policies and practices. In advancing its goal to eliminate racial and identity profiling in law enforcement, the Board has taken its charge to "work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California" very seriously. <sup>166</sup>

### Survey: State and Local Policies and Accountability

In an effort to qualitatively measure the impact of RIPA on law enforcement agency's policies and accountability, the Survey conducted by the Department contained questions regarding agency's policies. Some of the findings include:

24 of the 25 agencies that responded to the survey indicated that they have a bias-free
policing policy. The agency that did not have an existing policy, Los Angeles World
Airport PD, indicated that they were in the process of developing one. Half of the
agencies with a bias-free policing policy indicated that they adopted some portion of the
model language provided in the RIPA Board 2020 Annual Report.

| Agencies that Reported Adoption of Some Portion of the RIPA<br>Board's Model Bias-Free Policing Policy Language |                               |  |
|---|-------------------------------|--|
| СНР   | Orange County Sheriff         |  |
| Santa Clara Sheriff   | San Bernardino County Sheriff |  |
| Fresno Police   | San Diego County Sheriff      |  |
| Kern County Sheriff   | San Diego Police              |  |
| Long Beach Police   | San Francisco Police          |  |
| Los Angeles County Sheriff  | San Jose Police               |  |

<sup>&</sup>lt;sup>166</sup> Cal. Pen. Code, §13519.4, subd. (j)(3)(C).

 Agencies reported various methods of holding staff accountable to their bias-free policing policy, including conducting investigations, providing additional training, and taking other corrective actions or discipline.

## Agencies Reported Using the Following Approaches to Hold Staff Accountable and Respond to Non-Compliance with Bias-Free Policing Policies

| Conduct Investigations when<br>Violations Are Reported or<br>Identified | Provide Additional Training | Other Corrective Action or<br>Discipline |
|---|-----------------------------|--|
| Bakersfield Police  | Alameda County Sheriff      | Alameda County Sheriff                   |
| Fresno Police   | Bakersfield Police          | Bakersfield Police                       |
| Kern County Sheriff   | CHP                         | CHP                                      |
| Los Angeles County Sheriff  | Kern County Sheriff         | Kern County Sheriff                      |
| Los Angeles Police  | San Bernardino County       | Long Beach Police                        |
| Orange County Sheriff   | Sheriff                     | Riverside Police                         |
| Riverside County Sheriff  |                             | San Bernardino County Sheriff            |
| San Diego County Sheriff  |                             | San Diego Police                         |
| San Diego Police  |                             | San Francisco Police                     |
| San Jose Police   |                             | Ventura County Sheriff                   |
| Ventura County Sheriff  |                             |  |

"All staff is held accountable and takes yearly training updates in this area. All supervisors are further instructed on how to hold subordinates accountable for their actions. .... The City and County of San Francisco have departments established which monitor and encourage racial diversity and training for all city/[county] employees." – San Francisco Sheriff

"Any employee of our Department can report violations to our Internal Affairs Unit or the City of San Jose, Independent Police Auditor's Office" - San Jose Police

 13 of the 25 agencies surveyed indicated that they have a civilian review board. Of those agencies, five reported discussing the RIPA Board's findings with their civilian review boards.

## Agencies that Reported Having a Civilian Review Board

Agencies that Reported Discussing the RIPA Board's Findings or Recommendations with Their Civilian Review Board

CHP CHP San Diego County Sheriff Long Beach Police San Diego Police Los Angeles County Sheriff Los Angeles County Sheriff San Francisco Police Los Angeles Police Los Angeles Police San Jose Police San Diego Police Oakland Police Santa Clara County Sheriff San Francisco Police **Orange County Sheriff** Stockton Police **Riverside Police** 

- Only a few agencies reported community engagement as a part of the main actions that
  they have undertaken to adopt the Board's recommendations. These included San
  Bernardino County SD and the Riverside Police Department. Riverside PD indicated that
  they developed a Chief's Advisory Board to receive input and advice from community
  stakeholders.
- Six of the ten LEAs that indicated that they analyze stop data reported sharing their findings with the public (Los Angeles County SD, Los Angeles PD, San Bernardino County SD, San Diego County SD, San Diego PD, San Francisco PD).

"Findings are made public through quarterly statistical reporting and shared within the department" - San Francisco Police "All sworn and non-sworn members are provided information related to RIPA data .... Additionally, the information is posted on the department website, so the public has access to it." - San Diego County Sheriff

## Accountability Systems

Now that the Board has a better understanding of existing accountability and supervisory review within agencies to ensure adherence to bias-free policing, the Board plans to develop and identify best practices to inform model accountability policies in future reports. The overwhelming theme in the Board's research was that accountability does not require a single policy, but rather, a comprehensive accountability *system*. To understand how a law enforcement agency holds its officers and agency accountable to prevent bias and profiling, the Board acknowledges it will also need to examine a series of policies that specifically govern prompt and appropriate remediation of bias-based policing.

Given the importance of accountability in policing, the Board hopes to conduct in-depth research and consult with experts to develop best practices in this subject area. To build a foundation, the Board has begun reviewing evidence-based best practices devoted to accountability. Toward that end, the Board identified categories commonly used that make up

accountability systems, including: (1) data tracking and transparency, (2) early intervention systems, (3) video technology, (4) supervisory oversight, (5) clear policies and pathways, (6) misconduct complaints, (7) discipline, (8) community-based accountability, (9) recruitment, hiring, and promotions, and (10) performance evaluations. These categories and recommended best practices will be developed and explored in the future, and they do not represent the full range of best practices an agency could or should adopt; they aim to provide a foundation upon which the Board can expand in future reports. The Board emphasizes that law enforcement agencies should also collaborate with their communities to ensure accountability measures are relevant to their specific needs. The Board also welcomes input from all stakeholders on areas of interest and specific best practices upon which it should focus.

### 1. Data Tracking and Transparency

Foundational to any accountability system is data collection and data tracking. Data should be collected on various types of police actions – not just use of force or arrests, but also, for example, the type and number of civilian complaints or adverse comments lodged, failure to activate body worn cameras, vehicle crashes, failure to attend or complete training, and/or any investigations of an officer. The Board recognizes that the specific data a law enforcement agency decides to collect (in addition to what is already required by RIPA) should result from stakeholder engagement. Data collection and tracking is critical because it allows agencies to take inventory of individual or systemic trends in behavior that may need to be addressed and corrected. The Board will explore how data can be used for oversight of individual officers, first-line supervisors, and entire precincts or units. It is essential that this data be accessible to the public, which has a vested interest in ensuring non-biased based policing.

### 2. Early Intervention Systems

Best practice recommendations on Early Interventions Systems (EIS) is contained in the Civilian Complaint Section (see page 134 of this Report) because the Board's Civilian Complaints Subcommittee is doing a broader evaluation of EIS.

### 3. Video Technology

One area for exploration is the use of video technologies, like body worn cameras, and any effect in reducing use of force. In a recent study, researchers found that during shifts where officers used cameras and followed agency protocol more closely, use of force fell by 37 percent when compared to camera-free shifts. Researchers also found that during shifts where officers used cameras and tended to use their discretion instead of following agency protocol, police use of force actually rose 71 percent higher than camera-free shifts. It is clear that use of video technology is not itself a quick fix, and as an accountability tool, it is only as effective as the policies and protocols in place and the oversight of officer adherence to those policies and protocols. Further, it is not enough for agencies to have the technology; agencies must *make use* of the technology. For example, on October 27, 2020, the Los Angeles Office of the Inspector General (OIG) released a data analysis report that focused on officer-initiated stops in

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<sup>&</sup>lt;sup>167</sup> RAND Corporation, RAND Europe, Body-Worn Cameras Associated with Increased Assaults Against Police, and Increase in Use-of-Force if Officers Choose When to Turn on Body-Worn Cameras (May 17, 2016) <a href="https://www.rand.org/news/press/2016/05/17.html">https://www.rand.org/news/press/2016/05/17.html</a> (as of Dec. 14, 2020).

2019 (a total of 672,569 stops) to assess the accuracy of officer reporting and to better understand the driving forces behind some of disparities in stop data. After a qualitative review of 190 stops in connection with video footage, the Los Angeles OIG found that the stop data reports were "fully accurate" in only 61 percent of the stops. This example makes clear that the camera technology can be useful as an accountability tool if agencies conduct follow-up and review rather than relying solely on the technology being activated to hold officers accountable. The Board will continue to explore best practices around the use of such technology.

### 4. Supervisory Oversight

Strong accountability systems include a sufficient number of supervising officers, adequate training for effective supervision, and workloads that allow supervisors to be effective in their oversight responsibilities. Supervisory staff should be proactive, engaged, and consistent in their supervision of line officers. It is critical that there are clear policies outlining what supervisory review looks like and how it will be done. Not only should there be strong supervision of line officers, but agency command staff should also effectively oversee their first-line supervisors to ensure accountability at all levels. Supervisors must be held directly accountable for the quality and effectiveness of their supervision, including whether supervisors identify and effectively respond to misconduct and ensure that officers effectively engage with the community.

Some specific issues that the Board intends to review and consider for future recommendations include having a supervisor at the scene of a use of force or a civilian complaint; reviewing arrest reports, officer activity reports, or other incident reports for the day in conjunction with any video footage for accuracy in reporting and adherence to law and policy; ways to investigate and document use of force incidents; how to provide counseling, support, and direction to officers; and commending and highlighting positive interactions to reinforce these behaviors.

Other areas that the Board intends to review and consider for future recommendations relate to supervision of first-line supervisors, and include leadership training on techniques for effectively guiding and directing officers and promoting effective and constitutional police practices; evaluating written reports, including identification of canned or conclusory language that is not accompanied by specific facts; evaluating officer behavior in video footage and officer reports or data submissions; investigating officer uses of force and identifying corrective measures; building community partnerships and guiding officers on this requirement; handling of allegations of officer misconduct; and leadership development and modeling positive behavior.

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<sup>&</sup>lt;sup>168</sup> Los Angeles Office of the Inspector General, Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 27, 2020) p. 1 <a href="https://a27e0481-a3d0-44b8-8142-">https://a27e0481-a3d0-44b8-8142-</a>

 $<sup>1376</sup>cfbb6e32. filesusr.com/ugd/b2dd23\_d3e88738022547acb55f3ad9dd7a1dcb.pdf \gt (as\ of\ Dec.\ 14,\ 2020).$ 

<sup>&</sup>lt;sup>169</sup> *Id.* at p. 48.

For example, with regard to evaluating officer behavior in video footage and officer reports, in the previously mentioned OIG report, the review included a statistical analysis of RIPA stop data, review of civilian complaint data on racial profiling, and a qualitative review of 190 stops in connection with video footage. When comparing the 190 stop data reports to body worn or in-car camera footage, the Los Angeles OIG found that in only 61 percent of the stop data reports was the data "fully accurate." <sup>171</sup> In the other 39 percent of the stops, the Los Angeles OIG found various issues that contributed to inaccuracies, such as failing to report all actions taken, all individuals stopped, or reporting an incorrect stop or search bases. <sup>172</sup> In light of the Los Angeles OIG's findings, it recommended that the Los Angeles Police Department change some of its policies – including its bias-free policing policy – to adopt language from RIPA and make it clear that racial profiling is prohibited not only in the initial decision to stop or not stop an individual but in various other types of activities as well. <sup>173</sup> This kind of in-depth review also allowed the Los Angeles OIG to identify places where officers were not following agency policy on body worn camera activation or stops and searches, identify where officers may need additional training on law and policy, and offer specific actions for the Los Angeles Police to take to help reduce the disparities in stops. 174 It also demonstrates the importance of thorough supervisory oversight to make sure officers are reporting data accurately. The Board will explore this interconnected topic of data integrity and supervisory auditing in a future report.

## 5. Clear Policies and Pathways

While it is evident that any department policy on bias-free policing or ensuring adherence to bias-free policing should be crystal clear to line officers, first-line supervisors, and all other staff, the Board will examine how to ensure that there are no doubts about what an agency prohibits and to impel agency action when an officer does not adhere to its policies. Policies should also make clear the departmental expectations and hold officers to the highest standards of integrity. Eliminating racial and identity profiling in policing is no small task; it requires a clear prohibition on bias-based policing and a thorough understanding by everyone in the agency that a violation of policy and failure to report misconduct will not be tolerated. However, explicit policies alone will not ensure accountability. The Board will also examine best practices to ensure that there are pathways for officers to report their peers' behavior (including confidentially or anonymously) and avenues to elevate their report if their first-line supervisor does not take action.

<sup>&</sup>lt;sup>170</sup> See generally Los Angeles Office of the Inspector General, Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 27, 2020) <a href="https://a27e0481-a3d0-44b8-8142-">https://a27e0481-a3d0-44b8-8142-</a>

<sup>1376</sup>cfbb6e32.filesusr.com/ugd/b2dd23\_d3e88738022547acb55f3ad9dd7a1dcb.pdf> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>171</sup> Id. at p. 48.

<sup>172</sup> Id. at pp. 48-49.

<sup>&</sup>lt;sup>173</sup> *Id.* at pp. 5-6, 56.

<sup>&</sup>lt;sup>174</sup> See generally Los Angeles Office of the Inspector General, Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 27, 2020) <a href="https://a27e0481-a3d0-44b8-8142-">https://a27e0481-a3d0-44b8-8142-</a>

<sup>1376</sup>cfbb6e32.filesusr.com/ugd/b2dd23\_d3e88738022547acb55f3ad9dd7a1dcb.pdf> (as of Dec. 14, 2020).

## 6. Misconduct Complaints

In general, agencies with strong accountability systems investigate all complaints made by members of the public and those made from within the agency. The Board plans to explore how best practices can guarantee that *all* complaints will be fairly and thoroughly investigated. Thus, agencies must ensure that members of the public have access to submit complaints and that complaints will be faithfully recorded, tracked, and investigated. Best practices may also include how to conduct investigations into misconduct complaints with integrity and create mechanisms to increase the community's involvement in the process. Additionally, the Board and agencies may consider the potential role of independent civilian complaint review boards, or other stakeholders can explore their establishment by working with their boards of supervisors, city councils, or mayors through ballot initiatives.

Some specific issues that the Board intends to review and consider for future recommendations include having a supervisor at the scene of a use of force or a civilian complaint; reviewing arrest reports, officer activity reports, or other incident reports for the day in conjunction with any video footage for accuracy in reporting and adherence to law and policy; ways to investigate and document use of force incidents; how to provide counseling, support, and direction to officers; and commending and highlighting positive interactions to reinforce these behaviors.

The Board intends to review best practices that include precluding any involved supervisor from participating in the investigation; providing personnel serving as investigators with enhanced training on conducting employee misconduct investigations; and preventing officers with a history of sustained civilian complaints or who have been disciplined for excessive use of force, discrimination, or dishonesty from being eligible for assignment to Internal Affairs or any other interagency misconduct investigation team. The Board will also examine best practices regarding time limits on investigations of alleged misconduct, both for agency response to the subject of the complaint and internally with its officers.

# 7. Discipline Policies

Accountability systems should incorporate not only formal disciplinary or corrective measures, but also include informal training and feedback to improve job performance. Generally, discipline is determined by agency policy, but it is also often influenced by what is included in an agency's Memorandum of Understanding (MOU) based on negotiations between the agency and their employee's union. MOUs may attempt to dictate requirements regarding agency accountability and officer discipline. The Board hopes to explore best practices around negotiated discipline standards for both administrative misconduct (e.g. calling in sick when the officer is not actually sick) and excessive force or bias-based policing, officer leave following misconduct, documentation of disciplinary actions and preservation of the documentation, and the use of disciplinary boards to ensure that discipline policies are implemented fairly, objectively, and progressively where appropriate.

<sup>&</sup>lt;sup>175</sup> MOUs, also known as collective bargaining agreements, are written binding agreements that are the result of negotiations between an employer and a labor union.

Agency discipline policies and procedures should set out what types of discipline an officer can expect for each kind of violation and establish the range of discipline for each type of violation. The Board will examine best practices for discipline policies and the concept of progressive discipline when there are multiple incidents of misconduct.

## 8. Community-Based Accountability

For law enforcement agencies to fully practice accountability, the community must be included in those efforts to keep individual officers and the agency as a whole accountable. The Board will review avenues for community involvement, including community participation in oversight, advisory, or disciplinary boards. There are important considerations to ensure effective community participation on these bodies, such as making the selection process for civilian members transparent and unbiased; for example, bias in the selection process can happen when there are irrelevant requirements that have no bearing on a candidate's qualifications to be on such a body, such as whether someone has a criminal history or their immigration status. Additionally, the Board will examine best practice recommendations on reliable, comprehensive, and representative annual community surveys that can serve to inform agencies about the community's perception of the quality of their provision of service.

## 9. Recruitment, Hiring, and Promotions

How an agency recruits, hires, and promotes its personnel is integral to a robust accountability system. Not everyone is fit to be a law enforcement officer or able to embody the high standards of integrity required for modern day policing. Recruitment alone is insufficient; agencies must also ensure they are taking concrete steps to retain and promote officers who excel at performing their duties and engage in bias-free policing, while holding others accountable and not rewarding those who fail to live up to the mission of fair and equitable policing.

Strategies for thoughtful and diverse recruitment is the foundation for accountability within law enforcement. The Board will research best practices, including establishing a strategic hiring and recruitment plan; <sup>176</sup> identifying specific recruiting targets (such as increasing female officer retention); <sup>177</sup> seeking community input; <sup>178</sup> creating a diverse central recruitment team or unit to ensure consistency and cohesion; <sup>179</sup> training for recruiters and background investigators in procedural justice and implicit bias focused on specific issues or strategies relevant to the hiring process; <sup>180</sup> developing and reviewing recruitment materials to reflect the agency's values and mission; <sup>181</sup> and compliance with the strategic recruitment and hiring plan through data

<sup>&</sup>lt;sup>176</sup> Cal. Dep't of Justice, Review of Sacramento Police Dep't: Report and Recommendations Phase II (2020) pp. 83-84 <a href="https://oag.ca.gov/system/files/attachments/press-docs/SPD%20Report%20Phase%20II\_0.pdf">https://oag.ca.gov/system/files/attachments/press-docs/SPD%20Report%20Phase%20II\_0.pdf</a> (as of Dec. 14, 2020). <sup>177</sup> Ibid.

<sup>&</sup>lt;sup>178</sup> *Id.* at p. 86.

<sup>&</sup>lt;sup>179</sup> *Id.* at p. 81; Hillard Heintze, San Francisco Police Department Collaborative Reform Initiative: Phase I – Initial Progress Report (May 16, 2019), p. 70 <a href="https://oag.ca.gov/system/files/attachments/press-docs/hillard-heintze-initial-progress-report-sfpd-phase-i.pdf">https://oag.ca.gov/system/files/attachments/press-docs/hillard-heintze-initial-progress-report-sfpd-phase-i.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>180</sup> Cal. Dep't of Justice, Review of Sacramento Police Dep't: Report and Recommendations Phase II (2020) p. 91 <a href="https://oag.ca.gov/system/files/attachments/press-docs/SPD%20Report%20Phase%20II\_0.pdf">https://oag.ca.gov/system/files/attachments/press-docs/SPD%20Report%20Phase%20II\_0.pdf</a> (as of Dec. 14, 2020).
<sup>181</sup> Id. at p. 77.

tracking, audits, and periodic assessments. For example, one potential best practice could be for recruiters and background investigators to review a candidate's social media account to look for behavior that would make the candidate unfit to be an officer, including ties to hate groups or any comments or postings demonstrating racism or white supremacy, sexism, homophobia, or other problematic views or beliefs. With respect to recruitment materials, best practices may include developing the qualities the agency is looking for and highlight the "guardian" over "warrior" mentality  $^{183}$ , distributing materials widely, and strategically targeting recruitment for gender and racial or ethnic diversity.  $^{184}$ 

Promotion within agencies should be a transparent process. The Board will also examine promotion metrics, including performance evaluations for promotions or lateral hiring; consideration of officer discipline history or history of civilian complaints; and recognizing officers who embody the mission of equity and bias-free policing.

## 10. Performance Evaluations

Performance evaluations have traditionally focused on metrics such as arrests or other police actions that do not underscore the importance of good, thoughtful, and constitutional police work. That kind of structure creates a system that may inadvertently encourage behavior that is contrary to effectively and fairly serving the community as a whole. Instead, the Board plans to examine best practices to evaluate officers' behaviors in engaging in bias-free constitutional policing, such as an officer's demonstrated: a) integrity and ethical decision-making; <sup>185</sup> b) commitment to community engagement and building relationships and trust with communities; and c) commitment to bias-f ree policing. Performance reviews may also play a role in evaluating an officer's communication skills, <sup>186</sup> general safety habits, completion of training requirements, and their effective use of de-escalation and crisis management techniques. The Board will also examine best practices around civilian commendations or complaints, post-discipline compliance with policy and corrective action plans, and specific officer behaviors, such as the quality and accuracy of officer reports, search warrants, and supportive affidavits or declarations.

# Wave 2 Agency Bias-Free Policing Policies Review

In its 2019 report, the Board found that while most agencies did have a specific policy or portion of a policy addressing racial and identity profiling, there was little consistency across agencies in the substance of those policies. In its 2020 report, the Board built upon this finding and provided model language that law enforcement agencies could include in their bias-free policing policies. The Board also reviewed the bias-free policing policies for the eight Wave 1

<sup>&</sup>lt;sup>182</sup> *Id.* at pp. 83-84, 92.

<sup>&</sup>lt;sup>183</sup> *Id.* at p. 77.

<sup>&</sup>lt;sup>184</sup> *Id.* at pp. 81-82.

<sup>&</sup>lt;sup>185</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Implementing a Comprehensive Performance Management Approach in Community Policing Organizations: An Executive Guidebook (2015) pp. 3, 14, 33.

<sup>&</sup>lt;sup>186</sup> *Id.* at pp. 3, 14, 37.

agencies, based on the best practices outlined in the 2019 report. This year, the Board is extending its review to include the seven Wave 2 agency policies. <sup>187</sup>

Oakland Police Department (Oakland Police): The Oakland Police have an eight page, standalone policy titled "Prohibitions Regarding Racial Profiling and Other Bias-Based Policing," which became effective November 15, 2004. From the outset, the policy delineates its purpose: to reaffirm the Oakland Police's commitment to providing service and enforcing laws in a fair and equitable manner and to establish a relationship with the community based on trust and respect. To accomplish this purpose, the policy includes a definition of racial profiling and a statement on the limited circumstances in which characteristics of individuals may be considered in policing decisions. The policy also helps officers better understand racial profiling by providing examples of different police interactions, such a consent searches, where racial profiling may arise. Moreover, it also clearly establishes that consent searches should not be based on actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability. To assist with the community relationship building piece, the policy includes a section for officers on how to communicate with the community when conducting stops. In addition to this stand-alone bias-free policy, a separate rule on "Professional Conduct and Responsibilities" also touches on how officers should conduct themselves towards others. 188 Another rule titled "Field Interviews & Stop Data Report" dictates how officers should record RIPA stop data. The rule states that Oakland Police use stop data "as a critical component of risk management," with the goal "to reduce the risk of negative disparate impact on the community by enhancing precision policing, understanding racial disparities."

Oakland Police prohibits its members from engaging in, ignoring, or condoning racial profiling or other bias-based policing. Furthermore, the policy requires members to report incidents and makes clear that members will be subject to discipline if they fail to comply. For supervisory review, the policy details six supervisor responsibilities in addition to ensuring their subordinates know and understand the policy. A supervisor is required to monitor their subordinates, review all Stop-Data Collection Forms they submit, sign those forms once reviewed, and conduct periodic audits. The policy explicitly provides that supervisors and commanders will be subject to discipline if they themselves violate the policy or if they know or should know that their subordinates are out of compliance.

**Sacramento Police Department (Sacramento Police):** The Sacramento Police has a stand-alone "Bias-Based Policing" policy dated June 5, 2017. The policy defines bias-based policing and racial profiling and explicitly prohibits the detention, interdiction, or disparate treatment of any person based on their actual or perceived characteristics by officers. Sacramento Police make clear that complaints of such behavior will be thoroughly investigated and require officers to report knowledge or information they may have about conduct that would violate this policy. Moreover, Sacramento Police provide for an Administrative Review of citizen complaints and concerns relating to its bias-free policy to ensure officers are conducting stops and citizen

<sup>&</sup>lt;sup>187</sup> The policies of the Wave 2 law enforcement agencies can be found in Appendix Table F.1.

<sup>&</sup>lt;sup>188</sup> Oakland Police Department, Manual of Rules, Section 314.04 Conduct Toward Others – Harassment and Discrimination (September 30, 2010) <a href="https://cao-94612.s3.amazonaws.com/documents/oak032180.pdf">https://cao-94612.s3.amazonaws.com/documents/oak032180.pdf</a> (as of Dec. 14, 2020).

contact in accordance with the policy. Although this review is designated as annual, the Professional Standards Unit provides complaint data "on demand" to the Captain to review and act on, but there is no indication how often this may occur. Similarly, the Sacramento Police updated its "Internal Investigation Manual – RM 220.01" to more accurately track complaints alleging "profiling" as a standalone allegation. While the bias-free policing policy does not provide guidance on the collection or use of RIPA demographic data associated with stops, detentions or seizures conducted, the agency's General Order 210.09 does. To ensure compliance with RIPA and the agency's Bias-Based Policing policy, the general order requires supervisors to monitor and examine all police activities of those in their command. Sacramento Police has also recently implemented an administrative "Use of Force Review Board," which meets monthly to review uses of force that do not involve firearm discharge or death. This review will include whether the officer adhered to the bias-based policing policy in addition to use of force laws and agency policies.

Fresno Police Department (Fresno Police): The Fresno Police has a stand-alone policy that became effective June 1, 2020. The policy defines racial or bias-based policing and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is a component on encounters with the community, which requires officers engaging in non-consensual encounters to be prepared to articulate a sufficient reasonable suspicion to justify the contact. It also includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences, if they have not yet received training. The policy discusses the collection of stop data through Cal DOJ's Stop Data Collection System pursuant to AB 953. The policy makes clear that is it the responsibility of all members of Fresno Police to prevent, report, and respond appropriately to discriminatory or biased practices. The policy addresses supervisory review by describing an annual review conducted by the Audit & Inspections Unit. According to the policy, that unit reviews the Internal Affairs database for complaints alleging bias and reviews meeting minutes detailing complaints received at the Chief's Advisory Board committee meetings. The results of the annual review are then published in their Annual Bias-Based Policing Report, which details recommendations regarding training issues, policies and procedures, and changes in federal or state mandates. The annual reports previously included analysis of traffic stop data, but Fresno Police no longer plans to include this in their reports because it will submit stop data to the California DOJ. Fresno Police's website includes links to California DOJ's OpenJustice website, where their stop data will be publicly available, and the AB 953 webpage, where RIPA Board reports include stop data analysis. The bias-based policing policy is referenced in two other policies regarding interactions with transgender individuals and personnel complaints.

**Orange County Sheriff's Department (Orange County Sheriff):** The Orange County Sheriff has a stand-alone policy on "Bias Free Policing" and a separate policy on "Racial and Identity Profiling Act (RIPA)." The Bias Free Policing policy defines racial profiling or bias based policing

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<sup>&</sup>lt;sup>189</sup> Fresno Police's policy is provided by a private corporation through a paid subscription service offered to law enforcement agencies around the country.

<sup>&</sup>lt;sup>190</sup> Orange County Sheriff's policy is provided by a private corporation through a paid subscription service offered to law enforcement agencies around the country.

and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is no specific component on how officers should conduct themselves in encounters with the community. The policy includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences, if they have not yet received training. The policy makes clear that it is the responsibility of all members of Orange County Sheriff to prevent, report, and respond appropriately to clear discriminatory or biased practices. The RIPA policy delineates the data fields that must be reported. Neither policy includes a component on data analysis or addresses supervisory review. The Bias-Free Policing policy has a section titled "supervisor responsibility," which establishes that the S.A.F.E. Division Captain should review the Orange County Sheriff's efforts to prevent racial/biased based profiling and submit any concerns to the Sheriff; this section does not discuss direct supervisory review. Separately, the Internal Affairs Unit Manager and the Captain (or an authorized designee) are required to ensure all data regarding civilian complaints and stops are collected and reported. Orange County Sheriff reported that the Technology Division was primarily overseeing the collection of RIPA data, but Orange County Sheriff formed a working group to determine how to analyze and review the data being sent to the Department after they realized they needed to ensure the proper information was being recorded.

Long Beach Police Department (Long Beach Police): The Long Beach Police issued a special order on bias-free policing on September 2, 2020. The special order is in effect until it is included in the agency's Department Manual. Additional relevant content is provided in the Department's Policy Manual sections "3.2 General Responsibilities – Employees" and "3.4 Conduct Toward the Public." These policies are available on the Long Beach Police's website; the new special order is not yet available online. The new special order includes definitions of racial profiling, biased policing, and specified characteristics. It also includes a component on the limited circumstances in which characteristics of individuals may be considered. Section 3.4 includes a section on encounters with the community in which officers are required to provide their names and department IDs or those of other officers upon request. Additionally, the special order requires officers to inform community members of the reason for the contact preferably at the beginning or by the end of an encounter to avoid misunderstandings. Under the new order, supervisors are required to ensure compliance and initiate investigations when violations are alleged. Moreover, it is the supervisors' responsibility to ensure employees are not retaliated against for reporting suspected instances of biased policing. The policies and special order do not discuss annual training on bias/racial profiling, stop data analysis, or accountability. The agency issued a special order on stop data collection in December 2018. That special order requires all stop data to be reviewed to ensure there is no identifiable information included and that the Administration Bureau completes a quarterly audit. Long Beach Police has stated that they are developing a stop data dashboard to provide commanding officers with the ability to analyze the type of stops, reasons for stops, searches conducted, and actions taken in the field by their officers.

Sacramento County Sheriff's Office (Sacramento County Sheriff): The Sacramento County Sheriff does not have a stand-alone bias-free policing policy. Applicable content is included in the General Order: Detentions, Arrests, Search Seizure, and Immigration Enforcement and General Order: AB 953 RIPA Compliance. Both of these policies are available online under the

transparency section of the website. The Detentions, Arrests, Search Seizure, and Immigration Enforcement General Order includes the definition of racial or identity profiling provided in Cal. Penal Code section 13519.4(e) and a component on the limited circumstances in which characteristics of individuals may be used. Sacramento County Sheriff puts the responsibility on every member of its agency to prevent, report, and respond appropriately to dispel discriminatory or biased practices. This General Order discusses encounters with the community, specifically discussing encounters with non-English speaking persons, persons with wheelchairs and other devices, and persons who are deaf or hard of hearing. The AB 953 General Order details the stop data required to be collected and discusses supervisory review. Supervisors are required to review and approve or reject each officer's AB 953 stop data reports. This review is limited to ensuring there is no unique identifying information sent to Cal DOJ. Neither general order includes information about racial and identity profiling training or data analysis. While its policies do not discuss data analysis, Sacramento County Sheriff reported to DOJ that it conducts data analysis on AB 953 stop data and uses the analysis for training and improvement in serving its community. Moreover, it informed DOJ that it has replicated the Board's annual report for its agency and created monthly dashboards of the data for department managers to review. Sacramento County Sheriff also stated that it provides Principled Policing and Bias Based Policing training to its officers on an ongoing basis; this training is not referenced in their policies but parts of it have been incorporated into the agency's academy curriculum.

San Jose Police Department (San Jose Police): The San Jose Police has a stand-alone policy that was last revised on February 15, 2011. In addition to this policy, there are two other policies that are relevant to bias-free policing, namely the "C 1305 Equality of Enforcement" and "C 1308 Courtesy" sections. All three of these policies are available online. The stand-alone biasbased policing policy includes a definition of bias-based policing and explains that biased actions can occur not only upon initiation of the stop, but also throughout the stop. The standalone policy does not contain an explanation of the limited circumstances in which characteristics of individuals may be considered. Policies C 1305 and C 1308 detail how an officer should conduct themselves during encounters with the community, e.g. officers should be courteous and professional, control their tempers, and exercise patience even in the face of extreme provocation. None of the three policies address bias/racial profiling training. However, the department reported that it requires Fair and Impartial Policing training, which includes implicit bias, Biased Based Policing, and Procedural Justice Training. Additionally, it has increased police academy cultural diversity and discrimination training beyond the state minimum. Moreover, command officers receive eight hours of Preventing and Responding to Anti-Muslim Bigotry training. The San Jose Police also has a separate policy on Documenting Detentions Pursuant to the Racial and Identity Profiling Act of 2015 (AB 953). None of the policies discuss data analysis, accountability, or supervisory review. San Jose Police informed CA DOJ that it does have a procedure for data analysis that is not detailed in its Bias-Based Policy. It also hired researchers from the University of Texas at El Paso and San Antonio to statistically analyze the stop data. Additionally, San Jose Police has separate policies and procedures for accountability and supervisory review. All personnel are expected and bound to follow the prohibition against discriminatory policing and a commitment to equality in

enforcement in anything they do. San Jose Police supervisors can hold their officers accountable through civilian complaints alleging bias based policing – whether or not they are founded. If a civilian complaint's allegations of bias based policing are determined to be unfounded, a Supervisory Referral Complaint is created as a follow up. When a Supervisory Referral Complaint is made, a supervisor or captain must discuss the interaction and officer's behavior and what, if any, impact it could have on the department's operations.

| Wave 2 Agency                | Stand-Alone<br>Bias-Free<br>Policing<br>Policy? | Clearly<br>Written? | Easily<br>Accessible? <sup>191</sup>               | Uses Concrete Definitions of Bias-Fr Policing and/or Racia Identity Profiling | ree Circumstan                         | t on Limited<br>ces in which<br>cs of Individual<br>onsidered? |
|------------------------------|---|---------------------|--|---|--|--|
| Oakland Police               | ✓   | ✓                   | ✓  | ✓   | 1                                      | /  |
| Sacramento<br>Police         | ✓   | ✓                   | ✓  | ✓   |  | <b>✓</b>   |
| Fresno Police                | ✓   | ✓                   | ✓  | ✓   |  | ✓  |
| Orange County<br>Sheriff     | <b>✓</b>  | ✓                   | ✓  | ✓   |  | <b>✓</b>   |
| Long Beach<br>Police         | ✓   | ✓                   | ✓  | ✓   |  | <b>✓</b>   |
| Sacramento<br>County Sheriff | ×   | ✓                   | ✓  | ✓   |  | <b>/</b>   |
| San Jose Police              | ✓   | ✓                   | ✓  | ✓   |  | ×  |
| Wave 2 Agency                | Component<br>Encounters w<br>Community          | ith and             | ponent on Racia<br>Identity Profiling<br>Training? | I Component on  | Component on Requiring Accountability? | Supervisory<br>Review?   |
| Oakland Police               | ✓   |                     | ✓  | ✓   | ✓                                      | ✓  |
| Sacramento<br>Police         | ✓   |                     | ✓  | ✓   | ✓                                      | ✓  |
| Fresno Police                | ×   |                     | ✓  | ✓   | ✓                                      | ✓  |
| Orange County<br>Sheriff     | x   |                     | ✓  | ×   | ✓                                      | *  |
| Long Beach<br>Police         | <b>✓</b>  |                     | ×  | <b>x</b>  | *                                      | ✓  |
| Sacramento<br>County Sheriff | ✓   |                     | ×  | *   | ✓                                      | ✓  |
| San Jose Police              | ×   |                     | <b>sc</b>  | <b>x</b>  | *                                      | 3¢   |

<sup>&</sup>lt;sup>191</sup> Beginning January 1, 2020, each law enforcement agency must conspicuously post on their website all current standards, policies, practices, operation procedures, and education and training materials that would otherwise be available to the public through a Public Records Act request. (Cal. Pen. Code, § 13650.)

## Wave 1 Agency Bias-Free Policing Policies Review Follow-Up

The Board also followed up on its review of the Wave 1 agency's bias-free policing policies. 192

**California Highway Patrol (CHP):** Since last year's review, CHP reported that it is currently developing a stand-alone bias-free policing policy based on existing departmental policies and procedures, as well as some of the model policy language outlined in the Board's 2020 report.

San Diego Police Department (San Diego PD): San Diego PD updated its Non-Bias Based policing policy in February 2020 to include many of the key components recommended by the RIPA Board. The policy touches on training and the expectations the agency has for its officers. For example, while the previous policy stated officers should make every effort to prevent or report instances of discrimination, the new policy specifies how to do so. Additionally, the policy is clear that those who engage in, ignore, or condone discrimination will be subject to discipline. The policy also now includes supervisory review to ensure compliance with RIPA. San Diego PD reported to DOJ that they have implemented various oversight measures to ensure officers are correctly submitting RIPA data. For example, officers are required to include information on every RIPA stop data submitted in their daily journals. Officer actions that generate reports and RIPA stop data collection, including arrests and detentions, require officers to include language that RIPA entries were submitted before their reports are approved by their supervisors. San Diego PD informed DOJ that it released a training bulletin regarding the auditing of RIPA data by supervisors and command staff in January 2019 that is complemented by the February 2020 policy. The training bulletin details that on a monthly basis, sergeants must audit RIPA entries for two members of their squad on a rotating basis. If discrepancies are found, the sergeant must discuss this with the officer and a next level supervisor must be briefed to determine if this is an ongoing issue that requires corrective action. Moreover, the training bulletin requires notes and documentation in quarterly management reports regarding any reporting discrepancies identified in the monthly reviews and how those were addressed.

San Bernardino County Sheriff's Department (San Bernardino Sheriff): Since the Board's review last year, San Bernardino Sheriff has amended its bias-free policing policies to reflect some key best practices. These updates include a new policy with definitions related to bias, such as racial and identity profiling, bias-based policing, implicit bias, bias by proxy, reasonable suspicion, detention, and probable cause. The Bias-Free Policing policy now includes a component on the limited circumstances in which characteristics of an individual may be considered. Additionally, San Bernardino Sheriff's RIPA Data Collection and Analysis policy provides that it will regularly analyze data to assist it with identifying practices that may have a disparate impact on a group relative to the general population. Relatedly, the San Bernardino Sheriff reported it adopted a new policy on December 8, 2020 regarding supervisory and command staff review. This policy requires supervisors to ensure that all personnel, including dispatchers and professional staff, understand and comply with all policies related to RIPA. To ensure this compliance, supervisors are required to conduct and record daily random audits. Daily audits include a review of how many stop data forms an officer submitted during their

<sup>&</sup>lt;sup>192</sup> The policies of the Wave 2 law enforcement agencies can be found in Appendix F.2.

shift. Additionally, each station must conduct random audits that compare the type of calls with the number of forms completed. At the end of a watch commander's shift, they will run a random unit history and tally up the number of forms to ensure an accurate number were submitted. When a supervisor discovers a discrepancy, they must provide remedial training. The policy also requires commanders to monitor a RIPA dashboard that allows for review of demographics of individuals stopped. Lastly, the policy requires that RIPA stop data be reviewed at department staff meetings and that the agency share its data at public meetings.

Los Angeles County Sheriff's Department (LA County Sheriff): LA County Sheriff provided additional pertinent policies this year. LA County Sheriff's "Constitutional Policing and Stops" policy, which it reports has been in place since May 2017, explicitly states the Department's commitment to equal protection of the law; it does not include a concrete definition of biasfree policing or racial and identity profiling. Separately, the "Stops, Seizures, and Searches" policy, also in place since May 2017, includes a component on the limited circumstances in which characteristics of individuals may be considered. Various policies discuss encounters with the community, including its "Consensual Encounters," "Logging Field Activities, and "Interacting with Transgender and Gender Non-Conforming Persons." With respect to training, requirements for racial and identity profile training are detailed in the June 2019 "Training Requirements for Sworn Personnel." While LA County Sheriff reported that it has the ability to analyze data collected on detentions and community contacts, and has conducted those audits in the past, it does not have a policy directing regular audits on the data. LA County Sheriff also has separate specific policies on supervisory review of public complaints alleging racial bias. These policies include the "Policy of Equality-Procedures-External Complaint Monitoring," which requires LA County Sheriff's Affirmative Action Unit to process these complaints and forward them to the Equity Unit for investigation where appropriate, as well as the "Procedures for Department Service Reviews," which covers individual and agency wide reviews submitted by members of the public. The LASD also employs a random service review audit process, during which field supervisors contact community members involved in requests for service.

San Diego County Sheriff's Department (San Diego County Sheriff): The San Diego County Sheriff updated its Non-Biased Based Policing policy in July 2020. The policy now includes a component on encounters with the community, training, and data analysis. San Diego County Sheriff provides officers with implicit bias training and cultural sensitivity throughout the year in the form of digital learning platforms, in-person training, and training bulletins. San Diego County Sheriff reported to DOJ that RIPA stop data is reviewed at the station and executive level to ensure accountability. The revised policy does not include a component on accountability or supervisory review.

San Francisco Police Department (San Francisco PD): The San Francisco PD's Bias-Free Policing Policy now includes a section on training, which mandates training for both sworn and civilian members on principled policing, cultural diversity, racial profiling, creating inclusive environments, managing implicit bias, and bias by proxy. Although San Francisco Police has a separate policy on data analysis – San Francisco Administration Code 96A.3 – it is not referenced in the bias-free policing policy.

Los Angeles Police Department (Los Angeles Police): On November 8, 2019, the Los Angeles Police updated its policy prohibiting biased based policing to include additional protected characteristics and makes clear that it includes both actual or perceived membership in one of these identity groups. These characteristics include immigration status, employment status, English fluency, and houselessness. The policy does not reference training; the agency reports that it does not intend to include specific training aspects in the policy due to their everchanging nature, but it is committed to training its officers on these topics. For example, all new recruits are required to attend an 8-hour training course with the Museum of Tolerance. Additionally, concepts from trainings on implicit bias and procedural justice, provided to the officers in 2017, have since been integrated into multiple training courses, including leadership briefs and roll call trainings. Los Angeles Police also report that it conducted a 4-hour training in March 2019 with Gang Enforcement Details personnel on procedural justice, the impact on communities, and responses to implicit bias. The agency also provided the Board with a copy of its updated use of force policy, which includes a section on fair and unbiased policing.

While the policy prohibiting biased based policing does not reference data analysis, the agency shared that it has various data analyses projects underway. These projects include its own RIPA report on its data, an analysis from the California Policy Lab, another study by Northwestern University's Mathematical Methods in the Social Sciences program, and a report by the Office of the Inspector General (LA OIG). Moreover, the agency reports that it is in the process of refining a dashboard that would allow command staff the ability to analyze data specific to their area of responsibility and compare it to stops across the city at large.

Riverside County Sheriff's Department (Riverside County Sheriff): The Riverside County Sheriff updated its Bias-Based Policing policy in July 2020 to include a component on supervisory review. The policy now requires supervisors to periodically audit officers' RIPA data entries to ensure all required stops are being reported. The agency reported to DOJ that is in the process of rolling out a new computer-aided dispatch and record management system, which will allow for data analysis; this system is scheduled to go live mid-2021.

# Vision for Future Reports

In the coming years, the Board hopes to conduct more comprehensive research – examining both current agency policies and protocols and evidence-based research – into each area of accountability systems to identify best practices.

# CALLS FOR SERVICE AND BIAS BY PROXY

One aspect of policing that is critical to police-community relations are individuals' requests or calls for assistance from the police (e.g., 911 calls), often referred to as "calls for service." Law enforcement's response to such calls is critical because these interactions may involve life and death situations for the caller, the officer, and the subject of the call. How law enforcement responds can shape community expectations and perceptions of law enforcement more broadly. The Board believes it is imperative to improve law enforcement response models to protect all members of the community, regardless of race or identity, especially when responding to individuals in crisis.

In its prior reports, the RIPA Board recommended improving trainings and creating policies related to bias by proxy. Bias by proxy occurs "when an individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against." High-profile bias by proxy cases continue to occur and have now become an inflection point in the movement for change after the infamous case of Amy Cooper, who made a false police report against Christian Cooper, a Black man who was birdwatching in Central Park. We know that these issues are not new, but they are representative of a deeper and more persistent problem that requires education, reform, and training for the public, law enforcement, and dispatchers. Resolving these issues involves taking a closer look at dispatchers' role in police responses and outcomes.

This year the Board expanded its exploration of issues related to calls for service by reviewing best practices for responding to calls specifically about individuals in crisis. Both law enforcement and community members generally agree that police officers should not be the first responders to people experiencing a variety of purely social—in other words, non-criminal— issues, such as a mental health crisis, drug overdose, or simply being unhoused. Police are often asked to play the role of both law enforcement and social worker, without the benefit of a degree or in depth training in social work.

One way to combat this is to employ a community first response, which is a response to a call for service that prioritizes community-based solutions to a crisis instead of a law enforcement response, or *before* police arrive on a scene (e.g., having a licensed therapist be the first responder to a mental health crisis). Community-based problems require community-based solutions. The community should be the first responders to situations such as health-related emergencies or socioeconomic issues such as being unhoused. A community first response allows law enforcement agencies to focus more of their valuable resources on preventing or investigating crime, while allowing skilled specialists to assist those who are having a crisis.

All stakeholders must invest in our communities so the most appropriate person can respond to a crisis and, in the process, agencies and communities can develop emergency response models

<sup>&</sup>lt;sup>193</sup> Fridell, Producing Bias-Free Policing: A Science-Based Approach (2017) Springer International Publishing, p. 90.

<sup>194</sup> Nir, How 2 Lives Collided in Central Park, Rattling the Nation, The New York Times (Jun. 14, 2020)

<sup>&</sup>lt;a href="https://www.nytimes.com/2020/06/14/nyregion/central-park-amy-cooper-christian-racism.html">https://www.nytimes.com/2020/06/14/nyregion/central-park-amy-cooper-christian-racism.html</a> (as of Dec. 14, 2020).

that are better equipped to protect everyone equally. This year, the Board discusses developing models for future best practice recommendations.

# Responding to Bias-Based Calls for Service

#### Trainings, Policies, and Procedures for Dispatchers and LEAs

Emergency dispatchers are required to take the POST basic training for dispatchers in order to serve in this position. According to POST, after completing the basic training course – a minimum of 120 hours – dispatchers are required to take an additional 24 hours of training every 2 years. Crisis Intervention Training (CIT) is not required for dispatchers, though 3,756 dispatchers (out of 8,057) in California had taken the class as of October of 2020. The only section in the POST basic training for dispatchers that addresses bias is a section titled "Community Policing/Cultural Diversity/Hate Crimes/Gang Awareness," where the topic of bias is discussed generally. The basic training addresses the history of community policing and the role the dispatcher plays, including helping identify trends as well as potential neighborhood issues, communicating problem areas, and awareness of what is important to the communities served. 195 The POST basic training dispatch course does address responding to hate crimes, but the focus is on how dispatchers take incident reports of hate crimes.

"The Department is in the process of developing ... bias by proxy training for its civilian personnel based on the recommendations by the Board." - San Diego PD

Based on the Board's review of the applicable POST trainings, the Board recommends that POST expand trainings to address bias by proxy so that dispatchers and first responders can prevent abuse of the 911 dispatch system. The Board recommends updated trainings that include how to: (1) diffuse or deescalate the situation; (2) assess when a bias-

based call is being made; (3) mitigate the bias when transferring a call to first responders; and (4) notify law enforcement when a dispatcher suspects the 911 caller is making a bias-based call or filing a false police report.

Bias by proxy occurs with a range of behaviors. Although there are all too many reports of Amy Coopers in this world, dispatchers should also be mindful of the potential for implicit bias in the reports of seemingly well-intentioned callers. Dispatchers, as well as law enforcement, need further mandatory training on how to address both implicit and explicit bias when addressing 911 callers, as well as how to identify bias within themselves.

# A Restorative Justice Approach to Biased Based Calls for Service

Knowingly filing a false police report is a crime. <sup>196</sup> By contrast, incidents of bias-based calls may not rise to the level of criminal behavior, and sometimes are protected speech. Nevertheless, an individual who experiences a bias-based call may feel unsafe or unwelcome in their community. Therefore, the RIPA Board and the Communities Against Hate, a coalition of 15

<sup>195</sup> See Commission on Peace Officer Standards and Training, Public Safety Dispatchers' Basic Course: Training Specifications (July 2011) <a href="https://post.ca.gov/Portals/0/Publications/Dispatcher\_Basic\_Course.pdf?ver=2019-07-12-131112-730">https://post.ca.gov/Portals/0/Publications/Dispatcher\_Basic\_Course.pdf?ver=2019-07-12-131112-730</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>196</sup> Cal. Penal Code, § 148.5.

national organizations,<sup>197</sup> both recommend that law enforcement agencies conduct thorough reviews of bias-based incidents, and that agencies strengthen data collection around those incidents and their responses to them.<sup>198</sup> The National Coalition of Anti-Violence Programs (NCAVP) echoes the recommendation to increase efforts to encourage reporting and underscores the need to increase community-based reporting infrastructure.<sup>199</sup> The National LGBT/HIV Criminal Justice Working Group additionally identified investment in bystander intervention programs and other community safety models as key strategies that will allow communities to intervene and respond to violence more effectively.<sup>200</sup> It is imperative that departments collect data and track when bias-based calls are made. This allows departments to examine if there is a larger systemic issue within, for example, a particular neighborhood or if there are repeat bias-based callers who must be flagged.

The Board believes a restorative justice approach is essential to address bias-based calls and cases when someone files a suspected false police report. Restorative justice "is a theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to transformation of people, relationships and communities."<sup>201</sup> The Board acknowledges that when biased calls are made to law enforcement, it deeply impacts the relationship within the community and with the police. As such, a restorative justice approach that focuses on the harm caused by the criminal behavior and repairing the harm through community collaboration is needed to address the underlying causes of bias-based behaviors.

While behaviors that feed on and perpetuate bias must be condemned and punished, the Board also recognizes that many advocacy organizations and individuals do not support penalty-enhancement bills. $^{202}$  The Board is concerned that while these laws are framed as mechanisms to protect bias-targeted communities, they have contributed to perpetuating

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<sup>&</sup>lt;sup>197</sup> The coalition partners include: The Leadership Conference Education Fund, Lawyers' Committee for Civil Rights Under Law, New York City Anti-Violence Project, Asian Americans Advancing Justice, Hollaback!, Muslim Advocates, National Action Network, National Center for Transgender Equality, National Council of Jewish Women, National Disability Rights Network, National Network for Arab American Communities, Religious Action Center, South Asian Americans Leading Together, The Sikh Coalition, and UnidosUS (formerly National Council of La Raza). The Southern Poverty Law Center serves as strategic advisor.
<sup>198</sup> Communities Against Hate, Hate Magnified: Communities in Crisis (2019) pp. 7-8. <a href="https://hatemagnified.org/CAH-hatemagnified2019.pdf">https://hatemagnified.org/CAH-hatemagnified2019.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>199</sup> National Coalition of Anti-Violence Programs, National Report on LGBTQ & HIV-Affected Violence in 2017 (2018) p. 24 <a href="http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf">http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf</a> (as of Dec. 14, 2020). The NCAVP hate violence incident-reporting model includes false police reporting incidents. *Id.* at p. 47.

<sup>&</sup>lt;sup>200</sup> Saenz, Ingelhart, and Ritchie, The Impact of the Trump Administration's Federal Criminal Justice Initiatives on LGBTQ People & Communities and Opportunities for Local Resistance (2018) p. 25.

<sup>&</sup>lt;a href="https://www.lambdalegal.org/sites/default/files/publications/downloads/the\_impact\_of\_the\_trump\_administrations\_federal\_criminal\_justice\_initiatives\_on\_lgbtq\_people\_communities\_and\_opportunities\_for\_local\_resistance.pdf">https://www.lambdalegal.org/sites/default/files/publications/downloads/the\_impact\_of\_the\_trump\_administrations\_federal\_criminal\_justice\_initiatives\_on\_lgbtq\_people\_communities\_and\_opportunities\_for\_local\_resistance.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>201</sup> Center for Justice & Reconciliation, *Lesson 1: What Is Restorative Justice?* Prison Fellowship International <a href="http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/">http://restorative-justice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>202</sup> Penalty-enhancement bills are laws that increase criminal penalties; lengthen sentences, for bias-related crimes. Penalties are enhanced "either through assigning a higher sentencing range for bias-motivated crimes or 'upgrading' a bias-driven offense to a more serious category of crime." Franklin, K. *Good Intentions: The Enforcement of Hate Crime Penalty Enhancement Statutes* (2002) The American Behavioral Scientist, 46(1), 154-55.

social disparities. Instead, communities and prosecuting agencies should emphasize the importance of restorative and transformative justice $^{203}$  responses to bias-motivated incidents.

A restorative justice approach that addresses bias-based calls can be a tool to educate the bias-based caller and to reconcile their actions by acknowledging the harm done to the affected community or individual.<sup>204</sup> The approaches can be as simple as an apology or required community service at an organization working with people of color, or as in depth as a court-ordered cultural sensitivity training. 205 One tactic departments could employ is for dispatchers to code a suspected bias-based call as a "restorative justice" matter. When officers are dispatched, they could enter the situation with the mindset that the alleged suspect may be the victim of a bias-based call. Shift supervisors should also be dispatched in these situations and help "close out the call" to let the bias-based caller know that no suspicious or criminal activity was found and to educate the caller on what is or is not an appropriate basis for calling 911.

"The LASD also employs a random service review audit process during which field supervisors contact community members involved in requests for service. Field supervisors ask them a variety of questions to determine if they were or were not satisfied with the service they received or if they have any service or personnel complaints regarding any [or] all deputy personnel who were present at the call"

- Los Angeles County SD

In the case of Amy Cooper, the District Attorney's office is exploring a restorative justice approach where Amy Cooper not only takes responsibility for her actions in filing a false police report, but is also educated on how her bias-based behavior was harmful.  $^{206}$  The District Attorney hopes that by using a restorative justice approach, "this process will both enlighten,"

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<sup>&</sup>lt;sup>203</sup> "Transformative justice [is] a liberatory [liberating] approach to violence . . . [which] seeks safety and accountability without relying on alienation, punishment, or State or systemic violence, including incarceration or policing." This is a similar approach to restorative justice, but instead of relying on the government or criminal justice system, it instead promotes healing and accountability through a cooperative community engagement. "Transformative Justice seeks to provide people who experience violence with immediate safety and long-term healing and reparations while holding people who commit violence accountable within and by their communities. This accountability includes stopping immediate abuse, making a commitment to not engage in future abuse, and offering reparations for past abuse. Such accountability requires on-going support and transformative healing for people who sexually abuse." Transformative Justice, Transform Harm (Oct. 01, 2020) <a href="https://transformharm.org/transformative-justice/">https://transformharm.org/transformative-justice/</a>. See also Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and other forms of Intimate and Community Violence, Generation 5 (2007) <a href="https://www.usprisonculture.com/blog/wp-content/uploads/2012/03/G5\_Toward\_Transformative\_Justice.pdf">https://www.usprisonculture.com/blog/wp-content/uploads/2012/03/G5\_Toward\_Transformative\_Justice.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>204</sup> Communities Against Hate, Hate Magnified: Communities in Crisis (2019) pp. 34-35 <a href="https://hatemagnified.org/CAH-hatemagnified2019.pdf">https://hatemagnified.org/CAH-hatemagnified2019.pdf</a> (as of Dec. 14, 2020); National Coalition of Anti-Violence Programs, National Report on LGBTQ & HIV-Affected Violence in 2017 (2018) p. 8. <a href="http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf">http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>205</sup> Communities Against Hate, Hate Magnified: Communities in Crisis (2019) pp. 34-35 <a href="https://hatemagnified.org/CAH-hatemagnified2019.pdf">https://hatemagnified.org/CAH-hatemagnified2019.pdf</a> (as of Dec. 14, 2020); National Coalition of Anti-Violence Programs, National Report on LGBTQ & HIV-Affected Violence in 2017 (2018) p. 7. <a href="https://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf">https://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>206</sup> The victim of the racist call has stated he does not wish to participate in the prosecution. (*Woman who called cops on Black birdwatcher made 2nd 911 call, prosecutors reveal,* WABC (Oct. 15, 2020). <a href="https://abc7ny.com/society/amy-cooper-expected-to-agree-to-community-service/7021351/">https://abc7ny.com/society/amy-cooper-expected-to-agree-to-community-service/7021351/</a> [as of Dec. 14, 2020]).

heal, and prevent similar harm to our community in the future."<sup>207</sup> A restorative justice process provides a unique opportunity for the community to come together and have a conversation about the impact of explicit or implicit bias and incidents that reinforce hate.

#### Best Practices for Responding to Bias-Based Calls

The Board continues to review evidence-based best practices and policies in responding to bias-based calls. The San Francisco Police Department is one of the few law enforcement agencies within the state of California that directly addresses bias by proxy in its policies. Within the policy, the agency defines it as:

[W]hen individuals call the police and make false or ill-informed claims of misconduct about persons they dislike or are biased against based on explicit racial and identity profiling or implicit bias. When the police act on a request for service rooted in implicit, explicit or unlawful bias, they risk perpetuating the caller's bias. Members should use their critical decision-making skills drawing upon their training to assess whether there is criminal conduct.<sup>208</sup>

The policy goes on to reiterate that officers should be cognizant of "racial and identity profiling, implicit bias, and bias by proxy" while carrying out their duties. <sup>209</sup> The Board recommends that the legislature: (1) require law enforcement agencies to adopt a policy addressing bias by proxy and (2) mandate a specific course on bias by proxy for both dispatchers and officers as part of their basic training and continuing education. Specifically, for bias by proxy, the policy should include:

"SFPD was in the process of renewing its Bias General Order that addressed all recommendations on bias policy from the RIPA board, and included a nation leading bias by proxy policy"

- San Francisco PD

- How officers can identify a bias-based call for service;
- How sworn personnel and dispatchers should interact with the community member who has made a bias-based call for service;
- How an officer should interact with a community member who is the subject of a biasbased call;
- How the shift supervisor should interact with the caller;
- Required training for officers and dispatchers that covers responding to bias-based calls for service; and

<sup>&</sup>lt;sup>207</sup> Woman who called cops on Black birdwatcher made 2nd 911 call, prosecutors reveal, WABC (Oct. 15, 2020) <a href="https://abc7ny.com/society/amy-cooper-expected-to-agree-to-community-service/7021351/">https://abc7ny.com/society/amy-cooper-expected-to-agree-to-community-service/7021351/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>208</sup> See San Francisco Police Department (2020) General Order 5.17: Bias Free Policing Policy

<sup>&</sup>lt;a href="https://sfgov.org/policecommission/sites/default/files/Documents/PoliceCommission/draft\_DGO\_5.17\_Policy\_Prohibiting\_Biased\_Policing\_-\_redlined\_01242020%20FINAL.pdf">https://sfgov.org/policecommission/sites/default/files/Documents/PoliceCommission/draft\_DGO\_5.17\_Policy\_Prohibiting\_Biased\_Policing\_-\_redlined\_01242020%20FINAL.pdf</a> (as of Dec. 14, 2020).

209 Ibid.

• Guidelines for how to implement a restorative justice approach to address bias-based incidents in their communities.

Additionally, departments should consider using a three-step protocol to approaching bias-based calls, which is something that the Board raised in last year's report. Former RIPA Board Member Jennifer Eberhardt and researchers at Stanford University, in conjunction with tech company Nextdoor – an online platform where neighbors can gather and share information – developed a strategy of "if you see something suspicious, say something specific" to curb racial profiling on the platform. Dr. Eberhardt's team recommend "adding friction," which simply means slowing people down and causing them to pause and consider specifically what is "suspicious" about what they are observing. This approach has been highly effective in mitigating bias. In fact, the strategy was so effective that Nextdoor was able to curb racial profiling by 75 percent. The three-step checklist included:

- First, they asked users to pause and think, "What was this person doing that made him suspicious?" The category "Black man" is not grounds for suspicion.
- Second, they asked users to describe the person's physical features, not simply their race and gender.
- Third, they realized that many people did not seem to know what racial profiling was, nor that they were engaging in it. So Nextdoor provided them with a definition and told them that it was strictly prohibited.<sup>210</sup>

Trainings for both law enforcement and dispatchers should consider implementing this approach or working on developing something similar. The simple act of adding friction is an invaluable tool that research shows reduces profiling. When the same Stanford researchers also worked with the Oakland Police Department, they found that asking officers to pause and ask a question before every stop: "is this stop intelligence led?", or in other words, "do I have prior information to tie this particular person to a specific crime?" By adding that question to the form officers completed during a stop, they slowed down and thought about why they were considering stopping someone. This intelligence-led question resulted in a massive drop in the number of stops of those perceived as Black and Hispanic or Latinx. In fact, adding these sources of friction reduced stops of those perceived as Black by 43 percent and those perceived as Hispanic or Latinx by 35 percent. By implementing this approach, agencies may be able to

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<sup>&</sup>lt;sup>210</sup> Eberhardt, How racial bias works -- and how to disrupt it (June 2020) Ted Talk <a href="https://www.ted.com/talks/jennifer\_l\_eberhardt\_how\_racial\_bias\_works\_and\_how\_to\_disrupt\_it/transcript?language=en.">https://www.ted.com/talks/jennifer\_l\_eberhardt\_how\_racial\_bias\_works\_and\_how\_to\_disrupt\_it/transcript?language=en.</a> (as of Dec. 14, 2020).

lbid. See also Strategies for Change: Research Initiatives and Recommendations to Improve Police Community Relations in Oakland, Calif. (2016) Stanford SPARQ <a href="https://stanford.app.box.com/v/Strategies-for-Change">https://stanford.app.box.com/v/Strategies-for-Change</a> (as of Dec. 14, 2020).
 Eberhardt, How racial bias works -- and how to disrupt it (June 2020) Ted Talk.

<sup>&</sup>lt;a href="https://www.ted.com/talks/jennifer\_l\_eberhardt\_how\_racial\_bias\_works\_and\_how\_to\_disrupt\_it/transcript?language=en.">https://www.ted.com/talks/jennifer\_l\_eberhardt\_how\_racial\_bias\_works\_and\_how\_to\_disrupt\_it/transcript?language=en.</a> (as of Dec. 14, 2020); See also Oakland Police Department, Office of Chief of Police, 2016-18 Racial Impact Report (2019) p. 3 <a href="https://cao-94612.s3.amazonaws.com/documents/OPD-Racial-Impact-Report-2016-2018-Final-16Apr19.pdf">https://cao-94612.s3.amazonaws.com/documents/OPD-Racial-Impact-Report-2016-2018-Final-16Apr19.pdf</a>. (as of Dec. 14, 2020).

prevent officers from being dispatched to calls for service that do not involve a crime, but rather are the result of either implicit or explicit bias.

# Responding to a Mental Health Crisis

"Over the years, reductions in state and local budgets have slashed funding for mental health services, homelessness, and substance abuse and recovery services; offender reentry programs; educational and vocational training opportunities; and programs that promote economic improvement. By default, police agencies have been required to fill the void created by funding cuts in social and medical welfare systems, which often places police officers in an untenable position.

For example, the "defunding" of mental health services by state and local governments in recent years means that the police are often the only ones left to call to situations where a social worker or mental health professional would have been more appropriate and safer for all involved. Although police agencies are working to train officers in crisis intervention or mental health first aid, this does not take the place of proper medical treatment."

- International Association of Chiefs of Police

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"A comprehensive and integrated crisis network is the first line of defense in preventing tragedies of public and patient safety, civil rights, extraordinary and unacceptable loss of lives..." 214 Civil rights leaders have long advocated for funding social services and community-based programs that better address individual needs rather than asking the criminal justice system to address issues such as being unhoused or mental health conditions. Law enforcement has also explained that over time they have been asked to be the "catch all" for issues our society has failed to solve, and there needs to be a better solution. 215

The vast majority of calls for service are actually best suited for a community responder model, where social service agencies are the first responders to nonviolent calls or a mental health crisis. In fact, only 4 percent of calls for service involve a report of a violent crime. Further, in a study of over 264 cities, researchers found that "every 10 additional organizations focusing on crime and community life in a city with 100,000 residents leads to a 9 percent reduction in

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<sup>&</sup>lt;sup>213</sup> International Association of Chiefs of Police (Jun. 08, 2020) IACP Statement on "Defunding the Police"

<sup>&</sup>lt;a href="https://www.theiacp.org/news/blog-post/iacp-statement-on-defunding-the-police">https://www.theiacp.org/news/blog-post/iacp-statement-on-defunding-the-police</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>214</sup> Substance Abuse and Mental Health Services Administration (2020) National Guidelines for Behavioral Crisis Care: Best Practices Tool Kit, p. 8 <a href="https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf">https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>215</sup> Sipes, Social Workers Need to Step Up and Replace Cops, Crime in America (July 13, 2020)

<sup>&</sup>lt;a href="https://www.crimeinamerica.net/social-workers-need-to-step-up-and-replace-cops/">https://www.crimeinamerica.net/social-workers-need-to-step-up-and-replace-cops/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>216</sup> Asher and Horwitz, *How Do the Police Actually Spend Their Time?* New York Times (Jun. 19, 2020)

<sup>&</sup>lt;a href="https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html">https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html</a> (as of Dec. 14, 2020).

the murder rate, a 6 percent reduction in the violent crime rate, and a 4 percent reduction in the property crime rate."<sup>217</sup>

The Board recognizes that even with specialized crisis intervention training for officers and other county programs in which social workers and law enforcement work together, nearly 1 in 4 fatal police shootings in the United States in the past 5 years involved someone experiencing a mental health crisis.<sup>218</sup> Nationwide, about one third to half of use of force incidents by police involved someone with a disability or mental health conditions.<sup>219</sup>

Investing in the community and social services is a common sense approach to modern policing that reduces the overall violent crime rates, encourages an efficient use of community resources, and saves countless lives by connecting people to the care they need. In developing new crisis models, it is important to be mindful of the lessons of our past as we also move into the future of reimagined approaches to healthcare.

# How the Mental Health System Has Historically Interacted with the Criminal Justice System

Mental health advocates in our country have struggled and continue to strive to achieve equal rights and fair treatment of those with disabilities. State-run mental institutions developed in the 1800's after Dorothea Dix reported on the appalling treatment of those afflicted with mental illness in the jails. $^{220}$ 

Unfortunately, the state-run institutions turned into a terrifying, abusive, horrific environment for those who were committed to them. The conditions of these institutions gave rise to the deinstitutionalization movement. Disability rights advocates fought to move severely mentally ill people from the inhumane conditions of state-run institutions to community-based care and advocated that treatment of mental illness should be in the least restrictive setting. However, funding for community mental health centers was not prioritized by the federal or state governments over several decades, and states have continued to cut spending for mental health related services. From 2009 to 2012, states cut over \$4.35 billion dollars allocated for community-based care —the largest reduction in budget since the deinstitutionalization movement. In 2012, California had a mental health budget of \$2.8 billion, a \$760 million dollar

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<sup>&</sup>lt;sup>217</sup> In reaching these conclusions researchers reviewed crime rates and treads in 264 cities spanning a period of 20 years. Sharkey, Torrats-Espinosa & Takyar, *Community and the Crime Decline: The Causal Effect of Local Nonprofits on Violent Crime*. (2017) American Sociological Review, 82(6), 1214-1240

<sup>&</sup>lt;a href="https://journals.sagepub.com/doi/10.1177/0003122417736289">https://journals.sagepub.com/doi/10.1177/0003122417736289</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>218</sup> Fatal Force: Police Shootings Database, Washington Post (Nov. 18, 2020)

<sup>&</sup>lt;a href="https://www.washingtonpost.com/graphics/investigations/police-shootings-database/">https://www.washingtonpost.com/graphics/investigations/police-shootings-database/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>219</sup> Perry and Carter-Long, *The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability* (March 2016) Ruderman Family Foundation <a href="https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability\_final-final.pdf">https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability\_final-final.pdf</a>. (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>220</sup> Dorothea Dix, *Memorial to the Legislature of Massachusetts, Old South Leaflets* (1843) vol. 7, pp. 489-519 <a href="https://college.cengage.com/history/ayers\_primary\_sources/dorothea\_dix\_speaks\_insane\_persons.htm.">https://college.cengage.com/history/ayers\_primary\_sources/dorothea\_dix\_speaks\_insane\_persons.htm.</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>221</sup> Deinstitutionalization: A Psychiatric "Titanic," PBS: Frontline (1997)

<sup>&</sup>lt;a href="https://www.pbs.org/wgbh/pages/frontline/shows/asylums/special/excerpt.html#ret7">(as of Dec. 14, 2020).</a>

reduction from 2009 funding levels.<sup>222</sup> In the vacuum that was created by these severe funding cuts, prisons and jails took over the role of caretaking for people suffering from a variety of ailments; we as a society began to criminalize and punish what we gave up trying to heal and soothe. Today, one third of unhoused persons suffer from a serious untreated mental health condition.<sup>223</sup> Approximately 2 million people with mental illness are booked into jail each year; nearly 15 percent of men and 30 percent of women in the jails have a serious mental health condition that requires treatment.<sup>224</sup> In fact, the Los Angeles County Jail is effectively one the largest "mental institutions" in the country.<sup>225</sup>

Police have been inappropriately tasked with the responsibility of helping alleviate a health crisis. Police officers and departments are not trained mental health clinicians and – even with the best of training – should not be the first responders in many of these situations. Nor can

"With non-existent or inadequate crisis care, cots escalate due to an overdependence on restrictive, longer-term hospital stays, hospital readmissions, overuse of law enforcement and human tragedies that result from lack of access to care. Extremely valuable psychiatric inpatient assets are over-burdened with referrals that might be best-supported with less intrusive, less expensive services and supports."

- Substance Abuse and Mental Health Services Administration (SAMHSA) emergency rooms be the only alternative to providing treatment to people with a medical condition, as this often creates a revolving door where some patients can never achieve long-term stabilization. <sup>226</sup>

Removing mental health care from carceral institutions, such as jails and state-run institutions, and bringing it back into the community, should be the path forward. The Board calls upon our leaders to fulfill the promise that was made over 60 years ago to fund community based solutions so everyone can live with dignity, autonomy, and respect.

#### Developing Crisis Response Models

This year, the RIPA Board invited several experts to speak about mental health and law enforcement interactions. One of those experts was Emily Lyles, a Licensed Clinical Social Worker in California with the Kern County Behavioral Health and Recovery Services who also oversees the Mobile Evaluation Team (MET) and co-chairs the Crisis Intervention Team (CIT). Emily Lyles discussed the development and implementation of one of the first co-response

<sup>&</sup>lt;sup>222</sup> Lippman, *State Mental Health Cuts Hit Low-Income Patients Hard.* Huffington Post (Sep. 19, 2012) <a href="https://www.huffpost.com/entry/state-mental-health-cuts\_n\_1897769">https://www.huffpost.com/entry/state-mental-health-cuts\_n\_1897769</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>223</sup> Mondics, *How Many People with Serious Mental Illness Are Homeless?* The Treatment Advocacy Center <a href="https://www.treatmentadvocacycenter.org/fixing-the-system/features-and-news/2596-how-many-people-with-serious-mental-illness-are-homeless">https://www.treatmentadvocacycenter.org/fixing-the-system/features-and-news/2596-how-many-people-with-serious-mental-illness-are-homeless</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>224</sup> Jailing People with Mental Illness, National Alliance on Mental Illness <a href="https://www.nami.org/Advocacy/Policy-Priorities/Divert-from-Justice-Involvement/Jailing-People-with-Mental-Illness">https://www.nami.org/Advocacy/Policy-Priorities/Divert-from-Justice-Involvement/Jailing-People-with-Mental-Illness</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>225</sup> Los Angeles County Sheriff's Department, Welcome to Twin Towers

<sup>&</sup>lt;a href="http://shq.lasdnews.net/pages/PageDetail.aspx?id=1404">http://shq.lasdnews.net/pages/PageDetail.aspx?id=1404</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>226</sup> Substance Abuse and Mental Health Services Administration (2020) National Guidelines for Behavioral Crisis Care: Best Practices Tool Kit, p. 8 <a href="https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf">https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf</a> (as of Dec. 14, 2020).

teams in the nation, where law enforcement and social workers team up to respond to mental health calls. She discussed how Kern County uses this approach to "reroute" people from the criminal justice system to treatment.

Vinny Eng also presented to the Board. Mr. Eng is a community organizer and mental health advocate who lost his sibling, Jazmyne Ha Eng. Jazmyne was killed by sheriff's deputies while experiencing a mental health crisis in a mental health facility. This tragedy became the impetus for his advocacy, which focuses on preventing similar outcomes for others experiencing a crisis. Vinny Eng advocated that the Board look at models where law enforcement is not the first point of contact for mental health crisis response and that the community must be involved throughout the process in order to achieve meaningful reforms. Vinny Eng further recommended that the Board not subdivide issues of race and disability because both are deeply intertwined, noting Mental Health America reports that Black adults are 20 percent more likely to report serious psychological distress than Whites.<sup>227</sup>

"We cannot arrest and incarcerate our way out of poverty, homelessness and mental illness. We cannot continue to expect officers to be guardians of safety, social workers, case managers, and counselors."

- Vinny Eng

The Board has started to examine several types of crisis intervention strategies from around the country in its exploration of developing best practices and model polices. There is no one-size-fits-all solution – each person and each crisis is different. Likewise, each community has different needs and gaps in social services that must be addressed. The examples below are presented in a timeline to demonstrate the evolution of crisis response in our country. This list is by no means exhaustive and should be seen as a starting point for

leadership, communities, and law enforcement to discuss how they can improve calls for services through a community first response. We hope by carefully examining our past, we can better reimagine the future of public safety.

#### Memphis Model: Crisis Intervention Teams

The Crisis Intervention Teams (CIT) model began in Memphis, TN in 1988 when a mother called the police to help her son, who was having a mental health crisis; her son was killed by police. The City of Memphis took this tragic moment to bring together the community to develop a new approach to public safety. Since then, the program has been replicated nationally and internationally, with over 2,700 CIT programs. <sup>229</sup>

The basis behind the CIT program is to train a select group of police officers to respond to certain crisis calls. The core element of CIT involves officers interested in the program taking a

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<sup>&</sup>lt;sup>227</sup> Mental Health America (2020) Racism and Mental Health <a href="https://www.mhanational.org/racism-and-mental-health">https://www.mhanational.org/racism-and-mental-health</a> See also, U.S. Department of Health and Human Services Office of Minority Health (Sep. 25, 2019) Mental and Behavioral Health - African Americans <a href="https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4.">https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4.</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>228</sup> Rogers, McNiel & Binder, *Effectiveness of Police Crisis Intervention Training Programs*. (2019) Journal of the American Academy of Psychiatry and the Law, p. 2 <a href="http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf">http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>229</sup> *Id.* at p. 3.

40-hour or 1-week course on crisis response. In Memphis, the instructors include mental health workers, advocates, and officers familiar with CIT.<sup>230</sup> The program also requires dispatchers to undergo an 8-hour training to recognize mental health calls that should be rerouted to the CIT. Finally, the program has a "centralized drop-off mental health facility," where there is automatic acceptance of patients transported by CIT officers.<sup>231</sup>

The research on the outcomes of the CIT programs indicate mixed results. "[T] here is concern about the lack of evidence of efficacy for specific goals and concern over the opportunity cost of pursuing this model to the exclusion of others." One study found that CIT training appeared to have little to no effect on injuries in police encounters with individuals with mental illness, and there is no measurable difference between use of force with CIT trained officers and those without it. However, CIT has shown to be effective in improving officer satisfaction and self-perceived reduction in the use of force; moderate cost reductions have also occurred in cities that have implemented CIT programs by diverting people from the jails to hospitals. CIT recommends that 20 to 25 percent of officers be trained in the program to ensure coverage of all shifts.

In their best practices guide, CIT acknowledges that even after 30 years of service, they "still see too many people jailed, left to the streets, and with no place to go for care except the emergency department." CIT helps give officers some tools to mitigate the tragedies of an unaddressed health crisis. CIT sees itself as a temporary solution until our society develops mental health solutions for a mental health crisis. The end goal should be "a robust crisis response and community mental health system that prevents people from entering the revolving door of the criminal justice system."

#### Mobil Evaluation Teams (MET): Kern County

The MET is a Crisis Intervention Unit that is dispatched by law enforcement agencies to the scene of behavioral health crises to provide on-scene crisis intervention and evaluations conducted under Welfare and Institutions Code section 5150. MET teams were first formed in the 1990's in Los Angeles and quickly expanded to Kern County, which developed one of the

<sup>231</sup> Larger metropolitan areas have deployed multiple facilities within geographically dispersed areas. Rural settings present specific challenges in using the CIT model for crisis response.

<sup>236</sup> CIT International (Aug. 2019) A Best Practice Guide for Transforming Community Response to Mental Health Crisis <a href="https://citinternational.org/bestpracticeguide">https://citinternational.org/bestpracticeguide</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>230</sup> *Id.* at pp. 2-3.

<sup>&</sup>lt;sup>232</sup> Rogers, McNiel & Binder, *Effectiveness of Police Crisis Intervention Training Programs* (2019) Journal of the American Academy of Psychiatry and the Law, pp. 5-6 <a href="http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf">http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>233</sup> Kerr, Morabito & Watson, *Police Encounters, Mental Illness, and Injury: An Exploratory Investigation* (2010) Journal of Police Crisis Negotiations, 10(1-2), 116-132 <a href="https://journals.sagepub.com/doi/10.1177/0011128710372456">https://journals.sagepub.com/doi/10.1177/0011128710372456</a> (as of Dec. 14, 2020). <sup>234</sup> Rogers, McNiel & Binder, *Effectiveness of Police Crisis Intervention Training Programs* (2019) Journal of the American Academy of Psychiatry and the Law, pp. 5-6 <a href="http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf">http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf</a>. (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>235</sup> Yale Police Department participates in Crisis Intervention Team (CIT) Training, Yale News (Sep. 09, 2020) <a href="https://your.yale.edu/news/2020/09/yale-police-department-participates-crisis-intervention-team-cit-training.">https://your.yale.edu/news/2020/09/yale-police-department-participates-crisis-intervention-team-cit-training.</a> (as of Dec. 14, 2020).

first co-response models in the nation.<sup>237</sup> Through the MET collaboration with behavioral health specialists, what starts as a law enforcement response can instead lead to an intervention provided by a mental health professional, resulting in verbal de-escalation and a resolved call for service. These teams are also responsible for providing CIT training to officers.

The MET teams in Kern County responds to 2,600-3,000 calls for service a year. The Kern model adopts several approaches to providing care:

- Mental health providers participate in the 911 dispatch system, and they can either be dispatched by law enforcement or can respond directly on the 911 to mental health calls.
- MET provides CIT training to officers in Kern County, including Bakersfield Police Department and Kern County Sheriff's Office.
- Co-response teams have a social worker riding along with an officer.
- Smart911 is a program used by MET that allows callers to pre-enter health information, such as a mental health diagnosis or prescribed medications. 238

Kern County has encountered several obstacles to providing community-based care for residents in crisis. As is the case with many behavioral health services, MET teams have struggled with funding throughout the years. First, the county currently funds its program through the general behavioral health fund for the county and by billing those who are using the services (i.e., charging the person who is in crisis.) Additionally, it has been a challenge to connect patients to community-based care, and teams are left with few options for long-term care for patients. "Currently, the ratio of patients to mental health care providers in Kern County is 580:1. Although this is not the highest ratio in California, it is well above California as a whole (380:1)."239 Nevertheless, despite these challenges, in 2020 Kern County is providing 24/7 access through virtual crisis response.

#### Eugene, Oregon: CAHOOTS (Crisis Assistance Helping Out On the Streets)

The CAHOOTS program in Oregon has been a model for many cities who are "reimagining public safety." It is a 24/7 mobile crisis intervention program that has been utilized by the city of Eugene since 1989. The intervention team is dispatched through both the 911 call center and a non-emergency line. CAHOOTS is a mobile health clinic that will arrive at the dispatched location in a van and will either offer services to the person in crisis at their location or

<sup>&</sup>lt;sup>237</sup> Department of Mental Health (2019) Mental Evaluation Team Progress Report Fiscal Year 2018-19 <a href="https://lasd.org/pdfjs/web/FY2018-19%20Annual%20Report%20on%20MET.PDF">https://lasd.org/pdfjs/web/FY2018-19%20Annual%20Report%20on%20MET.PDF</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>238</sup> "When you call 9-1-1, your Smart911 Safety Profile displays on the 9-1-1 screen and the 9-1-1 call takers can view your addresses, medical information, home information, description of pets and vehicles, and emergency contacts. You can provide as much or as little information as you like. Smart911 is a national service meaning your Smart911 Safety Profile travels with you and is visible to any participating 9-1-1 center nationwide." Smart911 <a href="https://www.smart911.com/">https://www.smart911.com/</a> (as of Dec. 14, 2020). <sup>239</sup> Kern County Public Health Services Department, (2018-2019) Community Health Assessment and Improvement Plan <a href="https://kernpublichealth.com/wp-content/uploads/2019/12/KCPHSD-Community-Health-Assessment-and-Improvement-Plan-definition-plan-defin 2018.2019.pdf.> (as of Dec. 14, 2020).

transport the person to an appropriate community provider. They handle about 20 percent of all 911 calls in the city.

The teams consist of (1) either a nurse or EMT and (2) a crisis worker who has several years of experience in the mental health field. The CAHOOTS program is considered a co-response model, meaning that if a crime is reported, the police may be dispatched instead of or in addition to the crisis intervention team.<sup>240</sup> The team is equipped to handle matters such as conflict resolution, welfare checks, substance abuse issues, and aid to those who are experiencing thoughts of self-harm. In addition to their professional backgrounds, team members have over 500 hours of required training. The team relies on trauma-informed deescalation and harm reduction techniques to help those in crisis.<sup>241</sup>

CAHOOTS staff are not police officers and, thus, are not armed. Instead, CAHOOTS staff rely on their training to reach non-violent resolutions. The consulting director for the program has explained that one of the biggest obstacles they have faced is overcoming social stigmas surrounding mental health and substance use and the belief that these calls are inherently dangerous. "It is our experience that folks in crisis just aren't dangerous."<sup>242</sup>

The program has helped the city save about \$8 million dollars annually on public safety and \$14 million in emergency rooms costs. Alameda County is working in collaboration with Bonita House to create a similar mobile response team that will be funded in part by the Mental Health Services Act. Los Angeles County has also voted to contract with non-profit partners to create an unarmed crisis response team similar to the CAHOOTs program to respond to non-violent calls. This type of reform may be a starting place for some communities, but certainly is not the only model or the right model for every community.

#### San Francisco: Street Crisis Response Teams

Since the death of George Floyd, there has been a renewed interest in developing new models for crisis response. The city of San Francisco, in collaboration with a community-based steering committee, is working to develop alternative responses to non-violent calls. Notably, the steering team is guided by the Human Rights Commission of SF and consists of community members from Hospitality House, GLIDE, San Francisco AIDS Foundation, Urban Alchemy, Street Violence Intervention Program, At the Crossroads, Metta Fund, and HealthRight360.<sup>245</sup>,

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<sup>&</sup>lt;sup>240</sup> Crisis Assistance Helping Out On the Streets (CAHOOTS) White Bird Clinic Media Guide 2020 <a href="https://whitebirdclinic.org/wp-content/uploads/2020/06/CAHOOTS-Media-Guide-20200626.pdf">https://whitebirdclinic.org/wp-content/uploads/2020/06/CAHOOTS-Media-Guide-20200626.pdf</a>. (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>242</sup> Westervelt, *Mental Health and Police Violence: How Crisis Intervention Teams Are Failing*. NPR (Sep. 18, 2020) <a href="https://www.npr.org/2020/09/18/913229469/mental-health-and-police-violence-how-crisis-intervention-teams-are-failing">https://www.npr.org/2020/09/18/913229469/mental-health-and-police-violence-how-crisis-intervention-teams-are-failing</a> (as of Dec. 14, 2020).

 <sup>&</sup>lt;sup>243</sup> Crisis Assistance Helping Out On the Streets (CAHOOTS) White Bird Clinic, Media Guide 2020
 <a href="https://whitebirdclinic.org/wp-content/uploads/2020/06/CAHOOTS-Media-Guide-20200626.pdf.">https://whitebirdclinic.org/wp-content/uploads/2020/06/CAHOOTS-Media-Guide-20200626.pdf.</a> (as of Dec. 14, 2020).
 <sup>244</sup> Meeks, Los Angeles will create unarmed crisis response teams for nonviolent 911 calls, CNN (Oct. 14, 2020)
 <a href="https://www.cnn.com/2020/10/14/us/los-angeles-unarmed-crisis-response-teams-911-calls/index.html">https://www.cnn.com/2020/10/14/us/los-angeles-unarmed-crisis-response-teams-911-calls/index.html</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>245</sup> City of San Francisco, Mayor's Office (Sep. 8, 2020) Mayor London Breed Announces Launch of Alternatives to Policing Steering Committee <a href="https://sfmayor.org/article/mayor-london-breed-announces-launch-alternatives-policing-steering-committee">https://sfmayor.org/article/mayor-london-breed-announces-launch-alternatives-policing-steering-committee</a> (as of Dec. 14, 2020).

Sheryl Evans Davis, Executive Director of the San Francisco Human Rights Commission said, "this is the beginning of a process to address the system failures and inequities disproportionately experienced by people of color and people in crisis. I look forward to hearing from those directly impacted, learning from the Steering Committee and hearing the alternatives created, informed, supported and led by community." 246

The city is currently working in collaboration with the community to develop the best crisis response model for the city. Instead of armed officers responding to psychiatric calls or non-violent calls, the city will focus on developing mobile crisis response teams, consisting of paramedics, mental health professionals, and peer support specialists (e.g., someone who has personally experienced a mental health crisis). This program is similar to the CAHOOTS crisis response teams.<sup>247</sup>

The Board wanted to highlight this program as an example of how cities developing crisis response systems can effectively do so in collaboration with the community and those directly impacted by the services.

#### New York: Not911

Not911 is a mobile app that aides the user in resolving a variety of community-based issues without the police. The app was created by a nonprofit software company, Emergent Works, that trains and employs formally incarcerated people.<sup>248</sup> The designers recognized that many people are fearful of calling the police for a variety of reasons, such as immigration status.<sup>249</sup>

The app allows users to choose from a variety of agencies and nonprofits to address issues such as mental health calls, assistance for those who are unhoused, domestic violence, drug overdose, or legal support. Presently the app is only available to New York City-based organizations that offer counseling, mediation, and intervention services. The app is currently available for download at <a href="https://not911.nyc/">https://not911.nyc/</a>.

#### The Board's Vision for Crisis Intervention Models

As these crisis response models continue to develop, the Board hopes to continue to explore different types of responses. For example, there is a nonprofit mobile crisis response team that launched in California in 2020 that is completely independent from the police department and traditional 911 dispatch centers.<sup>251</sup> The Board is interested in learning more about this and

<sup>247</sup> Westervelt, *Removing Cops from Behavioral Crisis Calls: 'We Need To Change The Model,'* NPR (Oct. 19, 2020) <a href="https://www.npr.org/2020/10/19/924146486/removing-cops-from-behavioral-crisis-calls-we-need-to-change-the-model">https://www.npr.org/2020/10/19/924146486/removing-cops-from-behavioral-crisis-calls-we-need-to-change-the-model</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>246</sup> Ihid.

<sup>&</sup>lt;sup>248</sup> Emergent Works (2020) <a href="https://www.emergentworks.org/">https://www.emergentworks.org/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>249</sup> Scotland and Quin, *Meet the Formerly Incarcerated Software Engineers Who Built a No-Police Alternative to 911*, Codeburst.io (Sept. 18, 2020) <a href="https://codeburst.io/meet-the-formerly-incarcerated-software-engineers-who-built-a-no-police-alternative-to-911-5a5af163f8b2?gi=9e0d442d73c8">gi=9e0d442d73c8</a>. (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>250</sup> Emergent Works (2020) <a href="https://www.emergentworks.org/">https://www.emergentworks.org/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>251</sup> Nonko, *A Volunteer-Run Program Could Be Model for Mental Health Response Without Police Intervention*, Next City (Oct. 1, 2020) <a href="https://nextcity.org/daily/entry/volunteer-run-program-model-mental-health-response-police-intervention">https://nextcity.org/daily/entry/volunteer-run-program-model-mental-health-response-police-intervention</a> (as of Dec. 14, 2020).

other models and consulting with experts in the mental health crisis intervention field to assess what models may serve as exemplars for law enforcement agencies in California.

The Board also hopes to review data on the efficacy of the different types of community-based responses and how they can be further improved. We encourage communities to come together and create a forum for families, providers, and law enforcement to discuss the best approaches to resolving this health care crisis. We must uplift our communities, listen to their needs, and be inclusive of disability when we discuss reforms so that we can move away from using jails and the criminal justice system as a substitute for treating societal issues. There are several resources that may be available to communities seeking to fund crisis intervention models, including funds available from the Mental Health Services Act, prison realignment funds through AB 109, and potentially the CAHOOTS Act, if passed by the U.S. legislature. Although some of this funding has been available for some time, counties have either not spent the funds or have expended the funds on increasing law enforcement budgets. These sources could be an invaluable resource for advocates and communities to finance innovative community-based responses to crisis care.

## Mental Health Services Act

The Mental Health Services Act can be a tremendous resource for counties in funding innovative approaches to mental health reforms and creating new crisis response models. The MHSA was passed by the California State legislature in 2004, but counties largely did not utilize these funds. In 2018, the legislature conducted an audit of MHSA funds and found that due to poor oversight of expenditures, many counties had amassed millions in unspent MHSA funds. The Board recommends that community members or law enforcement officers who have questions about how your county or city is spending MHSA funds should contact the California Department of Health Care Services, Phone, (916)-713-8756, FAX, (916) 440-7621, mhsa@dhcs.ca.gov.

#### AB 109: Public Safety Realignment

Another source of funding for community-based care is AB 109, prison realignment legislation. In 2011, the California Legislature passed AB 109, which sought to move persons serving a sentence for a low-level offense from jail into community-based programs, often referred to as "realignment." The bill included funding provisions for implementing and providing rehabilitative and supportive services. In the bill, the legislature specifically encouraged counties to use the funds to "invest in community based alternatives" to incarceration; however, there is little oversight and the spending of these funds is largely up to the broad discretion of local leaders. Since its enactment, local governments on average have

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<sup>&</sup>lt;sup>252</sup> California State Auditor (Feb. 2018) Mental Health Services Act, The State Could Better Ensure the Effective Sue of Mental Health Services Act Funding <a href="https://auditor.ca.gov/pdfs/reports/2017-117.pdf">https://auditor.ca.gov/pdfs/reports/2017-117.pdf</a>. (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>253</sup> California Mental Health Planning Council. (2012) Implementing AB 109: How Four California Counties Met the Challenge of the 2011 Public Safety Realignment in Their Communities

<sup>&</sup>lt;a href="https://www.dhcs.ca.gov/services/MH/Documents/AB%20109%20Imp%20Feb%202013\_FINAL.pdf">https://www.dhcs.ca.gov/services/MH/Documents/AB%20109%20Imp%20Feb%202013\_FINAL.pdf</a> (as of Dec. 14, 2020).

only used 11 percent of those funds for community-based services, while the remaining funds went back into the jails and probation departments.<sup>254</sup>

Some counties spend more of their budgets on community-based care, while others have taken AB 109 funding and increased local law enforcement budgets. For example, Contra Costa, Orange County, and Sacramento County spend 75 to 100 percent of their AB 109 budget on law enforcement. By contrast, San Diego, San Francisco, and Santa Cruz spend 0 to 25 percent of their AB 109 funds on law enforcement. This distinction is critical, since community-based programs, such as drug treatments, mental health counseling, employment assistance, and anger management, are highly effective at reducing recidivism rates, reducing costs associated with incarceration, and improving public safety. For instance, Santa Cruz, which spent a majority of its AB 109 funds on community-based services, saw a 20 percent reduction in its jail population.

## The Crisis Assistance Helping Out On the Streets (CAHOOTS) Act

The CAHOOTS Act is pending legislation that was introduced in the United States Congress in August 2020; identical bills were introduced in both the House and Senate. If it passes, this legislation would enhance state Medicaid funding for community-based mobile crisis response programs for those who may be experiencing a mental health or substance use disorder crisis. The federal government would pay 95 percent of the programs costs *and* offer up to \$25 million in grants to establish or expand existing programs.<sup>257</sup> Thus, California law enforcement agencies would not be responsible for the majority of the costs to implement or expand such programs.

In order to qualify for funding under the Act, the mobile crisis response teams must meet certain minimum requirements. They must be multidisciplinary teams composed of behavioral health care professionals, including nurses, social workers, and peer support specialists, who are trained in trauma care, de-escalation strategies, and harm reduction. The services must be available 24-7 and voluntary for the individuals experiencing the mental health or substance use disorder crisis. The crisis teams must maintain relationships with relevant community partners, including medical and behavioral health providers, community health centers, crisis respite centers, managed care organizations, or other social services organizations.<sup>258</sup>

## Vision for Future Reports

The Board will continue to analyze best practices and policies regarding bias by proxy. We will explore both evidenced-based best practices and individual agency's policies. We hope to start developing model policies for trainings for dispatchers in how to handle bias-based calls.

<sup>255</sup> Flynn, *Putting Teeth into A.B. 109: Why California Historic Public Safety Realignment Act Should Require Reentry Programming.* (Aug. 2013) Golden Gate University L.Rev. Vol. 43, Issue 3, Art. 7, pp. 9-20 <a href="https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=2104&context=ggulrev.">https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=2104&context=ggulrev.</a> (as of Dec. 14, 2020).

<sup>56</sup> Ihid

<sup>254</sup> Ihid.

<sup>&</sup>lt;sup>257</sup> Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 H.R. 7961; see also Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 S. 4441.

<sup>&</sup>lt;sup>258</sup> Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 H.R. 7961; see also Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 S. 4441.

Additionally, we would like to review best practices for how agencies can implement a restorative justice approach to bias-based calls.

In the coming years, the Board also hopes to consult with community members and experts in the field of crisis response. The Board recognizes that community based solutions to crisis response will come from communities themselves. We hope to invite leaders from some of these organizations to inform the Board of developing best practices surrounding crisis response. The Board will continue to review different national and international crisis response models, as well as data on the efficacy of different models, and make recommendations aimed at improving crisis intervention in California.

# CIVILIAN COMPLAINTS: POLICIES AND DATA ANALYSES

California law enforcement agencies have been submitting complaint information to the Department since 1981. The passage of RIPA required law enforcement agencies to submit the number of complaints alleging racial or identity profiling along with the number of complaints with dispositions of "sustained," "exonerated," "not sustained," and "unfounded." This data is then disaggregated and analyzed for inclusion in the Board's annual report. Included below is an overview and analysis of the civilian complaint data submitted to the DOJ, a review of the Wave 2 agencies civilian complaint forms, and a foundational discussion of Early Intervention Systems (EIS).

As the Board has noted in its earlier Reports, state law gives each law enforcement agency discretion to implement their complaint processes and outreach differently.<sup>260</sup> This variability can affect the number of complaints an agency may receive and the outcome of those complaint investigations. Thus, making comparisons across law enforcement agencies should be done with care, as the differences may be the result of a variety of factors. The Board has identified the following factors as important to consider in analyzing complaint data: 1) lack of uniformity regarding what constitutes a "civilian complaint" and how to quantify complaints; 2) lack of uniformity regarding how to process civilian complaints; 3) accessibility and knowledge of an agency's complaint process; 4) accessibility for people with disabilities; and 5) the potential deterrent impact of language that comes from Penal Code section 148.6 on complaint forms. For example, one agency may make it easier for civilians to file complaints than another agency and thus increase the number of complaints reported. Other observed agency variabilities include differences in language access, staffing, and policies or practices with respect to which unit or other governmental body conducts the complaint investigation. The RIPA Board continues to encourage California law enforcement agencies to standardize the collection of complaint information by using more consistent protocols and incorporating best practice recommendations provided in the Board's 2019 report.<sup>261</sup>

# Overview of Civilian Complaint Data

The civilian complaint data for 2019 was submitted to the Department by 691 agencies employing peace officers in California. The agencies reported 15,890 complaints across three categories: non-criminal, misdemeanor, and felony. The majority of complaints (15,025, or 94.6%) alleged non-criminal conduct; complaints alleging behavior constituting a misdemeanor offense accounted for 3 percent (472) of complaints, and allegations of behavior constituting a felony represented 2.5 percent (393) of complaints.

<sup>&</sup>lt;sup>259</sup> "Sustained" means the investigation disclosed sufficient evidence to prove the truth of the allegation in the complaint by a preponderance of the evidence. "Exonerated" means the investigation clearly established that the employee's actions that formed the basis of the complaint were not a violation of law or agency policy. "Not sustained" means the investigation failed to disclose sufficient evidence to clearly prove or disprove the complaint's allegation. "Unfounded" means the investigation clearly established that the allegation is not true. Cal. Pen. Code, § 13012, subd. (a)(5)(B).

<sup>260</sup> See Cal. Pen. Code, § 832.5.

<sup>&</sup>lt;sup>261</sup> See Racial and Identity Profiling Advisory Board Report (2019) pp. 41-44

<sup>&</sup>lt;a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf</a> (as of Dec. 14, 2020).

Law enforcement agencies are required to report the number of complaints that contain an allegation of racial or identity profiling.<sup>262</sup> Specifically, agencies submit data to the Department detailing profiling complaints that fall into nine categories: race/ethnicity, physical disability, mental disability, sexual orientation, gender, religion, gender identity/expression, age, and nationality.<sup>263</sup> Agencies reported 1,427 complainants alleging an element, or elements, of racial or identity profiling, constituting 9 percent of the total complaints reported in 2019.

The total number of racial and identity profiling allegations (1,701) reported to the Department exceeds the total number of racial and identity profiling complaints (1,427) due to reported allegations of profiling based on multiple identity group characteristics. For example, a civilian may file a complaint alleging they experienced profiling based on both their gender and sexual orientation. This example would count as a single complaint with two types of alleged identity profiling. Accordingly, Figure 37, below, displays the number of reported allegations that fell into each of the nine identity group types.

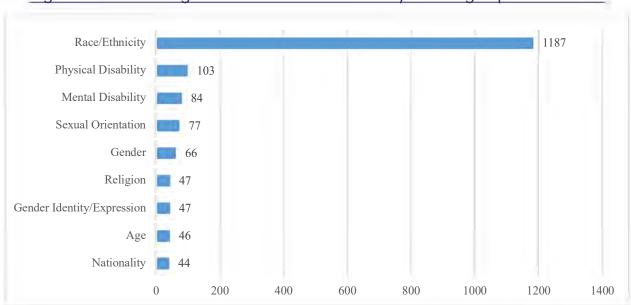


Figure 37. Total Allegations of Racial and Identity Profiling Reported in 2019

Analysis of Civilian Complaint Data Submitted by Agencies Subject to Stop Data Reporting

Of the 691 agencies employing peace officers in California that reported civilian complaint data in 2019, 452 agencies are subject to RIPA's stop data reporting requirements (hereafter RIPA agencies). These 452 RIPA agencies include municipal and district police departments, county sheriff's departments, the California Highway Patrol, and the law enforcement agencies of the University of California, California State Universities, California Community Colleges, as well as K-12 school district police departments.<sup>264</sup> The sections that follow examine only the data

<sup>&</sup>lt;sup>262</sup> Cal Pen Code, § 13012, subd. (a)(5)(A).

<sup>&</sup>lt;sup>263</sup> Ibid.

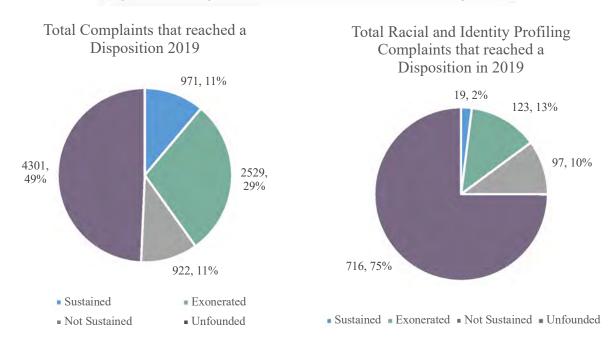
<sup>&</sup>lt;sup>264</sup> For more information on the law enforcement agencies that are required to report under RIPA, see Cal. Code Regs., tit. 11, § 999.225 <a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-final-text-110717.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-final-text-110717.pdf</a>? (as of Dec. 14, 2020).

submitted by the stop data reporting agencies that either are or will soon begin collecting RIPA stop data.

## <u>Civilian Complaints for Stop Data Reporting Agencies</u>

RIPA agencies reported 10,987 civilian complaints in 2019. Most complaints alleged noncriminal conduct (10,224, or 93.1%), followed by complaints for conduct that constitutes a misdemeanor offense (439, or 4%); complaints alleging conduct that constitutes a felony were the least common (324, or 2.9%). Of the 10,987 complaints reported, 8,723 reached a disposition in the 2019 calendar year. Of those 8,723 complaints that reached a disposition, 971 (11.1%) were sustained, 2,529 (29%) were exonerated, 922 (10.6%) were not sustained, and 4,301(49.3%) were unfounded.<sup>265</sup> Eighty-four RIPA agencies (18.6%) reported that they did not receive any civilian complaints in the 2019 calendar year. The remaining 368 (81.4%) RIPA agencies reported they received one or more civilian complaints; 146 (39.7%) of these agencies reported one or more civilian complaints alleging racial or identity profiling. These 146 agencies reported 1,153 complaints alleging racial or identity profiling, 955 of which reached disposition in 2019. Of these 955 racial and identity profiling complaints, 19 (2%) were sustained, 123 (12.9%) were exonerated, 97 (10.2%) were not sustained, and 716 (75%) were determined to be unfounded. Figure 38 displays the distribution of disposition types within the 2019 data for (1) all complaints that reached disposition and (2) complaints of racial and identity profiling that reached disposition.<sup>266</sup>

Figure 38. Disposition Distribution of 2019 Complaints



<sup>&</sup>lt;sup>265</sup> It is important to note that not every complaint reached a disposition during the same year it was initially reported; therefore, it is possible that some complaints that appeared in the 2019 disposition categories were first reported in 2018 or earlier.

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<sup>&</sup>lt;sup>266</sup> For an agency-level breakdown of how many profiling complaints reached each disposition type in 2019, see Appendix Table D.1.

Figure 38 displays the 1,323 allegations of racial or identity profiling reported by stop-data-reporting agencies in 2019 broken down by identity type: race/ethnicity, mental disability, physical disability, gender, nationality, age, gender identity/expression, religion, and sexual orientation.<sup>267</sup>

Figure 39. Total Racial and Identity Profiling Allegations Reported by Reporting Agencies in 2019

# Agency-Level Data Snapshot: 2019 Civilian Complaints for Wave 1 and 2 Agencies

Table 7 displays civilian complaint totals broken down for Wave 1 and 2 agencies.<sup>268</sup> The table provides the following information: the total number of complaints reported; the number of complaints reported alleging racial or identity profiling; and the number of sworn personnel each agency employed in 2019.<sup>269</sup>

<sup>&</sup>lt;sup>267</sup> The total number of racial and identity profiling allegations (1,323) reported by stop-data-reporting agencies exceeds the total number of racial and identity profiling complaints (1,153) due to reported allegations of profiling based on multiple identity group characteristics.

<sup>&</sup>lt;sup>268</sup> Wave 1 agencies are the eight largest agencies in the state; they were required to start submitting stop data to the Department by April 1, 2019. Wave 2 agencies are the seven next largest agencies that were required to start submitting stop data to the Department by April 1, 2020. (Gov. Code, § 12525.5(a)(2)).

<sup>&</sup>lt;sup>269</sup> Sworn personnel totals presented are calculated from the information contained within the Law Enforcement Personnel file available at https://openjustice.doj.ca.gov/data. The DOJ collects the Law Enforcement Personnel data through a one-day survey taken on October 31st of each reporting year.

Table 7:

| Reporting<br>Wave | Agency  | Total<br>Complaints<br>Reported | Total Profiling<br>Complaints<br>Reported | Total Sworn<br>Personnel |
|-------------------|---|---------------------------------|---|--------------------------|
| 1                 | California Highway Patrol                     | 353                             | 21  | 7,230                    |
| 1                 | Los Angeles County Sheriff's Department       | 1,010                           | 68  | 9,565                    |
| 1                 | Los Angeles Police<br>Department              | 2,205                           | 426                                       | 10,002                   |
| 1                 | Riverside County Sheriff's Department         | 33                              | 0   | 1,788                    |
| 1                 | San Bernardino County<br>Sheriff's Department | 113                             | 39  | 1,927                    |
| 1                 | San Diego County Sheriff's Department         | 214                             | 74  | 2,601                    |
| 1                 | San Diego Police Department                   | 102                             | 25  | 1,764                    |
| 1                 | San Francisco Police<br>Department            | 842                             | 0   | 2,279                    |
| 2                 | Fresno Police Department                      | 231                             | 13  | 806                      |
| 2                 | Long Beach Police<br>Department               | 182                             | 9   | 817                      |
| 2                 | Oakland Police Department                     | 1,215                           | 36  | 740                      |
| 2                 | Orange County Sheriff's Department            | 129                             | 11  | 1,888                    |
| 2                 | Sacramento County Sheriff's Office            | 205                             | 5   | 1,348                    |
| 2                 | Sacramento Police<br>Department               | 146                             | 6   | 678                      |
| 2                 | San Jose Police Department                    | 205                             | 36  | 1,150                    |

# Cross-Year Comparisons

Figures 40 through 43 display the number of total complaints reported (Figures 40 and 42), as well as the total number of racial and identity profiling complaints reported (Figures 41 and 43)

for Wave 1 and 2 agencies across the four years that agencies have been required by RIPA to submit expanded civilian complaint data to the Department. $^{270}$ 

## Wave 1 Agency Complaints Reported (2016-2019)

Wave 1 agencies reported 4,872 civilian complaints in 2019. This total constituted a 19.1 percent increase relative to the total number of civilian complaints reported in the year prior (4,091), a 32.4 percent increase from 2017 (3,679), and a 24.8 percent increase from 2016 (3,904).

The majority of Wave 1 agencies (7 out of 8) experienced an increase in the number of civilian complaints reported between 2018 and 2019. The agency that experienced the largest percentage increase from 2018 to 2019 was the San Diego County Sheriff's Department (San Diego Sheriff), with a 2,278 percent increase in complaints (from 9 to 214).<sup>271</sup> The Riverside County Sheriff's Department (Riverside Sheriff) was the only Wave 1 agency to experience a decrease (28.3%) in their number of complaints reported, with 33 complaints in 2019, down from 46 in 2018.

<sup>&</sup>lt;sup>270</sup> See Cal. Pen. Code, § 13012, subd. (a)(5)(A)(iii).

<sup>&</sup>lt;sup>271</sup> This increase can partially be attributed to the San Diego Sheriff's change in reporting practices instituted after comparing its numbers to those of its peers in the 2020 RIPA Board report. Previously, San Diego Sheriff only reported internal affairs investigations into deputy misconduct or policy or law violations as civilian complaints. Now, it reports all complaints received by Internal Affairs. Relative to most other Wave 1 agencies, San Diego Sheriff reported low numbers of complaints across the four years covered in Figure 40. Agencies with lower numbers of complaints reported are more susceptible to large percentage changes from year to year. San Diego Sheriff did not have the largest cross-year increase in complaints reported amongst Wave 1, in raw terms.

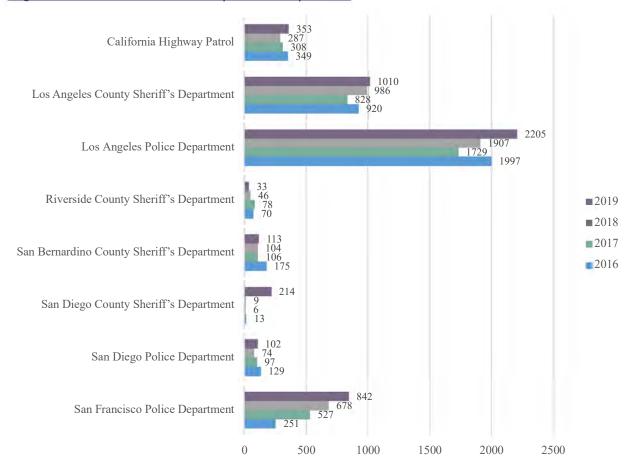


Figure 40. Wave 1 Total Complaints Reported

Figure 41 displays the total number of racial and identity profiling complaints reported by Wave 1 from 2016 through 2019. The total number of racial and identity profiling complaints was 653 in 2019, which is a 44.5 percent increase from 2018, a 76 percent increase from 2017, and a 406 percent increase from 2016. $^{272}$ 

Of the eight agencies in Figure 41, five experienced an increase in the number of reported racial and identity profiling civilian complaints between 2018 and 2019, while the other three experienced a decrease. San Diego Sheriff had the largest relative increase, 7,300 percent, of Wave 1 agencies.<sup>273</sup> Conversely, the San Francisco Police Department (San Francisco PD) had

<sup>&</sup>lt;sup>272</sup> The first year that agencies were required to track their number of racial and identity profiling complaints and report it to the Department was 2016. As a result, the low number of racial and identity profiling complaints reported in 2016, compared to subsequent years, may partially be the result of the learning curve of agencies having to collect the data in a different manner than they had historically.

<sup>&</sup>lt;sup>273</sup> As is the case with the total number of civilian complaints reported by San Diego Sheriff, the stark increase in profiling complaints reported can partially be attributed to the San Diego Sheriff's change in reporting practices that the agency instituted between the 2018 and 2019 civilian complaint reporting periods. See note 271 for further details.

the largest relative decrease in the number of racial and identity profiling complaints reported from 2018 to 2019 (21 to 0, 100%).  $^{274}$ 

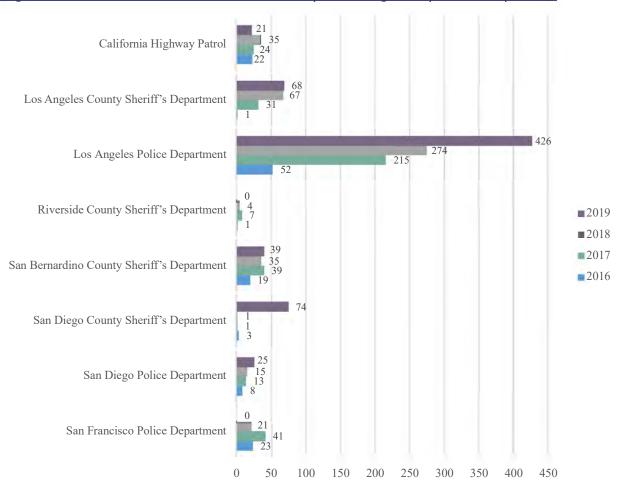


Figure 41. Wave 1 Total Racial and Identity Profiling Complaints Reported

## Wave 2 Agency Complaints Reported (2016-2019)

In 2019, the total number of civilian complaints for all Wave 2 agencies was 2,313, which was a 3.6 percent decrease from the previous year. The number of civilian complaints reported in 2019 was 1.9 percent higher than in 2017 and 10.4 percent higher than in 2016.

Less than half of Wave 2 agencies (3 out of 7) experienced an increase in the total number of civilian complaints reported between 2018 and 2019. The agency that experienced the largest relative increase from 2018 in 2019 was the Sacramento Police Department (Sacramento PD), with a 3,550 percent increase. This increase may be attributed to the Sacramento PD's change in policy in August 2019, which ended Sacramento PD's practice of categorizing certain complaints as "inquiries" to be resolved informally at the precinct/watch level. This policy change followed the Department's review of Sacramento PD's practices and its

<sup>&</sup>lt;sup>274</sup> Riverside Sheriff also had a 100 percent relative decrease from 2018 to 2019; however, San Francisco PD had a larger decrease in the raw number of complaints (21 compared to 4) than Riverside Sheriff, which is why San Francisco PD is highlighted as experiencing the largest decrease.

recommendation that all personnel complaints be tracked uniformly and classified by type of alleged misconduct.<sup>275</sup> This change is also in line with the RIPA Board's recommendation in its 2020 Report that law enforcement agencies should provide clear policies and direction as to how the term "complaint" should be defined to avoid significant disparities in how to identify, quantify, and process complaints.<sup>276</sup> On the other end of the distribution, the agency that experienced the highest percentage decrease in complaints reported was the Sacramento County Sheriff's Office, which saw a 32.3 percent decrease in number of complaints from 2018 to 2019.

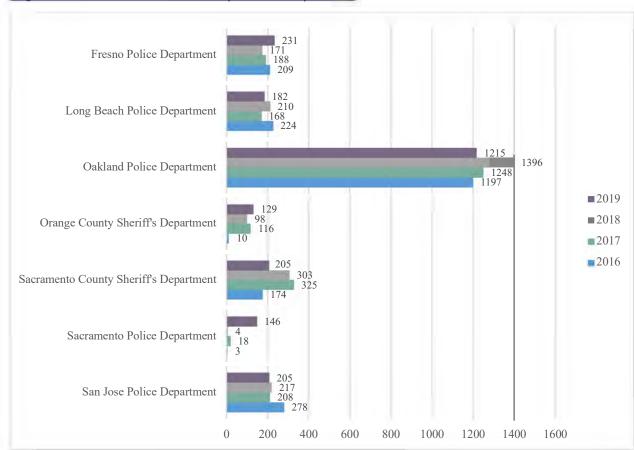


Figure 42. Wave 2 Total Complaints Reported

Wave 2 agencies reported a total of 116 racial and identity profiling complaints in 2019. This was a 7.9 percent decrease from the number of racial and identity profiling complaints reported in 2018; a 7.2 percent decrease from 2017; and a 1.8 percent increase from 2016.

Of the seven agencies in Figure 39, four experienced an increase in the number of racial and identity profiling complaints reported between 2018 and 2019, while the other three experienced a decrease or remained the same. The Sacramento PD had the largest relative increase: it reported zero racial and identity profiling complaints in 2018 and six in 2019. On

<sup>&</sup>lt;sup>275</sup> See Racial and Identity Profiling Advisory Board, Annual Report 2020 (Jan. 1, 2020) pp. 68-69 <a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf</a> (as of Dec. 14, 2020). <sup>276</sup> *Ibid*.

the other end of the spectrum, the Oakland Police Department had the largest decrease in total racial profiling allegation complaints reported from 2018 to 2019 resulting in a 37.9 percent decrease. Lastly, the San Jose Police Department reported the same number of racial and identity profiling complaints, 36, in both 2018 and 2019.

## AB 953 Survey: Civilian Complaint Procedures

As noted in the Policies and Accountability section, the Department conducted a survey of Wave 1, 2, and 3 agencies to learn about the impact of the Board's recommendations and data analysis within law enforcement agencies. As of December 10, 2020, 25 of the 26 agencies surveyed had responded. With respect to civilian complaints, some of the findings include:

 Seven of the 25 agencies surveyed indicated that they took actions in response to the Board's recommendations regarding civilian complaint procedures.

Agencies that Reported Taking Actions in Response to the RIPA Board's Recommendations Regarding Civilian Complaint Procedures

Kern County Sheriff
Orange County Sheriff
Sacramento Police
San Bernardino County Sheriff

San Diego Police San Francisco Police Santa Clara County Sheriff

A few agencies provided examples of the actions they took.

"[SFPD] looked at complaints of bias by percentage and quantity comparatively. Findings were captured in the department's public quarterly reporting, and presented to the SFPD's Commission and public" - San Francisco Police "Any complaints are immediately referred to our Internal Affairs Unit for investigation" – Kern County Sheriff

 Six agencies indicated that they were reviewing and determining how to implement the best practices related to civilian complaint procedures.

Report Currently Reviewing and Determining How to Implement the RIPA Board's Recommendations Regarding Civilian Complaint Procedures

Kern County Sheriff Los Angeles County Sheriff Sacramento Police San Diego Police San Francisco Police Santa Clara County Sheriff

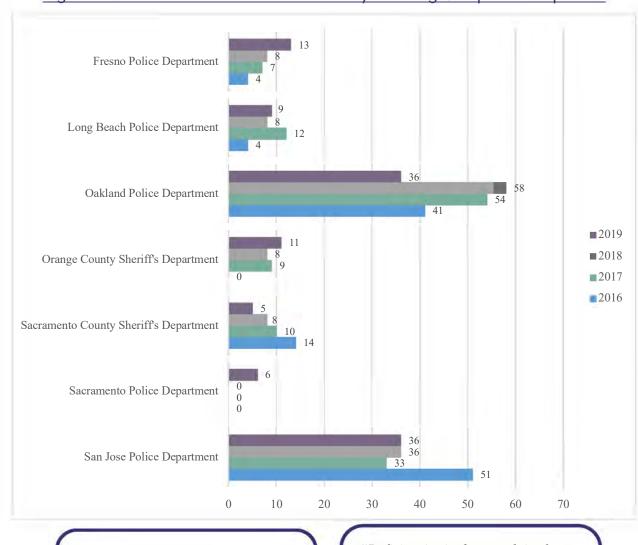


Figure 43. Wave 2 Total Racial and Identity Profiling Complaints Reported

"LASD is in the process of revising the classifications of completed community complaint investigations to better reflect current law" – Los Angeles County Sheriff "Deficiencies in the complaint form and procedures have been forwarded to our oversight partner agency, who has control of the complaint form content" – San Francisco Police

• Bakersfield, Riverside, and Stockton Police Departments indicated that the Board's recommendations were already incorporated in their civilian complaint procedures.

'Our department has a Civilian Panel that conducts a parallel investigation on all civilian complaints..."

"We have [had] an Early Warning System for over 15 years to help identify potential issues before they become systemic or catastrophic"

- Riverside Police

## Wave 2 Civilian Complaint Form Review

In its 2019 report, the Board made recommendations for best practices for civilian complaint procedures and policies.<sup>277</sup> In its 2020 report, the Board built upon this review and made recommendations regarding civilian complaint forms after reviewing literature regarding best practices for civilian complaint procedures and forms.<sup>278</sup> Through this lens, the Board conducted an initial review of the Wave 1 agencies' civilian complaint forms in its 2020 report; the Board is now extending that review to the Wave 2 agencies.<sup>279</sup>

Long Beach Police Department: The Long Beach Police Department (Long Beach Police) accepts complaints: (1) in person, (2) by telephone, (3) by mail, or (4) by e-mail. On the agency's public website, a member of the public can find the civilian complaint process and form. <sup>280</sup> The civilian complaint form and process are available in English, Spanish, Khmer, and Tagalog. Long Beach Police follows the City of Long Beach's Language Access Policy passed in 2018. The policy provides that while Spanish-speaking residents numerically qualify for services under state law, Long Beach also has a "substantial number of limited English speaking Cambodian and Filipino residents" for whom services and materials should be provided in their spoken languages.<sup>281</sup> The current complaint forms were translated by a contract professional services translator in 2013. The agency permits third-party complaints and anonymous complaints. Long Beach Police also provides a contact list that includes their Citizen's Police Complaint Commission (CPCC), as well as other local, state, and federal offices from which a complainant can seek assistance if they feel their complaint was not properly investigated.

<sup>&</sup>lt;sup>277</sup> See Racial and Identity Profiling Advisory Board Report (2019) pp. 41-44

<sup>&</sup>lt;a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>278</sup> See Racial and Identity Profiling Advisory Board Report (2020) p. 58-80

<sup>&</sup>lt;a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>279</sup> See Appendix G for the Wave 2 civilian complaint forms.

<sup>&</sup>lt;sup>280</sup> The complaint form and procedures can be located here: Long Beach Police Department, Citizen Complaint Procedure <a href="http://www.longbeach.gov/police/contact-us/citizen-complaint-procedure/">http://www.longbeach.gov/police/contact-us/citizen-complaint-procedure/</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>281</sup> City of Long Beach, Language Access Policy (2018) <a href="http://www.longbeach.gov/globalassets/health/media-12">h library/documents/healthy-living/office-of-equity/language-access-resolution-and-policy-update-2018---english> (as of Dec. 14, 2020).

Oakland Police Department: Civilian complaints regarding the Oakland Police Department (Oakland Police) personnel can be submitted to either the agency's Internal Affairs Division<sup>282</sup> or to the Citizens' Police Review Agency (CPRA).<sup>283</sup> Complaints filed directly with Oakland Police's Internal Affairs Division will be investigated by the Internal Affairs Division, whereas those submitted to the CPRA will be investigated by the CPRA. The agency reports that Internal Affairs and CPRA investigate concurrent complaints. It is unclear from their websites whether there is a difference in the type of complaints each entity investigates. The Internal Affairs Division accepts complaints: (1) by phone, (2) by mail, (3) by e-mail, (4) by fax or (5) in person out in the field, at their main office, or any of the other designated locations. The CPRA receives complaints: (1) online, (2) by mail, or (3) by fax. The online civilian complaint form is only available in English. A PDF version of the complaint form is available in English, Spanish, Chinese, or Vietnamese. A description of the civilian complaint process is only available with the CPRA's English online submission form. Unlike the PDF form, the online version allows complainants to "decline to state" certain demographic and contact information such as date of birth or phone number. Both the PDF and online complaint forms provide an open narrative space for the complainant to share what they would like to happen as a result of the investigation. Through an online portal, a complainant can track the status of the investigation of their complaint. Oakland Police reports it also accepts anonymous or third party complaints.

San Jose Police Department: The San Jose Police Department's (San Jose Police) Internal Affairs Unit accepts civilian complaints: (1) by phone, (2) by letter, (3) by e-mail, (4) by fax, or (5) online. Complaints can be submitted to the agency itself, the Internal Affairs Unit, or the Office of the Independent Police Auditor. Regardless of who the complaint is submitted to, it will be investigated by the Internal Affairs Unit. The online complaint form is available in English, Spanish, and Vietnamese;<sup>284</sup> San Jose Police's standard documents are translated into these three languages due to the prevalence of these languages in their community. If another language is required, its Duty Manual requires vital documents to be translated by an on-duty certified interpreter or a contracted translation service. The complaint form and other documents are generally translated by sworn personnel who are certified as interpreters or San Jose Police's contracted translation services. The form uses language from Cal. Penal Code section 148.6 language and describes the complaint process. The online form asks for any witnesses and their contact information. The form also specifically asks the complainant to designate whether the complaint involves race or identity profiling concerns. Anyone can file a complaint and it can be submitted anonymously. San Jose Police offers a voluntary Mediation Program for alleged misconduct deemed minor or where there is a misunderstanding about enforcement action, neglect of duty, or police procedure.

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<sup>&</sup>lt;sup>282</sup> The online complaint form and procedures can be located here: City of Oakland, Report Police Misconduct <a href="https://www.oaklandca.gov/services/report-police-misconduct">https://www.oaklandca.gov/services/report-police-misconduct</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>283</sup> The online complaint form and procedures can be located here:

<sup>&</sup>lt;a href="https://apps.oaklandca.gov/CPRA/?\_ga=2.235015489.1909800277.1607078516-1525498134.1584741107">https://apps.oaklandca.gov/CPRA/?\_ga=2.235015489.1909800277.1607078516-1525498134.1584741107</a>> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>284</sup> The online complaint form and procedures can be located here: San Jose Police Department, Internal Affairs < https://www.sjpd.org/about-us/organization/office-of-the-chief-of-police/internal-affairs> (as of Dec. 14, 2020).

Sacramento County Sheriff's Office: The Sacramento County Sheriff's Office (Sacramento County Sheriff) accepts complaints: (1) online, (2) in person, (3) by phone, or (4) in writing. All complaints are investigated by the Internal Affairs Bureau. The online complaint form is available in English and can be translated into other languages by using the Google translate button located at top right hand corner of the website.<sup>285</sup> The online form includes nearly verbatim language from Cal. Penal Code section 148.6 but provides a check box to mark if the complainant wishes to remain anonymous. The agency reports that a complainant may e-mail video or photos associated with the incident to Internal Affairs at the e-mail listed. There is no information attached to this online form about the civilian complaint process except for how to contact the Internal Affairs unit. Complaints that are submitted in other languages are translated by an employee who is fluent in the language or by a county-contracted translation service. In addition to the online complaint form, the agency has a PDF, or printed, version of the civilian complaint form that complainants can access in-person and includes Cal. Penal Code section 148.6 language. Unlike the online version, the PDF form makes clear that a third party can submit complaints, which is a Board recommendation, and provides a space for information of an attorney or representative to be included.

Sacramento Police Department: The Sacramento Police Department (Sacramento Police) takes civilian complaints: (1) by phone, (2) in writing, (3) in person, (4) online or (5) by e-mail. The agency's website includes information on the personnel complaint process in English. At the very bottom of the webpage, there is a Google translate button that allows complainants to translate the complaint procedures into other languages. While the complaint procedures reference Cal. Penal Code section 148.6, the Sacramento Police removed quoted language from the code on their webpage that could be seen as dissuading someone from reporting misconduct. Sacramento Police implemented an online complaint form in November 2020.<sup>286</sup> The form is in English but can also be translated using the Google translate feature at the bottom of the webpage. A separate City of Sacramento body, the Office of Public Safety Accountability (OPSA), has an online complaint form.<sup>287</sup> OPSA's online complaint form is not directly linked on the Sacramento Police's website. A complainant can learn of OPSA and its online complaint form by downloading the Sacramento Police's "Complaint Procedure Brochure." OPSA receives complaints: (1) online, (2) by phone, or (3) in person at their office. The online complaint form is available in English but can also be translated by using the Google translate button at the very bottom of the webpage. On August 1, 2019, Sacramento Police updated its civilian complaint procedures based upon recommendations made by Cal DOJ. As of July 2020, Sacramento Police's Internal Affairs Division is working with the new incoming OPSA director to enter into an MOU regarding OPSA's role and responsibilities with respect to

<sup>&</sup>lt;sup>285</sup> The online complaint form can be located here: Sacramento County Sheriff's Office, Professional Standards <a href="https://www.sacsheriff.com/pages/professional\_standards\_division.php">https://www.sacsheriff.com/pages/professional\_standards\_division.php</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>286</sup> A link to the online complaint form and procedures can be located here: City of Sacramento Police Department, Complaint Form <a href="https://www.cityofsacramento.org/Police/Contact/Personnel-Complaint/Personnel-Complaint-Form">https://www.cityofsacramento.org/Police/Contact/Personnel-Complaint/Personnel-Complaint-Form</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>287</sup> A link to the online complaint form and procedures can be located here: City of Sacramento Office of Public Safety Accountability (OPSA), Public Safety Complaint Form <a href="https://www.cityofsacramento.org/OPSA/complaint-process/online-complaint">https://www.cityofsacramento.org/OPSA/complaint-process/online-complaint</a> (as of Dec. 14, 2020).

complaints, including steps to either link the OPSA complaint form on Sacramento Police's website or duplicate the form on Sacramento Police's website.

Fresno Police Department: The Fresno Police Department (Fresno Police) accepts civilian complaints: (1) online, (2) in person, (3) by mail, and (4) by phone. These methods are outlined in the agency's "Complaint Procedures" brochure. The brochure states that complaint procedures help civilians, the community, and the police. Fresno Police determines the language translations needed for their complaint form and brochure by conducting a fourfactor analysis outlined in their Limited English Proficiency Services policy. Documents are then translated by certified employees or an outside agency if no employees are certified in that language. The printed civilian complaint form and brochure are available in English, Hmong, and Spanish. For those languages that do not meet the four-factor threshold, the agency attempts to provide meaningful access for LEP individuals attempting to make a complaint through other translation resources like a language line or a certified bilingual employee. The online civilian complaint form is available in English only.<sup>288</sup> Before someone can access the online form, they must click a box acknowledging that they read and understand an advisory that is nearly verbatim language from Cal. Penal Code section 148.6. This language is also included in the printed version of the form and requires a signature. The form provides a phone number to call if the complainant's contact information changes. Additionally, the form asks if photos were taken of any injuries suffered and the name of the person who took the photos. The form also asks if the complaint was filed with any other City of Fresno department or outside agency. If the complaint has been filed with another department, the form requests the date of such report and the person contacted. Lastly, the form has a specific section for racial and identity profiling complaints. The print version of the form is nearly identical to the online version, with the exception of including a mailing address. The printed forms were last revised December 2018. If a complaint is submitted in person at the station, the complainant receives a "complaint receipt" which provides the case and event number and the date on which the complaint was received. Fresno Police accepts anonymous and third-party complaints to the extent that sufficient information is provided. Details of the civilian complaint process are outlined in the brochure, which is not available with the online complaint form.

The City of Fresno also has an Office of Independent Review (Fresno OIR), which participates in the Fresno Police Department's civilian complaint process. Members of the public can submit their complaints to the Fresno OIR or the Fresno Police Department; if the complaint is submitted to the Fresno OIR, it is routed to the department. Regardless of where the complaint is submitted, the Fresno OIR has complete access to the department's Internal Affairs and reviews all civilian complaints.<sup>289</sup> Based on the complaints received and reviewed, the Fresno OIR produces guarterly reports that indicate whether it concurs with the disposition of each civilian complaint investigation. The reports also include a specific section on biased based

<sup>&</sup>lt;sup>288</sup> The online version of the complaint form can be located here: City of Fresno Police Department, Internal Affairs Online Complaint Form <a href="https://www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-">https://www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-</a> form/> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>289</sup> More specifically, this also includes responding to police officer shootings of civilians and reviewing those investigations.

complaints and recommendations to the department. Moreover, the Fresno OIR regularly meets with members of the community and fields questions about the complaint process.

Orange County Sheriff's Department: The Orange County Sheriff's Department (Orange County Sheriff) accepts complaints: (1) in person, (2) by mail, or (3) by phone to the Internal Investigations Unit during regular business hours and to the Watch Commander if after regular business hours. On the agency's public website, there is a webpage with links to the civilian complaint form available in 27 languages.<sup>290</sup> The agency reports that these languages were determined by Orange County's population. The complaint form was translated by bilingual employees and Google translate. Orange County Sheriff reports that third-party or anonymous complaints are accepted. The end of the civilian complaint form includes nearly verbatim language from Cal. Penal Code section 148.6. Information on the complaint process is attached to the complaint form itself and explained on the agency's public website.

| Wave 2 Agency                | Form Accessible<br>Online? | Can Submit<br>Online? | Multiple Methods of Submission? | Available in Multiple<br>Languages? <sup>291</sup> |
|------------------------------|----------------------------|-----------------------|---------------------------------|--|
| Long Beach Police            | ✓                          | ✓                     | ✓                               | ✓  |
| Oakland Police               | ✓                          | ✓                     | ✓                               | ✓ OS <sup>292</sup> <b>★</b> PV <sup>293</sup>     |
| San Jose Police              | ✓                          | $\checkmark$          | ✓                               | ✓  |
| Sacramento<br>County Sheriff | x                          | ✓                     | ✓                               | ✓  |
| Sacramento<br>Police         | ✓                          | ✓                     | ✓                               | ✓  |
| Fresno Police                | ✓                          | $\checkmark$          | ✓                               | ✓  |
| Orange County<br>Sheriff     | ✓                          | ×                     | ✓                               | ✓  |

<sup>&</sup>lt;sup>290</sup> The 27 languages include Albanian, Armenian, Cambodian, Chinese, Dutch, English, Farsi, French, Hebrew, Hindi, Hungarian, Llongo, Indo, Italian, Japanese, Korean, Lao, Polish, Punjabi, Russian, Spanish, Swedish, Tagalog, Tamil, Thai, Urdu, and Vietnamese. A link to the online complaint form and procedures can be located here: Orange County Sheriff's Department, How to File a Complaint <a href="https://www.ocsheriff.gov/commands-divisions/professional-services-command/professional-standards/how-file-complaint">https://www.ocsheriff.gov/commands-divisions/professional-services-command/professional-standards/how-file-complaint</a> (as of Dec. 14, 2020).

<sup>&</sup>lt;sup>291</sup> Federal and state law require federally and state assisted law enforcement agencies to provide meaningful access to Limited English Proficient (LEP) individuals. Under federal law, to determine the extent of its obligation to provide services to the LEP population, the Federal Coordination and Compliance Section recommends that law enforcement agencies engage in a four-factor analysis. (See U.S. Dep't of Justice, Federal Coordination and Compliance Section, Planning Tool: Considerations for Creation of a Language Assistance Policy and Implementation Plan for Addressing Limited English Proficiency in a Law Enforcement Agency <a href="https://www.justice.gov/crt/fcs/Law\_Enforcement\_Planning\_Tool">https://www.justice.gov/crt/fcs/Law\_Enforcement\_Planning\_Tool</a> (as of Dec. 14, 2020). California state law also requires local agencies that receive state funding to provide language access services to LEP populations. (Gov. Code, § 11135, subd. (a); Gov. Code, § 7290). Law enforcement agencies may ask local community-based organizations to help translate complaint forms or create a database of qualified interpreters for speakers of any language, including sign language.

292 "OS" refers to the online submission form.

<sup>&</sup>lt;sup>293</sup> "PV" refers to the printed or PDF version of the complaint form.

| Wave 2 Agency                | Third Party<br>Complaints<br>Allowed? | Includes Narrative<br>Field for Description<br>of Complaint? | Does Not Include<br>Language from PC<br>§148.6? <sup>294</sup> | Complaint Process<br>Information<br>Attached to Form? |
|------------------------------|---------------------------------------|--|--|---|
| Long Beach Police            | ✓                                     | ✓  | ✓  | ×   |
| Oakland Police               | ✓                                     | ✓  | ✓  | ✓os<br>* <sub>PV</sub>                                |
| San Jose Police              | ✓                                     | ✓  | *  | ✓   |
| Sacramento<br>County Sheriff | ✓                                     | ✓  | ➤ OS<br>➤ PV   | ×   |
| Sacramento<br>Police         | ✓                                     | ✓  | ✓  | ✓   |
| Fresno Police                | ✓                                     | ✓  | ×  | <b>≭</b> OS<br>✓ PV                                   |
| Orange County<br>Sheriff     | ✓                                     | ✓  | *  | ✓   |

## Early Intervention Systems

Law enforcement accountability is necessary to ensure legitimacy and improve relationships between law enforcement officers and the communities they serve. The killing of George Floyd in Minneapolis in May 2020 is a prime example of how a lack of accountability can have potentially harmful and even deadly effects; in the case of George Floyd, two of the four officers involved had previously been the subject of several complaints (one had six and another had sixteen filed against him). <sup>295</sup> Although we will never know for sure, George Floyd's death may have been preventable with the implementation of strong accountability measures

<sup>&</sup>lt;sup>294</sup> The Ninth Circuit and California Supreme Court have come to opposite conclusions regarding whether Penal Code section 148.6 is constitutional. (Compare *People v. Stanistreet* (2002) 29 Cal. 4th 497, 510 [Section 148.6 is a permissible regulation of prohibited speech, namely, false allegations against peace officers, which, on its face, does not violate the First Amendment to the United States Constitution] with *Chaker v. Crogan* (2005) 428 F.3d 1215, 1222, cert. denied, 547 U.S. 1128 (2006) [Penal Code section 148.6's criminal sanction violated the First Amendment of the United States Constitution because it regulated content-based speech on the basis of that speech's content].) As such, many California law enforcement agencies have removed the warning from their civilian complaint forms and accept anonymous complaints. The California Attorney General's Office has also determined that a law enforcement agency can investigate allegations of police misconduct, even if the complainant did not sign the admonition as required by Penal Code section 148.6. (79 Ops. Cal.Atty.Gen. 1631 (1996).) The RIPA Board strongly supports the acceptance of anonymous complaints. The RIPA Board also renews its request to the California Legislature to address this conflict, since the requirements set out by the Penal Code can have a chilling effect on the submission of civilian complaints. For purposes of this review, a checkmark denotes that an agency does *not* include Penal Code section 148.6 language on their form.

<sup>&</sup>lt;sup>295</sup> Barker, et al., *Officers Charged in George Floyd's Death Not Likely to Present United Front*, The New York Times (June 4, 2020) <a href="https://www.nytimes.com/2020/06/04/us/george-floyd-police-records-chauvin.html">https://www.nytimes.com/2020/06/04/us/george-floyd-police-records-chauvin.html</a> (as of Dec. 14, 2020).

that would have flagged these officers as needing training, reassignment, discipline, or termination.

Accountability in law enforcement can take many different forms. The Board's Civilian Complaints subcommittee has been particularly interested in the use of Early Intervention Systems (EIS). This section provides a background on these systems and how they can be used to keep community members and officers safe while improving officer skills development. The Board is in the process of conducting research on how California law enforcement agencies use EIS and whether there is evidence that EIS are effective.

## Early Intervention System Use in Law Enforcement Agencies

EIS have been around in some form or another since the 1970's, but were often limited to very few categories of performance, such as use of force and civilian complaints.<sup>296</sup> EIS are a necessary and valuable administrative tool that can enhance integrity and accountability of both individual officers and whole agencies.<sup>297</sup> These systems are not meant to take over the job of supervisors or predict officer behavior. Instead, they are meant to be part of a larger performance management system. Ideally, EIS should provide an opportunity for agencies to: identify potentially at-risk behavior *before* the need for disciplinary action, promote civilian and officer safety, and provide officers with resources and tools to re-direct performance and behaviors.<sup>298</sup> Moreover, while EIS may flag certain officer behavior that needs correction, any intervention should not replace discipline when it is needed.<sup>299</sup>

A strong EIS includes key components: identification of at-risk behaviors, evaluation of "flagged" officer behavior, intervention to address that behavior, and monitoring to ensure long-term change. Indicators – usually different types of police action – are used to track officer behavior. While there are many indicators used to identify at-risk officer behavior, they may vary by agency. Current literature does not define a minimum number of indicators for EIS to include. However, "the more potential indicators that can be identified and captured in the system, the more likely it is that an agency will be able to detect" which officers' behaviors need to be redirected to improve their performance." Agencies will then set a specific threshold for each indicator, which is usually a set number of times an officer engages in a specific behavior. When that threshold is met, an officer's behavior is then "flagged" for review. Some agencies may flag officer behavior only when it meets the threshold for one indicator, whereas others may institute a multilayered approach with successive "flags" to determine what kind of supervisor response and intervention is warranted. When creating

<sup>&</sup>lt;sup>296</sup> Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 2.

<sup>&</sup>lt;sup>297</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p 6.

<sup>&</sup>lt;sup>298</sup> Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 1.

<sup>&</sup>lt;sup>299</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 5.

<sup>&</sup>lt;sup>300</sup> Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 1.

<sup>&</sup>lt;sup>301</sup> *Id.* at p. 3.

<sup>&</sup>lt;sup>302</sup> *Id.* at p. 5.

thresholds for specific indicators that will be flagged, it is also important for the system to identify when an officer has nearly met the threshold across various indicators to ensure interventions are undertaken and at-risk behavior by officers is not missed simply because they do not meet the threshold in a single category. Moreover, agencies should also have a system that lets them run assessments of officers and not simply rely on flagging. These assessments would be useful for individual performance evaluations. 304

## EIS Requires Supervision of Both Line Officers and First-Line Supervisors

Effective first-line supervisors are required to make EIS function well. An EIS should not only apprise supervisory staff of subordinate officer and group behavior, but also supervisor behavior. Command staff should have a separate system authorization and login to monitor supervisors' oversight of their subordinates as well. A system that allows for this kind of management will assist an agency in holding itself accountable.  $^{307}$ 

First-line supervisors require support through training and mentoring by command staff on how to correct behavior. Training and policies should encourage supervisors to regularly review system data, such as before roll call, be proactive in addressing potential problems, documenting those meetings, and reporting back to the supervisor's own chain of command.<sup>308</sup>

When an officer's behavior is identified as needing intervention, supervisors must be required to include a note with information about when they reviewed the information, what resources they recommended, and what actions were taken. Including this information will assist with monitoring and management of that monitoring.<sup>309</sup>

### Common Indictors Used in EIS

The type and number of indicators varies across agencies. Current literature does not set out a best practice for the number of indicators, though there is some consensus around which types of police behavior to oversee. The U.S. DOJ includes these types of indicators in its consent decrees with agencies across the nation.<sup>310</sup> Some agencies will include other indicators that they deem helpful. Research shows the most common EIS indicators include:

<sup>304</sup> *Id.* at p. 6.

<sup>&</sup>lt;sup>303</sup> *Id.* at p. 6.

<sup>&</sup>lt;sup>305</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) pp. 5-6.

<sup>&</sup>lt;sup>306</sup> Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 5.

<sup>&</sup>lt;sup>307</sup> Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 7.

<sup>&</sup>lt;sup>308</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 11.

<sup>&</sup>lt;sup>309</sup> Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 7.

<sup>&</sup>lt;sup>310</sup> See U.S. v. City of Seattle (W.D. Wash. 2012) 12-cv-1282; U.S. v. the County of Los Angeles and the County of Los Angeles Sheriff's Dep't (C.D. Cal 2015) 15-cv-3174; U.S. v. City of New Orleans (E.D. La. 2013) 17-cv-1924; U.S. v. Police Department of the City of Baltimore, et al. (Md. 2017) 17-cv-0099.

- All misconduct and community complaints against the officer, including disposition of each allegation
- Racial and identity profiling allegations
- All reportable uses of force, broken down by level and type
- Number of shootings or weapons discharges
- All injuries and deaths to persons in the officer's custody or an officer's presence at the scene of any deaths
- Vehicle pursuits and traffic collisions involving agency equipment
- All instances in which force is used and a person is charged with Failure to Obey, Resisting Arrest, Assault on an Officer, Disorderly Conduct, Trespassing, or similar charges
- All instances in which an officer issues three or more citations during a single encounter
- Violations of the agency's body-worn and in-car camera policies
- All instances in which an agency learns:
  - That a declination to prosecute any crime or municipal code violation was based upon concerns of the Prosecutor about an officer's credibility;
  - That a court has made a negative credibility determination regarding an officer;
     or
  - That a motion to suppress evidence was granted on the grounds of a constitutional violation by an officer
- All criminal proceedings initiated against an officer, as well as all civil or administrative claims filed with or against the agency or its agents that result from the actions of sworn personnel
- All disciplinary action taken against officers
- All non-disciplinary corrective action required of officers
- All awards and commendations received by officers, including those received from civilians
- Officer sick leave usage
- Training record for each officer
- Loss or theft of agency property in custody of the employee, including money, firearms, force instruments, ID cards
- Interviews or interrogations in violation of agency policy and law

- Arrests, especially excessive discretionary arrests
- Off-duty employment
- Traffic Stops
- Warrantless searches and seizures

## Possible Interventions to Provide "Flagged" Officers

Interventions should vary to meet the wide range of officers' needs.<sup>311</sup> The more targeted or specialized an intervention, the better it will be at helping the officer achieve needed improvements.

The most common intervention includes counseling by the officer's immediate supervisor. These counseling sessions can be both informal and formal. They may arise from something a supervisor witnesses in the field and wants to correct immediately or when an EIS flags potentially risky behavior. Another common form of intervention is training, which is directed by a supervisor depending on the flagged behavior. In some instances, officers may self-identify training needs. Another type of intervention may be to send a crisis intervention team that is trained to immediately respond to an incident whereby officers can get immediate peer counseling in the event of an officer involved shooting or use of force involving serious bodily injury.

Some agencies have employed a creative type of intervention through reassignment and relief from duty. Each assignment in an agency comes with different risk factors, which some individuals are more suited for than others. If an officer has been given the opportunity to remedy behavior and alternatives for re-assignment do not succeed or are not available, it may be in the best interest of all (the officer, the agency, and the public) to transfer the officer to an assignment where the particular problematic situations are less likely to happen. Similarly, some agencies have employed a "temporary relief from duty" option where sergeants have the authority to relieve an officer from duty without loss of pay if that officer is clearly under a great deal of stress or unfit for duty that day. Where this has been used, there has been no formal action taken or documented. However, these types of interventions should be tracked to ensure there is no abuse of this practice. Sila

Some interventions are less about the officers' skills development and instead are more personal. These interventions can include wellness programs or professional counseling on personal or family issues. This kind of intervention may require buy-in from officers because of stigmas that can be attached to obtaining counseling.<sup>314</sup> The U.S. Department of Justice found that officers were more open to support from their peers through formal peer officer support

<sup>&</sup>lt;sup>311</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 6.

<sup>&</sup>lt;sup>312</sup> *Id.* at p. 26.

<sup>&</sup>lt;sup>313</sup> *Id.* at p. 26.

<sup>314</sup> Id. at p. 23.

programs. These programs are often comprised of a few officers in a precinct or unit who receive training to be designated as peer support.<sup>315</sup>

Once an intervention is provided to an officer, it is imperative that the supervisor follow through to see if the officer changes their behavior. The practice of follow through has been found to vary among agencies; some do it for the long term, while others do not follow up at all. Some agencies make interventions voluntary and could be one reason that there may be no follow-through. Follow-through could include observing an officer out in the field several times a month or periodic check-ins and inquiring if officer needs more support. It is critical that clear follow-through actions are designated for a supervisor to reinforce the need to improve or modify behavior.

#### U.S. DOJ EIS Recommendations

In various pattern and practice investigations and consent decrees, U.S. DOJ has required agencies to adopt an EIS or improve a system an agency may already have in place. In this process, DOJ has recommended similar best practices, including:

- EIS policy should include a mechanism for review of an officer whose activity has already triggered an indicator threshold so that the threshold is lower if EIS is triggered again.<sup>318</sup>
- Collect trends for supervisors, precinct, squad, and unit.
- Collect trends for precinct-level activity on use of force, complaints and dispositions, number of officers triggering EIS review, and supervisor EIS reviews with officers.
- EIS policy should include directives setting forth the specific information that the EIS will capture, as well as data storage, data retrieval, reporting, data analysis, pattern identification, supervisory use, supervisory/departmental intervention, documentation, audits, access to the system, and confidentiality of personally identifiable information.
- All data must be entered in a timely, accurate and complete manner.
- Comparisons should be done by peer group between officers of similar assignment and duties.
- Command staff collect and, at least quarterly, analyze EIS information related to supervisor, squad, and officer trends.
- First line supervisors and lieutenants review EIS data for all officers under their direct command at least monthly, and whenever an officer first comes under their supervision.
- At least quarterly, supervisors will review broader, pattern-based reports.

<sup>316</sup> *Id.* at pp. 27-28.

<sup>315</sup> *Id.* at pp. 24-25.

<sup>317</sup> *Id.* at pp. 27-28.

<sup>&</sup>lt;sup>318</sup> See U.S. v. City of Seattle (W.D. Wash. 2012) 12-cv-1282; U.S. v. the County of Los Angeles and the County of Los Angeles Sheriff's Dep't (C.D. Cal 2015) 15-cv-3174; U.S. v. City of New Orleans (E.D. La. 2013) 17-cv-1924; U.S. v. Police Department of the City of Baltimore, et al. (Md. 2017) 17-cv-0099.

- EIS protocol should include data storage, data retrieval, reporting, data analysis, pattern identification, supervisory use, supervisory/departmental intervention, documentation, audits, access to the system, and confidentiality of information protected by law.
- Offer a variety of intervention options like counseling, training, or other supervised, monitored, and documented actions plans and strategies to correct behavior.
- Aggregate statistical information should be kept indefinitely and used to evaluate longitudinal trends.

## **Promising Practices**

It is no surprise that any accountability measure, including EIS, must be supported by management and achieve buy-in from the line staff, command staff, and unions. Agency EIS have the most success when the chief or sheriff has advocated for and supported the system within the agency. To ensure officers do not feel that this system is a "gotcha" system but rather something they should be invested in, it is imperative that an agency adequately educate its members. Officer training should include what the EIS captures and how that data will be interpreted, as well as the purpose of the data. Supervisors should be trained to understand their role in the accountability process and how this may alter their current responsibilities.

Agencies must also clearly outline how EIS works, how and why it will be used, and what interventions will look like in their policies and protocols.<sup>322</sup> Agencies can provide EIS training at the academy, during roll call, through literature, or during in-service trainings or informal meetings.<sup>323</sup> It is important for agencies to stress how the use of EIS and improvement of agencies' accountability systems as a whole will improve officer and community safety by improving officers' skills.

## Examples of EIS in Practice: Phoenix and Seattle Police Department

The Board describes these two agency's systems only to give readers a clearer understanding of how EIS works, but does not endorse these systems, as more research regarding the effectiveness of these systems is needed.

#### Phoenix PD<sup>324</sup>

Phoenix's system includes five phases: 1) identification, 2) notification, 3) supervisor review, 4) intervention, and 5) follow-up. The "identification" phase covers both officer and supervisor "potential risk behavior." When the system issues an employee or supervisor alert, each alert is reviewed on a case-by-case basis by a coordinator who considers certain factors. Next, in the "notification" phase, the system informs the employee's chain of command. The alert includes information helpful to command staff to understand what happened. When the alert is sent by

322 *Id.* at p. 42.

<sup>&</sup>lt;sup>319</sup> U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 5.

<sup>&</sup>lt;sup>320</sup> *Id.* at p. 37.

<sup>&</sup>lt;sup>321</sup> *Ibid*.

<sup>323</sup> *Id.* at p. 43.

<sup>&</sup>lt;sup>324</sup> See generally Phoenix Police Dept. Personnel Support Services, Operations Order 3.8 (Aug. 2017) pp. 5-7.

the coordinator, it is copied to command up to bureau/precinct commander/administrator. During the "supervisor review" phase, a first-line supervisor reviews all pertinent information provided, meets with employee, and determines if intervention would be beneficial. This phase must be completed with 14 calendar days and the first- and second-line supervisors work together. The employee is encouraged to be an active participant and provide feedback in a private meeting aimed at addressing the root cause of the potential risk behavior. If intervention is required, during the "intervention phase," the supervisor meets with the officer again to go over recommended intervention(s) and create timelines for specific performance. Interventions can take three different forms:

- Supervisory-based intervention: handled solely in chain of command by providing guidance or specific strategies that employee can implement immediately.
- Training-based intervention: requires employee to take training as soon as possible to improve performance.
- Wellness-based intervention: includes support services like Employee Assistance
  Program (professional counseling services provided through the governmental
  employer), peer support program, critical incident stress management, police chaplaincy
  program.

The final "follow-up" phase must be complete within 45 days after a supervisor receives an alert. Documentation must be submitted and should include the time and date of the meeting with the officer and a statement that the alert was reviewed. This documentation is forwarded to a second-line supervisor for approval and then the second-line supervisor sends the completed and approved documentation to the coordinator. Phoenix PD's EIS includes different indicators or behaviors and sets different thresholds for employees and supervisors that will flag their behavior for review.

#### Seattle PD<sup>325</sup>

The Seattle Police Department's EIS policy begins by explaining what EIS is and why the agency uses it. Seattle PD's EIS has specific time frames when each phase of the system is to be followed. The Early Intervention Assessment begins with an Early Intervention Coordinator notifying a Sergeant/First-Line Supervisor that an assessment needs to be completed within three days of identifying the employee. Within 14 days of receiving the notice, the Sergeant/First-Line Supervisor must complete the assessment form and submit it to the chain of command. Within three days of receiving that assessment, a Lieutenant/Manager must complete an EIS approval form and submit it to the Captain/Director. Within seven days of receiving the assessment, the Captain/Director must review it, complete an EIS approval form, and submit it to the EIS Coordinator. Next, at least one week before the next committee meeting, the EIS coordinator must submit the assessment to a "Performance Review

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<sup>&</sup>lt;sup>325</sup> See generally Seattle Police Department Manual, 3.070 Early Intervention System (Apr. 1 2020) <a href="https://www.seattle.gov/police-manual/title-3---employee-welfare/3070---early-intervention-system">https://www.seattle.gov/police-manual/title-3---employee-welfare/3070---early-intervention-system</a> (as of Dec. 14, 2020).

Committee." Within seven days of the meeting, the "Performance Review Committee" must review the assessment and either reject it by sending it back to the chain of command or accepting it and sending it the Bureau Chief. Within 5 days of receiving the assessment, the Bureau Chief will review and approve the assessment.

The agency has all officers separated and assigned into five peer groups, which determines the threshold level upon which an alert will be triggered. If an employee meets the threshold of a risk factor, then an Early Intervention Assessment is conducted and may result in a mentoring plan, for which a supervisor is directly liable for tracking progress of the officer. Additionally, the EIS policy provides that an assessment will be conducted at the aggregate level if an officer has a total of 10 indicators during a six-month period. The agency's policy clearly delineates examples of the types of interventions an officer may participate in and the roles and tasks of the coordinator, first-line supervisor, lieutenant and managers, captains and directors, and the bureau chief.

## Vision for Future Reports

In the coming years, the Board will do a deeper dive into the use of civilian complaints within EIS and the effectiveness of EIS in holding individual officers, supervisors, units, and agencies accountable. Additionally, the Board remains committed to creating a uniform "complaint" definition to help create consistency throughout the State of California regarding what kinds of reports should constitute a complaint.

# LAW ENFORCEMENT TRAINING RELATED TO RACIAL AND IDENTITY PROFILING

Law enforcement agencies receive training related to the mandates of RIPA from the California Department of Justice, internally within their agencies, and from POST.

## California Department of Justice POST Certified Course

In 2020, the Department received certification from POST to conduct in-person classroom trainings, Reporting Stop Data for RIPA (AB 953). Due to COVID-19, plans to offer a classroom-based course were paused; however, the team also developed a web-based option for the course, with sessions beginning in Fall 2020.

The course provides a detailed review of the RIPA legislation and the role of the RIPA Board, in addition to key definitions and an in-depth review of the data fields that are reported with a stop. During the sessions, emphasis is placed on how the reporting requirements apply to the various scenarios officers may encounter while on duty. Attendees will learn the data collection process, from the time it is collected locally, to when and how it is reported to the DOJ's statewide repository, to its analysis and publication in the Board's Annual Report. The course instructors include staff in both the Department's Civil Rights Enforcement Section and California Justice Information Services Division to discuss legal questions related to RIPA, as well as administrative/technical aspects of implementation. The training incorporates multiple learning approaches, including a PowerPoint presentation, videos, interactive review of scenarios, a system demonstration, and knowledge checks. The goal of the course is to ensure uniform reporting across agencies.

Sessions are four hours in length, and the Department will offer these approximately twice a month. The target audience includes sworn and non-sworn law enforcement personnel responsible for working on their agency's overall RIPA implementation. Participants are asked to share their role in their agency's implementation of stop data collection and their existing knowledge of RIPA in the hopes of best tailoring the course to fit the real world needs of the attendees and their respective agencies.

The Department presented an overview and selected contents at the POST Subcommittee meeting on August 5, 2020. The Department incorporated the Board's feedback before the first training session in October 2020.

## AB 953 Survey: Training and Recruitment

The Department's survey to the Wave 1, 2 and 3 agencies also addressed how the agencies were incorporating the Board's recommendations and best practices into their training. Fifteen of the 25 agencies surveyed indicated that they incorporated the Board's recommendations into their training.

## Agencies Indicated That They Have Incorporated the Board's Recommendations into Their Training

| Alameda County SO     | Los Angeles PD           | San Diego County SD |
|-----------------------|--------------------------|---------------------|
| Bakersfield PD        | Orange County SD         | San Diego PD        |
| CHP                   | Riverside County SD      | San Francisco PD    |
| Fresno PD             | Sacramento PD            | San Jose PD         |
| Los Angeles County SD | San Bernardino County SD | Stockton PD         |

Ten agencies described how they incorporated the Board's recommendations into their training.

**Alameda County SO**: reported sharing and discussing the 2019 RIPA Board Report during SDCS training as it related to data being collected and shared.

**Fresno PD**: indicated that the recommendations were included in Roll Call Training Bulletins.

**Los Angeles County SD**: indicated that they require POST-approved anti-bias training annually.

**Orange County SD**: reported implementing a training video, bulletin, and briefing training.

**Sacramento PD**: indicated that all academy recruits and sworn personnel receive training on racial and other equity, which is provided in the academy and through Continuing Professional Training (CPT), policy updates, roll call training bulletins, and roll call training.

**San Bernardino County SD**: reported that data analysis and talking points were provided to commanders to discuss at briefings.

**San Diego County SD**: reported that training was provided to sworn and non-sworn employees at daily briefing, online, and in-person with community groups.

**San Francisco PD**: reported that implicit bias or procedural justice training was incorporated into 12 courses, including required bi-annual CPT training, stand-alone courses on bias, and management courses for civilians.

**San Jose PD**: indicated that they teach the requirements of AB 953 data collection and remind everyone of existing policies consistent with the RIPA Board's recommendations.

"Training has been provided in person and on-line to sworn and nonsworn employees. This training has been conducted at daily briefing, online and in person with community groups" – San Diego County SD "All academy recruits and sworn personnel receive training on racial and other equity .... Training is provided in the academy, Continuing Professional Training (CPT), policy updates, roll call training bulletins and roll call training" - Sacramento PD

"SFPD currently includes implicit bias or procedural justice training through 12 courses, from required bi-annual AO/CPT training to stand alone courses on bias, to management courses for civilians. These courses draw on a wide variety of sources, including the RIPA reports, as they are drafted and/or updated"

- San Francisco PD

Several agencies indicated that they were in the process of developing or updating training materials in line with best practices.

**Bakersfield PD**: reported that its Quality Assurance Unit was reviewing the 2020 RIPA Board Annual Report to assess future trainings.

**CHP**: indicated that they were updating the departmental training curriculum in compliance with RIPA and associated statutory requirements.

**San Diego PD**: indicated that while sworn officers have participated in implicit bias and bias by proxy training for years, they are currently developing similar training for civilian personnel.

"The Department is in the process of developing implicit bias and bias by proxy training for its civilian personnel based on Board Recommendations"
- San Diego PD

"The department's Quality Assurance Unit is currently reviewing all relevant information (including the 2020 RIPA Board Annual Report) while assessing future training...." - Bakersfield PD

Additionally, several agencies reported that they had already incorporated the Board's recommendations in their training.

**Los Angeles PD**: indicated that they would continue to include the Board's recommendations as they create new training.

Riverside County SD: reported that deputies receive ongoing training.

**San Francisco County Sheriff**: indicated that diversity and racial bias training was pre-existing.

**Santa Clara County SO**: indicated that they have not specifically adopted the Board's recommendations, but continue to develop training based on best practices and new legislation.

**Stockton PD**: reported that they conduct ongoing procedural justice training, racial profiling, and implicit bias training.

## Agencies Reported Training as One of Their Approaches to Ensure Compliance with their Bias-Free Policing Policies and as One Method to Address Non-Compliance

# Use Training & Supervision to Ensure Staff Meet the Bias-Free Policing Policy Expectations

Fresno County SO San Diego PD San Francisco County SO Santa Clara County SO Ventura County SD

## Additional Training is One Method Used to Respond to Violations

Alameda County SD Bakersfield PD CHP Kern County SD San Bernardino County SD

"All staff is held accountable and take yearly training updates in this area ... The City and County of San Francisco has city departments established which monitor and encourage racial diversity and training for all city/[County] employees."

—San Francisco County SO

"SDPD holds personnel accountable by establishing clear expectations in policy and procedures, providing training and supervision to help meet those expectations..."

—San Diego PD

## Hiring

The San Diego County Sheriff's Department indicated one of the main actions they have taken to adopt the Board's recommendations has been to change their hiring procedures to reflect the county demographics. The Board plans to further evaluate issues relating to recruitment, hiring, retention, and promotion during 2021.

## Diversity in Law Enforcement

The RIPA Board was created with the purpose of eliminating racial and identity profiling and improving and understanding diversity in law enforcement through training, education, and outreach. The Board has undertaken a review of literature about the impact of diversity in law enforcement and the communities served and hopes to examine law enforcement recruitment, hiring, and promotions in future years.

Research studies on diversity in law enforcement show correlations between police officer behavior and the race of the officer and driver during police stops. Numerous studies have found that public officials of color are more likely to implement policies that reduce disparate

treatment toward people of color.  $^{326}$  In the case of racial profiling, White officers have been shown to be more likely to stop and search Black motorists, whereas officers of color treat drivers of color more fairly than White officers.  $^{327}$ 

The literature also suggests a correlation between the racial, ethnic, or gender composition of a police force and decreased police violence. However, this change in law enforcement officer behavior occurs only when there are enough officers of color that feel safe representing the interests of members of the same race. This concept, known as critical mass, suggests that individuals help other minorities within an organization or community they serve when empowered by large enough numbers from similar backgrounds within that organization. Nevertheless, there can be challenges to this concept of critical mass, including officers of color conforming to organizational culture for career success, peer pressure, or the internalization of the dominant organizational view. Additional challenges to critical mass include significant trust issues between communities of color and law enforcement, including historical legacies of slavery, segregation, and discrimination.

These challenges, along with allegations of racial profiling and the perceptions it creates in communities of color, make it more difficult for law enforcement officers to meaningfully collaborate with community members to achieve public safety.<sup>331</sup> Given how important these diversity issues are for law enforcement behavior and community relations, the Board looks forward to further exploring these critical matters next year.

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<sup>&</sup>lt;sup>326</sup> Wright and Headley, *Police Use of Force Interactions: Is Race Relevant or Gender Germane?* (May 2020) American Rev. of Public Admin. pp. 1-14 [citing Capers, *The effect of the external environment on bureaucratic representation: Assessing the passive to active representation link* (2018) vol. 48, No. 4, The American Rev. of Public Admin].

<sup>&</sup>lt;sup>327</sup> Nicholson-Crotty, Nicholson-Crotty & Fernandez, *Will More Black Cops Matter? Officer Race and Police-Involved Homicides of Black Citizens* (2017) volume 77, No. 2, Public Admin. Rev. pp. 206-16 [citing Gilliard-Matthews, Kowalski & Lundman, *Office Race and Citizen-Reported Traffic Ticket Decisions by Police in 1999 and 2002* (2008) volume 11, No. 2, Police Quarterly, pp. 202-19]; see also Antonovics & Knight, *A New Look at Racial Profiling: Evidence from the Boston Police Department* (2009) volume 91, No. 1, Review of Economics and Statistics, pp. 163-177; and Hong, *Representative bureaucracy, organizational integrity, and citizen coproduction: Does an increase in police ethnic representativeness reduce crime?* (Oct. 2015) volume 35, No. 1, J. of Policy Analysis and Management, pp. 11-33.

<sup>&</sup>lt;sup>328</sup> Nicholson-Crotty, Nicholson-Crotty & Fernandez, *Will More Black Cops Matter? Officer Race and Police-Involved Homicides of Black Citizens* (2017) volume 77, No. 2, Public Admin. Rev. p. 209.

<sup>&</sup>lt;sup>329</sup> Wilkins and Williams, *Black or Blue: Racial Profiling and Representative Bureaucracy* (2008) volume 68, No. 4, Public Administration Rev. pp. 654-64 [citing Romzek, *Employee Investment and Commitment: The Ties That Bind* (1990) volume 50, No. 3, Public Administration Rev. pp. 374-382].

<sup>&</sup>lt;sup>330</sup> Wilkins & Williams, *Black or Blue: Racial Profiling and Representative Bureaucracy* (2008) Public Administration Rev., volume 68, No. 4, p. 655 [citing Russell-Brown, *The Color of Crime: Racial Hoaxes, White Fear, Black Protectionism, Police Harassment, and other Macroaggressions* (1998) New York University Press].

<sup>&</sup>lt;sup>331</sup> Wilkins & Williams, *Black or Blue: Racial Profiling and Representative Bureaucracy* (2008) volume 68, No. 4, Public Administration Rev. p. 655.

## California Commission on Peace Officers Standards and Training (POST)

POST is a state entity in the California Executive Branch that reports directly to the Governor. POST is responsible for setting the minimum selection and training standards for over 96,000 law enforcement officers and dispatchers in California; more than 600 agencies participate in the voluntary POST program. POST has approximately 135 staff and over 30 Law Enforcement Consultants. It has a current budget of approximately \$82 million. The Commission holds three public meetings per year to establish standards and regulations and to give direction to POST staff. The Commission established an advisory committee of 14 appointed individuals that provides a two-way communication link between the Commission and organizations that share an interest in the Commission's work.

## Legislative Mandate

In 2015, RIPA amended Penal Code section 13519.4, which created specific training requirements for POST, as well as guidelines to prevent racial and identity profiling. The law requires academy level courses for new recruits and expanded training for seasoned in-service officers. The Legislature stressed that these courses should teach understanding and respect for racial, identity, and cultural differences and development of effective non-combative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

Penal Code section 13519.4 requires that the curriculum "be evidence-based and include and examine evidence-based patterns, practices, and protocols that prevent racial or identity profiling." In developing the training, POST must consult with the RIPA Board, which, in turn, includes its review of the law enforcement training in its annual report.

### Summary of Racial and Identity Profiling Training Courses

The information below details how POST has worked with the RIPA Board POST Subcommittee on training and recruitment over the past three years. POST's goal has been to develop academy level courses for all new recruits and expanded training courses for seasoned inservice officers. The five courses established to meet the mandates of RIPA are aimed at teaching respect for racial, identity and cultural differences, and they consist of two academy courses: 1) Principled Policing in the Community and 2) Cultural Diversity/Discrimination, and three courses for in-service officers: 1) Bias and Racial Profiling, 2) Implicit Bias and Profiling Update Self-Paced Refresher and 3) Implicit Bias and Profiling Update Self-Paced Refresher for Supervisors. The Board has reviewed two of the five mandated courses. In addition, this Report provides information relating to other courses on procedural justice and implicit bias that are being developed or updated by POST.

## 2018 RIPA Report

In the 2018 RIPA Report, the Board reviewed two POST training courses for in-service officers: "Biased Based Policing: Remaining Fair and Impartial" and "Principled Policing."

After the Board's feedback concerning the Biased Based Policing course, POST replaced the course with a two-hour training video course entitled, "Bias and Racial Profiling."

The Board reviewed the 2015 "Principled Policing" course – developed in partnership with the Department of Justice, Stanford University, the Oakland and Stockton Police Departments, the California Partnership for Safe Communities, and the Empower Initiative – and found that it met many requirements established by Penal Code section 13519.4. However, the Board recommended that the course be updated to include: 1) the obligations of peace officers in preventing, reporting and responding to discriminatory or biased practices by fellow police officers; 2) a discussion of California's prohibition against racial and identity profiling; and 3) community participation. POST has integrated elements of the Board recommendations into the new mandated academy course entitled, "Principled Policing in the Community."

## 2019 RIPA Report

In the 2019 RIPA Report, the Board conducted evidence-based research and identified best practices for trainings devoted to preventing racial and identity profiling in policing. These best practices include:

- evidence-based and scientific peer-reviewed research on bias, principles of civil rights, and constitutional policing and reflecting the agency's commitment to procedural justice, bias-free policing, and community policing;
- communication and community relationships;
- the tenets of procedural justice (voice, neutrality, respectful treatment, and trustworthiness); and
- implicit bias, explicit bias, and cultural competency.

## 2020 Training Updates

Since the 2020 RIPA Report, POST has continued efforts to strengthen training courses aimed at meeting the mandates of RIPA and Penal Code section 13519.4. The following are the five standard courses offered by POST:

| Academy Courses                                 | In-Service Training                              |  |
|---|--|--|
| Principled Policing in the Community – 26 hour  | Bias and Racial Profiling – 2 hour video         |  |
| in-person course                                | Profiling and Implicit Bias Refresher for        |  |
| Cultural Diversity/Discrimination – 16 hour in- | Supervisors – 2 hour online course (Spring 2021) |  |
| person course                                   | • Profiling and Implicit Bias Refresher – 2 hour |  |
|   | online course (Fall 2020)                        |  |

POST also created or updated other courses related to racial and identity profiling and principled policing.

- Procedural Justice/Implicit bias training, an 8-hour course for in-service officers that is voluntary but meets the legislative mandates. It covers several topic areas such as Principled Policing, law enforcement cynicism, community relations, and implicit bias. As of January 2020, 6000 officers had completed the training.
- POST modified supervisory, management, and executive level courses to include the four tenets of procedural justice.
- POST produces between three and five short videos (3-5 minutes long) entitled, "Did You Know." These videos are about procedural justice and implicit bias and are used during rollcall, training, or community meetings.
- POST has had a long-term relationship with the Museum of Tolerance (MOT) in Los Angeles. Each year, POST enters a \$1.5 million contract for instruction on a series of courses. All students who attend the POST Supervisory Leadership Institute attend the training at the MOT.
- POST has developed a Distance Learning Grant Program (DLGP) pursuant to the
  California State Budget Act of 2020. The DLGP is designed to award funds on a
  competitive basis to help with the development and facilitation of the delivery of quality
  training aimed at increasing equitable access to high-quality learning experiences while
  using distance learning technologies. The program is funded at \$5,000,000 and must
  address issues in one of the following five program areas: Use of Force and Deescalation, Implicit Bias and Racial Profiling, Community Policing, Cultural Diversity, and
  Organizational Wellness.

## Recent Updates to the POST Training Program for 2021

- 1. The "Bias and Racial Profiling" course is a two-hour training video, which was reviewed by the RIPA Board and released by POST in May 2020. As of July 2020, a total of 4,635 individuals had completed the training.
- 2. The "Principled Policing" course was updated in October 2020 to update curriculum. It is a voluntary 8-hour course for in-service officers.
- 3. The "Principled Policing in The Community" course was approved to be included in the POST Basic Academy Learning Domain 3. This is a 26-hour mandatory course for new recruits and became effective April 2020.
- 4. The "Principled Policing Train-The-Trainer" (T4T) is a 24-hour course one for instructors in the basic academy and one for in-service instructors. After two initial T4T presentations in September 2020, the Principled Policing course for in-service students will be deployed across the state.

- 5. POST is developing a two-hour instructor video, tentatively titled "Principled Policing Instructor Video." The video will be used as a resource in the aforementioned T4T instructor training and will enable all instructors to use the same video resource, whether basic or in-service. The video will 1) provide video scenario resources for Principled Policing instructors to use in their classes and 2) enhance the instructor's facilitation skills and effectiveness by providing both facilitation tips and recommendations based on what occurs within the video program's examples. It will also provide commentary on how instructors can bring forth additional Principled Policing-specific content beyond just the examples in the video scenarios.
- The self-paced online "refresher" training course is almost complete and is expected to be released by February 2021. The course will be tentatively titled "Profiling and Implicit Bias Refresher."
- 7. The supervisor module for the self-paced "refresher' course is currently under development. POST anticipates releasing the supervisor module in the spring of 2021. The module will be tentatively titled "Profiling and Implicit Bias Refresher for Supervisors."

Officers are required to take a mandatory two-hour refresher course every five years after leaving the academy, and the Board reviewed two of the courses designed to meet this requirement.

## Board Member Review of Profiling and Implicit Bias Self-Paced Online Refresher Course

One of the five mandatory courses created by POST on racial and identity profiling and cultural diversity is entitled, "Profiling and Implicit Bias Refresher." It is a self-paced course and is located on the POST Learning Portal, which means officers can take this course at any time.

The POST curriculum development process includes analysis, design, and review phases before the course is released to the field. POST invited the Board to participate early in the course development process for the "Profiling and Implicit Bias Refresher" and again after the content was created.

During the initial analysis phase, POST had one-on-one interviews with Board members (past and present), which included Ben McBride, Warren Stanley, Sandra Brown, Marianna Marroquin, and David Robinson. POST then worked with Subject Matter Experts (SME) from the Museum of Tolerance and their trained instructors to establish learning objectives in line with the mandates in Penal Code section 13519.4. Additionally, POST used both SME's and law enforcement officers to test different prototypes. In April 2020, POST invited Board members to review an online demonstration of a draft of the course and hosted content review and feedback sessions. Four current Board members, Steve Raphael, Melanie Ochoa, LaWanda Hawkins and Sandra Brown, provided comments on the course.

The Board members<sup>332</sup> expressed that while an in-classroom course is the preferred form of delivery, the modules of this online course were structured and designed very well. The Board members liked that the course included the topics of constitutional rights, implicit bias, connecting with the community, procedural justice, accountability, and de-escalation. The Board was also pleased to see that if an officer answers a question incorrectly, they could not proceed and would need to answer the question correctly before going forward to the next scenario.

Nevertheless, Board members concluded that because the content, scenarios, and desired outcomes are critical to the course success, the subject areas listed above need to be strengthened, clarified, discussed in greater detail, or changed. The Board offered a variety of recommendations for improvement. Board members expressed concerns that the course included scripted bias scenarios as a teaching tool even though actual footage of officerinvolved situations is available and would be more effective. The Board members expressed that greater care should be taken when selecting teaching examples needed to achieve the desired outcome. They felt that the course would benefit from providing more guidance and discussion about the legal implications and consequences of bias. The Board also recommended that the course include some classroom discussion regarding the reasons why POST included certain bias based scenarios. Lastly, the Board pointed out that the course did not sufficiently emphasize officer accountability, reporting obligations, and how officers should respond after observing biased behavior by their peers, nor did the course take advantage of teaching opportunities provided in scenarios applying reasonable suspicion and the use of social media.

## Board Member Review of Bias and Racial Profiling Video Course

Another of the five mandatory courses created by POST is entitled, "Bias and Racial Profiling." Officers can view this training video either in a facilitated group or individual setting. Before her passing in December 2018, the Honorable Alice Lytle, a RIPA Board member, was very involved in the early development of this curriculum, served as an SME, and provided guidance to POST. Other SME's working on the training course video included representatives from the Fresno County District Attorney's Office, the Council on Islamic Relations, the Museum of Tolerance, the Stockton Police Department, the Glendale Community College Police Department, and an advocate of the LGBTQ community. Course development meetings were held with collaborators in October and December of 2018 and again in February 2019. Additionally, POST interviewed the SME's individually.

In April 2020, following the post-production of the video, Board members were invited to view the final version of the video prior to its release in May 2020. Board member participants

<sup>332</sup> These are a compilation of comments made by individual Board members – they are not verbatim and do not necessarily reflect those of more than one reviewer.

included Sandra Brown, Angela Sierra, Nancy Frausto, Melanie Ochoa, and David Swing. Board members<sup>333</sup> reviewed the video and provided POST the following comments.

Some Board members were pleased with the course and thought it was designed to enhance critical thinking and tackle difficult subjects in a way that did not seem artificial. Some felt it was professional and well put together and some liked the historical segments. Board members felt that it could be helpful for community members to see the included conversations between officers.

Some Board members expressed concerns about specific scenarios that needed deeper discussions involving parole and probation, explicit versus implicit bias, the use of highly offensive terms to describe groups of individuals, and the need to use real data to illustrate the disparate treatment of people of color. Some Board members believed that the training should include the role of contemporary police, illustrate how misconduct can create present-day views of law enforcement, and provide officers with the tools to combat personal or agency issues. The Board members also believed that the training was lacking because it did not include RIPA stop data, it did not use actual incidents and events involving officers, nor did it use examples of ways to communicate with different groups of people when stopped (e.g. people with hearing or learning disabilities). Finally, the course did not discuss the "wrongness" of a stop and the bias that led to the stop; and it did not cover situations where officers may not be fully aware of how their actions change as the stop evolves.

Unfortunately, POST advised that it could not adopt any of the above recommendations by the Board members due to the limited time available between the time that POST previewed the video to the Board members and the video's release, since the video was already in post-production. Because POST was unable to change the video, but did want the input of the Board and the Department, POST invited Department personnel who staff the RIPA Board to review and edit the participant's guide based on Board member suggestions. The guide would be used to edit the facilitator's guide that is used during the presentation of the course. POST incorporated most of these comments into the guide, so many of them will be addressed during the classroom discussion portion of the training. POST has expressed a strong desire and commitment to ensure this does not happen again, and has pledged to work closely with the Board throughout the entire process in the future. The Board looks forward to developing a stronger working relationship with POST moving forward.

## Vision for Future Reports

Law enforcement training must be relevant to today's circumstances and the oath officers take to protect and serve everyone. Training is critical to law enforcement culture, community relations, and outcomes that prevent innocent people from being harassed, criminalized, or

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<sup>&</sup>lt;sup>333</sup> These are a compilation of comments made by individual Board members – they are not verbatim and do not necessarily reflect those of more than one reviewer.

unnecessarily injured or killed. Training is also critical to ensure that all community members are treated equitably when they come into contact with a law enforcement officer.

The Board will continue its work to review all five training courses designated by POST with assistance from outside consultants. The Board will specifically review the two Academy courses, Learning Domain 3, Principled Policing in the Community and Learning Domain 42, Cultural Awareness/Discrimination. The Board also looks forward to working with POST on the development of the Profiling and Implicit Bias Refresher Course for Supervisors. In the coming years, the Board also hopes to examine the impact of implicit bias training in law enforcement.

Finally, the Board would like POST to consider the following training ideas. Namely, POST should:

- Use the data and analysis from the RIPA reports to examine the disparities between racial and identity groups and identify topic areas of concern for future course development.
- Use actual footage of law enforcement encounters in lieu of scripted scenarios.
- Provide training tools and techniques that emphasize community member perspectives during officer encounters.
- Provide courses on officer peer behavior accountability. Officers should be trained how
  and when to report incidents to their supervisor and be assured they will not be harassed,
  ridiculed, or retaliated against.
- Provide training courses aimed at deeper discussions regarding; 1) possible officer bias that leads to a stop, how the situation evolves during the stop, and how negative outcomes can be prevented; 2) community perceptions of consent and the behavior or event that turns consent into detention; 3) parole and probation stops and searches; and 4) verbal and non-verbal communication during a stop to prevent escalation.
- Connect recruit academy training with field training and determine how implicit bias and racial and identity profiling and cultural awareness training are being applied.
- Ensure that Field Training Officers have received sufficient training in implicit bias, profiling, and cultural awareness to perform their job fairly and equitably.
- Make the Principled Policing Course, which includes a community presenter component, mandatory for all officers.
- Provide in-service officer racial and identity and cultural awareness training more frequently than two hours every five years.

## Vision for Future Reports

 The Board will continue to analyze POST's trainings on bias free policing and racial and identity profiling to ensure that its trainings incorporate the most up-to-date evidence based best practices. In addition to training, the Board hopes to explore best practices in hiring and diversity in law enforcement in the coming years.

## **RELEVANT LEGISLATION ENACTED IN 2020**

This Report highlights relevant legislation enacted in 2020, an unprecedented year for legislative reforms regarding policing, criminal justice, and mental health. This legislation may impact the Board's work towards eliminating racial and identity profiling, as well as require updated trainings for officers. All bills are effective on January 1, 2021, unless otherwise specified.

### Police Practices

#### AB 1196 - Choke Holds

Assembly Bill 1196 establishes that law enforcement agencies are not authorized to use a carotid restraint or a choke hold. A carotid restraint is "a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person." A choke hold is "any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe." The author, Assemblymember Gipson, noted: "In the Eric Garner case, NY Commissioner James O'Neill said that the officer's failure to relax his grip while subduing him triggered a fatal asthma attack. With the high profile death of George Floyd in Minneapolis, where a peace officer used his knee to subdue and detain him, it is clear that similar methods of restraining suspects are incredibly risky and should no longer be allowed." This legislation ensures that these methods of restraint are no longer authorized throughout the state of California.

## AB 846 – Public Employment: Public Officers or Employees Declared by Law to be Peace Officers

AB 846 establishes that the emotional and mental health evaluations included as minimum standards for peace officers in the state must include bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation. The law states that when police departments are advertising positions for peace officers, they must emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem-solving, while de-emphasizing the paramilitary aspects of the job. AB 846 also establishes that by January 1, 2022, POST must study, review, and update their regulations and associated training materials related to officer candidates' screening for emotional and mental conditions to incorporate identification of the explicit and implicit bias described above.

<sup>&</sup>lt;sup>334</sup> AB 1196 as amended does not have a prohibition on "techniques or transport methods that involve a substantial risk of positional asphyxia." This is something law enforcement may wish to address when updating their policies.

<sup>335</sup> Assem. Floor Analyses, analysis of AB 1196 (2019-2020 Reg. Session), as amended Aug. 31, 2020, p. 1.

#### AB 1506 - Police Use of Force

AB 1506 establishes that by July 1, 2023, the California Department of Justice will create a division that, upon the request of a law enforcement agency, will review the use-of-force policy of the agency and make recommendations for changes. Additionally, the law requires that beginning in 2021 a "state prosecutor," e.g., the Attorney General unless otherwise specified or named, will investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian.

#### SB 480 - Law Enforcement Uniforms

SB 480 establishes that law enforcement agencies may not authorize or allow employees to wear a uniform that is camouflage or a uniform that is substantially similar to the United States Armed Forces or state active militia.

### AB 1185 - Sheriff Oversight

AB 1185 establishes that a county, through action of the board of supervisors or a vote of county residents, may create a sheriff's oversight board or an inspector general's office. The law further allows for those entities to have the authority to issue subpoenas when deemed necessary to investigate a matter within their jurisdiction.

#### AB 1775 - False Reports and Harassment

AB 1775 amends existing law protecting Californians from violence or intimidation by threat of violence to provide that intimidation by threat of violence includes, but is not limited to, "making or threatening to make a claim or report to a police officer or law enforcement agency that falsely alleges that another person has engaged in unlawful activity or in an activity that requires law enforcement intervention," knowing that the claim or report is false, or with reckless disregard for the truth or falsity of the claim or report. The bill also increases the criminal penalties for knowingly using the 911 emergency system for the purpose of harassing another. In addition, the bill clarifies that under certain circumstances a false report could be a hate crime and provides for civil remedies for a violation. The bill also establishes that communications between a person and a law enforcement agency in which the person knowingly or recklessly makes a false report that another person has committed or is committing a criminal act will not be privileged in a judicial, legislative, or other official proceeding.

#### Criminal Justice Reform

### SB 132 – Transgender Respect, Agency, and Dignity Act

SB 132 requires the state Department of Corrections and Rehabilitation (CDCR) to treat an incarcerated person who is transgender, nonbinary, or intersex, in a manner consistent with that person's gender identity. Further, SB 132 requires CDCR to house a person based on the person's preference. CDCR must also search the person according to the search policy for that person's gender identity or the gender designation of the facility where they are housed, whichever is the preference of the person. The bill additionally mandates that CDCR personnel

record the person's self-reported gender identity, gender pronouns, and honorifics during the intake process. SB 132 requires not only CDCR staff but also contractors and volunteers to properly address people by the appropriate name and pronoun.

#### Youth

#### AB 901 - Youth "Juvenile"

AB 901 limits various authorities of the juvenile court and other local entities in addressing the issue of truant youth. As one example, under AB 901, a juvenile court judge may no longer adjudge a minor a ward of the court on the basis they habitually refuse to obey the reasonable and proper orders or directions of school authorities. Under AB 901, a peace officer must also first refer a minor who is habitually truant or habitually refuses to obey the reasonable and proper orders or directions of their parent or guardian to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services before issuing a notice to appear in juvenile court to determine whether the minor should become a ward of the court. AB 901 also prohibits a juvenile court from rendering a judgment that a parent or guardian of a youth deemed insubordinate or disorderly bring them to school daily. Probation officers under AB 901 are now required to refer a youth who has four or more truancies in a school year to services provided by a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services.

#### SB 203 - Juveniles: Custodial Interrogation

SB 203 establishes that youth under 18 must consult with an attorney prior to any custodial interrogation and before waiving their Miranda rights. Previously, the law only provided these protections for youth who are 15 and younger and it was set to expire on January 1, 2025. SB 203 extends these protections indefinitely.

#### Mental Health

#### AB 3242 - Mental Health and Involuntary Commitment

Existing law authorizes the involuntary, up-to-72-hour commitment and treatment of people with certain mental health disorders for their own protection. AB 3242 permits an examination or assessment to determine whether an involuntary commitment is necessary to be conducted using telehealth. AB 3242 has an impact on community assisted transport teams that respond to mental health emergencies and allow teams to seek doctor approval without having to have a police officer or clinician respond to the scene directly.

#### AB 1976 – Mental Health Services: Assisted Outpatient Treatment (known as "Laura's Law")

AB 1976 requires counties to develop an assisted outpatient treatment (AOT) program unless they affirmatively opt out. The bill also repeals the January 1, 2022 expiration of, and extends indefinitely, Laura's Law, a state law that permits the court to order AOT under two conditions: (1) if the person meets existing involuntary commitment requirements or the person has refused treatment and their mental health condition is substantially deteriorating; and (2) AOT

would be the least restrictive level of care necessary to ensure the person's recovery and stability in the community. Previously, AOT was only available in counties where it was adopted by the board of supervisors.

#### **AB 2112 - Suicide Prevention**

AB 2112 establishes a statewide office for suicide prevention that, among other duties, provides information and technical assistance on suicide prevention and assesses regional and statewide suicide prevention policies and practices. The new department is also responsible for developing evidenced-based best practices.

## CONCLUSION

The Board has come a long way in the last four years, but there is more work ahead to fulfill the goal of the Racial and Identity Profiling Act of 2015 to eliminate racial and identity profiling in California. The Survey responses from law enforcement agencies demonstrate the significant impact the work of the Board is having on agency policy, training, and procedures. Agencies are discussing the Report with their staff, incorporating best practices for their bias-free policing policies and complaint forms, analyzing their data to identify disparities, and engaging with their communities. The Board will continue to evaluate stop data and highlight disparities to inform data-driven policy and practice recommendations. Each year, the Board delves deeper into topics of import to the community and law enforcement to make recommendations that will continue to effect positive change and ultimately improve relationships and trust between law enforcement and the community.

## **ATTACHMENT 2**

Transcript of the October 14, 2020, Cambridge Massachusetts Public Safety Committee

### 10/14/20 Public Safety on Traffic Enforcement

SUMMARY of the Oct 14 2020 10:00 AM Public Safety Committee Committee Meeting

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EDITED TRANSCRIPT of the Oct 14 2020 1000 AM Public Safety Committee Committee Meeting

# SUMMARY of the Oct 14 2020 10:00 AM Public Safety Committee Committee Meeting

Councillor Zondervan called the public safety committee to order and read the call of the meeting to discuss traffic enforcement and policy order 2020 number 178.

Councillor Zondervan stated that the committee was also joined by Mayor Siddiqui as well as the city manager, the police commissioner, and Mr. Barr, from traffic and transportation and an invited guest from the ACLU Mr. Rahsaan Hall and that he was expecting Professor Tracy Maclin from Boston University Law school to join later as well. He stated that the meeting was to talk about traffic enforcement and to hear from the ACLU about racial disparity in terms of traffic stops, and from Professor Maclin on fourth amendment issues with traffic stops as currently practiced. He stated that the meeting was not about having unarmed city staff members pulling over drivers in traffic and that the policy order that prompted this conversation was intended to start the conversation around alternatives to current traffic enforcement practices, so that we can reduce interactions between police and drivers in traffic. He stated that it was a two fold problem, racial disparities and the Fourth Amendment issues being the first and traffic enforcement practices not really protecting our safety on the roads being the second, with many incidents of traffic violations going unreported, and not prevented on a regular basis. He stated that a future hearing would be scheduled to discuss ways that traffic enforcement can help make our roads safer, perhaps considering automated enforcement and taking advantage of the fact that we do have a surveillance ordinance that can help us protect against some of the privacy issues that that presents as well.

City Manager Louis DePasqualle stated that he was happy to hear the meeting was not about unarmed staff ticketing (drivers) because he had a real concern about that. He stated that the city was looking hard at how to reduce its footprint when it comes to (providing police) services.

Police Commissioner Branville Bard stated that the chair had drastically changed the direction of the meeting and that the discussion he had planned on having was to point out that Mass. General Law doesn't allow (non-police to do traffic enforcement).

Joe Barr, Head of Traffic & Transportation stated that automated enforcement as part of our vision zero efforts had been discussed a lot, and that he saw it as a part of the solution, both to the problem of racial disparities in enforcement but also just generally to make our streets safer. He stated that he has

statistics and other information to share on how we can design automated enforcement to work well and be fairly administered.

Councillor Zondervan stated that he did not change the focus of the meeting, and that the policy order asks for alternatives to current traffic enforcement, which could include some level of automation, and it could also include some type of traffic regulation that are done by staff members, but that we are not contemplating unarmed staff members pulling drivers over in traffic. He stated that there are other interactions that could occur if someone is blocking a bicycle lane as an example, and there are infractions that could be observed by non-police that could be, if a citation is warranted, that citation could be issued by the police, but there are other ways to notify the driver if there is a problem, without (issuing) citations as well. He introduced Mr. Rahsaan Hall who is the director of the ACLU's racial justice program, a Reverend at St. Paul AME church in Cambridge, and the proud parent of a 2017 CRLS graduate.

Mr Hall stated that current policing structures are an impediment to public safety when racial disparities and racism are allowed to exist within the culture of policing. He stated that people who don't have contraband in their vehicles are subjected to racially motivated and racially biased stops and that the standards under law to challenge racially biased stops were too high, in part because of the substandard data and information that is available to allow an individual to challenge racially motivated pretextual stops. He stated that Cambridge is in a position to collect and analyze and report out robust data on its traffic stops. He stated that nationally, there are disparities in who gets stopped and that a recent 2020 report showed that black drivers comprised a smaller share of drivers stopped at night compared to during the day because the police can't see the drivers' race at night. He stated that Black and Latinx drivers are pulled over at twice the national average. He stated that Black and Latinx drivers are more likely to be subjected to prolonged stops and that Black drivers are more likely to have police threaten or use force against them. He stated that Black and Latinx drivers are more likely to have their vehicle searched than white drivers and that Black and Latinx drivers are more likely to be let go without the issuance of a citation. He stated that these disparities are true for searches of motor vehicles in Massachusetts. He stated that a 2017 Boston Globe story showed that 80% of vehicle searches during field interrogation observations were of Black drivers and that contraband is less likely to be recovered when the drivers are Black or Latinx. He stated that two thirds of the municipalities in Massachusetts were found to have disparities. He stated that there were significant racial disparities in the issuance of criminal motor vehicle citations in the state and that in some parts of Suffolk County, the disparities were 15 to one Black to White (drivers) for motor vehicle offenses, including in the Back Bay/Beacon Hill area. He stated that a 2020 Harvard study shows that there are significant disparities in who is charged with offenses and what types of sentences they receive and that the statistics are impacted by the over policing that happens in communities of color. He stated that for Cambridge stops, race data is not available and that from 2015 to 2018, 33% of those stops are for failure to stop or failure to yield which is a discretionary offense, so that there's no documentary proof that a motorist can use to show they're not being pulled over because of their race. He stated that not being able to identify race data leaves a huge gap in the analysis of what's happening in Cambridge in regards to traffic enforcement. He stated that the likelihood of black and Latinx motorists having longer stops, having stops that are more likely to turn hostile, having a stop that is more likely to result in their vehicle being searched, and the resulting embarrassment, harassment and disrespect that comes along with that and

humiliation for being stopped and for being pulled over for all of the people who have not violated the law that underscores the need and the urgency to make sure that this data is being collected that it is being published. He stated that ultimately, motor vehicle stops should be reduced as a means of law enforcement and public safety to stem the tide of racially biased policing.

In response to a question from Councillor McGovern, Commissioner Bard indicated that the Cambridge Police Department (CPD) wants to collect race data for traffic stops and is in the process of acquiring a new records management system that will allow CPD to analyze racial stop data, not just in vehicular stops, but also use of force, and pedestrian investigations, or other interrogations. He stated that most departments use something called partial population benchmarking, which means that, if for example, African Americans make up 19% of the population of a jurisdiction and are stopped at 17% or 20%, they'll say that no racial profiling exists. He stated that this analysis doesn't tell you if they stop African Americans and tend to hold them for 45 minutes, but they hold non minorities for seven minutes, on average, or that they stop African Americans for minor equipment violations, but only stop Caucasians or non minorities for serious moving violations, or that they search African American vehicles 25% of the time, and their non minority counterparts 1% of the time. He stated that agencies will use internal benchmarking, which means that they'll take an officer once a complaint has been made, and compare that officer versus similarly situated officers, and if here's no statistical difference, then no racial profiling exists, but that not everybody's going to catch somebody who's your most egregious offender. He stated that CPD already has the module built in the next record management system that will allow CPD to do a reason, result, duration analysis which looks at the three main components of a stop, the reason, the result and the duration, with subcategories in each of those. These would be quantified to allow for statistical comparisons to see if any difference exists across the police department, and between individual officers in how CPD treats individuals of different races. He stated that this will be a way to compare the amount of discretion an officer has in taking an action, and then weigh it versus a compelling governmental interest in that officer taking that same action. He gave an example of speeding, where the officer's discretion is the same, but there's a compelling governmental interest for an officer to stop someone going 30 miles an hour over the speed limit but not for an individual going one mile an hour over the speed limit. He stated this analysis would be protective of the public, and fair to the officers who go out and enforce the law.

In response to a question from Vice Mayor Mallon about next steps on the procedural dashboard Commissioner Bard stated that a free cash appropriation for the new records management system would come before the council in a couple of weeks. He stated that once the new system was implemented and began collecting data in the dashboard it would be available to the public with some interactivity for low level stuff like population benchmarking, but that the reasons, results, duration analysis would be real time and would allow CPD to look at the data and look at the individual officers and make any necessary interventions.

City Manager DePasquale stated that not this Monday coming, but the following Monday, the council would have that appropriation.

In response to a question from Vice Mayor Mallon, Commissioner Bard stated that the data would not be added to the annual Bridgestat report, because it would be continuously available.

In response to a question from Councillor Zondervan, Commissioner Bard stated that based on what the analysis showed, officers would receive training for minor infractions, and more severe actions for more egregious violations.

In response to a question from Councillor Zondervan about the impact on the driver, Reverend Hall stated that concern for drivers, particularly Black drivers comes straight from the headlines. The names that many of us are familiar with: Philando Castille who was pulled over during a pretextual stop. Walter Scott who was pulled over for a pretextual stop that led to him running from his car and being shot in the back. Samuel DuBose Who was killed in Cincinnati during a pretextual traffic stop. Sandra Bland, who was pulled over in Texas for a traffic violation. He stated that the data shows that black drivers in particular, but non-white drivers more generally, are more likely to have hostile interactions with police officers, and that there's a greater likelihood that police will use or threaten use of force and that these are primarily law abiding citizens who have not violated the law and don't deserve to be subject to pretextual stops, merely because of the color of their skin. He stated this was something that we should not tolerate and that we need to create more examples of how to do policing differently. He stated that there are close to 200 types of traffic infractions that can be committed and any time that law enforcement is able to engage and stop someone: tint, vehicle is too loud, failure to stop, failure to use a directional signal, busted tail light, failure to have an inspection sticker, unsafe lane change, and any number of things that we all do all the time. And that is weaponized by police suspecting someone of a crime, or someone looking out of place because of the color of their skin, to investigate via a traffic stop, and then find out if there's any contraband to recover, asking passengers in the vehicle to identify themselves, which they're not required to do, which heightens the tensions because people are beginning to understand and know their rights. And that leads to justification for law enforcement to give someone an exit order to get out of the vehicle. He stated that police can use an inventory search prior to towing a vehicle as a way to get into the vehicle to see if there's contraband and that these types of policing tactics are executed against people all of the time and when there's no contraband recovered, people are just let go or they're given a minimal citation for something that we do all the time and aren't necessarily subjected to enforcement actions for, so that level of discretion that the commissioner was talking about, is something that needs to be analyzed. He stated that the more data that there is for all the more number of stops, the better outcomes, better analysis we can get, and the greater impact on the way policing is curtailed and reformed.

Councillor Zondervan stated that he was pulled over very close to his home for an expired vehicle registration and that the officer was very polite but required him to renew his registration immediately or have the vehicle towed and he was not allowed to go home to take care of it. He stated that because of his privilege having a phone and a credit card he was able to register his car on the spot. But he observed an interaction with a black driver near his home, who was pulled over, and after a very long interaction, his vehicle was towed, and he was handed the license plates and the driver sat down on the curb and just hung his head with the two license plates in his hand. He stated that there's a deeper disparity here, where even when the traffic stop is handled properly, and nobody is rude or violent, there's still this burden on folks who don't necessarily have all the tools and equipment to take care of these situations, easily or on the spot, are then further burdened with financial and other penalties that result simply from them being in a economically disadvantaged situation. He stated that it was not good

enough to say: if there's a disparity we will address that; we really have to look at how do we reduce this impact, this burden on particularly low income and disadvantaged members of our community, who are disproportionately impacted? Not just in the frequency but just by the fact that they get pulled over or have this interaction that results in further burdens to them. He stated that this was the genesis of the policy order, to ask how we can reduce these interactions so that we reduce that burden, regardless of whether or not we have actual racial disparity in terms of frequency of stops in Cambridge.

In response to a question from Vice Mayor Mallon about what Cambridge can do, Reverend Hall stated that the police commissioner is interested in and committed to collecting data which can lead to some very interesting analysis. He stated that if it is a negligible percentage of all of the stops that recover contraband or dangerous criminals and weapons, those few isolated incidents do not justify the disruption and inconvenience, harassment and embarrassment to people who are stopped for no reason, or stopped on traffic enforcement that has a higher level of discretion, and there's evidence to suggest that either location or race or ethnic appearance had something to do with it based on an officer's history. He stated this analysis could also provide justification and support to proposed legislative changes to allow for non-police enforcement.

In response to a question from Vice Mayor Mallon about non-police enforcement of traffic safety like bike lane obstruction in other communities, Mr. Hall stated he was not aware of it but that we have to be mindful of the disparities in the types of how and where the alternatives are rolled out. Certainly there are benefits to less enforcement in some instances. But if that benefit is only bestowed on certain segments of the community, it's almost just as much of an injustice as having the enforcement.

In response to a question from Councillor Sobrino-Wheeler about privacy concerns related to automated enforcement, Mr. Hall stated that the ACLU has been in conversations in the past legislative session with some of the advocates who had been pushing for automated traffic enforcement as well as the lead sponsor and that there were some concerns that the ACLU raised around surveillance. He stated that when we automate surveillance technologies, it gives an unfair advantage to law enforcement and creates greater intrusion into our daily lives, and that there are some trade offs but that the ACLU has not at this point taken an official position on the legislation that has been proposed.

In response to a question by Councillor Zondervan about having non-police staff observing traffic infractions but not issuing the citations Mr. Hall stated that there is a way for making those referrals (to the police) and that law enforcement is authorized to enforce the laws but not mandated to enforce the laws all of the time. He stated that it is a conversation that needs to be had because there is an argument to be made that there is a benefit for being able to address uninsured drivers at the time it is become aware that they are uninsured. Because if they go out and get into an accident, who's going to be held accountable for it. He stated that with technology, for example, a scan of a license plate could be sent to the (police) department and immediately a citation could be issued, or an email or text message notification could be sent, and that plenty of platforms exist that can be explored.

In response to a question by Councillor McGovern about disparities in non-police employees asking people to move when obstructing a bike lane or double parking, Mr. Hall stated that if (racial) disparities resulting in violent, hostile police interactions are reduced by using non-police to enforce certain traffic

laws that would be an important improvement, but that in that case (racial) disparities would still need to be measured in order to manage and reduce those as well if they arose.

In response to a question by Councillor McGovern about how civilian traffic enforcement would work, Councillor Zondervan stated that we were not talking about non-police pulling over drivers in traffic because it's been established that only police officers have that authority, so that this scenario is out of bounds for this conversation. He stated that we want to reduce the number of scenarios where police are pulling people over. For example, do we really have to pull someone over if their taillight is broken, or can we send them a letter? Or if someone is double parked in the bike lane, do we really need a police officer to go and deal with that situation, or could we gently ask the person to move and if they don't move, then maybe we have to get the police involved; if someone's registration has expired, do we really need to pull them over in traffic and risk a stressful, potentially violent interaction or can we send them a letter?

Mr Barr stated in response to Councillor McGovern's comments about the city of Boston, that (the Cambridge traffic department) also has parking control supervisors do a limited amount of enforcement to clear bike lanes or bus stops, or other or no stopping zones, where those are considered safety violations. He stated that his staff do have vehicles, and they will ask people to move and that if they don't move, and it is in fact a parking violation, they would occasionally be issued a parking ticket, but that the primary goal is to get the person to move, but that this type of enforcement is limited, both because of staff capacity, and a limited number of officers who are in vehicles. He stated that his staff do have negative interactions with the public and don't have the same resources immediately on hand as a police officer if something does go wrong, and would have to call in the police at that point. He stated that he did not want to expose his staff to anything that could unexpectedly turn negative and that, unlike the police, they don't interact with motor vehicle operators or the public in general, on a regular basis, and so don't spend as much time focused on making sure that they are doing things in a way that's equitable. He stated that without the right training, he wouldn't want (enforcement) to become a significant part of their efforts, because otherwise, we could, again, just be recreating the types of problems that we're seeking to solve. He stated that there are options there (to increase traffic enforcement by non-police staff), but that we should embark on that very deliberately and carefully.

Councillor Zondervan stated that we would explore these (non-police traffic enforcement) alternatives in a future meeting, as well as improving traffic safety through road design in order to reduce the amount of enforcement that is needed.

Vice Mayor Mallon stated that she was disappointed in the call of the meeting, and the disrespect that has been shown to our staff in presenting and preparing for this meeting and that she hoped that for future conversations on this topic and other public safety topics that the chair shows a different level of respect and collaboration with our city staff.

Councillor Zondervan stated that he appreciated the feedback and that no disrespect was intended or shown and that he did reach out to Commissioner Bard about today's meeting and that he had not changed the topic of the conversation but had tried to clarify that we are not debating whether or not unarmed staff members should be pulling people over in traffic, and to the extent that the policy order

was not clear about that, he took ownership for not stating that more clearly, but that it would not be a productive direction for this conversation to go.

Commissioner Bard stated that it was a bit disingenuous for the chair to say that he had reached out and that the chair had sent an email asking whether or not he (the Commissioner) intended to have a presentation but not that the chair was planning to change the purpose and the topic of the meeting, and that he was disappointed by the way that the chair drastically changed the discussion for today. He stated that CPD are prepared to talk in depth about the topic that the chair pivoted to, but that it was reprehensible (to change the topic) and counterintuitive to productivity and that these public safety committee meetings sometimes are not productive for that reason and that he sees them as less than productive.

Councillor Zondervan stated that he appreciated the feedback, that he completely disagreed, but did not think it productive to continue this back and forth in the committee meeting, and that he would be happy to speak with the Commissioner about how to do this better going forward, but would like to focus this meeting on the topic that we are discussing.

Councillor McGovern stated that it's important when we file policy orders to say what it is we want, because that's what's in the order. So if we want a general discussion about traffic enforcement, then that's what the order should say.

In response to a question by Councillor McGovern about legal liability to the city if we don't pull somebody over City Solicitor Nancy Glowa stated that there could be some potential liability for the city, and that there have been negligence cases brought against municipalities or the state where failure to act on the part of the city may have been viewed as contributing to the cause of an accident. She stated that the statute about failure to drive a car with appropriate registration is something that, at least in practice, if not in the wording of the statute, is required to be remedied immediately, and that the officer could require the vehicle to be towed. She stated that it was a courteous response to allow the driver to contact the registry at that moment with their cell phone and a credit card and that she understood and appreciated Councillor Zondervan's point about the potential inequity involved with the fact that some people may have that opportunity, and some not. She stated that although an officer can issue a ticket if information is brought to them that they can reasonably rely upon, there is some question in the law about whether on these facts that information would be considered reliable even if it's brought to the officers attention. So there's some lack of clarity in this area of the law.

Commissioner Bard stated that if an officer observes somebody swerving across solid lines or an OUI (drunk driving) case, and the officer then allows the individual to proceed further, the city and that officer may be liable and negligent. There's a 2013 case, Commonwealth vs. Sweet. And it says that an officer who has no authority to issue a civil motor vehicle violation citation has no authority to stop the vehicle for committing such a violation. And then also, that there is a question as to whether the continued reliance on third party information would be reliable. So there are a lot of issues at hand here.

Councillor Zondervan introduced Dr. Tracy Maclin, a professor of constitutional law at Boston University. Professor Maclin has written extensively on the Fourth Amendment implications of current

traffic policing practices, as well as the disparate impacts of these practices on minority drivers in the US.

In response to a question from Councillor Zondervan about the historical background on the police having the legal right to search a person's vehicle without a warrant, Dr. Maclin replied that in 1925 in a case called Carroll versus United States, the Supreme Court ruled to allow police to search vehicles, when there is probable cause, that there might be evidence of a crime or contraband inside the vehicle, and that this allows a search of a vehicle without a warrant and that the law has continued to be applied in that way. He stated that he has argued that Carol has been expanded, but that not every vehicle stop allows a search of a car. He stated that an officer can stop a vehicle, for a traffic violation, or some other offense, it could be a passenger not wearing a seatbelt, as long as the officer has probable cause or reasonable suspicion of a traffic offense or criminal activity. But the officer can't necessarily search that vehicle; they would have to have a separate probable cause that the vehicle contains contraband or evidence of a crime, or there's a reasonable suspicion that the vehicle has a weapon that might harm an officer or others nearby.

In response to a question from Councillor Zondervan as to what would constitute reasonable cause or reasonable suspicion, Dr. Maclin stated that the Supreme Court has refused to define precisely what probable cause is; all that they've been willing to say, and it goes back to the Illinois versus Gates, 1983 Supreme Court decision that probable cause means a substantial chance, a fair probability, that evidence of a crime or contraband will be found inside of a car. Probable cause the Supreme Court emphasized is not a preponderance of the evidence standard. Under the preponderance standard, courts typically say that requires 51%, and probable cause is less than that. Probable cause, according to the Supreme Court is not even a prima facie test. It's less than that. And that's all the court's been willing to say. In fact, there's a case in which again, Chief Justice Rehnquist said, we cannot precisely define what probable cause means. Or for that matter what reasonable suspicion means; there are no rigid rules, there are no bright line rules, there's no litmus test. He stated that his law students are just as frustrated as some of the members of the council might be with respect to a lack of a clear standard, but there's no clear standard for either probable cause or reasonable suspicion, but it's important to emphasize probable cause is less than 51%. And reasonable suspicion, which allows you to search a vehicle when you have reasonable suspicion to believe that there might be a weapon or some other item that would harm a police officer is less than probable cause. But as far as percentages, the Supreme Court has refused to give any percentage as to what either of those two terms mean. Police judgment and common sense are built into that probable cause standard; police are allowed to make decisions based on their experience, based on their training. But it can't be a hunch, and obviously, it cannot be arbitrary.

In response to a question from Councillor Zondervan about needing a warrant to inspect a home vs. a car, Dr. Maclin stated that the warrant requirement does not apply to automobiles. He stated that "plain view" of contraband or evidence of a crime, or a weapon will not allow the search of an individual's home, unless there's some exigency or other exception to the warrant. Plain view with respect to a vehicle will allow the police to search the car, because the warrant requirement does not apply to cars. He stated that this conflict was created long ago, by the Carol case in 1925. Originally understood, Carol was about two things, moving vehicles and the fact that if we don't stop the car and search it at

the time, we may never have a chance, because by the time we get a warrant, the car may have left the jurisdiction. The other concern with respect to peril was, again, that you had to have probable cause. Essentially, what the court has done today is eliminate the need for an exigency. All you need now to search a car is probable cause that there's evidence of a crime or contraband. The reasonable suspicion standard is a lower standard, but that's available only when an officer believes that there is a weapon or some other item inside the car that might be a harm to the officer or others. There's a case called Michigan versus Long, for example, in a 1983 Supreme Court decision where Long was driving at an excessive speed, and ran into a ditch. He got out of his car, the police asked him to go back and get his license and registration. And as he was approaching the car, the officer saw a knife inside the car. So before they let him get back in the car, they searched the car to see if there were any other weapons that might be used to harm the officer. And during the course of a lawful search for weapons, they found contraband, they found narcotics. The Supreme Court said that search was fine. And when Long said that he possessed the knife lawfully, that didn't matter. The knife was a potential threat to the officers. And because they had reasonable suspicion that the knife was in the car that allowed them to search the rest of the vehicle for any other weapons. And one of the little pieces, the court would tell you that the expectations of privacy that a person has in his or her home, they don't have in their car. It's not that they have no privacy interest in the car. There is a lesser expectation of privacy in the car. So that also, in part explains why the warrant requirement does not apply.

Dr. Maclin stated that as a matter of the fourth amendment, the Supreme Court is not going to require a warrant to search your car. But as a matter of state law, as a matter of local law and how folks in Cambridge want to do things, states and localities are always free to impose higher standards on their police officers. As a matter of federalism, states and localities are always free to impose higher standards, the Supreme Court sets the constitutional floor. States and localities can require warrants before car searches if they want.

Councillor Zondervan stated that the other potential remedy that we've been discussing today is reducing those interactions (between police and drivers), which can reduce the potential for these types of searches to even occur.

Dr. Maclin stated that the Supreme Court is well aware of (racial) profiling and the disproportionate stops of racial and ethnic minorities. In a case called Wren versus the United States, 1996, the Supreme Court said that so long as a police officer has probable cause that a traffic offense has been committed, they may stop that vehicle. What happened in Wren, two undercover police officers saw a vehicle commit a couple of traffic offenses. And under the District of Columbia police regulations, those undercover officers were not supposed to engage in routine traffic stops, or they were only supposed to engage in routine traffic stops if there was an emergency, which suggests it is not routine. So they were violating their own departmental regulations. The defense said it can't be reasonable if they're violating their own departmental regulations and the Supreme Court said we're not going to get into a discussion about whether if police violate their own regulations or their own state law that's going to implicate the Fourth Amendment. And one of the reasons is because you can have various departmental regulations across the nation that differ from one another. And the Fourth Amendment applies across the nation. So the fourth amendment can't turn on what a department says its officers can or cannot do. Wren and his companion were Black. And that was one of the reasons why they were stopped. The Supreme

Court said in a unanimous opinion, that the subjective intent of a police officer is irrelevant for fourth amendment purposes. If there is evidence of police stopping individuals based on their race or ethnicity, that's not constitutionally permissible, but the constitutional vehicle to attack that is not the Fourth Amendment, but the Equal Protection Clause of the 14th amendment. Now, there's a problem with that. And Scalia knew it when he wrote it, and the Supreme Court is well aware of it. In order to bring a successful 14th amendment equal protection case, you have to show that the officer had a specific intent to target the motorists based on their race. That is a very difficult standard to meet. And statistics alone will not satisfy that; you have to show that the officer was out to get a Black or Hispanic or Asian individual or motorist. So effectively, Wren gave the constitutional imprimatur for racial profiling, that it is very, very difficult to mount a successful Equal Protection Clause case. In other words, Wren says it doesn't matter under the Fourth Amendment, whether the cops had bad faith or subjectively intended to target a particular individual based on their race or gender or ethnicity. All that matters is did they have probable cause for the traffic stop? Now, that all being said, the state is free to again impose higher standards, or the city's free (to do that).

Meeting adjourned

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## **EDITED TRANSCRIPT of the Oct 14 2020 1000 AM Public Safety Committee Committee Meeting**

NOTE: Manually corrected by QZ but may still contain errors/inaccuracies/missing utterances and has been slightly edited for clarity to remove non-consequential utterances like e.g. "you know, um," etc.

Mon, 11/30 4:07PM • 1:59:32

#### SUMMARY KEYWORDS

vehicle, enforcement, traffic, police, commissioner, officer, cambridge, drivers, disparities, stop, probable cause, conversation, policing, pulled, fourth amendment, data, issue, city, question, meeting

#### **SPEAKERS**

Vice Mayor Alanna Mallon; Branville Bard, Police Commissioner; Anthony Wilson, Clerk; Councillor Quinton Zondervan, Chair; Councillor Marc McGovern; Councillor Jivan Sobrino-Wheeler; Louis DePasqualle, City Manager; Joe Barr, Head of Traffic & Transportation; Rahsaan Hall, ACLU; Nancy Glowa, City Solicitor; Tracy Maclin, BU Law Professor;

#### Anthony Wilson, Clerk 03:44

Good morning, Councillor Zondervan, you have a quorum and the time of the meeting has arrived.

#### Councillor Quinton Zondervan, Chair 03:53

Thank you, Mr. Clerk. I hereby call the public safety committee to order; the call of the meeting is to discuss traffic enforcement and policy order 2020 number 178. Governor's executive order, issued on March 12 2020, authorized the use of remote participation and meetings in the city's public bodies, in response to the threat posed to the public by the COVID-19 virus, and issued guidelines for the city's use of remote participation. In addition, having members of the council participate remotely. We have also set up zoom Teleconference for public comment. Please be aware that zoom is primarily being used for public comment. In order to watch the meeting, please tune in to channel 22 or visit the Open Meeting portal on the city's website. If you'd like to provide public comment, please visit the city council section of the city's webpage. instructions for how to sign up to speak are posted there. Once you've completed the signup procedure, you will receive a link to the zoom meeting. We will not allow any additional public Comments sign up after 10:30 Could you please take a role of the members?

#### Anthony Wilson, Clerk 05:07

Councillor Carlone. Absent vice mayor Mallon present present Councillor McGovern, present present and Vice Mayor Mallon is the meaning clearly audible to you. Yes, it is. Thank you, Councillor McGovern is the meeting clearly audible to you. It is Councillor Sobrino-Wheeler, present and audible Councillor, Zondervan, present and audible. There are four members present.

#### Councillor Quinton Zondervan, Chair 05:45

Thank you. And with that all of today's votes will be by roll call. So, we will first hear from the public. Mr. Clerk, do we have anyone signed up for public comment?

#### **Anthony Wilson, Clerk** 06:02

One person signed up for public comment. The person's name is Queen, Cheyenne, Wade. And I'm being told that she's not in the zoom.

#### Councillor Quinton Zondervan, Chair 06:17

Okay, we'll keep public comment open. And go back to that, if anyone joins us. I want to welcome everyone. Thank you for joining us. In addition to the committee, we're also joined by Mayor Siddiqui. from the council as well as city manager, the police commissioner, and Mr. Barr, from traffic and transportation. We also have a guest from the ACLU Mr. Rahsaan Hall, who I will introduce later in more detail. And I'm expecting to be joined by Professor Tracy Maclin from Boston University Law as well. So today's meeting, we're going to talk about traffic enforcement. And particularly, we'll hear from the ACLU about racial disparity in terms of traffic stops, and from Professor Maclin on fourth amendment issues with traffic stops as currently practiced. And I want to make it clear from the outset that what we're not talking about is having unarmed city staff members pulling over drivers in traffic. The policy order that prompted this conversation was intended to start the conversation around alternatives to current traffic enforcement practices, so that we can reduce interactions between police and drivers in traffic. And it's really a two fold problem. And today, we'll focus mostly on racial disparities

and the Fourth Amendment issues. And the other half of the problem is that our current traffic enforcement isn't really working very well, in terms of protecting our safety on the roads. We see many incidents of traffic violations that go unreported, or that are not prevented on a regular basis. And at a future hearing, we'll delve more into ways that we can do traffic enforcement that can help make our roads safer. So perhaps considering automated enforcement and taking advantage of the fact that we do have a surveillance ordinance, thanks to Councillor McGovern's work that can help us protect against some of the privacy issues that that presents as well. So today, we're really focused on racial disparity in traffic stops, and fourth amendment issues, which Professor Maclin will talk to us about as well. So Police Commissioner, I didn't know if you wanted to present anything or state anything before we get started

#### **Branville Bard, Police Commissioner** 10:11

The manager wanted to start off,

#### Louis DePasqualle, City Manager 10:14

I guess I could say a few words and then Joe Barr will say a few words. But I'm really happy to hear the start of the meeting is really not about the unarmed trained ticketing because we had a real concern about that; that's something we're uncomfortable with, however we clearly understand that we need to reform and I think on the October 5th letter we sent to the council, this is a city that really is looking hard at how do we reduce our footprint when it comes to services that we're doing. And I think that letter addressed a lot of those concerns. And we're going to have a committee set up in the very near future, hopefully next week to start this really moving. So we understand the issues. That one piece was our biggest concern. And it sounds like for now, that's not today's discussion. So from my point of view, I think that's excellent. We were going to have a little talk about the automated enforcement piece because we do think that is a piece that we could look into to help move in the direction that doesn't necessarily talk about untrained but gives us some relief, so based on the opening remarks, I don't know if Commissioner or Joe want to change their presentation to be honest so I'll leave that up to them but the discussion and the direction that we are going makes sense. So thank you. Commissioner.

#### **Branville Bard, Police Commissioner** 11:34

So I think the Councillor's opening drastically changes the discussion that we came here today to have; we came here to discuss a policy order that says one thing about creating this new group of unarmed, trained civilians and transferring traffic enforcement responsibilities to them, but then he says no, we are not here to discuss that one thing, we're here to discuss something else. That drastically changes the discussion, and interferes with our ability to be prepared and have a full discussion. I'll accept without protest that minorities are disparately impacted as a result of car stops; that's not even a point of contention. The point of the policy order was to remove traffic enforcement away from the police department and hand it over to another group. And so the discussion that I planned on having was to point out that Mass. General Law doesn't allow for that, but now that the Councillor says we're not here to discuss that, I don't even know how we can have a productive discussion when he changes what we're going to discuss in the opening minutes of the meeting.

Joe Barr, Head of Traffic & Transportation 12:55

So, I'll take heed of the fact that the chair said he wants to talk about automated enforcement at a different hearing which is obviously fine, I guess the only two things I'll say is 1) we've talked a lot about automated enforcement as part of our vision zero efforts and we certainly view that as a part of the solution, both to the problem of racial disparities in enforcement but also just generally, like the chair said, to make our streets safer and we have statistics and other information we can share (either today or at another meeting) on how we can design this to work well and be fairly administered and the other important point, being cognizant of the topic of racial disparities, it's really important to point out that just having automated enforcement doesn't necessarily solve for those problems, because you can deploy an automated enforcement system in a way that recreates many of the same problems that exist, if it's not done well, if it's not properly done with proper oversight, and proper transparency, so people can understand what's going on. And, particularly when you construct these in a way where it's not intended to be a money making venture, but it really is focused on safety, and fairness or equity, I think then that's where you can actually start to solve for both sets of problems simultaneously. So I think it's really important to make it clear to anyone that enforcement is a great tool, but it doesn't without the right thought process without the right oversight. I'm sure most of the folks listening know this, without the right oversight, it can just become another version of what we are trying not to do. And so I think it's important, both in the context of the surveillance ordinance, with privacy, and then whatever other structure needs to be in place to make sure that we don't recreate some of the same problems we already have, that there's oversight in it. transparency. So happy to talk more about that topic today or subsequent date, excited and happy to hear that that's something that folks are interested in and talking more about.

#### Councillor Quinton Zondervan, Chair 15:18

Thank you. And just to clarify, I did not change the focus of the policy order; the policy order asks for alternatives to current traffic enforcement, and that could include some level of automation, it could also include some type of traffic regulation that are done by staff members, but what I wanted to clarify at the beginning is that we are not contemplating unarmed staff members pulling drivers over in traffic; however there are other interactions that could occur if someone is blocking a bicycle lane as an example, and there are infractions that could be observed by non-police that could be, if a citation is warranted, that citation could be issued by the police, but there are other ways to notify the driver if there is a problem, without (issuing) citations as well. So, but again, we'll discuss those alternatives at another meeting because I do want to make sure that we are prepared for that discussion; today I've invited Mr. Rahsaan Hall from the ACLU; he's the director of their racial justice program. And he also is a Reverend at St. Paul AME church in Cambridge, and the proud parent of a 2017 CRLS graduate. So welcome, Mr. Hall. And we would love to hear from you.

#### Rahsaan Hall, ACLU 17:09

Thank you, Councillor Zondervan. And good morning to all the other council members. I appreciate this opportunity. And good morning Commissioner Bard, good to see you as always. I want to talk a little bit about how disparities in (traffic) stops really require a need to look at different modes of policing. And I'm certainly pleased that there is an openness to this conversation. And one of the reasons that I have so much respect for Commissioner Bard is because he understands how racially disparate policing happens. And that current policing structures are an impediment to public safety when racial disparities and racism are allowed to exist within the culture of policing. So even though there's maybe a little

awkwardness in the beginning of this conversation, I do feel that it can be a healthy and fruitful one that informs the ongoing conversations about where the city is going. And so in thinking about racially disparate policing practices, specifically as it relates to traffic enforcement, I am reminded of the late justice Ralph Gants, who not only was a giant of a legal thinker, but also a tremendous advocate for racial and social justice, but also a friend and in one of his last decisions about racial profiling and Commonwealth vs. Long he said that the prohibition against racial profiling must be given teeth and in that particular case of a motor vehicle stop in the city of Boston where an individual who was driving a Mercedes SUV was observed by police who decided to run the plate and found that the black man was driving and found that the vehicle was registered to a woman and that it didn't have an inspection sticker and that that then became the basis for stopping that vehicle. Then making inquiries of the driver and then taking him into custody and recovering a firearm out of the car. And immediately folks will say, well, there was a gun in the car. So that's a good thing that that stop happened because that gets a gun off the street. But what gets missed in these conversations is the people who don't have contraband in their vehicles and are subjected to racially motivated and racially biased stops. And the significance of this case is that it overturned or created a new standard for evaluating claims to suppress evidence based on violations of the equal protection laws. And so essentially, what Justice Gants was saying is that the standards that had previously existed under law to challenge racially biased stops, were too high, in part because of the substandard data and information that is available to allow an individual to challenge racially motivated pretextual stops and so on. I'll save you all my recitation of fourth amendment law in light of the fact that there is a BU law professor that will be here presenting to you, but the court said that providing statistical evidence sufficient to raise a reasonable inference that a motor vehicle stop was racially motivated, given the limitations of available police data, has proved infeasible for defendants and I think what's important for the City of Cambridge right now, absent what is available at the state level for data collection, Cambridge is in a position to collect and analyze and report out robust data on its traffic stops. And here's why. We understand that nationally, there are disparities and who gets stopped; a recent 2020 report show that over 95 million stops nationwide found that black drivers were on average stopped more than white drivers and that black drivers comprised a smaller share of drivers stopped at night and so that that veil of darkness test what that reveals is that when the police can't see the drivers race, then the number of stops of black people go down significantly. But during the day, when race is discernible, there are larger disparities and black drivers being stopped. In a 2014 book, entitled "pulled over" by Charles Epps and others it indicates that 12% of the nation's drivers are pulled over. But for black and Latinx drivers, that percentage doubles up to 24%. A 2017 open policing project at Stanford conducted nationwide analysis of traffic stops and searches and found that between 2011 and 2015, black drivers were stopped at nearly one and a half times the rate of white drivers. The other disparities that result from this is that black and Latinx drivers are more likely to be subjected to prolonged stops. Black and Latinx drivers specifically black drivers are more likely to have police threaten or use force against them. There's disparities in whose vehicle gets searched; the 2016 department of justice report indicated that black and Latinx drivers are more likely to have their vehicle searched than white drivers. And that same report showed that black and Latinx drivers are more likely to be given trivial reasons or no reasons for the stop and more likely to be let go without the issuance of a citation. And these are not just national disparities. These disparities are true for searches of motor vehicles in Massachusetts; data from the open policing project that looked at Massachusetts State Police showed that in most counties where data was reported non white drivers were searched more than white drivers. As a 2017 boston globe story

showed that 80% of vehicle searches during field interrogation observations were of black drivers. And the unfortunate thing about these disparities is that contraband is less likely to be recovered when the drivers are Black or Latinx. And that says to me one of two things or maybe both, that one you better have a damn good reason if you're stopping a white person, and or the way that policing happens is different in communities of color and that pretextual stops are used as a basis for that. And we know that to be true here in Massachusetts; there was the 2004 study that looked at disparities and stops statewide, two thirds of the municipalities were found to have disparities. They were in their issuance of citations, and they were required to collect data for an additional year, but they stopped happening after 2004. And we can't fool ourselves into believing that those disparities are just going to go away. The ACLU did a report in 2019 looking at disparities in charges that would not be prosecuted in Suffolk County. And what we saw is that a lot of charges that were dismissed, were motor vehicle offenses. But what was telling about that study is it showed that there were significant racial disparities in the issuance of criminal motor vehicle citations. In some parts of Suffolk County, the disparities were 15 to one black to white for motor vehicle offenses. And this is in the Back Bay/Beacon Hill area. And the 2020 Harvard study that just came out that looked at that looks at policing. And the criminal legal system shows that there are significant disparities in who is charged with offenses and what types of sentences they receive. But one of the things that the Harvard researchers pointed out is that the stats are impacted by the over policing that happens in communities of color. And so I'll bring it to a close by talking a little bit about my own experience as a suffolk county prosecutor. And I know that no, that's not Middlesex. But these trends and these practices are statewide. And that I knew that motor vehicle stops were used in a way to find out if someone was engaged in criminal conduct. And some of the statistics bear this out. When you look at Cambridge stops, that is stopped data that is publicly available, race data is not available, and the fact that there are these significant racial disparities nationally, and even in the state, we cannot believe that because many of us believe and feel that Cambridge is different, and that there are a lot of progressive values and liberal ideologies in Cambridge, that somehow we are devoid or exempt from the nature and practice of policing. When we look at the stops in Cambridge, from 2015 to 2018, 33% of those stops are for failure to stop or failure to yield. And the reason that this is significant, and is because if I have an inspection sticker, I have it or I don't, if my license is suspended, I have it or I don't, if my car is unregistered, it's either registered or it's not. But a failure to stop or failure to yield is such a discretionary offense, that there's no documentary proof that I can use as a motorist to contradict the claim that I'm just being pulled over for my race. And 33% outpaces almost every other type of stop. And to not be able to identify race data leaves a huge gap in the analysis of what's happening in Cambridge in regards to traffic enforcement. And when you think about the likelihood of black and Latinx motorists having longer stops, having stops that are more likely to turn hostile, having a stop that is more likely to result in their vehicle being searched, and the resulting embarrassment, harassment and disrespect that comes along with that and humiliation for being stopped and for being pulled over for all of the people who have not violated the law that underscores the need and the urgency to make sure that this data is being collected that it is being published. And ultimately, that motor vehicle and traffic enforcement is reduced as a means of law enforcement and public safety. And so to the extent that there is a conversation happening, about finding alternatives to traffic enforcement, that are non police, whether the Mass General laws allows it or not, Cambridge is creative enough and has enough resources, intellectual and otherwise, to think of a way to stem the tide of racially biased policing.

#### Councillor Marc McGovern 30:28

I appreciate you taking the national picture and bringing it down to Cambridge. One of the things you mentioned, that we track the reasons, the types of stops, but we don't track the race of the driver. So I guess, through you, Mr. Chair to the commissioner, I would think that would be an important piece of data for us to have so that we can monitor and be clear try to be sure that there aren't transgressions going on? Is that something we can collect?

#### **Branville Bard, Police Commissioner** 31:17

Yes, it's something that we can collect, and something that we already seek to collect, whether it was published between 2015 and 2018, I'm not sure. As I mentioned during our budget hearings we noticed a glitch with our current records management system that we believe some car stops, some vehicular investigations go unaccounted for. We're in the process, as you already know, of acquiring a new records management system, that will allow us to do some of the things that Mr. Hall spoke of,, we're looking to analyze, racial stop data, not just vehicular stop, but vehicular stop the way we use force, and pedestrian investigations, or other interrogations. So whatever your observations, and take the analysis to a different level. I believe that most of the metrics that are used, commonly across the country are really less than meaningful, meaning that the vast majority of your departments that track racial profiling data, they use something called partial population benchmarking, which means that, they'll say that, and I'm just gonna say African Americans make up 19% of the population of this jurisdiction. And when you look at the police's stop data, you'll see that they stopped African Americans at 17% or 20%. So therefore, no racial profiling exists, However, what it doesn't tell us is that when they stop African Americans that they tend to hold them for 45 minutes, but they hold non minorities for seven minutes, on average; it doesn't tell you that they stop African Americans for minor equipment violations, but only stop Caucasians or non minorities for serious moving violations. It doesn't tell you that they search African American vehicles 25% of the time, and their non minority counterparts 1% of the time. It doesn't tell you the whole picture of agencies using internal benchmarking, which means that they'll take an officer once a complaint has been made, and compare that officer versus similarly situated officers. And if here's no statistical difference, then they'll say, well, no racial profiling exists. But I think we all know right away that the problem there is not everybody's going to catch somebody who's your most egregious offender. So what we're going to do here, and we already have the module built, in the next record management system that we will have is we're going to do a reason, result, duration analysis. This looks at the three main components of a stop, the reason, the result and the duration and there's subcategories in each of those. And once you quantify it, you can make all types of statistical comparisons, but it will tell you what, if any difference exists, and how we, the City of Cambridge police department, and each individual officer, what if any difference exists and how we treat individuals of different races and what it will do is it'll be a way to compare that will basically take the amount of discretion an officer has in taking an action, and then weigh it versus a compelling governmental interest in that officer taking that same action. The easiest example to give is speeding. I think that we all know that there's a ton of discretion the officer has in stopping the individual for speeding. But there's a compelling governmental interest for an officer to stop someone going 30 miles an hour over the speed limit, I think we all want that individual stopped, but not necessarily the individual going one mile an hour over the speed limit. The discretion is the same. But the compelling governmental interest or societal interest in them taking that action, between the person going 30 miles an hour speed limit, and the person going one mile over the speed limit (is not the same). So what it

won't do is it won't miss identify an officer. So it is protective of the public, but it's fair to the officers who go out and enforce the law. So we're looking to do that. We started the Office of procedural justice. Two years ago, this records management system wasn't able to do the computations that we needed. The idea is to do it in real time without human interaction, and then post that information almost in real time, so to be as transparent as possible. I understand all the issues here about disparate impacts between law enforcement and vehicle stops, and all kinds of stops, and minority individuals. And I think that we're here looking to address that in a way that is not addressed anywhere in the country. And the hope of doing that here is that folks will see the level of protections that it can have, and demanding that same level of protection in their community. I've been to the Capitol with Mr. Hall and Representative Becker on multiple occasions to talk about the need for data collection. And it's important.

#### Councillor Alanna Mallon 37:39

First of all, thanks to Mr. Hall for coming today. And talking to us about the importance of this topic, I think you've provided a really great overview and some reading materials that we all need to read up on, as some next steps to the commissioner just on the subject of the dashboard. I just want to make sure I understand, because we have been talking about this since 2017. I just want to make sure what are the next steps on the dashboard that you've just been describing, which has a public facing portion to it, which would allow the public and anyone who is interested in the racial profiling data of stops to be able to pull from but it also is, as my understanding going to be used internally by the police department for disciplinary actions and trainings. I'm just curious, what are the next steps on that? When will we see that go live? I know we talked about it in the budget hearing. But I'm assuming there will be some kind of allocation that is coming to the city council for us to approve it.

#### **Branville Bard, Police Commissioner** 38:49

Through the chair, Vice Mayor, yes. So the next step is that we go for a free cash appropriation for the new records management system in a couple of weeks, I believe. The manager can tell you exactly when. Once that happens, then we're ready to go for them to begin implementation of the new records management system, the company has agreed to put the procedural justice module up as soon as possible within the implementation of the new records management system. Once that happens, and it begins collecting data in the dashboard to be public facing. There'll be some interactivity for low level stuff like population benchmarking, but the reasons results, duration analysis that'll be real time. Look at what if any differences exist. And that obviously you won't be able to interact with because then number is what it is, but it allows us to look at the data and look at the individual officers and make any necessary interventions that we need to.

#### **Councillor Alanna Mallon** 40:05

Thank you, Commissioner. I don't know if the city manager wants to speak to the free cash appropriation and when we might see that?

#### City Manager Louis DePasquale 40:12

Mr. Kale has been working with the commissioner and Christina Jacoby, and the target is not this Monday coming, but the following Monday, you would have that recommendation.

#### Councillor Alanna Mallon 40:23

Thank you, Mr. Manager. I've been very closely working on this with the commissioner since 2017, I've been very, very interested in making sure that the racial profiling and the data collection is happening in a very public way. And I know the commissioner, this is something that he has been himself wanting to implement here in Cambridge, because he knows how important it is. And I've been proud to partner with him and the city on making this happen. I just hope that once we see that free cash appropriation in two weeks, we can get this up and running. Because I think it's an important piece to this conversation, I think having the data is going to be critically important, especially if you're talking about interventions with individual police officers. I think that's what we're talking about today. So my last question to the commissioner, whether or not that information will be added to the compstat report, or if we will just be having regular meetings, on what that data is showing us?

#### **Branville Bard, Police Commissioner** 41:34

Through the chair, Madam Vice Mayor, it'll be every present, like every day it's there for public consumption. So I don't know if there's a need to add it to the Bridgestat report, but it'll be there for anyone to see, and it is far more comprehensive than doing a yearly report, although, I don't think it takes away from the need to do that yearly report. But I like the fact that, that (because it is) ever present that that transparency is there. And it forces us to take that look, whether we would want to or not, but we obviously want to make it transparent.

#### Councillor Quinton Zondervan, Chair 42:32

Thank you, Vice Mayor. I do have a question for the commissioner: when we finally have this dashboard in place and we're looking at this data, how does that inform us what to do differently; what kind of actions would we derive from this data to reduce the disparity that we're talking about?

#### **Branville Bard, Police Commissioner** 43:06

It would depend on what the information showed us. Obviously if it was something minor, then training would be in play, and (if it is) something more egregious then training and more severe actions, but it would depend on what the data said.

#### Councillor Quinton Zondervan, Chair 43:34

This question is more for Reverent Hall. Can you talk a little bit more about the impact on the driver as well as the police officer of these stops? The commissioner touched on this, it's not just about relative to the population, how often are people pulled over? It's also about the actual interaction. So even if we were to conclude from the data that black drivers are pulled over just the same, proportionally as often as white drivers. The impact on the driver is not the same.

#### Rahsaan Hall, ACLU 44:27

The obvious concern for drivers, particularly black drivers comes straight from the headlines. The names that many of us are familiar with: Philando Castille who was pulled over during a pretextual stop for bus detail like Walter Scott who was pulled over for a pretextual stop that led to him running from his car and being shot in the back. Samuel DuBose Who was killed in Cincinnati during a pretextual traffic stop Sandra Bland, who was pulled over in Texas for a traffic violation. And so the data shows that black drivers in particular, but non white drivers more generally, are more likely to have hostile interactions with police officers, and that there's a greater likelihood that police will use or threaten use

of force and, going beyond incidents of alleged criminal conduct, again, we need to ultimately be concerned with the people who have not engaged in criminal conduct. The people who are driving the streets every day who are law abiding citizens who have not violated the law and don't deserve to be subject to pretextual stops, merely because the law allows for it. There is a plethora of motor vehicle infractions. I mean, who on here has not ever done a rolling stop, and to think that you would then be subjected to being stopped by a police officer, or that you were more likely to be stopped by a police officer because of the color of your skin. And that's just something that we should not tolerate. And that we need to create more examples of how to do policing differently. As a black man, having been racially profiled myself on several occasions where I kno. it's simply because I'm driving in a certain neighborhood, or that I'm stopped for going through a yellow light; yes, technically, I could be stopped for that. But the fact is that if I'm someone else somewhere else, I'm less likely to be stopped for these vehicle offenses. And that's why I think the other piece that is important is the need to collect data on all stops. The commissioner mentioned his willingness to come and testify and engage at the statehouse because we were pushing legislatively for the collection of traffic stop data, for all stops, not just the citations, because what we understand from the data that is available, is that black people are more likely to be let go without any type of enforcement action, again, because of the nature of policing. I hearken back to my experience as a prosecutor, the number of motor vehicle stops that led to the recovery of contraband. So there is this built in justification as a policing tool, that we can stop people for any number of motor vehicle offenses, I think there's something like near close to 200 types of traffic infractions that can be committed and any time that law enforcement is able to engage and stop someone: tint, vehicle is too loud, failure to stop, failure to use a directional, busted tail light, failure to have an inspection sticker, unsafe lane change, like any number of things that we all do all the time. But if that is weaponized by police, to say: Here's somebody that I'm suspecting of a crime, or is looking out of place because of the color of their skin, and I'm going to investigate a stop, and then the duration of the stop, which we also know from the data is much longer, because I then want to find out if there's any contraband that I can recover; the questions asking passengers in the vehicle for them to identify themselves, which they're not required to do, which heightens the tensions because people are beginning to understand and know their rights. And that leads to justification for law enforcement to give someone an exit order to get out of the vehicle. The other thing that's interesting about the Commonwealth vs Long case that I started out talking about is the way that they get into the back seat is because they inquire of the driver and find out that he has a suspended license, and because it's a nice vehicle, and the officers are familiar with a so called high crime neighborhood, they didn't want to just leave the vehicle parked along the street. So they called a tow truck company to have it towed. But in order to do that, to have a vehicle towed, you have to conduct an inventory search. So nobody can accuse you of stealing anything. But that inventory search is the way that you get into the vehicle to see if there's contraband. And so these types of policing tactics are the things that are executed against people all of the time. And when there's no contraband recovered, people are just let go or they're given a minimal citation for something that we do all the time and aren't necessarily subjected to enforcement actions for, so that level of discretion that the commissioner was talking about, is something that needs to be analyzed. But the more data that there is for all the more number of stops, the better outcomes, better analysis we can get, the the greater impact on the way policing is curtailed and reformed.

**Councillor Quinton Zondervan, Chair 50:18** 

Thank you. And, I've certainly had similar experiences myself as a driver. And I will say, I've never been mistreated by the Cambridge police. But certainly, I've had challenging interactions across the river. I'll leave it at that. But, I did have an experience in Cambridge that I want to talk about, briefly, because I think it underscores an even deeper disparity as well, that we haven't really touched on. I was actually pulled over very close to my home a couple of years ago, for an expired vehicle registration. And the officer was extremely polite, and very nice to me. But he said, you have to renew your registration right now, or I will have the vehicle towed. I asked him, and I'm literally spitting distance from my house, can I just go home and take care of it. And he said, No, we have to do it right now. And I was confused for a moment. and then I said: you mean, I have to go on my phone to the RMV and pay for the registration? And he said, Yes. So I pulled out my phone and got my credit card out, and I was able to register my vehicle. But it occurred to me that I had a lot of privilege, I have a phone, I have a credit card, and I have the ability to do that. Recently, I observed an interaction with a black driver near my home, who was pulled over, and after a very long interaction, his vehicle was towed, and he was handed the license plates. And he literally sat down on the curb and just hung his head. And all he had was the two license plates in his hand. And presumably, he was on his way to work or wherever he was going. And this is not how he planned his day. So you know, there's this deeper disparity here, where even when the traffic stuff is handled properly, and nobody is rude or violent, there's still this burden on folks who don't necessarily have all the tools and equipment to take care of these situations, easily or on the spot, are then further burdened with financial and other penalties that result simply from them being in a economically disadvantaged situation. So that's why I asked earlier about what actions we will take based on the data because it's not simple. It's not good enough to say: if there's a disparity we will address that; we really have to look at how do we reduce this impact, this burden on particularly low income and disadvantaged members of our community, who are disproportionately impacted? Not just in the frequency but just by the fact that they get pulled over or have this interaction that results in further burdens to them. So I don't know if Reverend Hall if you want to comment, or police commissioner, but that's really the genesis of this policy order was to say, how can we reduce these interactions so that we reduce that burden, regardless of whether or not we have actual racial disparity in terms of frequency of stops in Cambridge.

#### **Anthony Wilson, Clerk** 55:02

We don't have anyone for public comment. So we'll entertain a motion to close public comments. On the motion:

Councillor Carlone absent

vice mayor Mallon? Yes,

yes. Councillor McGovern. Yes.

Yes. Councillor Sobrino-Wheeler? Yes.

Yes. Councillor Zondervan? Yes.

Motion passes, four in favor, one absent.

#### Councillor Quinton Zondervan, Chair 55:33

Okay, so we won't be joined by Professor Maclin until 11:15 because he's teaching his class this morning. So if there's any further questions for Reverand Hall while we have him? Because I believe he does have to leave before we adjourn. Now will be the time to ask him.

#### **Councillor Alanna Mallon** 56:16

Mr. Hall, you mentioned in your opening statements, that Cambridge is full of smart people that could really work on this issue, even though Mass General law doesn't allow it. And I was wondering if you could expand on that a little bit, and what that means and what kind of creative things we could be thinking about if you had anything in mind.

#### Rahsaan Hall, ACLU 56:55

Sure. I think ultimately, the authority to enforce the law is something that is clearly delineated by statute. I think there's not a whole lot of creativity around that beyond an act of the legislature, which I think ultimately is something is a conversation that folks should be having. But you've already got a head start, in that you've got a commissioner who is interested in and committed to collecting data. And the beauty of having that data is that it can lead to some very interesting analysis. And when we talk about public safety, there is a narrative that exists out there that law enforcement is the only way to provide public safety when in reality, police often show up after the crime has been committed. There isn't for the amount of money that is spent on policing, how much of it is actually preventative of crime as opposed to responses to crime. So doing an analysis of the outcomes that come from traffic enforcement, the racial disparities, that impact certainly traffic safety is a legitimate concern, heaven forbid somebody's child is kid crossing an intersection, because it's just a terrible intersection that people kind of disrespected in this regard. So there is a practical reality for the need for some form of traffic enforcement. But what is the net benefit of all of the traffic enforcement that happens throughout the City of Cambridge, and the types of offenses that people are cited for and where that's happening? And so I think the more information that you have, and the greater analysis that is done on that information, gives you more fodder for creative ideations around what are the alternatives? Is it necessary that we enforce all of these traffic laws all of the time? And and maybe the study, in fact, shows that, when we don't enforce it, there's an increase of accidents at a particular intersection. But with greater enforcement, traffic fatalities go down, but they show the math to the word. And I think that is what I mean by creatively looking at traffic patterns, looking at the amount of contraband that is recovered from traffic stops, compared to the overall number of stops. And if it's only a marginal percentage, right, because one of the arguments is pretextual stops save lives, because we've stopped murderers and rapists and dangerous people who are carrying trafficking drugs. Carrying illegal firearms, but if that is a negligible percentage of all of the stops that happen, do those few isolated incidents, justify the disruption and inconvenience, harassment and embarrassment to people who are stopped for no reason, or stopped on traffic enforcement that has a higher level of discretion, and there's evidence to suggest that either location or race or ethnic appearance had something to do with it based on an officer's history. So I think that is also what provides justification and support to proposed legislative changes, because going to the legislature and saying, we did a study of all of our vehicle stops. So we did a study of the net benefit of traffic enforcement and some of the detriments of traffic enforcement. And we've determined that if we were to, if we were able to authorize non law enforcement, traffic enforcement, we would get better results for the residents of Cambridge, and take that to the legislature. It begins the conversation. So that's what I meant by kind of being creative and capitalizing on the embarrassment of riches that the city has.

Councillor Alanna Mallon 1:01:32

Thank you for flushing that out a little bit. I think that was instructive and helpful. I know that in Boston, Councillor McGovern talks about this a lot. And we've had a lot of conversations when you talk about public safety, which in my mind is the safety of the public. So if we're talking about the safety of cyclists on our roads or pedestrians on our roads, and that's where a lot of enforcement, the City Council has, historically asked the police to do that type of enforcement to keep our cyclists and our pedestrian safe, moving people out of the bike lanes, making sure no one's running red lights. Councillor McGovern has suggested multiple times that in Boston, what they do is the traffic and police, traffic and parking have cars, where they move folks out of the bike lanes, they make sure people aren't in crosswalks. So it is traffic enforcement and public safety in that way. But you're not using police officers? Is that something that you've seen in other communities that works? What are other ways that we could make sure that we have that public safety, but making sure that it's safe for all around pedestrians and cyclists and vulnerable road users? Is Boston doing this in a meaningful way? And are there other communities? And would you recommend it as an alternative?

#### Rahsaan Hall, ACLU 1:03:02

I haven't done a close analysis of it. I am certainly aware of parking enforcement and their presence in the city. I have not observed myself that type of interaction as far as keeping the bike lanes clear, but I wouldn't be surprised if it's happening. That said, I wouldn't be surprised that it would only be happening in certain neighborhoods too. And so I think that's something that we have to be mindful of is the disparities in the types of how and where the alternatives are rolled out. Certainly there are benefits to less enforcement in some instances. But if that benefit is only bestowed on certain segments of the community, it's almost just as much of an injustice as having the enforcement.

#### Councillor Alanna Mallon 1:03:56

I believe that the times that he's brought it up, it's been around Boylston Street, in the neighborhoods where there's a whole lot of people double parking, running into a store grabbing something and that creates an unsafe environment for vulnerable road users. So I leave the port this time to my colleagues, but thank you for flushing out some of that additional information for us.

#### Councillor Jivan Sobrino-Wheeler 1:04:27

I was wondering with Reverend Hall here and we've worked with the ACLU on surveillance ordinance for Cambridge, automated enforcement, as one mechanism is brought up as a way to reduce racial disparity. And I think it also sort of raises other privacy concerns. I was just curious if This was something and you had looked at it or thought about?

#### Rahsaan Hall, ACLU 1:05:06

Yeah, we've certainly been in conversations in the past legislative session with some of the advocates who had been pushing for automated traffic enforcement as well as the lead sponsor. And so there were some concerns that we have raised around surveillance. Because when we automate surveillance technologies, it gives an unfair advantage to law enforcement and creates greater intrusion into our daily lives. Especially when we were thinking about as Commissioner pointed out there's a difference between going one mile over the speed limit and 10 miles over the speed limit, versus on the highway or in a residential neighborhood. And so to the extent that there is a net benefit in reducing racial disparities, there's also some trade offs. We haven't, at this point taken an official position on the

legislation that has been proposed, or in the conversations around it. And I would ultimately defer to my colleague, Kate Crockford, who heads our tech for liberty project, who is much more knowledgeable and has a deeper understanding of the surveillance and privacy issues at stake on that issue.

#### Councillor Quinton Zondervan, Chair 1:06:34

Thanks, just a couple of responses as well. So I am aware of some efforts in New York City to do some enforcement of things like bicycle lane obstruction, with non police, so through the traffic department. But there are definitely some issues with it. And it's not a widespread practice, in part, I think, because people tend to get really concerned about violent interactions and people disrespecting the staff, doing the enforcement. I often go up to drivers who are idling and I would, and talk with them about it. And it strikes me as something that we could certainly do more of and try out to see if we get better results. I also did speak with a lawyer that we were able to work with through the Justice Collaborative. And in terms of the legality. One, what they explained to us and understanding is similar is that the citations can only be issued by the police. But that doesn't prevent other staff, or even civilians from notifying people. So for example, if someone were to observe, then registration has expired, or the taillight is not working, the owner of the vehicle could be notified, they could be sent a letter, and that's not a citation. And so it doesn't necessarily require the police to do that. And similarly, if someone observes an infraction, they could notify the police that it happened, and then the police can issue the citation. So I don't think there's any real legal obstacle to having additional staff observing traffic infractions, or vehicle issues that could lead to improved safety without those staff, being the ones issuing the citations. But again, no better knowledge, if that's your understanding, as well.

#### Hall? 1:09:35

I think that there is a way for making those referrals and clearly, with law enforcement being authorized to enforce the laws, it does not mandate them to enforce the laws all of the time. And so I think that's a conversation that needs to be had because there is an argument to be made that there is a benefit for being able to address uninsured drivers at the time it is become aware that they are uninsured. Because if they go out and get into an accident, who's going to be held accountable for it. But I think that goes back to my earlier point around some analysis, and creative thinking about is the potential harm that comes from adverse police interactions. Does that outweigh the benefit of not non enforcement, but maybe lacks enforcement or deferred enforcement by having non sworn personnel making referrals. And, again, with technology, it's a scan of a license plate that is sent to the department and it's immediately issued a site to either a citation issue, or email sent or text message, there are plenty of platforms that exist out there, that can be explored. But ultimately, folks make the determination that now we got to get all these uninsured drivers off the street and make sure that they know if they are in an accident, people can be held accountable. So I think that's the some of again, some of the analysis and conversation that has to happen.

#### Councillor Marc McGovern 1:11:27

The vice mayor brought up what I mentioned before. Yeah, I was talking about the Boston traffic enforcement people. You know, they have cars that drive around. I was talking about Boylston Street where I was double parked for a second while my kid got out of the car and a Boston traffic vehicle came up behind me, flashed a light and said over the loudspeaker, you need to move. And they do that all the time in those areas. And it's not, I don't think they give tickets maybe, maybe for that matter. I

don't I never I've always moved when they've told me to do so. But, but something like that, in terms of that's a non police response. They're moving people along and clearing the bike lanes and the double Park but it's a non they don't the police, not the police. You know, my and I don't want to, I don't want to misquote the police commissioner. So he can chime in if I get this wrong. But I think you know, the other thing. The issue isn't so much about I don't think it is so much about the law, right? I mean, we do want if you're uninsured, regardless of your race, we don't want you driving an uninsured vehicle. Because if you get into an accident, that's a problem. It's really about the enforcement. And I really appreciate Mr. Hall talking about the rolling stops versity inspection sticker, right, and inspection, stickers cut and dry, you have it or you don't a rolling stop is open to interpretation. And if they see me doing it, how are they going to interpret that versus seen someone else do it? And so, but I wonder, even with this he even if we talk about a more civilian response, we're all inherently racist. And so that response is that response? Yes, it's not the police getting involved that certainly reduces the opportunity for a situation to escalate and someone to be searched and to be arrested. And that is certainly a worthy goal. But I also wonder if even if we had civilian traffic enforcement employees or whatever, that they too, wouldn't be inherently biased, because that's the society in which we live in. So in places where they have done this, and I assume there are other places that have done something like this, has there, have there been studies in terms of has it really decreased? The disparity? Again, the interaction is different, because you're not talking about an armed police officer. But in terms of the rate in which people are pulled over, has created more equity in that, or is it just a different group of people pulling over the same people that the police were pulling over?

#### Hall 1:14:34

That makes perfect sense to me, and I'm interested to hear what the commissioner has to say on it. But I haven't studied it. And so I'm not familiar, but I think that is part of the problem and I think what is important is the need to change the outcomes. And so one of the outcomes is certainly violent, hostile. Welcome to police enact interactions. But then the other are the other outcomes are the disparities. And so if the disparities are resulting in those violent hostile police interactions, we definitely want to be able to do something about that. And so by making it non law enforcement, I think that addresses the issue, but the disparities, you're right. And so that I think, and that's why the data is the need for data is important, because that's going to inform how it's happening, where it's happening, and to whom it's happening. Certainly training as a way to, to address it, as well. But the more data points, you can't manage what you don't measure. And so we need to be measured.

#### Councillor Marc McGovern 1:15:48

And do you, Mr. Chairman, where I sort of continue to get a little stuck. I mean, certainly it's not about the data. I mean, anyone who says that black and brown people don't get pulled over more often than white people has their head in the sand. And I don't know what you can do about that. I don't know. My guess is that that happens more often in Cambridge, as well, because although I think we do things better than a lot of places, we're not immune to this type of thing. I don't know, if we do it at a lower rate than the national average or at a higher rate that would, that would be interesting to find out. But where I sort of keep getting stuck is, again, how this would actually work. And, and sort of peeling back the onion a little bit and trying to put a scenario of if I'm driving down mass AV, towards Kendall Square, and I take that illegal left, onto prospect Street, which by the way, we could probably fund our entire city budget, if we had people out there pulling over cars, because it's non stop. You know, I take that turn,

and I have a non police traffic enforcement person, standing on the corner, not in a uniform waving at me to stop. You know? How does that how we are talking about this actually working? And if we're talking about taking pictures and license plates, and I mean, I come to the Zondervan I approach cars, and you know, you're a brave man, because you don't know what situation you're getting into. And there's probably some who you probably make some internal decision about who you're going to feel comfortable approaching and who you're not. Right. So I mean, this is all very complicated. I can't totally wrap my head yet around how a civilian traffic enforcement would work.

#### Councillor Quinton Zondervan, Chair 1:18:03

I do want to, again, make it clear that I'm certainly not suggesting that in the scenario that you just described, where someone makes an illegal left turn, that we would have an unarmed staff person, following them in their car, even with flashing lights or whatever and pulling them over. And, again, we've already established that they couldn't even legally give them a ticket, if they're not a police officer, so that scenario is out of bounds for this conversation because we're not suggesting that that would be handled differently than the way that it is now. What I'm suggesting is that we want to reduce the number of scenarios where police are pulling people over so, do we really have to pull someone over if their taillight is broken, or can we send them a letter? And maybe after we send them three letters, and they haven't fixed it we need to think about some other ways, and this is where Rev. Hall is encouraging us to be creative, but we're not suggesting that situations where someone is moving in traffic and we need to compel them to stop and issue them a citation that that would be handled by anyone other than the police. We're talking about all the other scenarios where we possibly could imagine a different way of dealing with it, like the example you brought up, someone double parked in the bike lane, do we really need a police officer to go and deal with that situation, or could we gently ask the person to move and if they don't move, then maybe we have to get the police involved; if someone's registration has expired, do we really need to pull them over in traffic and risk a stressful, potentially violent interaction or can we send them a letter that says, hey we're really kind of gentle in Cambridge. So we're just letting you know, your registration expired. If you drive through Boston, you might get pulled over. So you may want to take care of that. So just trying to imagine those scenarios where we could not pull people over. Can we implement those, but situations where we have no other choice? We would put loudly in Bolton, because we don't have any viable alternative.

#### Councillor Marc McGovern 1:20:46

Mr chair thank you, I appreciate that, because I keep coming back to the order which says specifically 'transferring primary traffic enforcement responsibility' so I guess better defining what that is, because primary traffic enforcement responsibilities, I may interpret it one way you are interpreting it something something different. So I think we need to be really clear with the policy orders in terms of what it is we're trying to address because that's open to interpretation as to what that means.

#### Councillor Quinton Zondervan, Chair 1:21:18

Thank you, I appreciate that and I agree with you and that's why we are having this conversation to refine it because certainly we don't have all the answers and as Mr. Hall has pointed out, we may have to think creatively about how to move forward because we've been doing things a certain way for a long time.

#### Joe Barr, Head of Traffic & Transportation 1:21:44

Yeah, thank you. I just wanted to mention in response to Councillor McGovern's comments about city, Boston, we do also have our parking control supervisors do a limited amount of that type of work, where they will fight, whether bike lanes or bus stops, or other or no stopping zones, where we consider them to be safety violations, they do have vehicles, and they will ask people to move and that they don't move. And it's and it is, in fact, a parking violation, which many of these are both, essentially a parking violation and a moving violation, we will occasionally issue a parking ticket, I would say the primary goal is to get the person to move, because if you don't, if you issue a parking ticket and don't and the vehicle to move, and you haven't, obviously, address the underlying problem have been blocking an area that's unsafe, I would say that it's limited, both because of staff capacity, and we only have a limited number of officers who were in vehicles. but we do have negative interactions with the public and we don't have the same resources immediately on hand as a police officer if something does go the wrong way, we'd have to call in the police at that point. We don't want to expose our staff to anything that could unexpectedly turn negative and we don't spend a lot of time, unlike the police, we don't interact with, motors, in the public on general, on a regular basis, we don't spend as much time focused on making sure that we are doing things in a way that's not equitable. And so I wouldn't want to sort of have that be without the right training, I wouldn't want to have that become a significant part of your efforts. Because otherwise, we could, again, just be recreating the types of problems that we're seeking to solve. So I think there are options there. But we embark on that very, sort of deliberately and carefully.

#### Councillor Quinton Zondervan, Chair 1:23:46

Think and as I mentioned, in the beginning, we will certainly explore these alternatives as well. In a future meeting, I just wanted to make sure that we really understood the problem first, and, and the reason for exploring these alternatives, what's not working with the way we're doing things currently, and then can other aspect of all of public safety, and particularly in terms of traffic that we haven't really discussed yet, is road design. And I know that traffic does a lot of work on that, which can also remove the opportunities for lots of interactions, like illegal left turns and things like that, and then have also reduced the amount of enforcement that we even need in order to prevent those movements. So I think that's another important part of this conversation that we'll need to have in terms of how can we do more than that, as well.

#### Rasaan Hall (leaves) 1:25:04

So I just thank you for the invitation. And thank you all for the conversation and the very insightful questions. And I appreciate the work that you all are doing.

#### Councillor Alanna Mallon 1:25:17

so I just wanted to speak to a theme that's been coming up which is that we're veering off topic of the conversation that we're having in the committee hearing today and I just want to read the call of the meeting: "The City Manager look into transferring primary traffic enforcement responsibilities from the Cambridge Police Department to unarmed, trained enforcement personnel in the Traffic & Parking Department, Department of Public Works, Health & Human Services, or another suitable department". So while I understand what the chair is trying to do which is set the table for having this future conversation I believe that we are not veering off topic of the publicly called call of the meeting and in fact it did seem like at the beginning of the meeting that the city staff still thought that was the call of this

meeting, and had fully prepared for that meeting. So I just want to call out that I am disappointed that the city staff was not brought into the fold of what this conversation was having; I think this is a challenging conversation to have and I'm willing to have it and I believe the city staff came in good faith today to have that conversation. However, in the first 4 minutes of the meeting it took a turn so I'm just going to be on record today saying that I'm fully disappointed in the call of this meeting, the meeting that we've had, and the disrespect that has been shown to our staff in presenting and preparing for this meeting and I hope that for future conversations on this topic and other public safety topics that the chair shows a different level of respect and collaboration with our city staff. I just want to say that on the record today because I'm fully committed as city councillor to coming to the table and being collaborative and being courageous as Mr. Hall said challenging assumptions, but we can't continue to have public safety meetings where our public safety team has not been fully prepped on these meetings. So I look forward to future conversations, I hope that they are different in the future; I hope that they are called properly so that the public is aware of what we're going to be talking about and the topics that will happen here. So I just felt the need to say that on the record.

#### Councillor Quinton Zondervan, Chair 1:27:58

Thank you, I appreciate the feedback. There is no disrespect intended or shown and I did reach out to Commissioner Bard about today's meeting as well and I don't believe that I have changed the topic of the conversation; what I tried to clarify is that we are not debating whether or not unarmed staff members should be pulling people over in traffic, and to the extent that the policy order was not clear about that, I take ownership of that, that's my fault, for not stating that more clearly, but here we are, and that's not the conversation I want to be having because that's not a productive direction for this conversation to go; so I'm trying to guide the conversation as best as I can.

#### **Branville Bard, Police Commissioner** 1:29:17

Mr chair, for you to say that you reached out to me is a bit disingenuous. Yesterday, you sent an email asking whether I intended to have a presentation. Not that you were going to change the whole purpose of the meeting and the topic of the meeting, so let's just be clear about that. I want to let you know that I'm disappointed by the way that you drastically changed the discussion for today. Obviously we are prepared to talk in depth about the topic that you pivoted to, but the fact that you did that is reprehensible and will piggyback on what the vice mayor said it's counterintuitive to productivity and these public safety committee meetings sometimes are not productive because of that very point; I see them as less than productive.

#### Councillor Quinton Zondervan, Chair 1:30:12

Thank you. Again I appreciate the feedback and I completely disagree, but I don't think it is productive to continue this back and forth in the committee meeting either, so I'm happy to speak with you about how we can do this better going forward, but I would like to focus this meeting on the topic that we are discussing.

#### **Councillor Marc McGovern** 1:30:50

Thank you, Mr. Chairman, I concur with the frustration, I think it's important that when we file policy orders, we say what it is we want, because that's what's in the order. So if we want a general discussion about traffic enforcement, then that's what the order should say. But I'm gonna move off of

that. I do have a question about and maybe this is for Ms. Glowa? Because I'm wondering not about the legality of who can pull somebody over. But if if a police officer sees someone that has an expired registration sticker, and doesn't pull that person over, but instead, we send a letter to them saying, Hey, your registration expired, but if that person gets into an accident, or something happens, where that maybe could have been avoided if the police had actually stopped that person, is there any, I don't know how you'd prove it, but is there any legal liability to the city? Or certainly, there may be just some ethical liability. So because something could go wrong in that time, because if your registration expires I think that also means that my insurance lapses. And so if the officer doesn't stop somebody for that, and then that person gets into an accident. How does that impact the city? And I mean, I'm just curious if there are unintended consequences of doing something like that.

#### Nancy Glowa, City Solicitor 1:32:35

Those are excellent questions Councillor McGovern. There could be some potential liability for the city, there have been negligence cases brought against municipalities or the state where failure to act on the part of the city may have been viewed as contributing to the cause of an accident. I'm not sure that that cause of action would lie entirely based upon these facts. So that's something that we'd have to research further to give you more particulars about. I do think that, for example, the situation that Councillor Zondervan described at the beginning about being told he couldn't drive the remainder of the distance to his house, to register the car, but had to do so at that time. I believe that the statute about failure or to drive a car with appropriate registration is something that, at least in practice, if not in the wording of the statute, is required to be remedied immediately. And, in fact, I think that there might have been other less lenient possibilities, like simply asking the person to leave the car and having the car towed away. So it's actually a courteous response to allow the person to contact the registry at that moment with their cell phone and a credit card. I do understand and appreciate Councillor Zondervan's point about the potential inequity involved with the fact that some people may have that opportunity, and some not. But I do think that the laws are fairly strict around that. So I think that these raise a lot of questions. I also think the question about whether an officer can issue a ticket based upon what somebody else has reported to them. Although an officer can do so if information is brought to them that they can reasonably rely upon, there is some question in the law about whether on these facts that information would be considered reliable even if it's brought to the officers attention. So there's some lack of clarity in this area of the law and I would certainly welcome Commissioner Bart's comments more specifically as an experienced police officer dealing with those situations.

#### Councillor Quinton Zondervan, Chair 1:35:15

Thank you. We are joined by Professor Maclin. I do want to transition to that in a second but commissioner Bard if you wanted to respond.

#### **Branville Bard, Police Commissioner** 1:35:34

The legal analysis from the solicitor is spot on. To further answer Councillor McGovern's question, If you (observe?) somebody swerving across solid lines or an OUI case, and the officer then allows the individual to proceed further, you can understand the concept that the city and that officer may be liable and negligent. There's a 2013 case, Commonwealth vs. Sweet. And it says that an officer who has no authority to issue a civil motor vehicle violation citation has no authority to stop the vehicle for

committing such a violation. And then also, that there is a question as to whether the continued reliance on third party information would be reliable. So there are a lot of issues at hand here.

#### Councillor Quinton Zondervan, Chair 1:36:58

Thank you, Commissioner. And so let's hear from Dr. Tracy Maclin, a professor of constitutional law at Boston University. Professor Maclin has written extensively on the Fourth Amendment implications of current traffic policing practices, as well as the disparate impacts of these practices on minority drivers in the US, so thank you for joining us, professor. And if you could give us a little bit of historical background on how we got to where we are today with police essentially having the legal right to search a person's vehicle without a warrant? It is my understanding that it wasn't always this way. And it wasn't inevitable that we ended up here, especially given the Fourth Amendment.

#### Tracy Maclin 1:37:58

If you're asking about the authority of the police to search a car. True, it wasn't inevitable. But the court in a case called Carroll versus United States, and when I say the court, the Supreme Court of the United States, said that we're going to allow police to search vehicles, when there is probable cause, that there might be evidence of a crime or contraband inside the vehicle. Again, that was a 1925 case. And all that does allow as you point out a search of a vehicle without a warrant. Um, certainly the law has continued to be applied in that way. And some would argue as I have, that Carol has been expanded, but that was the start of things. Now, not every traffic stop. Not every vehicle stop allows a search of a car, you can certainly stop a vehicle, and whether the stop is for a traffic violation, or some other offense, it could be a passenger not wearing a seatbelt. It could be many things in the traffic code, and I don't claim to be an expert on the Massachusetts traffic code. But the traffic code is quite large. But you can stop vehicles as long as you have probable cause or reasonable suspicion of a traffic offense or criminal activity. But you can't necessarily search that vehicle. You have to have a separate probable cause that the vehicle contains contraband or evidence or crime, or there's a reasonable suspicion that the vehicle has a weapon that might harm an officer or others nearby. So that in a very summery form is the fourth amendment authority that the police have to search vehicles.

#### Councillor Quinton Zondervan, Chair 1:40:15

Could you say a little bit more about what would constitute reasonable cause or reasonable suspicion; we talked a little bit earlier about the Cambridge police's efforts to establish a new case management system that will inform us about traffic stops and other stops and interactions by police. That would give us more data on potential racial disparities. But what's still not entirely clear to me is how would we know that there was indeed a probable cause or reasonable suspicion that allowed for the subsequent search of the vehicle?

#### Tracy Maclin 1:41:22

Well, you're asking a very good question. And I'm not sure you're gonna be happy with my answer. But the Supreme Court, United States has refused to define precisely what probable cause is; all that they've been willing to say, and it goes back to a case called Illinois versus gates, which was the 1983 Supreme Court decision that probable cause means a substantial chance, a fair probability, that evidence of a crime or contraband will be found inside of a car. Now, this may be a little helpful. Probable cause the Supreme Court emphasized is not a preponderance of the evidence standard.

Some of you may know that under the preponderance standard, courts typically say that requires 51% probable cause is less than that. Probable cause, according to the Supreme Court is not even a prima facie test. It's less than that. And that's all the court's been willing to say. In fact, there's a case in which again, Chief Justice Rehnquist said, we cannot precisely define what probable cause means. Or for that matter what reasonable suspicion means; there are no rigid rules, there are no bright line rules. I hate to say it, but you kind of get a feel for what probable cause is, when you read the cases, but there's no litmus test. My law students are just as frustrated as some of the members of the council might be with respect to a lack of a clear standard, but there's no clear standard for either probable cause or reasonable suspicion, but it's important to emphasize probable cause is less than 51%. And reasonable suspicion, which allows you to search a vehicle when you have reasonable suspicion to believe that there might be a weapon or some other item that would harm a police officer is less than probable cause. But as far as percentages, the Supreme Court has refused to give any percentage as to what either of those two terms mean.

#### Councillor Quinton Zondervan, Chair 1:43:36

So it sounds like, based on your comments, that there's a conflict between current practice and the Fourth Amendment. And I guess the Supreme Court has effectively resolved that conflict by saying current practices are allowed?

#### Tracy Maclin 1:44:11

Probable cause is not a hunch. It has to be based on specific and articulable facts a hunch won't do. Now, police judgment and common sense are built into that probable cause standard; police are allowed to make decisions based on their experience, based on their training. But it can't be a hunch, and obviously, it cannot be arbitrary.

#### Councillor Quinton Zondervan, Chair 1:45:10

I'm certainly not a lawyer, but for example, if a police officer were to walk past the window of my house, and saw me carrying an automatic rifle, they couldn't bust in the door and say: give me that! They would have to get a warrant to inspect my home, if they believe that I didn't have a license to possess the weapon. But it sounds like if they look through the window of my car, after pulling me over, and they see a weapon on the back seat, they could go through the vehicle and obtain that without a warrant. Is that correct?

#### Tracy Maclin 1:46:05

Yes. That is the warrant requirement does not apply to automobiles. Your two hypotheticals involve what's known as plain view. Plain view of contraband or evidence of a crime, or a weapon will not get you into an individual's home, unless there's some exigency or other exception to the warrant. That's absolutely true. Plain view with respect to a vehicle will allow the police to search the car, because the warrant requirement does not apply to cars. So yes, I understand now, the conflict that you speak of. But that conflict was created long ago, that conflict was Carol, and that was 1925. And the court has no indication that it's going to back away from the Carroll standard. Originally understood, Carol was about two things, moving vehicles and the fact that if we don't stop the car and search it at the time, we may never have a chance, because by the time we get a warrant, the car may have left the jurisdiction. The other concern with respect to peril was, again, the probable cause you had to have probable cause.

Essentially, what the court has done today is eliminate the need for an exigency. All you need now to search a car is probable cause that there's evidence of a crime or contraband. Now, again, the reasonable suspicion standard is a lower standard, but that's available only when an officer believes that there is a weapon or some other item inside the car that might be a harm to the officer or others. There's a case called Michigan versus Long, for example, in a 1983 Supreme Court decision where Long was driving at an excessive speed, he ran into a ditch. He got out of his car, the police asked him to go back and get his license and registration. And as he was approaching the car, the officer saw a knife inside the car. So before they let him get back in the car, they searched the car to see if there were any other weapons that might be used to harm the officer. And during the course of a lawful search for weapons, they found contraband, they found narcotics. The Supreme Court said that search was fine. And when Long said, well, listen, I possessed a knife lawfully, it doesn't matter. The knife was a potential threat to the officers. And because they had reasonable suspicion that the knife was in the car that allowed them to search the rest of the vehicle for any other weapons. So reasonable suspicion, a lower standard, but it only can be utilized as far as the Fourth Amendment. Now, I'm not speaking of the Massachusetts Fourth Amendment law or article, I believe it's Article 12 of the Massachusetts constitution.

#### Councillor Quinton Zondervan, Chair 1:49:21

I believe what you're saying is that the apparent conflict in terms of not requiring a warrant was essentially resolved by the Supreme Court already in 1925. And that just carried over into the present day.

#### Tracy Maclin 1:49:45

And one of the little pieces, the court would tell you that the expectations of privacy that a person has in his or her home, they don't have in their car. It's not that they have no privacy interest in the car. There is a lesser expectation of privacy in the car. So that also, in part explains why the warrant requirement does not apply.

#### Councillor Quinton Zondervan, Chair 1:50:22

So it sounds like there's really very little hope of changing that established practice.

#### Tracy Maclin 1:50:41

As a matter of law. As a matter of the fourth amendment, you're right, the Supreme Court's not going to require a warrant to search your car. Now as a matter of state law, as a matter of local law and how folks in Cambridge want to do things, states and localities are always free to impose higher standards on their police officer. Now, again, I am not a state law or Massachusetts law expert. But as a matter of federalism, states and localities are always free to impose higher standards, the Supreme Court sets the constitutional floor. But state and localities if they want to say, Well, listen, we know the Supreme Court doesn't require warrants. But we want to require warrants before car searches, states and localities, they're free to do that tomorrow, they're free to do it today, if they want. There's no federal obstruction or federal rule that prevents the states from doing that, as a matter of their own law. They can raise the standard so to speak, they can't drop below the federal standard established by the Supreme Court, but the states are always free to impose higher standards on their officials.

#### Councillor Quinton Zondervan, Chair 1:51:56

The other potential remedy that we've been discussing today is reducing those interactions, which can reduce the potential for these types of searches to even occur.

#### Tracy Maclin 1:52:15

Same rule applies, you're free to do that, as a matter of constitutional law. There's nothing in the constitution that bars the states from imposing higher standards on their police officers.

#### Councillor Quinton Zondervan, Chair 1:52:32

Do any of my colleagues or staff have any questions or comments for Dr. Maclin. Hearing none; Professor Maclin, do you have any suggestions for us, for areas to explore in terms of potentially applying different standards in these situations?

#### Tracy Maclin 1:53:16

Without having heard of the meeting prior to my coming on the zoom. me. I'm reluctant. I'm happy to respond to any questions, but I don't want to weigh in on matters that I haven't heard others talk about. So I'm gonna decline that opportunity. Ah, you mentioned earlier, I thought I heard you talk about profiling and the disproportionate stops of racial and ethnic minorities. The Supreme Court's well aware of that. In a case called Wren versus the United States, a 1996 Supreme Court decision, that issue was front and center for the Supreme Court. And the Supreme Court said that so long as a police officer has probable cause that a traffic offense has been committed, they may stop that vehicle. What happened in Wren, two undercover police officers saw a vehicle commit a couple of traffic offenses. And under the District of Columbia police regulations, those undercover officers were not supposed to engage in routine traffic stops, or they were only supposed to engage in routine traffic stops if there was an emergency, which suggests it is not routine. So they were violating their own departmental regulations. The defense said well look this can't be reasonable if they're violating their own departmental regulations and the Supreme Court said look, we're not going to get into a discussion about whether if police violate their own regulations or their own state law that's going to implicate the Fourth Amendment. And, and one of the reasons is because you can have various departmental regulations across the nation that differ from one another. And the Fourth Amendment applies across the nation. So the fourth amendment can't turn on what a department says its officers can or cannot do. Now, an additional argument and this gets to your point about racial profiling. They said, Well, listen, Wren and his companion guy named Brown were Black. And that was one of the reasons why they were stopped. The Supreme Court said in a unanimous opinion, that the subjective intent of a police officer is irrelevant for fourth amendment purposes. Now, the court said, if there is evidence of police stopping individuals based on their race or ethnicity, that's not constitutionally permissible, but the constitutional vehicle to attack that is not the Fourth Amendment, but the Equal Protection Clause of the 14th amendment. Now, there's a problem with that. And Scalia knew it when he wrote it, and the Supreme Court is well aware of it. In order to bring a successful 14th amendment equal protection case, you have to show that the officer had a specific intent to target the motorists based on their race. That is a very difficult standard to meet. And statistics alone will not satisfy that; you have to show that the officer was out to get a Black or Hispanic or Asian individual or motorist. So effectively, Wren gave the constitutional imprimatur for racial profiling, that it is very, very difficult to mount a successful Equal Protection Clause (case against). In other words, Wren says it doesn't matter under the Fourth

Amendment, whether the cops had bad faith or subjectively intended to target a particular individual based on their race or gender or ethnicity. All that matters is did they have probable cause for the traffic stop? Now, that all being said, the state is free to again impose higher standards, or the city's free (to do that).

#### Councillor Quinton Zondervan, Chair 1:57:51

Thank you, that's been very instructive to me, and, again, really appreciate you joining us and helping us understand the constitutional basis for some of our current practices. Again, I'll open the floor. Any questions? If there are none, I will thank Professor Maclin again, and entertain a motion to adjourn. So moved. All right. Thank you again, Professor Maclin for joining us. I really appreciate it.

#### Anthony Wilson, Clerk 1:58:44

On the motion Councillor Carlone. Absent vice mayor Mallon? Yes yes. Councillor McGovern? Yes yes. Councillor Sobrino-Wheeler? Yes yes. Councillor Zondervan? Yes Motion passes. Four in favor one.

#### Councillor Quinton Zondervan, Chair 1:59:01

Thanks, everyone for joining us.

TOD

### **ATTACHMENT 3** Text of Assembly Bill 550

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AB-550 Vehicles: Speed Safety System Pilot Program. (2021-2022)

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AMENDED IN ASSEMBLY APRIL 15, 2021

AMENDED IN ASSEMBLY MARCH 22, 2021

CALIFORNIA LEGISLATURE - 2021-2022 REGULAR SESSION

**ASSEMBLY BILL** 

NO. 550

Introduced by Assembly Member Chiu Members Chiu and Friedman (Principal coauthor: Senator Wiener)

(Coauthors: Assembly Members Ting Lee, Ting, and Wicks)

February 10, 2021

An act to amend, repeal, and add Section 70615 of the Government Code, and to add and repeal Article 3 (commencing with Section 22425) of Chapter 7 of Division 11 of the Vehicle Code, relating to vehicles.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 550, as amended, Chiu. Vehicles: Speed Safety System Pilot Program.

Existing law establishes a basic speed law that prohibits a person from driving a vehicle upon a highway at a speed greater than is reasonable or prudent given the weather, visibility, traffic, and highway conditions, and in no event at a speed that endangers the safety of persons or property.

This bill would authorize, until January 1, 2027, the Cities of Los Angeles, Oakland, San Jose, two other cities one city in southern California, and the City and County of San Francisco to establish the Speed Safety System Pilot Program for speed limit enforcement in certain areas, if the system meets specified requirements, including that the presence of a fixed or mobile system is clearly identified. The bill would require the participating cities or city and county to adopt a Speed Safety System Use Policy and a Speed Safety System Impact Report before implementing the program, and would require the city or city and county to engage in a public information campaign at least 30 days before implementation of the program, including information relating to when the systems would begin detecting violations and where the systems would be utilized. The bill would require the participating cities or city and county to issue warning notices rather than notices of violations for violations detected within the first 30 calendar days of the program. The bill would require the participating cities or city and county to develop uniform guidelines for, among other things, the processing and storage of confidential information. The bill would designate all photographic, video, or other visual or administrative records made by a

system as confidential, and would only authorize public agencies to use and allow access to these records for specified purposes.

This bill would specify that any violation of a speed law recorded by a speed safety system authorized by these provisions would be subject only to the provided civil penalties. The bill would, among other things, provide for the issuance of a notice of violation, an initial review, an administrative hearing, and an appeals process, as specified, for a violation under this program. The bill would require any program created pursuant to these provisions to offer a diversion program for indigent speed safety system violation recipients, as specified. The bill would require a city or city and county participating in the pilot program to submit reports to the Legislature, as specified, to evaluate the speed safety system to determine the system's impact on street safety and economic impact on the communities where the system is utilized.

Existing law establishes a \$25 filing fee for specified appeals and petitions.

This bill would require a \$25 filing fee for an appeal challenging a notice of violation issued as a result of a speed safety system until January 1, 2027.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of Los Angeles, Oakland, San Jose, and the City and County of San Francisco.

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

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

#### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### **SECTION 1.** The Legislature finds and declares all of the following:

- (a) Speed is a major factor in traffic collisions that result in fatalities or injuries.
- (b) State and local agencies employ a variety of methods to reduce speeding, including traffic engineering, education, and enforcement.
- (c) Traffic speed enforcement is critical to efforts in California to reduce factors that contribute to traffic collisions that result in fatalities or injuries.
- (d) However, traditional enforcement methods have had a well-documented disparate impact on communities of color, and implicit or explicit racial bias in police traffic stops puts drivers of color at risk.
- (e) Additional tools, including speed safety systems, are available to assist cities and the state in addressing excessive speeding and speed-related crashes.
- (f) Speed safety systems offer a high rate of detection, and, in conjunction with education and traffic engineering, can significantly reduce speeding, improve traffic safety, and prevent traffic-related fatalities and injuries, including roadway worker fatalities.
- (g) Multiple speed safety system programs implemented in other states and cities outside of California have proven successful in reducing speeding and addressing traffic safety concerns.
- (h) The Transportation Agency's "CalSTA Report of Findings: AB 2363 Zero Traffic Fatalities Task Force," issued in January 2020, concluded that international and domestic studies show that speed safety systems are an effective countermeasure to speeding that can deliver meaningful safety improvements, and identified several policy considerations that speed safety system program guidelines could consider.
- (i) In a 2017 study, the National Transportation Safety Board (NTSB) analyzed studies of speed safety system programs, and found they offered significant safety improvements in the forms of reduction in mean speeds, reduction in the likelihood of speeding more than 10 miles per hour over the posted speed limit, and reduction in the likelihood that a crash involved a severe injury or fatality. The same study recommended that all states remove obstacles to speed safety system programs to increase the use of this proven approach, and notes that programs should be explicitly authorized by state legislation without operational and location restrictions.

- (j) The National Highway Traffic Safety Administration (NHTSA) gives speed safety systems the maximum 5-star effectiveness rating. NHTSA issued speed enforcement camera systems operational guidelines in 2008, and is expected to release revised guidelines in 2021 that should further inform the development of state guidelines.
- (k) Speed safety systems can advance equity by improving reliability and fairness in traffic enforcement while making speeding enforcement more predictable, effective, and broadly implemented, all of which helps change driver behavior.
- (I) Enforcing speed limits using speed safety systems on streets—and in highway work zones where speeding drivers create dangerous roadway environments is a reliable and cost-effective means to prevent further fatalities and injuries.
- **SEC. 2.** Section 70615 of the Government Code is amended to read:
- 70615. The fee for filing any of the following appeals to the superior court is twenty-five dollars (\$25):
- (a) An appeal of a local agency's decision regarding an administrative fine or penalty under Section 53069.4.
- (b) An appeal under Section 40230 of the Vehicle Code of an administrative agency's decision regarding a parking violation.
- (c) An appeal under Section 99582 of the Public Utilities Code of a hearing officer's determination regarding an administrative penalty for fare evasion or a passenger conduct violation.
- (d) A petition under Section 186.35 of the Penal Code challenging a law enforcement agency's inclusion of a person's information in a shared gang database.
- (e) An appeal under Section 22428 of the Vehicle Code of a hearing officer's determination regarding a civil penalty for an automated speed violation, as defined in Section 22425 of the Vehicle Code.
- (f) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.
- **SEC. 3.** Section 70615 is added to the Government Code, to read:
- 70615. The fee for filing any of the following appeals to the superior court is twenty-five dollars (\$25):
- (a) An appeal of a local agency's decision regarding an administrative fine or penalty under Section 53069.4.
- (b) An appeal under Section 40230 of the Vehicle Code of an administrative agency's decision regarding a parking violation.
- (c) An appeal under Section 99582 of the Public Utilities Code of a hearing officer's determination regarding an administrative penalty for fare evasion or a passenger conduct violation.
- (d) A petition under Section 186.35 of the Penal Code challenging a law enforcement agency's inclusion of a person's information in a shared gang database.
- (e) This section shall become operative on January 1, 2027.
- **SEC. 4.** Article 3 (commencing with Section 22425) is added to Chapter 7 of Division 11 of the Vehicle Code, to read:
- Article 3. Speed Safety System Pilot Program: Automated Speed Enforcement System Program
- 22425. (a) As used in this article, the following definitions shall apply:
- (1) "Automated speed violation" means a violation of a speed law detected by a speed safety system operated pursuant to this article.
- (2) "Indigent" shall have the same meaning as defined in subdivision (c) of Section 40220.
- (3) "Local department of transportation" means a city or city and county's department of transportation or, if a city or city and county does not have a department of transportation, their administrative division, including, but not limited to, a public works department that administers transportation and traffic matters under this code.

- (4) "Speed safety system" or "system" means a fixed or mobile radar or laser system or any other electronic device that utilizes automated equipment to detect a violation of speeding laws and is designed to obtain a clear photograph, video recording, or other visual image of a vehicle license plate.
- (b) (1) The Cities of Los Angeles, Oakland, San Jose, two one southern California-cities, city, and the City and County of San Francisco may establish a program utilizing a speed safety system for speed limit enforcement, to be operated by a local department of transportation, in the following areas:
- (A) Within 2,500 feet of a school.
- (B) Within 2,500 feet of a senior zone.
- (C) Within 2,500 feet of a public park.
- (D) Within 2,500 feet of a recreational center.
- (E) On a street meeting the standards of a high injury network, as defined by the Department of Transportation.
- (2) A municipality operating a speed safety system pilot program under this article may have speed safety systems operational on no more than 15 percent of the municipality's streets at any time during the pilot program.
- (3) (A) A municipality operating a speed safety pilot program under this article may have the following number of speed safety systems operational at any time during the pilot program:
- (i) For a jurisdiction with a population over 3,000,000, no more than 125 systems.
- (ii) For a jurisdiction with a population between 800,000 and 3,000,000, inclusive, no more than 33 systems.
- (iii) For a jurisdiction with a population of 300,000 up to 800,000, no more than 18 systems.
- (iv) For a jurisdiction with a population of less than 300,000, no more than 9 systems.
- (B) For purposes of this paragraph, a "speed safety system" may include up to two fixed or mobile radar or laser systems at the same location in order to detect speed violations on two-way or multidirectional streets.
- (c) The Speed Safety System Pilot Program shall not be operated on any California state route, including all freeways and expressways, United States Highway, Interstate Highway or any public road in an unincorporated county where the Commissioner of the California Highway Patrol has full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, pursuant to Section 2400.
- (d) If a school zone is located on a street or portion of a street that is eligible for a speed safety system pursuant to subdivision (b), and the posted speed limit is 30 miles per hour or higher when children are not present, a city or city and county may operate a speed safety system two hours before the regular school session begins and two hours after regular school session concludes.
- (e) A speed safety system for speed limit enforcement may be utilized pursuant to subdivision (b) if the program meets all of the following requirements:
- (1) Clearly identifies the presence of the speed safety system by signs stating "Photo Enforced," along with the posted speed limit within 500 feet of the system. The signs shall be visible to traffic traveling on the street from the direction of travel for which the system is utilized, and shall be posted at all locations as may be determined necessary by the Department of Transportation through collaboration with the California Traffic Control Devices Committee.
- (2) Identifies the streets or portions of streets that have been approved for enforcement using a speed safety system and the hours of enforcement on the municipality's internet website, which shall be updated whenever the municipality changes locations of enforcement.
- (3) Ensures that the speed safety system is regularly inspected and certifies that the system is installed and operating properly. Each camera unit shall be calibrated in accordance with the manufacturer's instructions, and at least once per year by an independent calibration laboratory. Documentation of the regular inspection, operation, and calibration of the system shall be retained until the date on which the system has been permanently removed from use.

- (4) Utilizes fixed or mobile speed safety systems that provide real-time notification when violations are detected.
- (f) Prior to enforcing speed laws utilizing speed safety systems, the city or city and county shall do both of the following:
- (1) Administer a public information campaign for at least 30 calendar days prior to the commencement of the program, which shall include public announcements in major media outlets and press releases. The public information campaign shall include the draft Speed Safety System Use Policy pursuant to subdivision (g), the Speed Safety System Impact Report pursuant to subdivision (h), information on when systems will begin detecting violations, the streets, or portions of streets, where systems will be utilized, and the city's internet website, where additional information about the program can be obtained. Notwithstanding the above, no further public announcement by the municipality shall be required for additional systems that may be added to the program.
- (2) Issue warning notices rather than notices of violation for violations detected by the speed safety systems during the first 30 calendar days of enforcement under the program. If additional systems are utilized on additional streets after the initial program implementation, the city or city and county shall issue warning notices rather than notices of violation for violations detected by the new speed safety systems during the first 30 calendar days of enforcement for the additional streets added to the program.
- (g) The local governing body shall adopt a Speed Safety System Use Policy before entering into an agreement regarding a speed safety system, purchasing or leasing equipment for a program, or implementing a program. The Speed Safety System Use Policy shall include the specific purpose for the system, the uses that are authorized, the rules and processes required prior to that use, and the uses that are prohibited. The policy shall include the data or information that can be collected by the speed safety system and the individuals who can access or use the collected information, and the rules and processes related to the access or use of the information. The policy shall also include provisions for protecting data from unauthorized access, data retention, public access, third-party data sharing, training, auditing, and oversight to ensure compliance with the Speed Safety System Use Policy. The Speed Safety System Use Policy shall be made available for public review, including, but not limited to, by posting it on the local governing body's internet website at least 30 calendar days prior to adoption by the local governing body.
- (h) (1) The local governing body also shall approve a Speed Safety System Impact Report prior to implementing a program. The Speed Safety System Impact Report shall include all of the following information:
- (A) Assessment of potential impact of the speed safety system on civil liberties and civil rights and any plans to safeguard those public rights.
- (B) Description of the speed safety system and how it works.
- (C) Fiscal costs for the speed safety system, including program establishment costs, ongoing costs, and program funding.
- (D) If potential deployment locations of systems are predominantly in low-income neighborhoods, a determination of why these locations experience high fatality and injury collisions due to unsafe speed.
- (E) Locations where the system may be deployed and traffic data for these locations.
- (F) Proposed purpose of the speed safety system.
- (2) The Speed Safety System Impact Report shall be made available for public review at least 30 calendar days prior to adoption by the governing body.
- (3) The local governing body shall consult and work collaboratively with relevant local stakeholder organizations, including racial equity, privacy protection, and economic justice groups, in developing the Speed Safety System Use Policy and Speed Safety System Impact Report.
- (i) The municipality shall develop uniform guidelines for both of the following:
- (1) The screening and issuing of notices of violation.
- (2) The processing and storage of confidential information and procedures to ensure compliance with confidentiality requirements.

- (j) Notices of violation issued pursuant to this section shall include a clear photograph, video recording, or other visual image of the license plate and rear of the vehicle only, the Vehicle Code violation, the camera location, and the date and time when the violation occurred. Notices of violation shall exclude images of the rear window area of the vehicle.
- (k) The photographic, video, or other visual evidence stored by a speed safety system does not constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code.
- (I) (1) Notwithstanding Sections 6253 and 6262 of the Government Code, or any other law, photographic, video, or other visual or administrative records made by a system shall be confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article or to assess the impacts of the system.
- (2) Confidential information obtained from the Department of Motor Vehicles for the administration of speed safety systems and enforcement of this article shall be held confidential, and shall not be used for any other purpose.
- (3) Except for court records described in Section 68152 of the Government Code, or as provided in paragraph (4), the confidential records and evidence described in paragraphs (1) and (2) may be retained for up to 60 days after final disposition of the notice of violation. The municipality may adopt a retention period of less than 60 days in the Speed Safety System Use Policy. Administrative records described in paragraph (1) may be retained for up to 120 days after final disposition of the notice of violation. Notwithstanding any other law, the confidential records and evidence shall be destroyed in a manner that maintains the confidentiality of any person included in the record or evidence.
- (4) Notwithstanding Section 26202.6 of the Government Code, photographic, video, or other visual evidence that is obtained from a speed safety system that does not contain evidence of a speeding violation shall be destroyed within five business days after the evidence was first obtained. The use of facial recognition technology in conjunction with a speed safety system shall be prohibited.
- (5) Information collected and maintained by a municipality using a speed safety system shall only be used to administer an program, and shall not be disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other purpose, except as required by state or federal law, court order, or in response to a subpoena in an individual case or proceeding.
- (m) Notwithstanding subdivision (I), the registered owner or an individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation shall be permitted to review the photographic, video, or visual evidence of the alleged violation.
- (n) A contract between the municipality and a manufacturer or supplier of speed safety systems shall allow the local authority to purchase materials, lease equipment, and contract for processing services from the manufacturer or supplier based on the services rendered on a monthly schedule or another schedule agreed upon by the municipality and contractor. The contract shall not include provisions for payment or compensation based on the number of notices of violation issued by a designated municipal employee, or as a percentage of revenue generated, from the use of the system. The contract shall include a provision that all data collected from the speed safety systems is confidential, and shall prohibit the manufacturer or supplier of speed safety systems from sharing, repurposing, or monetizing collected data, except as specifically authorized in this article. The municipality shall oversee and maintain control over all enforcement activities, including the determination of when a notice of violation should be issued.
- (o) Notwithstanding subdivision (n), a municipality may contract with a vendor for the processing of notices of violation after a designated municipal employee has issued a notice of violation. The vendor shall be a separate legal and corporate entity from, and unrelated or affiliated in any manner with, the manufacturer or supplier of speed safety systems used by the municipality. Any contract between the municipality and a vendor to provide processing services may include a provision for the payment of compensation based on the number of notices of violation processed by the vendor.
- (p) (1) A speed safety system shall no longer be operated on any given street if within the first 18 months of installation of a system, at least one of the following thresholds has not been met:
- (A) Percentage of automated speed violations decreased by at least 25 percent.

- (B) Percentage of violators who received two or more violations decreased by at least 50 percent.
- (2) This subdivision shall not apply if a city or city and county adds traffic-calming measures to the street. "Traffic-calming measures" include, but are not limited to:
- (A) Bicycle lanes.
- (B) Chicanes.
- (C) Chokers.
- (D) Curb extensions.
- (E) Median islands.
- (F) Raised crosswalks.
- (G) Road diets.
- (H) Roundabouts.
- (I) Speed humps or speed tables.
- (J) Traffic circles.
- (3) A city or city and county may continue to operate a speed safety system with a fixed or mobile vehicle speed feedback sign while traffic-calming measures are being planned or constructed, but shall halt their use if construction has not begun within two years.
- (4) If the percentage of violations has not decreased by the metrics identified pursuant to paragraph (1) within one year after traffic-calming measures have completed construction, a city or county shall either construct additional traffic-calming measures or cease operation of the system on that street.
- **22426.** (a) Notwithstanding any other law, a violation of Section 22350, or any other speed law pursuant to this chapter that is recorded by a speed safety system authorized pursuant to Section 22425 shall be subject only to a civil penalty, as provided in subdivision (d), and shall not result in the department suspending or revoking the privilege of a violator to drive a motor vehicle or in a violation point being assessed against the violator.
- (b) The speed safety system shall capture images of the rear license plate of vehicles that are traveling 11 miles per hour or more over the posted speed limit and notices of violation shall only be issued to vehicles based on that evidence.
- (c) No more than one notice of violation shall be issued for a violation recorded from a specific license plate within a 24-hour period.
- (d) A civil penalty shall be assessed as follows:
- (1) Fifty dollars (\$50) for a speed violation from 11 up to 15 miles per hour over the posted speed limit.
- (2) One hundred dollars (\$100) for a speed violation from 15 up to 25 miles per hour over the posted speed limit.
- (3) Two hundred dollars (\$200) for a speed violation from 25 up to 100 miles per hour over the posted speed limit.
- (4) Five hundred dollars (\$500) for a speed violation 100 miles per hour or greater over the posted speed limit.
- (e) A civil penalty shall not be assessed against an authorized emergency vehicle.
- (f) The written notice of violation shall be issued to the registered owner of the vehicle within 15 calendar days of the date of the violation. The notice of violation shall include all of the following information:
- (1) The violation, including reference to the speed law that was violated.
- (2) The date, approximate time, and location where the violation occurred.
- (3) The vehicle license number and the name and address of the registered owner of the vehicle.

- (4) A statement that payment is required to be made no later than 30 calendar days from the date of mailing of the notice of violation, or that the violation may be contested pursuant to Section 22427.
- (5) The amount of the civil penalty due for that violation and the procedures for the registered owner, lessee, or rentee to pay the civil penalty or to contest the notice of violation.
- (6) An affidavit of nonliability, and information of what constitutes nonliability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the processing agency. If the affidavit of nonliability is returned to the processing agency within 30 calendar days of the mailing of the notice of violation, together with proof of a written lease or rental agreement between a bona fide rental or leasing company and its customer that identifies the rentee or lessee, the processing agency shall serve or mail a notice of violation to the rentee or lessee identified in the affidavit of nonliability.
- (g) Mobile radar or laser systems shall not be used until at least two years after the installation of the first fixed radar or laser system.
- (h) (1) Revenues derived from any program utilizing a speed safety system for speed limit enforcement shall first be used to recover program costs. Program costs include, but are not limited to the construction of traffic calming measures for the purposes of complying with subdivision (p) of Section 22425, the installation of speed safety systems, the adjudication of violations, and reporting requirements as specified in this section.
- (2) Jurisdictions shall maintain their existing commitment of local funds for traffic-calming measures in order to remain authorized to participate in the pilot program, and shall annually expend not less than the annual average of expenditures for traffic-calming measures during the 2016-17, 2017-18, and 2018-19 fiscal years. For purposes of this subdivision, in calculating average expenditures on traffic-calming measures, restricted funds that may not be available on an ongoing basis, including those from voter-approved bond issuances or tax measures, shall not be included. Any excess revenue shall be used for traffic calming measures within three years. If traffic-calming measures are not planned or constructed after the third year, then excess revenue shall revert to the Active Transportation Program established pursuant to Chapter 8 (commencing with Section 2380) of the Streets and Highways Code, to be allocated by the California Transportation Commission pursuant to Section 2381 of the Streets and Highways Code.
- 22427. (a) For a period of 30 calendar days from the mailing of a notice of violation, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, electronically, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, or that extenuating circumstances make dismissal of the notice of violation appropriate in the interest of justice, the issuing agency shall cancel the notice of violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice, and, if cancellation of the notice does not occur following that review, include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure adopted pursuant to paragraph (2) of subdivision (b) for waiving prepayment of the civil penalty based upon an inability to pay.
- (b) (1) If the person contesting the notice of violation is dissatisfied with the results of the initial review, the person may, no later than 21 calendar days following the mailing of the results of the issuing agency's initial review, request an administrative hearing of the violation. The request may be made by telephone, in writing, electronically, or in person.
- (2) The person requesting an administrative hearing shall pay the amount of the civil penalty to the processing agency. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the civil penalty upon satisfactory proof of an inability to pay the amount due.
- (3) The administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.
- (c) The administrative hearing process shall include all of the following:
- (1) The person requesting a hearing shall have the choice of a hearing by mail, video conference, or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency.
- (2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the automated speed violation without the appointment of a guardian. The processing agency  $22\,\text{--}212$

may proceed against the minor in the same manner as against an adult.

- (3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested automated speed violations.
- (4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified independent examiners or administrative hearing providers that employ qualified independent examiners to conduct the administrative hearings. Examiners shall demonstrate the qualifications, training, and objectivity necessary to conduct a fair and impartial review. The examiner shall be separate and independent from the notice of violation collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of civil penalties collected by the examiner or the number or percentage of violations upheld by the examiner.
- (B) (i) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs. Training may be provided through any of the following:
- (I) An accredited college or university.
- (II) A program conducted by the Commission on Peace Officer Standards and Training.
- (III) A program conducted by the American Arbitration Association or a similar organization.
- (IV) Any program approved by the governing body or chief executive officer of the issuing agency, including a program developed and provided by, or for, the agency.
- (ii) Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the governing body or chief executive officer of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. Up to eight hours of the training requirements described in this subparagraph may be credited to an individual, at the discretion of the governing body or chief executive officer of the issuing agency, based upon training programs or courses described in this subparagraph that the individual attended within the last five years.
- (5) The designated municipal employee who issues a notice of violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than, in proper form, the notice of violation or copy thereof, including the photograph, video, or other visual image of the vehicle's license plate, and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.
- (6) The examiner's final decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail.
- (7) Following a determination by the examiner that a person has committed the violation, the examiner may, consistent with the written guidelines established by the issuing agency, allow payment of the civil penalty in installments, or an issuing agency may allow for deferred payment or payments in installments, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the civil penalty in full. If authorized by the governing body of the issuing agency, the examiner may permit the performance of community service in lieu of payment of the civil penalty.
- (8) If a notice of violation is dismissed following an administrative hearing, any civil penalty, if paid, shall be refunded by the issuing agency within 30 days.
- **22428.** (a) Within 30 days after personal delivery or mailing of the final decision described in subdivision (c) of Section 22427, the contestant may seek review by filing an appeal to the superior court, where the case shall be heard de novo, except that the contents of the processing agency's file in the case on appeal shall be received in evidence. A copy of the notice of violation shall be admitted into evidence as prima facie evidence of the facts stated in the notice. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant. For purposes of computing the 30-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited civil case.

- (b) The fee for filing the notice of appeal shall be as provided in Section 70615 of the Government Code. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within 15 calendar days of the request. The court shall notify the contestant of the appearance date by mail or personal delivery. The court shall retain the fee under Section 70615 of the Government Code regardless of the outcome of the appeal. If the appellant prevails, this fee and any payment of the civil penalty shall be promptly refunded by the issuing agency in accordance with the judgment of the court.
- (c) The conduct of the hearing on appeal under this section is a subordinate judicial duty that may be performed by a commissioner or other subordinate judicial officer at the direction of the presiding judge of the court.
- (d) If a notice of appeal of the examiner's decision is not filed within the period set forth in subdivision (a), the decision shall be deemed final.
- (e) If the civil penalty has not been paid and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the civil penalty under Section 22426.
- **22429.** (a) A city or city and county shall offer a diversion program for indigent speed safety system violation recipients, to perform community service in lieu of paying the penalty for an automated speed system violation.
- (b) A city or city and county shall offer the ability for indigent speed safety system violation recipients to pay applicable fines and penalties over a period of time under a payment plan with monthly installments of no more than twenty-five dollars (\$25) and shall limit the processing fee to participate in a payment plan to five dollars (\$5) or less.
- (c) Notwithstanding subdivisions (a) and (b), a city or city and county shall reduce the applicable fines and penalties by 80 percent for indigent persons, and by 50 percent for individuals 200 percent above the federal poverty level.
- **22430.** A city or city and county shall each develop and submit to their respective governing body a Speed Safety System Report, two years after initial implementation of the program and at the end of the pilot program that includes all of the following information:
- (a) A description of how the speed safety system was used.
- (b) Whether and how often any system data was shared with outside entities, the name of any recipient entity, the type or types of data disclosed, and the legal reason for the disclosure.
- (c) A summary of any community complaints or concerns about the speed safety system.
- (d) Results of any internal audits, information about any violations of the Speed Safety System Use Policy, and any actions taken in response.
- (e) Information regarding the impact the speed safety system has had on the streets where the speed safety system was deployed.
- (f) A summary of any public record act requests.
- (g) A list of system locations that did not meet the threshold for continuance of a program pursuant to paragraph (1) of subdivision (p) of Section 22425, and whether further traffic-calming measures are in planning or construction, or there is a decision to halt operation of the program in those locations.
- **22431.** Any city or city and county that used speed safety systems shall, on or before March 1 of the fifth year in which the system has been implemented, submit to the transportation committees of the Legislature an evaluation of the speed safety system in their respective jurisdictions to determine the system's impact on street safety and the system's economic impact on the communities where the system is utilized. The report shall be made available on the internet websites of the respective jurisdictions and shall include all of the following information:
- (a) Data, before and after implementation of the system, on the number and proportion of vehicles speeding from 11 to 19 miles per hour over the legal speed limit, inclusive, from 20 to 29 miles per hour over the legal speed limit, inclusive, from 30 to 39 miles per hour over the legal speed limit, inclusive, and every additional 10 miles per hour increment thereafter on a street or portion of a street in which an system is used to enforce

speed limits. To the extent feasible, the data should be collected at the same time of day, day of week, and location.

- (b) The number of notices of violation issued under the program by month and year, the corridors or locations where violations occurred, and the number of vehicles with two or more violations in a monthly period and a yearly period.
- (c) Data, before and after implementation of the system, on the number of traffic collisions that occurred where speed safety systems are used, relative to citywide data, and the transportation mode of the parties involved. The data on traffic collisions shall be categorized by injury severity, such as property damage only, complaint of pain, other visible injury, or severe or fatal injury.
- (d) The number of violations paid, the number of delinquent violations, and the number of violations for which an initial review is requested. For the violations in which an initial review was requested, the report shall indicate the number of violations that went to initial review, administrative hearing, and de novo hearing, the number of notices that were dismissed at each level of review, and the number of notices that were not dismissed after each level of review.
- (e) The costs associated with implementation and operation of the speed safety systems, and revenues collected by each jurisdiction.
- (f) A racial and economic equity impact analysis, developed in collaboration with local racial justice and economic equity stakeholder groups.
- 22432. This article shall remain in effect only until January 1, 2027, and as of that date is repealed.
- **SEC. 5.** The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances with traffic speed enforcement in southern California, the Cities of Los Angeles, Oakland, and San Jose, and the City and County of San Francisco.
- **SEC. 6.** The Legislature finds and declares that Section 4 of this act, which adds Section 22425 to the Vehicle Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

| -,   |
|--|
| To protect the privacy interests of persons who are issued notices of violation under a speed safety systems pilot program, the Legislature finds and declares that the photographic, video, or other visual or administrative records generated by the program shall be confidential, and shall be made available only to alleged violators and to governmental agencies solely for the purpose of enforcing these violations and assessing the impact of the use of speed safety systems, as required by this act. |
| CORRECTIONS: Heading—Last amended date.  |
|  |

# **ATTACHMENT 4** Text of Assembly Bill 735

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SB-735 Vehicles: speed safety cameras. (2021-2022)







Date Published: 03/10/2021 09:00 PM

AMENDED IN SENATE MARCH 10, 2021

CALIFORNIA LEGISLATURE — 2021-2022 REGULAR SESSION

**SENATE BILL** NO. 735

> **Introduced by Senator Rubio** (Coauthor: Senator Newman)

> > February 19, 2021

An act relating to vehicles. An act to amend Section 6276.44 of the Government Code, and to amend Sections 21455.6 and 40520 of, and to add Sections 212, 213, 22368, 40518.1, 40518.5, and 40518.6 to, the Vehicle Code, relating to vehicles.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 735, as amended, Rubio. Vehicles: speed safety cameras.

Existing law establishes a basic speed law that prohibits a person from driving a vehicle upon a highway at a speed greater than is reasonable or prudent given the weather, visibility, traffic, highway conditions, and in no event at a speed that endangers the safety of persons or property. Existing law authorizes the use of automated traffic enforcement systems to monitor stops at specified locations, such as limit lines and intersections, but does not expressly authorize the use of automated speed enforcement in this state. Existing law establishes a pilot program for the adjudication of traffic infractions that does not require a personal appearance. The pilot program includes the creation of an online adjudicatory tool to determine a person's ability to pay the amount due.

speed safety cameras for the purpose of enforcing speed limits. The bill would make additional legislative findings in this regard.

The bill would authorize a local authority to use a traffic speed safety system, as defined, to enforce speed limits in a school zone. The bill would prescribe requirements for the operation of a traffic speed safety system, including, among other things, notice to the public, issuance of citations, and confidentiality of data. The bill would create an administrative proceeding for persons to pay or contest a citation captured by a traffic speed safety system and a procedure to appeal an adverse decision. The bill would impose a civil penalty for a violation. The bill would require the use of the online adjudicatory tool to determine a person's ability to pay that penalty and require that fees be collected pursuant to the process created in the pilot program described above.

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

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

#### THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** The Legislature finds and declares all of the following:

- (a) Speeding is a prevalent problem in the state of California that leads to death and injury.
- (b) In 2018, 893 pedestrians were killed on California roadways and more than 14,000 pedestrians were injured.
- (c) Speeding in California has dramatically increased recently. The Department of the California Highway Patrol issued 2,493 citations for driving more than 100 miles per hour in the first month of the shelter-in-place orders due to the pandemic caused by the novel coronavirus 2019, from March 19, 2020, to April 19, 2020, inclusive, inclusive, compared with 1,335 citations for the same offense in the same period the previous year.
- (d) Speed safety cameras are a tool available to local governments around the country, including in Illinois, New York, Washington, and Arizona. This tool has proven to reduce speed related crashes, fatalities, and injuries.
- (e) Speed safety cameras have proven to reduce in-person enforcement in jurisdictions where they have been utilized while also maintaining safety.
- (f) Speed safety cameras are an effective tool that protects drivers, cyclists, and pedestrians by reducing speeding in areas where they are located.
- (g) Speed safety cameras are especially important in protecting school children, traveling to and from school.
- (h) Current state statute does not expressly authorize the use of this life-saving technology.
- (i) Local jurisdictions should be granted the authority by the Legislature to use speed safety cameras to protect our most vulnerable community members, including children in school zones.
- (j) Speed safety camera fines should be civil in nature so as not to unfairly burden violators with significant fines, loss of license, or loss of vehicle.
- (k) The amount of a speed safety camera fine should be reasonable and justifiable.
- (I) Courts adjudicating speed safety camera-enforced violations should implement use of an "ability-to-pay" calculator to ensure that speed safety cameras do not unfairly impact lower income communities.
- (m) Speed safety cameras should only be used to enforce speeding violations and the data captured by speed safety cameras should not be stored longer than needed for the purpose of the violation, and then should be destroyed.
- (n) Speed safety cameras should be located based on safety needs and should ensure equitable enforcement.
- **SEC. 2.** (a) It is the intent of the Legislature to enact legislation that would authorize local jurisdictions to utilize speed safety cameras for the purpose of enforcing speed limits in areas where residents are most vulnerable, including school zones.
- (b) It is the intent of the Legislature to enact legislation that would ensure that the speed safety camera programs will be done equitably and protect the privacy rights of Californians.

#### **SEC. 3.** Section 6276.44 of the Government Code is amended to read:

6276.44. Taxpayer information, confidentiality, local taxes, subdivision (i), Section 6254.

Tax preparer, disclosure of information obtained in business of preparing tax returns, Section 17530.5, Business and Professions Code.

Teacher, credential holder or applicant, information provided to Commission on Teacher Credentialing, confidentiality of, Section 44341, Education Code.

Teacher, certified school personnel examination results, confidentiality of, Section 44289, Education Code.

Telephone answering service customer list, trade secret, Section 16606, Business and Professions Code.

Timber yield tax, disclosure to county assessor, Section 38706, Revenue and Taxation Code.

Timber yield tax, disclosure of information, Section 38705, Revenue and Taxation Code.

Title insurers, confidentiality of notice of noncompliance, Section 12414.14, Insurance Code.

Tobacco products, exemption from disclosure for distribution information provided to the State Department of Public Health, Section 22954, Business and Professions Code.

Tow truck driver, information in records of California Highway Patrol, Department of Motor Vehicles, or other agencies, confidentiality of, Sections 2431 and 2432.3, Vehicle Code.

Toxic substances, Department of, inspection of records of, Section 25152.5, Health and Safety Code.

Trade secrets, Section 1060, Evidence Code.

Trade secrets, confidentiality of, occupational safety and health inspections, Section 6322, Labor Code.

Trade secrets, disclosure of public records, Section 3426.7, Civil Code.

Trade secrets, food, drugs, cosmetics, nondisclosure, Sections 110165 and 110370, Health and Safety Code.

Trade secrets, protection by Director of the Department of Pesticide Regulation, Section 6254.2.

Trade secrets and proprietary information relating to pesticides, confidentiality of, Sections 14022 and 14023, Food and Agricultural Code.

Trade secrets, protection by Director of Industrial Relations, Section 6396, Labor Code.

Trade secrets relating to hazardous substances, disclosure of, Sections 25358.2 and 25358.7, Health and Safety Code.

Traffic speed safety system, confidentiality of photographic records made by the system, Section 22368, Vehicle Code.

Traffic violator school licensee records, confidentiality of, Section 11212, Vehicle Code.

Traffic offense, dismissed for participation in driving school or program, record of, confidentiality of, Section 1808.7, Vehicle Code.

Transit districts, questionnaire and financial statement information in bids, Section 99154, Public Utilities Code.

Tribal-state gaming contracts, exemption from disclosure for records of an Indian tribe relating to securitization of annual payments, Section 63048.63.

Trust companies, disclosure of private trust confidential information, Section 1582, Financial Code.

#### **SEC. 4.** Section 212 is added to the Vehicle Code, to read:

**212.** A "notice of violation" means the mailed notice of a violation of Section 22348 or 22358.4 recorded by a traffic speed safety system authorized pursuant to Section 22368, and subject to citation as a civil violation under Section 40518.1.

#### **SEC. 5.** Section 213 is added to the Vehicle Code, to read:

#### 213. A "traffic speed safety system" is a device that meets all of the following requirements:

(a) Is capable of producing a photographically recorded still or video image, or combination thereof, of a motor vehicle, or a motor vehicle being towed by another motor vehicle, including an image of the vehicle's license plate.

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- (b) Is capable of monitoring vehicle speed.
- (c) Indicates on one or more images produced the date, time, and location of the motor vehicle traveling at speeds above the posted speed limit within 2,500 feet of the perimeter of a school.
- **SEC. 6.** Section 21455.6 of the Vehicle Code is amended to read:
- 21455.6. (a) A city council or county board of supervisors shall conduct a public hearing on the proposed use of an automated enforcement system authorized under Section 21455.5 prior to authorizing the city or county to enter into a contract for the use of the system.
- (b) (1) The activities listed in subdivision (c) of Section 21455.5 that relate to the operation of an automated enforcement system may be contracted out by the city or county, except that the activities listed in paragraph (1) of, and subparagraphs (A), (D), (E), or (F) of paragraph (2) of, subdivision (c) of Section 21455.5 may not be contracted out to the manufacturer or supplier of the automated enforcement system.
- (2) Paragraph (1) does not apply to a contract that was entered into by a city or county and a manufacturer or supplier of automated enforcement equipment before January 1, 2004, unless that contract is renewed, extended, or amended on or after January 1, 2004.
- (c)The authorization in Section 21455.5 to use automated enforcement systems does not authorize the photo radar for speed enforcement purposes by any jurisdiction.
- **SEC. 7.** Section 22368 is added to the Vehicle Code, to read:
- 22368. (a) For the purpose of enforcing speed limits in and around school zones, a traffic speed safety system may be placed by a local authority within 2,500 feet of the perimeter of a school, or on that part of a roadway located within 2,500 feet of the perimeter of an institution of higher education, or within 2,500 feet of the grounds of the perimeter of a building or property used by a school or institution of higher education where generally accepted traffic and engineering practices indicate that motor vehicle, pedestrian, or bicycle traffic is substantially generated or influenced by the school or institution of higher education building if the governmental agency utilizing the system identifies the system by signs posted within 500 feet along the approach of any roadway at which a traffic speed safety system is located. The advance warning signs shall notify motorists of the existence of the traffic speed safety system and shall comply with the Department of Transportation's California Manual on Uniform Traffic Control Devices. A rebuttable presumption exists that the signage was properly installed at the time of the alleged violation.
- (b) Prior to issuing a notice of violation under this section, a local authority utilizing a traffic speed safety system shall commence a program to issue only warning notices for 30 days. The local authority also shall make a public announcement of the traffic speed safety system at least 30 days prior to the commencement of the enforcement program.
- (c) Only a governmental agency may operate a traffic speed safety system. A governmental agency that operates a traffic speed safety system shall do all of the following:
- (1) Develop uniform guidelines for screening and issuing violations and for the processing and storage of confidential information, and establish procedures to ensure compliance with those guidelines.
- (2) Perform administrative functions and day-to-day functions, including, but not limited to, all of the following:
- (A) Establishing guidelines for the selection of a location.
- (B) Ensuring that the equipment is regularly inspected.
- (C) Certifying that the equipment is properly installed and calibrated on an annual basis, and is operating properly.
- (D) Regularly inspecting and maintaining warning signs placed in accordance with subdivision (a).
- (E) Maintaining controls necessary to ensure that only those violations that have been reviewed and approved by a governmental agency are delivered to violators.
- (d) The activities listed in subdivision (c) that relate to the operation of the system may be contracted out by the governmental agency, if it maintains overall control and supervision of the system. However, the activities listed 22 - 220

in paragraph (1) and subparagraphs (A), (D), and (E) of paragraph (2), of subdivision (c) shall not be contracted out to the manufacturer or supplier of the traffic speed safety system.

- (e) The printed representation of computer-generated information, video, or photographic images stored by a traffic speed safety system does not constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code.
- (f) (1) Notwithstanding Section 6253 of the Government Code, or any other law, photographic records made by a traffic speed safety system shall be confidential, and shall be made available only to governmental agencies and only for the purposes of this article.
- (2) Confidential information obtained from the Department of Motor Vehicles for the administration or enforcement of this article shall be held confidential, and shall not be used for any other purpose. Reasonable security procedures and practices appropriate to the nature of the information shall be implemented to protect the data captured by traffic speed safety systems from unauthorized access, destruction, use, modification, or disclosure.
- (3) Speed safety cameras shall only be used to enforce speeding violations and the data captured by speed safety cameras shall not be stored longer than necessary for the enforcement of the violation, then, unless ordered by a court to do otherwise, it must be destroyed by shredding, erasing, or otherwise modifying the data to make it unreadable or undecipherable through any means.
- (g) Notwithstanding subdivision (f), the registered owner or any individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation shall be permitted to review the photographic evidence of the alleged violation.
- (h) Photographic evidence may not include a photo of the driver's face. However, a violation shall not be dismissed solely because a driver's face was captured in the recorded images.
- (i) A governmental agency that proposes to install or operate a traffic speed safety system shall not consider revenue generation, beyond recovering its actual costs of operating the system, as a factor when considering whether or not to install or operate a system within its local authority.
- (j) A governmental agency shall consider the safety data and demographics of a community before installing a traffic speed safety system to ensure equitable system placement.
- **SEC. 8.** Section 40518.1 is added to the Vehicle Code, to read:
- **40518.1.** (a) Notwithstanding any other law, a violation of Section 22348 or 22358.4 that is recorded by a traffic speed safety system authorized pursuant to Section 22368 shall be subject only to a civil penalty as provided in subdivisions (d) and (e). The notice of violation shall not be considered a moving violation, nor shall the violation result in the assessment of points against the license of the person found to be liable for the violation.
- (b) A written notice of violation shall be issued by a governmental agency on a form approved by the Judicial Council for an alleged violation of Section 22348 or 22358.4, recorded by a traffic speed safety system pursuant to Section 22368 and delivered by first-class mail within 30 days after obtaining the name and address of the vehicle owner to the current address of the registered owner of the vehicle on file with the department. A rebuttable presumption exists that the notice of violation was successfully delivered. Except as provided in paragraph (1) of subdivision (b) of Section 40520, and Section 40518.5, the registered owner of the vehicle shall be liable for payment of any civil penalty assessed for the violation.
- (c) A notice of violation shall contain the following information:
- (1) The name and address of the person alleged to be liable as the owner of the motor vehicle involved in the violation.
- (2) The license plate number of the motor vehicle.
- (3) The violation charged.
- (4) The location, date, and time of the violation.
- (5) The photographic image of the vehicle and vehicle license plate that is captured by the traffic speed safety system and information on how to view, through electronic means, the recorded image described in this section.

- (6) A statement or electronically generated affirmation of a governmental agency employee who has reviewed the recorded image described in this section and determined that the motor vehicle violated the ordinance or resolution.
- (7) A statement that the recorded image is prima facie evidence of a violation of Section 22348 or 22358.4.
- (8) The amount of the civil penalty imposed for the violation along with the time, place, and manner for payment of the fine, including the date by which the owner is required to do all of the following:
- (A) Pay the civil fine to the local governmental agency, if the owner of the vehicle chooses not to contest the violation. The date by which the civil penalty is required to be paid shall not be more than 30 days after the issuance date of the notice of violation, unless the owner contests the violation.
- (B) Notify the governmental agency that the notice of violation is being contested. The date by which the request for a hearing to contest the notice of violation shall not be more than 30 days after the issuance date of the notice of violation.
- (C) Notify the governmental agency that responsibility is being transferred to another individual who was operating the vehicle at the time of the violation. The date by which the civil penalty is required to be paid shall not be more than 60 days after the issuance date of the notice of violation, if a new notice is required to be sent to another person.
- (9) The procedure under which the notice of violation may be contested, or the procedure and conditions under which responsibility for payment of the civil fine may be transferred to another individual who was operating the vehicle at the time of the violation.
- (10) A statement that failure to timely pay, contest, or transfer responsibility to another shall constitute an admission that the owner is responsible, and that failure to pay a fine for which the owner is determined to be responsible shall result in the inability to obtain or renew the registration of the vehicle involved, unless and until the civil fine is paid pursuant to Chapter 1.5 (commencing with Section 40280) of this division.
- (d) A manufacturer or supplier of a traffic speed safety system or the governmental agency operating the system shall not alter the notice of violation or any other form approved by the Judicial Council. If a form is found to have been materially altered, the violation based on the altered form may be dismissed.
- (e) The amount of the civil penalty for a violation of Section 22348 or 22358.4 that is recorded by a traffic speed safety system authorized pursuant to Section 22368 shall not exceed one hundred fifty dollars (\$150).
- (f) A manufacturer or supplier of a traffic speed safety system may contract with the governmental agency for the maintenance, operation, and administration of a traffic speed safety system program, including the processing and mailing of the notice of violation. However only a peace officer or a qualified employee of a law enforcement agency may affirm a violation occurred.
- SEC. 9. Section 40518.5 is added to the Vehicle Code, to read:
- **40518.5.** (a) A person receiving a notice of violation may contest liability by requesting an administrative hearing of the violation no later than 30 days following the mailing of the notice of violation. The request may be made by telephone, in writing, or in person. The administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.
- (b) The administrative hearing process shall include all of the following:
- (1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency.
- (2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.
- (3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested violations.

- (4) The chief executive officer or governing body shall ensure the appointment of one or more examiners, other than law enforcement officers or persons who work in the law enforcement department, to conduct the hearings authorized by the section.
- (5) The issuing agency shall not be required to produce any evidence other than the notice of violation or copy thereof, including the photograph of the vehicle's license plate, and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.
- (6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail.
- (7) Following a determination by the examiner that a person has committed the violation, the examiner may, consistent with the written guidelines established by the issuing agency, allow payment of the civil penalty in installments, or an issuing agency may allow for deferred payment or allow for payments in installments, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the civil penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of the civil penalty. The examiner shall utilize an ability-to-pay calculator, as authorized under Chapter 1.5 (commencing with Section 40280) of this division.

#### **SEC. 10.** Section 40518.6 is added to the Vehicle Code, to read:

- **40518.6.** (a) Within 20 days after the mailing or delivery of the final decision described in subdivision (b) of Section 40518.5, the contestant may seek review by filing an appeal to the superior court, where the case shall be heard de novo, except that the contents of the issuing agency's file in the case on appeal shall be received in evidence. A copy of the notice of violation shall be admitted into evidence as prima facie evidence of the facts stated in the notice. A copy of the notice of appeal shall be served in person or by first-class mail upon the issuing agency by the contestant. For purposes of computing the 20-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited civil case.
- (b) The fee for filing the notice of appeal shall be pursuant to subdivision (b) of Section 70613 of the Government Code. If the appellant prevails, this fee shall be promptly refunded.
- (c) The conduct of the hearing on appeal under this section is a subordinate judicial duty that may be performed by a commissioner or other subordinate judicial official at the direction of the presiding judge of the court.
- (d) If a notice of appeal of the issuing agency's decision is not filed within the period set forth in subdivision (a), the decision shall be deemed final.
- (e) If the decision is adverse to the contestant, the issuing agency may, promptly after the decision becomes final, proceed to collect the penalty.

#### SEC. 11. Section 40520 of the Vehicle Code is amended to read:

- **40520.** (a) A notice to appear issued pursuant to Section 40518 or a notice of violation issued pursuant to Section 40518.1 for an alleged violation recorded by an automatic enforcement system or traffic speed safety system shall contain, or be accompanied by, an affidavit of nonliability and information as to what constitutes nonliability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the issuing agency.
- (b) (1) If a notice to appear or a notice of violation is sent to a car rental or leasing company, as the registered owner of the vehicle, the company may return the notice of nonliability pursuant to paragraph (2), if the violation occurred when the vehicle was either leased or rented and operated by a person other than an employee of the rental or leasing company.
- (2) If the affidavit of nonliability is returned to the issuing agency by the registered owner within 30 days of the mailing of the notice to appear or the notice of violation together with the proof of a written rental agreement or lease between a bona fide renting or leasing company and its customer and that agreement identifies the renter or lessee and provides the driver's license number, name, and address of the renter or lessee, the agency shall cancel the notice to appear or the notice of violation for the registered owner to appear and shall, instead, issue a notice to appear or a notice of violation to the renter or lessee identified in the affidavit of nonliability.

(c) Nothing in this section precludes an issuing agency from establishing a procedure whereby registered owners, other than bona fide renting and leasing companies, may execute an affidavit of nonliability if the registered owner identifies the person who was the driver of the vehicle at the time of the alleged violation and whereby the issuing agency issues a notice to appear *or a notice of violation* to that person.

**SEC. 12.** The Legislature finds and declares that Section 7 of this act, which adds Section 22368 of the Vehicle Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the personally identifiable information of California drivers, it is necessary that this act limit the public's right of access to that information.

### **ATTACHMENT 5**

Berkeley 2-2021 Fair and Impartial Policing Report

## The Mayor's Working Group on Fair and Impartial Policing Policy Proposals

Developing and implementing reforms that will effectively reduce existing racial disparities requires changes at several levels. The following recommendations include setting new policy, updating institutional structures, and mandating individual accountability. Their implementation and ongoing effectiveness require supportive leadership, transparency and police accountability.

<u>Executive Summary.</u> Mayor's Working Group on Fair and Impartial Policing (hereafter, "the working group") focused on reducing racial disparities in stops and searches and improving community relationships damaged by the racially disparate practices in stops and searches.

This report advances the following recommendations for BPD practices:

- Focus on public safety and eliminate stops for low-level offenses not directly impacting public safety.
- Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria.
- Institute annual implicit bias training and scenario-based training for California Penal Code 13519.4, prohibiting racial or identity profiling.
- Establish a truly effective Early Intervention System and risk management process to ensure department accountability and identify officers who are outliers in stops, searches, dispositions, and outcomes.
- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole.
- Require written consent for consent searches.
- Include evaluations of cultural competence in hiring and promotion, and fire officers who
  have expressed racist attitudes and/or are identified as members of racist groups.

The report also advances these recommendations for the Berkeley City Council and/or the City of Berkeley:

- Hire a consultant to create a plan for monitoring and reporting on the implementation of these recommendations.
- Ensure the creation of a Specialized Care Unit with crisis-response field workers, as included in the recent contract for a community-process to establish an SCU.
- Ensure a robust community engagement process, including annual surveys and community forums
- Require quarterly analysis of stop, search, and use of force data by City Auditor and/or the PRC.
- Adopt and carry out the compliance and accountability system outlined in this document.

## **Proposed Actions**

Table 1 provides a proposed action for each recommendation in the body and appendices of this draft report.

| Action  | <u>Recommendations</u>   |
|---|--|
| Direct the City Manager to implement key recommendations, with at minimum, quarterly progress reports to the PAB and/or the Working Group | <ul> <li>Focus traffic stops on safety</li> <li>Use a clear, evidence-based definition for stops of criminal suspects</li> <li>Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria</li> <li>Eliminate stops for low-level offenses</li> <li>Implement an Early Intervention System (EIS) and a risk-management structure</li> <li>Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group</li> <li>Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole</li> <li>Require written consent for all consent searches</li> <li>Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)</li> <li>Fire racist police officers identified through social media and other media screens</li> <li>Address Profiling by Proxy (Council develop &amp; pass CAREN policy)</li> <li>Require regular analysis of BPD stop, search, and use of force data</li> <li>Make resources on police-civilian encounters more publicly available such as RAHEEM.org</li> <li>Adopt Compliance and Accountability Mechanisms  a. Hire consultant to develop implementation plan</li> <li>For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complain process with PAB</li> </ul> |
| Refer to be included in the process to reimagine public safety  | <ul> <li>The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes a basic report card and quarterly neighborhood check-ins</li> <li>Conduct a baseline community survey.</li> </ul>  |
| Refer to the Police<br>Accountability<br>Board  | <ul> <li>Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4</li> <li>Require enhanced annual implicit bias training for police</li> <li>Accelerate Crisis Intervention Team (CIT) activity</li> </ul>  |
| Follow-up with PAB<br>and/or Fair and<br>Impartial Working<br>Group   | <ul> <li>Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data</li> <li>Conduct a regular community survey and annual community forums on Police and Public Safety</li> </ul>  |
| Recommendations already underway  | <ul> <li>Fund and implement a specialized care unit for mental health crises</li> <li>Conduct a Capacity Study of police calls and responses and use of officer time outside of case work</li> </ul>   |
| Outstanding -<br>No Action<br>Recommended   | <ul> <li>Include community member participation and feedback in the hiring process</li> <li>Include the following for Performance Appraisal Reports</li> </ul>   |

## Reducing Disparities in Vehicle, Pedestrian, and Bicycle Stops & Searches:

1. Focus traffic stops on safety

According to Dr. Frank Baumgartner's 2018 book, *Suspect Citizens*, "Safety stops are those aimed at enforcing the rules of the road to decrease the likelihood of an accident" (pg. 191). The types of stops falling into this traffic safety category may include:

- Excessive speeding<sup>1</sup>
- Running a stop sign or stop light
- Unsafe movement
- Driving while intoxicated

#### 2. Use a clear, evidence-based definition for stops of criminal suspects

Dr. Baumgartner's analysis²reveals that "investigatory stops" (stops that use a minor infraction as a pretext for investigating rather than to prevent or reduce dangerous behavior pgs. 53-55) allow for the most officer discretion and open the possibility of implicit bias or "reliance on cultural heuristics" (pg. 191). Based on analyses of more than 9 million stops, Baumgartner's team found that 47% were investigatory and that they added substantially to the racial disparity statistics. Thus, investigatory stops and stops of criminal suspects shall be restricted to those made because the person and/or vehicle fits a description in relation to a specific crime.<sup>34</sup>

Since the Oakland Police Department (OPD) has implemented evidence-based methods, the number of African American civilians stopped by the OPD has declined Since Oakland Police Department has implemented evidence-based methods, the number of African American civilians stopped has declined from 19,185 in 2017 to 7,346 in 2019, a drop of 62% and a stop disparity rate reduction of almost 60%,<sup>5</sup> with no corresponding increase in crime (Captain Chris Bolton presentation, 7/15/2020).

3. Use race and ethnicity as relevant factors when determining law enforcement action only when provided as part of a description of a crime and suspect that is credible and relevant to the locality and timeframe of the crime and only in combination with other specific descriptive and physical characteristics.<sup>6,7</sup>

Specific descriptive and physical characteristics may include, for example: the gender, age, height, weight, clothing, tattoos and piercings of the suspect, the make and model of the car, and the time and location of the crime. Simple race and ethnicity alone are not

<sup>&</sup>lt;sup>1</sup> https://www.idrivesafely.com/dmv/california/laws/traffic-tickets-and-violations/, https://www.martenslawfirm.com/blog/2015/november/what-is-excessive-speeding-/

<sup>&</sup>lt;sup>2</sup> Suspect Citizens, pp. 190-192

<sup>&</sup>lt;sup>3</sup> Eberhardt, J. L. (2016). <u>Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif. Stanford University</u>

<sup>&</sup>lt;sup>4</sup> This definition was created by Dr. Jennifer Eberhardt in collaboration with the Oakland Police Department.

<sup>&</sup>lt;sup>5</sup> This is the percentage of African American stops within all discretionary non-intel led stops made by Police Area 2 officers fell from 76% in September 2017 to 31% in September 2018

<sup>&</sup>lt;sup>6</sup> Southern Poverty Law Center, 10 Best Practices for Writing Policies Against Racial Profiling

<sup>&</sup>lt;sup>7</sup> CA Penal Code

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satisfactory as bases for reasonable suspicion under the law, and amount to racial profiling.

#### 4. Eliminate stops for low-level offenses

According to the presentation to the Working Group by Captain Bolton of the OPD, Oakland significantly reduced stops for these low-level, non-public safety related offenses, resulting in a reduction in the number of African Americans being stopped and a reduced stop-disparity rate, with no effect on crime rates (homicides and injury shootings went down during the same period). There is often overlap between "investigatory stops" and "stops for low-level offenses," as the latter may be used as a pretext for investigation. The types of stops falling into these categories may include:

- Equipment violations
- Not wearing a seat belt
- · Improper use of high beams
- Violating a regulation (e.g. expired license tags)
- Stop purposes recorded as "other"

#### 5. Implement an Early Intervention System (EIS) and a risk-management structure

These measures to ensure individual accountability have operated successfully in Oakland and many other localities for some time. They involve identifying officer outliers in stops, searches, and use of force and their outcomes and examining the reasons for racial disparities. Existing software programs to assist BPD in implementing an EIS could be utilized or BPD can build its own system.

These programs operate to identify officers who are a danger either to themselves or to the public. They are referred to as "risk management" systems because they help limit the financial liability of the City and hence its taxpayers. They may address a broad range of concerns, but in this document, we only consider their use with regard to racial disparities. Elements of this process include the following steps:

- a. Evaluate and assess stop incidents for legality and enforcement yield.
- b. Analyze data to determine whether racial disparities are generalized across the force or are concentrated in a smaller subset of outlier officers or squads/groups of officers. To the extent that the problem is generalized across the department, supervisors as well as line officers should be re-trained and monitored, and department recruitment, training, and structure should be reviewed. In addition, department policy should be examined for their impacts.
- c. Where disparities are concentrated in an individual or a group of officers, with no race-neutral legitimate evidence for this behavior in specific cases, initiate an investigation to determine the cause for the disparity. Evaluate whether there are identifiable causes contributing to racially disparate stop rates and high or low rates of resulting enforcement actions exhibited by outlying officers. Determine and address any trends and patterns among officers with disparate stop rates. In the risk management process, the responsible personnel in the chain of

- command reviews and discusses the available information about the subject officer and the officer's current behavior.
- d. Absent a satisfactory explanation for racially disparate behavior, monitor the officer. Options for the supervisor in these cases include reviewing additional body-worn camera footage, supervisor ride-alongs, and other forms of monitoring. Further escalation to intervention, if necessary, may include a higher form of supervision, with even closer oversight. If performance fails to improve, command should consider other options including breaking up departmental units, transfer of officers to other responsibilities, etc. The goal of this process is to achieve trust and better community relations between the department as a whole and all the people in Berkeley. Formal discipline is always a last resort unless there are violations of Department General Orders, in which case this becomes an IAB matter.
- Identify officers who may have problems affecting their ability to make appropriate judgments, and monitor and reduce time pressures, stress and fatigue on officers.
- f. An outside observer from the PRC shall sit in on the risk management and/or EIS program. Reports from these meetings, or other accurate statistical summary, can be given to the commission without identifying any officers' names.
- g. Report the results of this data analysis quarterly.

#### 6. Immediately release the following data to the Working Group:

- a. All data given to the Center for Policing Equity (CPE) This data includes:
  - i. Calls for Service (January 1, 2012 December 2016)
  - ii. Use of Force Data (January 1, 2012 December 31, 2016)
  - iii. Crime Report Data (January 1, 2012 December 31, 2016)
- b. STOP DATA this data shall include information on "call type," similar to the data used by the Center for Policing Equity. The timeframe would be January 1, 2012 to present.
- c. USE OF FORCE DATA This data was used in the analysis presented in the CPE report. Along with the CPE data, it would be helpful to have more recent Use of Force data. The timeframe would be January 1, 2012 to present.
- d. DEIDENTIFIED STOP & ARREST DATA To determine if there are any problematic patterns among certain officers, or perhaps pairs of officers, data that we can be attached to anonymized individuals. The timeframe for this data would be January 1, 2012 to present.
- e. ADDITIONAL ARREST DATA Currently, the Open Data Portal posts arrest data from January 1, 2015. The timeframe for this data would be January 1, 2012 to present day.
- f. ADDITIONAL CALLS FOR SERVICE Currently, Calls for Service data are posted for the last 180 days. The timeframe for this data would be January 1, 2012 to present.

#### Limit warrantless searches of individuals on supervised release status, including probation, Post Release Community Supervision (PRCS), and parole, absent evidence of imminent danger

California is one of a handful of states that allow high-discretion, suspicionless searches of probationers and parolees. The following was passed by the Police Review Commission on 9/23/2020 and the Working Group endorses this approach:

"In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation. Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion. However, under Berkeley policy, officers shall not detain and search a person on probation or parole solely because the officer is aware of that person's probation or parole status.

The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made, at a minimum, in connection with articulable facts that create a reasonable suspicion that a person may have committed a crime, be committing a crime, or be about to commit a crime."

#### 8. Require written consent for all consent searches

Baumgartner (pp. 195-209) and his team found that in cities requiring written consent to perform a consent search, these searches declined by 75%. Since people of color are disproportionately the subjects of these searches, it makes sense that a significant reduction would lead to fewer consent searches for people of color.

Examining three cities in North Carolina, Baumgartner found that in cities where there was resistance by leadership to the new written-consent policy, there was a substitution effect, such that as consent searches went down, probable cause searches went up. However, the substitution effect seemed to be directly correlated with leadership priorities. The chapter concludes, "We showed that a combination of leadership directives and simple initiatives can alter the relationship a department can have with their community" (pg. 213). This speaks to the need for clear buy-in from BPD leadership. The Working Group recommends that the BPD adopt the written consent form used in North Carolina, a copy of which can be found here.

## 9. For any individual detained, BPD officers shall provide a business card with the following information on the back

- a) A website similar to RAHEEM that collects information on police-civilian encounters.8
- b) Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.

<sup>8</sup> https://www.raheem.ai/en/

#### 10. Address Profiling by Proxy9

Police should not be dispatched to calls that are motivated by caller bias or malintent, e.g., a claim that someone is suspicious with no corroborating reason.<sup>10</sup> These types of calls harm police-community relationships and undermine the authority of the police. To protect against profiling by proxy the police department shall:

- a. work with PRC and other appropriate agencies to formulate a policy that defines and remedies profiling by proxy.
- enhance Dispatcher training to evaluate calls and add implicit bias training for 911 Dispatch.

An article on profiling by proxy by the Vera Institute of Justice recommends including 911 Dispatch in implicit bias training as a method for reducing issues with profiling by proxy. Anti-bias training will also help Dispatchers become aware of their own biases. For example, when they receive calls about behavior the complainant may dislike but is not illegal—e.g., "too many" black teenagers in the public park.<sup>11</sup>

#### **Hiring & Evaluation**

The successful hiring and evaluation of police officers is an important part of creating a healthy and high-functioning police department. The types of people the department hires, and the effective evaluation of police officers are important in determining police department culture. Researchers on policing have repeatedly found that organizational culture is the single most important determinant of officer behavior. Human Resource Management research supports including the evaluation for cultural competency as important in improving agencies. The key components for a high degree of cultural competency are: awareness, attitude, knowledge, skills.

#### 11. Fire racist police officers identified through social media and other media screens

A third-party agency, hired by the City of Berkeley, or agency outside the police department should screen police officers and potential new hires' social media accounts for racist or violent comments, affiliations to racist groups whether public or private, including private groups expressing racist or violent rhetoric.

- a. BPD shall immediately fire all identified officers who have engaged in racist or violent actions or commentary online.
- b. A social media screen of officer online conduct shall be done annually.

<sup>&</sup>lt;sup>9</sup> Profiling by proxy may occur "when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people" (retrieved from The Vera Institute of Justice).

<sup>&</sup>lt;sup>10</sup> Captain Bolton of the Oakland Police Department made improvements on profiling by proxy using an approach that educated citizens on focusing on criminal behavior instead of suspicion when calling police.

<sup>&</sup>lt;sup>11</sup> "Avoiding 'profiling by proxy'," Vera Institute of Justice, March 13, 2015, <a href="https://www.vera.org/blog/police-perspectives/avoiding-profiling-by-proxy">https://www.vera.org/blog/police-perspectives/avoiding-profiling-by-proxy</a>

<sup>&</sup>lt;sup>12</sup> Organizational Culture and Police Misconduct

#### Recommendations for Council

Community Engagement and Feedback - When the City of Berkeley pledged to consider reducing funding for the police department by 50%, it also committed itself to shifting to new and alternative methods of community safety. To effectively understand and implement new and alternative safety practices and services, the City of Berkeley must look to its residents for ongoing insight and feedback. The City must collect and utilize regular community feedback to inform the city on community investment priorities including police department policies and practices and future direction. To that end:

#### 12. Address Profiling by Proxy<sup>13</sup>

To protect against profiling by proxy City Council should:

- a. Introduce profiling by proxy legislation similar to <u>CAREN Act</u> in SF, which would hold residents accountable for using police in a biased manner.
- b. Issue a quarterly review of data from 911 Dispatch, for the PRC or City Auditor to help understand the extent of calls from community members presenting 'biased' suspicions."

#### 13. Require regular analysis of BPD stop, search, and use of force data

The City Auditor and/or PRC shall update the analysis of BPD data completed by the Center for Policing Equity and the PRC and publish the results on the BPD website every quarter. This report shall include stop, search, and use of force analysis. —

#### **Ensuring Timely and Effective Implementation:**

Since the fall of 2017, the police department has received 37 separate policy or legislative directives to address the racially disparate treatment of City of Berkeley residents. Those directives are the result of extensive and on-going racial disparities in police department stops, searches, and use of force. As of the drafting of this report, at least 30 of those directives remain outstanding with **no plan** for implementation.

We respectfully recognize that the role of the Mayor's Working Group on Fair and Impartial Policing is to advise the Berkeley City Council and staff. We recognize that we are not in a position to make final decisions; rather, our role is to offer advice and recommendations to the Council. The Mayor's Working Group is committed to ensuring that the policy recommendations outlined in this proposal are not added to the long list of unaccomplished directives. Therefore, we have included an accountability system with our policy proposal. This accountability system

<sup>&</sup>lt;sup>13</sup> When an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people; retrieved from The Vera Institute of Justice

will ensure that the changes necessary to establish fair and impartial policing and rebuild public trust occur.

#### **Compliance and Accountability Mechanisms:**

- A. Working in partnership with the Mayor's Working Group on Fair and Impartial Policing and within six months from approval of the proposal (extended for good cause), the City Manager hires an experienced consultant to help draft an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the working group's policy proposal.
  - If a consultant is not hired within six months from approval of the proposal, the Council should move to item "E" below.
  - ii. If a consultant is not hired within six months (extended for good cause), the working group should remain formally organized by the Mayor until a consultant is hired and a plan is approved.
- B. The Working Group, Police Chief, and the consultant will create an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Long-term monitoring and assessments will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- C. The implementation plan will be presented to the Berkeley City Council for approval. Once the plan is approved by the City Council, the consultant's work is finished. Long-term monitoring and assessment will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- D. The City Manager and the Berkeley Police Chief should do everything within their power to implement the items outlined in the plan and timeline set forth and approved by City Council.
- E. The City Council should set the implementation of this plan as a priority in the annual evaluation of the city manager.
- F. If the City Manager does not ensure that the Police Department implements the plan in accordance with the timeline, the City Manager should be held accountable.
  - i. In the event of a new Berkeley Police Department Chief: the Mayor's Working Group, on Fair and Impartial Policing, the new Police Chief and the City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.
  - ii. In the event of a new City Manager: the Working Group, the Berkeley Police Chief, and the new City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.

If these recommendations are adopted and implemented promptly, we expect that the disparate stop data can show significant improvement in the near future. We expect the City Manager and the Police Chief to implement these programs with enthusiasm and dedication, as they reflect the constitutional imperative of equal protection under the law.

### Appendix A: Additional Recommendations

The following recommendations are also supported by the working group, which suggests referring them to the reimagining process and/or follow-up with the Police Accountability Board and the Fair and Impartial working group. See table 1 for recommended actions.

## 14. Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4

- a. The training must include specific, relevant examples of prohibited actions and how to conduct law enforcement activities in an unbiased manner.<sup>14</sup>
- b. MILO and VIRTRA are two such scenario-based training programs<sup>15</sup>
- c. An independent observer shall review the training and report back to the PRC or its successor on the quality of the training.

#### 15. Require enhanced annual implicit bias training for police

There is scant scientific evidence that implicit bias training works to change implicit biases over the long-term. However, agency-wide, enhanced, and well-executed training that occurs on a regular basis could have a positive effect on the cultural environment of the police department and on expectations for behavior. Regular, required implicit bias training provides an expression of institutional support for fairness, which is important in improving relationships across groups 16 and improving agency culture.

- a. Officers should receive intensive anti-racism and implicit bias training as part of their core instruction in the first 90 days of employment, and an annual 'refresher' course.
- b. An independent observer shall attend the training and report back to the PRC on the quality of the training.

#### 16. Accelerate Crisis Intervention Team (CIT) activity

- a) Require 40 hours of CIT training in the first year of employment.
- b) Collect data on CIT calls to allow BPD to make informed decisions about staffing and deployment so that a CIT officer is available for all shifts in all districts to respond to every CIT call.
- c) Develop a CIT reporting system so that each deployment of a CIT officer is well documented. CIT officers should submit narrative reports of their interactions with persons in crisis so the appropriateness of the response can be evaluated in an afteraction analysis.
- d) Implement an assessment program to evaluate the efficacy of the CIT program as a whole and the performance of individual CIT officers. A portion of a CIT officer's performance review should address skill and effectiveness in CIT situations.

<sup>14</sup> CA Penal Code

<sup>&</sup>lt;sup>15</sup> MILO in an Oakland setting

<sup>&</sup>lt;sup>16</sup> Allport, G. W., Clark, K., & Pettigrew, T. (1954). The nature of prejudice.

## 17. The City of Berkeley should conduct annual community forums on Police and Public Safety:

- a. Identifying community-based leaders and impacted individuals for control of the envisioning process.
- b. Placing the process under the Office of the Mayor, not the City Manager. Upon establishment of the Police Accountability Board, place the process under the auspices of the Police Accountability Board.
- c. Including the creation of community-based measures of safety as part of the first round of the envisioning process.<sup>17</sup>
- d. Once community-based measures of safety are created, including these measures in the annual community survey (see item 17) and publishing the data as per item 17b.

#### 18. The City of Berkeley should conduct an annual community survey.

Sample surveys include the Milwaukee survey and the Dallas survey.

a. Data collected should be shared publicly via the City of Berkeley website or an online community dashboard.

## 19. The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes:

- a. A basic "Report Card," in collaboration with the PRC or its successor the Police Accountability Board, based on community feedback for each reform. This will enable the Department to take the 'community's temperature' on how the implementation of the reforms are being perceived by the public.
- b. Quarterly neighborhood 'check ins' for relationship building.

#### 20. Conduct a Capacity Study

- a. Release data including but not limited to 911 dispatch calls, BPD stops and interventions, written reports, and body-worn camera footage to the City Auditor and/or PRC for analysis.<sup>18</sup>
- b. Conduct an audit on officer down time to determine the percentage of police time spent outside of responding to calls for service and how police officers spend this time. Share this information with the City Auditor and/or PRC for analysis for use in the capacity study.
- c. Conduct an audit of police overtime to determine the factors that contribute to the use of overtime.

<sup>&</sup>lt;sup>17</sup> This process should follow or be modeled after the Everyday Peace Indicators process

<sup>&</sup>lt;sup>18</sup> This study could be time-limited and would not have to be a comprehensive analysis of internal data; a random sample done correctly would suffice to determine how best to restructure the response to a variety of problematic situations.

- d. Identify what percentage of calls for service require a unique police response and what percentage of calls could be better served by an alternative response with the goal to focus police response on issues that can best be responded to by police officers.
- These data can also assist in identifying calls suspected of profiling by proxy.

#### 21. Fund and implement a specialized care unit for mental health crises

Fully fund and implement the specialized care unit as swiftly as possible in order to remove mental health and homeless encounters from the responsibility of BPD. Research has found that individuals with mental illness are at a higher risk of police stops, use of force, <sup>19</sup> and a fatal police encounter. <sup>20</sup> These disparities increase for Black and Latinx individuals. Specialized mental health crisis units are a safer option for those experiencing a mental health crisis than a police response and a more cost-effective use of public resources. <sup>21</sup> The Council's July 14, 2020 decision to create a Specialized Care Unit will better serve people in Berkeley experiencing a mental health crisis. The Working Group supports transitioning away from police as first responders to 911 calls related to mental health and towards trained, unarmed mental health first responders.

The Berkeley Community Safety Coalition in collaboration with Councilmember Bartlett are developing a proposal related to a pilot program transitioning away from sworn police as first responders to professional mental health first responders. The Working Group supports this effort.

#### 22. Make resources on police-civilian encounters more publicly available, including:

- a. A website similar to RAHEEM that collects information on police-civilian encounters.<sup>22</sup>
- b. Contact information for filing a complaint with the PRC or its successor.
- 23. Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data

<sup>&</sup>lt;sup>19</sup> Mental Illness, Police Use of Force, and Citizen Injury

<sup>&</sup>lt;sup>20</sup> Deaths of people with mental illness during interactions with law enforcement

<sup>&</sup>lt;sup>21</sup> CAHOOTS Media Guide, 2020

<sup>&</sup>lt;sup>22</sup> https://www.raheem.ai/en/

### Appendix B: No Action Recommended

The following recommendations were proposed and discussed at the working group but no action is recommended by the Council.

#### 1. Include community member participation and feedback in the hiring process

For all potential sworn officer hires interviewed by BPD, Berkeley residents should be included in the hiring process. For example, citizens of Berkeley should be allowed, in an equitable manner, to participate in Berkeley Police Department orals boards for prospective police officers or some comparable interview process.

#### 2. Include the following for Performance Appraisal Reports

As the current Performance Appraisal Reports General Order P-28 requires, objectives of the report are to provide for fair and impartial personnel decisions, and to provide an objective and fair method for the measurement and recognition of individual performance according to prescribed guidelines.<sup>23</sup>

- Officers should exhibit cultural competency and anti-racist conduct, and that should be included in their City of Berkeley Performance Appraisal Report (Police Sworn-Operations Division Personnel<sup>24</sup>)
- b. Add to standards 1 and 2 of the Performance Appraisal Report as follows:
  - Provides excellent customer service and represents the Department well as a culturally competent and anti-racist officer
  - ii. Is respectful of both the people they serve and the people they serve with, in a culturally competent and anti-racist manner
  - iii. All officers should aspire for an "Above Average" "Exceeds Expectations" or "Exemplary Performance" mark each year with "Meets Minimum Standards" as the basic floor (with expected increase in performance level in subsequent years)

#### 3. Include community and peer input into the annual review of sworn police officers.

For all BPD sworn officers, Berkeley residents should be included in the annual review process. For example, citizens of Berkeley should be allowed, in an equitable manner, to provide feedback into the annual review of Berkeley police officers.

<sup>&</sup>lt;sup>23</sup> Previous language "a. An amendment to General Order P-28 would add a reference to 'cultural competency' and reassurances by the community that the officers are evaluated on their conduct in relationship to a person's gender, race, ethnicity, religion or gender identity/orientation. B. Performance Evaluation, Section B, page 2; #1 and #2 include language of cultural competency "

<sup>&</sup>lt;sup>24</sup> on p. 2 of 8 under Section "B" "Professionalism."

### Appendix C – Incorporation of BPD Feedback

Please note: quoted text in this section references written feedback on the working group draft proposal provided by Chief Greenwood of the Berkeley Police Department.

#### Focus traffic stops on safety.

The BPD are in agreement with this item. In July 2020, representatives from BPD (Officer Matthew Ye and Arlo Malmberg) presented a "problem-oriented policing" strategy to the working group. Further, Captain Bolton of the Oakland Police Department presented an intelligence-led policing strategy to the working group. According to Captain Bolton, OPD was able to significantly reduce stops for low-level and non-public safety related offenses using an intelligence-led policing strategy, resulting in a 70% reduction in the number of African Americans being stopped with no effect on crime rates. BPD stated they plan to "establish a formal strategy focusing officers' discretionary stops on intelligence-based and traffic safety stops."

Additional updates include: the sample list of stops falling into the category of unsafe driving behavior was updated based on BPD feedback; the working group deleted a reference made to "misdemeanor" stops as BPD pointed out that most traffic violations are "infractions" and not misdemeanors.

#### Use a clear, evidence-based definition for stops of criminal suspects.

BPD stated they plan to establish a formal strategy focusing officers' discretionary stops on intelligence-based stops. Chief Greenwood stated that an "intelligence based stop strategy aligns with [use of a clear, evidence-based definition for stops of criminal suspects]."

The BPD strategy as described focuses on general "intelligence" related to crime patterns. The BPD strategy does not respond to specific descriptions of perpetrators, nor is it clear what types of intelligence BPD would be using for stops of criminal suspects. An intelligence-based stop strategy can and should be implemented in concurrence with the items outlined in the working group's proposal. However, the working group is not convinced by Chief Greenwood's response that the BPD strategy will effectively address this item. The Working Group is recommending a shift in stop policy to address issues with racial disparities in stops. The BPD response as well as the strategy they have offered has not provided evidence there will be any shift from the status quo.

Use race and ethnicity as relevant factors when determining law enforcement action only when provided as part of a description of a crime and suspect that is credible and

## relevant to the locality and timeframe of the crime and only in combination with other specific descriptive and physical characteristics.

BPD stated "overall agreement" with this recommendation. BPD did not directly address the specific recommendation that race and ethnicity be used *only* in combination with other descriptive features of the individual or alleged offense. BPD wrote "[d]epending on circumstances, simple race and sex in a description can be sufficient for a terry [sic] stop." It is the working group's understanding that, absent other factors, race is insufficient to constitute the reasonable suspicion required for a Terry stop (i.e. detaining an individual based on reasonable suspicion of illegal activity, including the ability to handcuff and search the outer clothing of the individual detained). Furthermore, BPD's feedback that "In a 1538 Motion to Suppress hearing, the court makes a determination if there [sic] factors associated with a detention are sufficient," is inappropriate in this context. While the statement is factually accurate, the purpose of this recommendation is to establish a stop policy based on the Constitution, not to place the burden on civilians to go to court for relief.

#### Eliminate stops for low-level offenses

In response, BPD stated the plan to establish a formal strategy focusing officers' discretionary stops on intelligence-based stops. Further, BPD stated, "We would support our Intelligence Based Stop Strategy through increasing our analysis capability, so that more information can be more efficiently provided to officers, Officers working in this manner would be more likely to have a higher yield even when making fewer stops, because of their focus on crime investigations." It remains unclear to the working group how BPD plans to increase their analysis capacity or how that would impact racial disparities in stops.

In responses to items throughout the draft working group policy proposal, BPD referenced an early transition to the data collection methods required by the California Racial and Identity Profiling Act (RIPA). BPD announced an early transition to data collection methods in line with RIPA requirements at an October 2020 working group meeting. As of the writing of this report, data collected according to RIPA standards (hereafter "RIPA data") has not been released on the BPD open data portal.

It is important to note: using the data currently available on the open data portal, a hit rate cannot be calculated. Hit rates are commonly used to measure the presence of racial bias in searches. A hit rate is calculated by dividing contraband found during a search (e.g. weapons, drugs, etc.) by the total numbers of searches, within racial categories (e.g. Black or white). The logic of the hit rate is straightforward: in the absence of discriminatory behavior, officers should find contraband on searched minorities at the same rate as on searched whites. A similar hit rate indicates a similar standard for searches is being used across different groups. If searches of racial minorities turn up contraband at lower rates than searches of whites, this suggests there is a double standard, where minorities are being stopped and searched on the basis of less evidence. BPD did not collect contraband information before the transition to RIPA. Therefore, there was no way to calculate a true hit rate during the period the working group met. Transitioning to RIPA will be helpful to determine racial bias in search decisions, but it does not

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provide information on racial bias in stop decisions. Most importantly, the collection of RIPA data does not directly address or work to mitigate existing racial disparities.

In a previous draft, this item included a reference to BerkDOT, but we removed it after BPD pointed out that inclusion was an unnecessary addition.

We also deleted a recommendation that officers provide those they stop with a reason for the stop, since BPD feedback cited section 14 of the T-3 Traffic Enforcement policy which requires officers to provide "explanation of the circumstances giving rise to the enforcement contact."

## Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4.

BPD responded that it "conducts all mandated training." However, the working group item recommends including scenario-based training with relevant examples of what is prohibited, and includes an independent observer. This addition of specific scenario-based training is not currently mandated by the state, and it is this specific scenario-based training that the working group is recommending. This recommendation for specific scenario-based training comes from the Southern Poverty Law Center, "10 Best Practices for Writing Policies Against Racial Profiling."

#### Require enhanced annual implicit bias training for police.

BPD agrees with the importance of implicit bias training and stated officers currently get implicit bias training while in training academy. BPD also cited budget constraints would limit the department's ability to provide annual implicit bias training. The working group understands the constraints of budget cuts, but anticipates that some of the recommendations proposed here (e.g. eliminating stops for many low-level infractions) may free up resources for this important training that has the potential to trigger the kind of cultural shifts that are necessary.

This item also includes a policy recommendation that an independent observer attend the training and report back to the police oversight body (the PRC or its successor). Chief Greenwood stated he was open to the idea of an outside observer but had concerns that difficult conversations might be chilled by outside observers. The working group understands and appreciates these concerns.

#### Implement an Early Intervention System (EIS) and a risk-management structure.

Chief Greenwood's feedback expressed interest in this approach and in learning how the Oakland program works, stating "Open to learning about how Oakland does this work. Learning how the analysis works will help us understand the resources needed to do this work." In response, a member of the working group put Chief Greenwood in touch with the OPD official in charge of that program. To date he has not taken advantage of that opportunity.

Further, BPD feedback references RIPA data, stating "With the collection of RIPA data, we will have richer data to examine. This will help us focus on data on stops, searches, and yields." According to the National Police Foundation, in their report, *Best Practices in Early Intervention* 

System Implementation and Use in Law Enforcement Agencies, an "early intervention system [EIS] is a personnel management tool designed to identify potential individual or group concerns at the earliest possible stage so that intervention and support can be offered in an effort to redirect performance and behaviors toward organizational goals. The ideal purpose of an EIS is to provide officers with resources and tools in order to prevent disciplinary action, and to promote officer safety, satisfaction and wellness."

The collection and analysis of RIPA data could be helpful to identify *racial implications* related to identified individual or group red flag behavior. However, the collection of RIPA data does not meet two core components of an EIS system: 1) identify potential individual or group red flag behavior (as early as possible), and 2) intervene to redirect performance and behaviors toward organizational goals. In short, the collection of RIPA data does nothing to address this item.

The working group considers this recommendation for an EIS and risk management system to be among its top priorities.

### Immediately release the following data to the Working Group:

All data given to the Center for Policing Equity (CPE) - This data includes:

- a. Calls for Service (January 1, 2012 December 2016)
- b. Use of Force Data (January 1, 2012 December 31, 2016)
- c. Crime Report Data (January 1, 2012 December 31, 2016)

STOP DATA - this data shall include information on "call type," similar to the data used by the Center for Policing Equity. The timeframe would be January 1, 2012 to present. USE OF FORCE DATA - This data was used in the analysis presented in the CPE report. Along with the CPE data, it would be helpful to have more recent Use of Force data. The timeframe would be January 1, 2012 to present.

DEIDENTIFIED STOP & ARREST DATA - data that we can be attached to anonymized individuals. The timeframe for this data would be January 1, 2012 to present.

ADDITIONAL ARREST DATA - Currently, the Open Data Portal posts arrest data from January 1, 2015. The timeframe for this data would be January 1, 2012 to present day. ADDITIONAL CALLS FOR SERVICE - Currently, Calls for Service data are posted for the last 180 days. The timeframe for this data would be January 1, 2012 to present.

The BPD responded by referring to RIPA data collection, stating "RIPA data and current BPD officers seems to be the best path forward." BPD also states, "Approximately 50 officers have been hired since late 2016," and, "BPD staff are working on a number of technical projects, and resources are limited, especially after recent budget deferrals."

Based on conversations related to this item which occurred in formal working group sessions, the working group believes the BPD comment related to the hiring of 50 officers was intended to communicate that the BPD department before 2016 (reflected in the CPE data), is different from the BPD today. The working group believes this may be true. The best way to determine if this

is true is to have access to the data we have requested so we can determine if there have been any measurable shifts in the racial disparities found by CPE.

It is important to note that a member of the working group used publicly available BPD stop data to redo a portion of the CPE analysis. This publicly available stop data was from 2015 to 2019. Therefore, this data included the two years of the CPE report (2015 - 2016) and two and a half years after the CPE report (2017-2019). This analysis was presented to the working group. This analysis found persistent racial disparities in stops and searches during this time. In other words, the pattern of racial disparities found in the CPE analysis persisted through 2019, over two years after the CPE report was released. It is also important to note that this analysis only includes stops and searches. It does not include an analysis of use of force. A complete CPE redo has not been possible because *BPD has never released any data to the working group*.

The working group understands budgetary constraints are impacting BPD. Further, the working group understands that it is possible BPD does not have some of the data we request, e.g. deidentified stop and arrest data. When BPD has made it clear they do not have the data, we have updated our data requests. For example, an early draft of the working group's policy proposal included a request for weapons and contraband data. BPD has made clear they do not have weapons and contraband data, so the working group removed this data request from our final proposal.

For the remaining data requests, BPD has not provided a compelling reason for why they have not released this data. At the very least, BPD should be able to turn over all the data that was shared with CPE as this data has already been put into a format which allowed it to be shared. Moreover, BPD feedback that, "BPD staff are working on a number of technical projects," seems to indicate that BPD has staff capable of providing and perhaps already working on the data we request.

The Working Group agrees that RIPA data will be useful going forward. However, this item speaks to data from the past, beginning in 2012, and includes data given to the CPE as well as additional data. For the City Council to determine if and how the policy shifts implemented in this proposal have been effective in reducing racial disparities, it must have data from before the implementation of RIPA and this data must be more extensive than stop and search data. The data the working group has requested in this proposal would allow City Council to properly measure the impacts of the policy changes outlined in this proposal. RIPA data will help create a richer picture but in isolation it cannot tell us any information about changes to racial disparities that result from the policy changes outlined in this proposal.

Limit warrantless searches of individuals on supervised release status, including probation, Post Release Community Supervision (PRCS), and parole, absent evidence of imminent danger

BPD agrees with this recommendation which has passed the PRC with BPD collaboration.

### Require written consent for all consent searches

BPD agreed with this item and cited the collection of RIPA data. Chief Greenwood's feedback states, "BPD will make it a policy that the department's existing consent search form shall be used when consent to search is sought by an officer. Existing body worn camera policy already captures the consent request interaction. RIPA data will specifically address this issue: Data will indicate when a consent search was performed, and what the outcome (yield) is providing specific data for analysis. The data will support understanding of how often it occurs, the circumstances under which it occurs, and the outcomes."

In mid-December, the Working Group received a copy of the consent form used by the BPD; however, as noted above in #8, the Working Group recommendation is that the BPD adopt the written consent used in North Carolina.It is imperative that any consent form be used consistently and include the printed name and signature of the person consenting to the search as well as clear indications of what property the person consents to search, rather than blanket statements that the consent includes all aspects of the person and their property.

Additionally, while the written feedback did not make this distinction, conversations with Chief Greenwood at Working Group meetingsindicated that perhaps BPD focus for written consent was on car or traffic searches only. This policy item recommendation includes all searchestraffic, pedestrian, bike, etc.

The Working Group acknowledges that body worn cameras may capture the consent process but does not support only the use of body worn cameras to capture this process. The intent of this item is to require written consent for any person, or their property, undergoing a consent search.

The Working Group agrees RIPA data collection will be helpful in determining if there are racial disparities in stops and searches. However, RIPA data collection is not a substitute for a written consent.

### Accelerate Crisis Intervention Team (CIT) activity

BPD agrees with this response. However, Chief Greenwood states, "Class availability is limited. Budget and resource constraints may impact this as well, as overtime is restricted to backfill for officers' absence due to training." The working group considers that accelerating current CIT activity as critically important.

# For any individual detained, BPD officers shall provide a business card that displays with the following information on the back:

- a. A website similar to RAHEEM that collects information on police-civilian encounters
- b. Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.

BPD feedback states, "Open to idea, but with balance: perhaps a link to an online survey, provide info on commendations as well as how to file complaints with PRC and IAB." The

working group supports the collection of both positive and negative feedback on police civilian contacts.

### **Address Profiling by Proxy**

BPD supports this item.

### Include community member participation and feedback in the hiring process

BPD provided no written feedback on this item. However, in a formal working group session Chief Greenwood expressed concerns about including community participation in the hiring process for all BPD staff. The proposal was updated to include community member participation only in the hiring process related to sworn officers.

### Include the following for Performance Appraisal Reports

- a. Officers should exhibit cultural competency and anti-racist conduct, and that should be included in their City of Berkeley Performance Appraisal Report (Police Sworn-Operations Division Personnel), on p. 2 of 8 under Section "B" "Professionalism."
- b. Add to standards 1 and 2 of the Performance Appraisal Report as follows:
  - Provides excellent customer service and represents the Department well as a culturally competent and anti-racist officer
  - ii. Is respectful of both the people they serve and the people they serve with, in a culturally competent and anti-racist manner
  - iii. All officers should aspire for an "Above Average" "Exceeds Expectations" or "Exemplary Performance" mark each year with "Meets Minimum Standards" as the basic floor (with expected increase in performance level in subsequent years).

BPD provided no written feedback to this item. This item was updated based on verbal feedback Chief Greenwood gave during a formal working group session.

### Include community and peer input into the annual review of sworn police officers.

Based on BPD feedback, this item was updated. Previous language was as follows: Include a "360 Degree Review Form" completed by December 30th each year after an Annual Community Forum. The working group updated the item to account for the lack of familiarity at BPD with a 360 review process as well as to incorporate peer review into the annual review process.

### Fire racist police officers identified through social media and other media screens.

- a. BPD shall immediately fire all identified officers who have engaged in racist or violent actions or commentary online.
- b. A social media screen of officer online conduct shall be done annually.

BPD agrees with this item. In response, BPD cited existing policies in place to discipline or terminate an employee. However, Chief Greenwood stated a need to check if or how these policies are related to racist behaviors. Further, Chief Greenwood pointed towards the existing

screening process and background checks for hiring. Lastly, other members of BPD expressed concerns that social media screens might violate legal protections.

The working group has not received clarification on if or how existing disciplinary policies relate to racist behavior of officers. The working group would like clarity on this process. Further, if policies are in place to discipline an officer engaged in racist behavior this still does not address the issue of identifying officers engaged in racist behavior. This item is designed to identify if BPD officers are engaged in racist online activity and states clearly any officers so identified should be terminated. The working group does not recommend that Council accept any other action than termination for any officer found to have engaged or currently engage in racist behavior.

Additionally, this item is not requesting BPD violate privacy laws of potential or existing employees. Comments made on an electronic app, chat room, social media group, etc. are not protected by privacy laws or the constitution. A screen of social media platforms is routinely done by employers today. According to a 2018 CareerBuilder survey, "70% of employers use social media to screen candidates during the hiring process, and about 43% of employers use social media to check on current employees." Regular social media screens are a routine practice today. A third party that specialized in social media screens is well aware of legalities of the screening process, which is one reason why the FIP working group suggested a third party, not BPD, conduct the screening process.

### Of Note:

The working group removed one item based on BPD feedback. The original item read: Officers shall prominently display identification. This item was updated with new language that read: Officers violating penal code (CA 830.10) shall be severely disciplined. Finally, the working group removed this item completed based on feedback from BPD.

## Appendix D - Unfulfilled Council Mandates to BPD

Following on the publication by the CPE and the PRC of their respective reports on BPD stop, search, and use of force data, the Berkeley City Council gave specific policy direction to staff to address racial disparities apparent in that data.

At the onset of the Fair and Impartial Working Group in the fall of 2019, mayoral staff noted the following directions that had not been carried out by the City Manager or Chief of Police. Significantly, these directions remain unfulfilled as of August 2020:

- I. Council referral from Nov. 14, 2017, to be completed by September 2018 and annually thereafter.
  - 1. Direct the City Manager to track yield, stop, citation, search and arrest rates by race, develop training programs to address any disparities found, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department ("BPD"), the Police Review Commission ("PRC") and the broader Berkeley community. The City Manager will report findings in September 2018 and annually thereafter, using anonymized data. [NOTE: BPD responded that they are addressing this via RIPA work, but it has still not been done.]
  - 2. Tracking Yield rates
    - a. Analyze whether officer-initiated or in response to calls for service or warrants.
       b. Focus on reasons for disparate racial treatment and to identify any outliers.
       [NOTE: BPD responded that they are addressing this via RIPA work, but it has still not been done.]
  - 3. Consider any other criteria that would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions. [NOTE: BPD responded that they are addressing this via RIPA work, but it has still not been done.]
  - 4. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms.
  - 5. Once released, BPD should analyze the final Center for Policing Equity report and propose improvements as needed. [NOTE: CPE final report was released in May 2018.]

None of these items, which are now nearly three years old, were ever accomplished

- II. Council referral from April 24, 2018
  - 1. Create, Present and Execute a Departmental Action Plan by April 30, 2019.

- 2. Officer Identification. Develop a policy requiring officers to identify themselves by their full name, rank and command and provide it writing (e.g. a business card) to individuals they have stopped, as in Oakland, New York, Providence, and San Jose.
- 3. Review and Update BPD Policy Surrounding Inquiries to Parole and Probation Status.
- 4. Enhance Search Consent Policies.
- 5. Collect Data on Terry Stops/Searches and Citations [NOTE: Remains undone. BPD responded that they are addressing this via RIPA work, but it has still not been done.]
- 6. BPD Data Dashboard.
- 7. Enhance Existing "Early Warning" Systems

None of these items, which are over two years old, were ever accomplished

### III. CPE recommendations from early 2018

- 1. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband (distinguishing among drugs, guns, non-gun weapons, and stolen property) found during vehicle or pedestrian searches, and that it analyze data about charges filed resulting from vehicle and pedestrian stops. [NOTE: BPD responded 4/2019 that they are addressing this via RIPA work but it has still not been done.]
- 2. We recommend that BPD more clearly track, analyze, and share data with respect to whether law enforcement actions are officer-initiated, or responses to calls for service. [NOTE: BPD responded 4/2019 that they are addressing this via RIPA work but it has still not been done.]
- 3. We recommend that BPD continue to affirm that the egalitarian values of the department be reflected in the work its officers and employees do. [NOTE: Chief responded in 4/2019 message, saying they address in ongoing training, but their own heavily disparate stop and force data suggests that more needs to be done and that the ongoing training may be insufficient.]
- 4. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. [NOTE: See Council referrals above. Also referred to Working Group and to July 14 2020 community engagement process.]
- 5. We recommend BPD track yield rates (of contraband found at searches). [NOTE: BPD responded 4/2019 that they are addressing this via RIPA work but it has still not been done.]
- 6. We recommend that BPD monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success. One way to promote equitable contact rates is to monitor racial disparities (not attributable to non-police factors such as crime) and to adjust patrol deployments accordingly.
- 7. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.

- 8. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist. [NOTE: Chief responded in 4/2019 message to say the department completed procedural justice training, but their own heavily disparate stop and force data suggests that more needs to be done and that the procedural justice training may be insufficient.]
- 9. We recommend that values-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department. CPE research has found a significant relationship between social dominance orientation and negative policing outcomes in many police departments.
- 10. We recommend that BPD training include clear messaging that racial inequality and other invidious disparities are not consistent with the values of BPD. [NOTE Chief responded in 4/2019 message, said they address in ongoing training, but their own heavily disparate stop and force data suggests that more needs to be done and that the ongoing training may be insufficient.]
- 11. We recommend leveraging the Police Review Commission, as well as ensuring inclusion from all groups in the community, to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. [NOTE: Chief responded in 4/2019 message, saying they address in ongoing PRC subcommittee work.]

The Fair and Impartial Policing Working Group has received three contemporaneous studies of the BPD's stops as published on the City's Open Data Portal. The following patterns emerge from this data as shown in these studies:

- 1. Berkeley's stop rate for African Americans is over three times greater than Oakland's. Annually, African Americans are stopped by police according to BPD records at a rate of 32.7% (3,083 stops of African Americans compared to 10,331 African American Berkeley residents). In Oakland, the corresponding stop rate is 10.4% (10,874 compared to a total of 104,310 African American Oakland residents).
- 2. During the first 13 weeks of the Covid-19 pandemic from March 15 to June 12, the disparity between stops of Black and White civilians in Berkeley skyrocketed. African American stops were exactly 50% of total 608 stops at 304, with White stops were 143 for 23.52% of all stops. Taking into account the low number of African Americans residing in Berkeley, the disparities are even starker: African American stops are about 42.7 per 1,000 of their population, where White stops are about 2.9 per 1,000, a disparity of 14.5 to 1, twice the disparity in 2018.
- 3. The discriminatory stops exploded under the Black Lives Matter curfew at the end of May. In three days from May 31 to June 2, 92 African Americans and 18 Latinx people were pulled over by Berkeley police, compared to just 18 White people. This is a disparity in raw numbers of five to one. Based on stops per 1,000 of ethnic population,

Black civilians were nearly 35 times more likely to be stopped than Whites during the curfew.

There has been no meaningful response from the BPD to either confirm and account for the disparities, convincingly explain why the critical analysis is incorrect, or give some alternative interpretation of the data. Instead the department has simply ignored the data and the evidence that it discriminates in its treatment of Black, Latinx, and White civilians. BPD representatives quibble over side issues such as whether the data is skewed by stops of Black people coming into Berkeley from outside, or a theory that police are being nice to Black people by issuing them only warnings whereas they ticket White civilians in similar circumstances. The recommendations made in this document will uncover the true cause of the stark racial disparities, and indicate a path to correct them.

The Fair and Impartial Working Group does not want its recommendations to go the way of prior recommendations and directives from the City Council, CPE, and PRC. As shown above, the City Manager and Chief of Police have failed to execute the policies set by the elected officials. The City Council must ensure that staff act promptly to bring Berkeley policing into compliance with constitutional principles, particularly equal protection under the law.

# **ATTACHMENT 6**

CA v, Goldsmith – Red Light Cameras Lawsuit

### IN THE SUPREME COURT OF CALIFORNIA

| THE PEOPLE,               | )                         |
|---------------------------|---------------------------|
| Plaintiff and Respondent, | )                         |
| -                         | ) S201443                 |
| V.                        | )                         |
|                           | ) Ct.App. 2/3 B231678     |
| CARMEN GOLDSMITH,         | )                         |
|                           | ) Los Angeles County      |
| Defendant and Appellant.  | ) Super. Ct. No. 102693IN |
|                           | )                         |

Defendant was cited for failing to stop at a red traffic light at an intersection located in the City of Inglewood in violation of Vehicle Code section 21453. She was found guilty of the traffic infraction based on evidence of several photographs and a 12-second video. The evidence was generated by an automated traffic enforcement system (ATES), in common parlance referred to as a red light traffic camera. Her conviction was upheld on appeal by both the appellate division of the superior court and the Court of Appeal. We granted review to consider defendant's claim that the trial court improperly admitted the ATES evidence over her objections of inadequate foundation and hearsay. We conclude that the trial court did not abuse its discretion in finding the officer's testimony in this case provided sufficient authentication to admit the ATES evidence and that the ATES evidence was not hearsay. We affirm the judgment of the Court of Appeal.

### BACKGROUND

### A. Statutory authorization of ATES

Local governmental agencies are statutorily authorized to equip a traffic intersection with an ATES, if the system meets certain requirements. (Veh. Code, § 21455.5.) Specifically, the system must be identified by signs visible to approaching traffic that clearly indicate the system's presence and the traffic signal light governing the intersection must have a minimum yellow light change interval as set by the state Department of Transportation for the designated approach speed. (Veh. Code, § 21455.7.)

A city council or county board of supervisors proposing to install an ATES within its jurisdiction must conduct a public hearing on the proposal prior to entering into a contract for the use of an ATES. (Veh. Code, § 21455.6, subd. (a).) If the proposal is adopted, the local jurisdiction must at each affected intersection—eommence a program to issue only warning notices for 30 days" and must—also make a public announcement of the automated traffic enforcement system at least 30 days prior to the commencement of the enforcement program." (Veh. Code, § 21455.5, subd. (b); see *People v. Gray* (2014) 58 Cal.4th 901, 904.)

Only a governmental agency, in cooperation with a law enforcement agency, may operate" an ATES. (Veh. Code, § 21455.5, subd. (c).) To operate an ATES, the governmental agency, in cooperation with law enforcement, must develop uniform guidelines for screening and issuing violation citations, as well as for processing and storing confidential information. (Veh. Code, § 21455.5, subd. (c)(1).) It must establish procedures to ensure compliance with such guidelines. (*Ibid.*) The governmental agency, in cooperation with a law enforcement agency, must also (a) establish guidelines for selection of a location, (b) ensure that the equipment is regularly inspected, (c) certify that the equipment is properly

installed and calibrated and is operating properly, (d) regularly inspect and maintain the warning signs, (e) oversee the establishment or change of signal phases and signal timing, and (f) maintain controls necessary to ensure that only those citations that have been reviewed and approved by law enforcement are delivered to violators. (*Id.*, subd. (c)(2)(A), (B), (C), (D), (E), & (F).)

The statutory scheme allows the governmental agency to contract out these described operational activities or duties —if it maintains overall control and supervision of the system." (Veh. Code, § 21455.5, subd. (d).) But this is subject to an important qualification. The governmental agency may not contract out to—the manufacturer or supplier of the automated traffic enforcement system" certain of the described duties. (*Ibid.* [providing that the activities specified in Veh. Code, § 21455.5, subd. (c)(1) & (2)(A), (D), (E), & (F) may not be contracted out to the ATES manufacturer or supplier].) The only duties that may be contracted out to the ATES manufacturer or supplier are the activities of —[e]nsuring that the equipment is regularly inspected" and —[e]ertifying that the equipment is properly installed and calibrated, and is operating properly." (Veh. Code, § 21455.5, subds. (c)(2)(B), (C), (d).)

A contract between a governmental agency and an ATES manufacturer or supplier entered into, renewed, extended or amended on or after January 1, 2004, is statutorily prohibited from including a —provision for the payment or compensation to the manufacturer or supplier based on the number of citations generated, or as a percentage of the revenue generated, as a result of the use of the equipment." (Veh. Code, § 21455.5, subd. (h)(1); see *id.*, former subd. (g), as amended by Stats. 2003, ch. 511, § 1, p. 3925 [applicable at the time of defendant's citation].)

### B. The evidence submitted in this case

A notice to appear was issued to defendant pursuant to the City of Inglewood's implementation of the automated traffic enforcement statutes we have described. (Veh. Code, §§ 21455.5–21455.7.) The citation alleged that on March 13, 2009, defendant failed to stop at a red traffic light located at the intersection of Centinela Avenue and Beach Avenue in the City of Inglewood (Inglewood). Defendant entered a plea of not guilty.

At the court trial held before a traffic commissioner, only one witness testified. Dean Young, an investigator with the Inglewood Police Department, testified that he was assigned to the traffic division in red light camera enforcement, and had more than six years of experience in that assignment. Young testified that defendant's citation was the result of the red light camera program first implemented by Inglewood in 2003.

Young testified that Inglewood's ATES was operated by the police department, but was maintained by Redflex Traffic Systems, Inc. (Redflex). Based on his experience and the knowledge that he acquired from city engineers regarding how the traffic signals and system work and from Redflex regarding how the ATES works, Young testified that the computer-based digital camera system operates —independently" and records events occurring within an intersection after the traffic signal has turned red. Young stated that the ATES information is stored as it is —reported" on the hard disc of a computer at the scene. According to Young, Redflex technicians retrieve that computerized information periodically throughout the day through an Internet connection. A police officer then reviews all photographs before a citation is printed or mailed.

Young explained the photos and video images that are recorded and produced by the ATES as follows. There are three photographs taken, plus a 12-second video. The first photograph taken by the ATES camera, referred to as a

-previolation" photograph, shows the vehicle at or before the crosswalk or limit line for the intersection with the traffic signal shown in the background during its red phase. The second photograph, referred to as a -postviolation" photograph, shows the vehicle within the intersection either in the process of making a right turn or going straight through the intersection. The third photograph shows the vehicle's license plate. A data bar is imprinted on all the photographs by the ATES to show the date, time, location, and how long the light had been red at the time of the photograph. The 12-second video shows the approach and progression of the vehicle through the intersection.

Young testified, based on the ATES evidence, that defendant's violation occurred at the intersection of Centinela Avenue and Beach Avenue on Friday, March 13, 2009. It involved a -straight through movement" by defendant. Defendant objected that the photographs did not establish that she was the driver of the vehicle depicted in the photographs because the right eye and part of the forehead of the person shown in the photograph was obscured. The trial court stated that it was satisfied that the photograph depicted defendant as the driver.

Defendant then objected to Young's testimony on the grounds of lack of foundation and hearsay. The trial court overruled the objections after defendant examined Young on voir dire. Young proceeded to testify that the data bar printed on the previolation photograph of defendant's vehicle showed the traffic light had been red for 0.27 seconds and that defendant's vehicle's approach speed was 53 miles per hour at the time the photograph was taken. According to Young, in the postviolation photograph taken 0.66 second later, defendant's vehicle was shown in the intersection while the signal light remained in the red light phase. Young testified that the 12-second video of defendant's vehicle crossing the intersection began with the signal light in its green phase and showed the transitioning of the light phases, including a four-second yellow light.

Defendant challenged Young's characterization of the yellow light interval as being four seconds. Asked by the court to lay a foundation for his opinion regarding the yellow light interval, Young testified that he visually inspected the traffic signal at this intersection and each of the other camera-enforced intersections on a monthly basis to ensure that the yellow phase timing complies with the minimum guidelines established by California's Department of Transportation. According to Young, on February 16, 2009, and March 16, 2009, he conducted timing checks of the signal at this intersection, which showed averages of 4.11 and 4.03 seconds, respectively. He testified that these test results were well above the 3.9 seconds established by the Department of Transportation for a 40-mile-an-hour zone.

Based on this evidence, the trial court found beyond a reasonable doubt that defendant was guilty of failing to stop at a red signal light and imposed a fine of \$436.

### **DISCUSSION**

Photographs and video recordings with imprinted data are writings as defined by the Evidence Code. (Evid. Code, § 250.)<sup>1</sup> To be admissible in evidence, a writing must be relevant and authenticated. (§§ 350, 1401.) The proffered evidence must be an original writing or otherwise admissible secondary evidence of the writing's content. (§§ 1520, 1521.) And it must not be subject to any exclusionary rule. (See, e.g., § 1200.)

Defendant contends the trial court erred in admitting the ATES evidence in this case because the prosecution failed to provide the foundational testimony

All further statutory references are to the Evidence Code unless otherwise indicated.

necessary to authenticate it and because the evidence included inadmissible hearsay. We review claims regarding a trial court's ruling on the admissibility of evidence for abuse of discretion. (*People v. Alvarez* (1996) 14 Cal.4th 155, 203, 207; *People v. Lucas* (1995) 12 Cal.4th 415, 466.) Specifically, we will not disturb the trial court's ruling –except on a showing the trial court exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice." (*People v. Rodriguez* (1999) 20 Cal.4th 1, 9-10.) Applying this standard, we conclude that the trial court did not err in admitting the ATES evidence over defendant's objections.

### A. The ATES evidence was adequately authenticated

Defendant argues that the trial court erred in overruling her objection to the ATES evidence on the basis of inadequate foundation. We disagree.

Authentication of a writing, including a photograph, is required before it may be admitted in evidence. (§§ 250, 1401.) Authentication is to be determined by the trial court as a preliminary fact (§ 403, subd. (a)(3)) and is statutorily defined as —the introduction of evidence sufficient to sustain a finding that it is the writing that the proponent of the evidence claims it is" or —the establishment of such facts by any other means provided by law." (§ 1400.) The statutory definition ties authentication to relevance. As explained by the California Law Revision Commission's comment to section 1400, —[b]efore any tangible object may be admitted into evidence, the party seeking to introduce the object must make a preliminary showing that the object is in some way relevant to the issues to be decided in the action. When the object sought to be introduced is a writing, this preliminary showing of relevancy usually entails some proof that the writing is authentic — *i.e.*, that the writing was made or signed by its purported maker. Hence, this showing is normally referred to as \_authentication' of the writing."

(Cal. Law Revision Com. com., 29B pt. 4 West's Ann. Evid. Code (1995 ed.) foll. § 1400, p. 440.) Authentication is essentially a subset of relevance. (See *Lorraine v. Markel Amer. Ins. Co.* (D.Md. 2007) 241 F.R.D. 534, 539 (*Lorraine*); 2 Broun, McCormick on Evidence (7th ed. 2013) § 212, p. 5 (McCormick).)

As with other writings, the proof that is necessary to authenticate a photograph or video recording varies with the nature of the evidence that the photograph or video recording is being offered to prove and with the degree of possibility of error. (Annot., Authentication or Verification of Photograph as Basis for Introduction in Evidence (1950) 9 A.L.R.2d 899, 900.) The first step is to determine the purpose for which the evidence is being offered. The purpose of the evidence will determine what must be shown for authentication, which may vary from case to case. (2 McCormick, *supra*, § 221, pp. 82-83.) The foundation requires that there be sufficient evidence for a trier of fact to find that the writing is what it purports to be, i.e., that it is genuine for the purpose offered. (*People v. Valdez* (2011) 201 Cal.App.4th 1429, 1434-1435 (*Valdez*).) Essentially, what is necessary is a prima facie case. —As long as the evidence would support a finding of authenticity, the writing is admissible. The fact conflicting inferences can be drawn regarding authenticity goes to the document's weight as evidence, not its admissibility." (*Jazayeri v. Mao* (2009) 174 Cal.App.4th 301, 321.)

Here the ATES evidence was offered to show what occurred at a particular intersection in Inglewood on a particular date and time when the traffic signal at the intersection was in its red phase. The ATES evidence was offered as substantive proof of defendant's violation, not as demonstrative evidence supporting the testimony of a percipient witness to her alleged violation. We have long approved the substantive use of photographs as essentially a —silent witness" to the content of the photographs. (*People v. Bowley* (1963) 59 Cal.2d 855, 860.) As we stated in *Bowley*, —[t] hold otherwise would illogically limit the use of a

device whose memory is without question more accurate and reliable than that of a human witness. It would exclude from evidence the chance picture of a crowd which on close examination shows the commission of a crime that was not seen by the photographer at the time. It would exclude from evidence pictures taken with a telescopic lens. It would exclude from evidence pictures taken by a camera set to go off when a building's door is opened at night." (*Id.*, at p. 861.)

A photograph or video recording is typically authenticated by showing it is a fair and accurate representation of the scene depicted. (*People v. Gonzalez* (2006) 38 Cal.4th 932, 952; *People v. Cheary* (1957) 48 Cal.2d 301, 311-312.) This foundation may, but need not be, supplied by the person taking the photograph or by a person who witnessed the event being recorded. (*People v. Mehaffey* (1948) 32 Cal.2d 535, 555; *People v. Doggett* (1948) 83 Cal.App.2d 405, 409; 2 Witkin, Cal. Evidence (5th ed. 2012) Documentary Evidence, § 7, pp. 154-156 (Witkin).) It may be supplied by other witness testimony, circumstantial evidence, content and location. (*Valdez, supra,* 201 Cal.App.4th at p. 1435; *People v. Gibson* (2001) 90 Cal.App.4th 371, 383; see *People v. Skiles* (2011) 51 Cal.4th 1178, 1187; Witkin, *supra*, at pp. 154-155.) Authentication also may be established —by any other means provided by law" (§ 1400), including a statutory presumption. (Cal. Law Revision Com. com., *supra*, foll. § 1400, p. 440 [—The requisite preliminary showing may also be supplied by a presumption."].)

The People argue that sections 1552 and 1553 provide such a presumption of authenticity for ATES images and data. The People are correct that sections 1552 and 1553 are applicable here. These statutes' presumptions partly, but not completely, supply the foundation for admission of ATES evidence.

Subdivision (a) of section 1553 provides, as pertinent here, that -[a] printed representation of images stored on a video or digital medium is presumed to be an accurate representation of the images it purports to represent. . . . If a party to an

action introduces evidence that a printed representation of images stored on a video or digital medium is inaccurate or unreliable, the party introducing the printed representation into evidence has the burden of proving, by a preponderance of evidence, that the printed representation is an accurate representation of the existence and content of the images that it purports to represent." Subdivision (a) of section 1552 provides a similar presumption for  $-\frac{1}{4}$  printed representation of computer information or a computer program." In 2012, the Legislature added a subdivision (b) to both sections to expressly clarify the applicability of the statutes to printed representations of video or photographic images stored by an ATES and printed representations of computer-generated information stored by an ATES. (§§ 1552, subd. (b) [—Subdivision (a) applies to the printed representation of computer-generated information stored by an automated traffic enforcement system"], 1553, subd. (b) [-Subdivision (a) applies to the printed representation of video or photographic images stored by an automated traffic enforcement system"]; Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill No. 1303 (2011-2012 Reg. Sess.) as amended May 29, 2012, p. 4, par. 8; Assem. Com. on Judiciary, Analysis of Sen. Bill No. 1303 (2011-2012 Reg. Sess.) as amended June 26, 2012, p. 14.)<sup>2</sup>

Sections 1552 and 1553 were added to the Evidence Code as part of the 1998 legislation that repealed the best evidence rule (former § 1500) and adopted the secondary evidence rule (§§ 1520-1523; Stats. 1998, ch. 100, §§ 4, 5, pp. 634-

Because the statutes were intended to be declarative of existing law, no question of retroactive application is presented. (*McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471-472; see *Carter v. California Dept. of Veterans Affairs* (2006) 38 Cal.4th 914, 922-923, 930.)

635.)<sup>3</sup> Under the secondary evidence rule, the content of a writing may now be proved either —by an otherwise admissible original" (§ 1520) or by —otherwise admissible secondary evidence." (§ 1521, subd. (a); see *People v. Skiles, supra*, 51 Cal.4th at p. 1187.) Sections 1552 and 1553 permit the writings that they describe to be introduced as secondary evidence. Thus, the presumptions in sections 1552 and 1553 eliminate the basis for any objection that a printed version of the described writings is not the —original" writing.

Because sections 1552 and 1553 provide a presumption for both —the existence and content" of computer information and digital images that the printed versions purport to represent (§§ 1552, subd. (a), 1553, subd. (a)), the presumptions operate to establish, at least preliminarily, that errors in content have not been introduced in the course of printing the images and accompanying data. As the court in *People v. Hawkins* (2002) 98 Cal.App.4th 1428, 1450 (*Hawkins*) explained, the presumptions essentially operate to establish that —a computer's print function has worked properly." As applicable here, the presumptions provided by sections 1552 and 1553 support a finding, in the absence of contrary evidence, that the printed versions of ATES images and data are accurate representations of the images and data stored in the ATES equipment.

Section 1552 continues the provisions of former section 1500.5, subdivisions (c) and (d) without substantive change, except that the reference to —best available evidence "in former section 1500.5, subdivision (c) is changed to —an accurate representation, "—due to the replacement of the Best Evidence Rule with the Secondary Evidence Rule." (Cal. Law Revision Com. com., 29B pt. 4 West's Ann. Evid. Code (2014 supp.) foll. § 1552, p. 233.) Section 1553 continues a portion of former section 1500.6 without substantive change, except for a similar change in terminology. (Cal. Law Revision Com. com., 29B pt. 4 West's Ann. Evid. Code (2014 supp.) foll. § 1553, p. 235.)

We reject defendant's contention that application of these presumptions violate her right to constitutional due process as described in Western & Atlantic Railroad v. Henderson (1929) 279 U.S. 639, 642-644. The court in Henderson held invalid a statutory rebuttable presumption in a civil case for lack of a rational connection between the ultimate fact presumed and the fact actually placed in evidence. (See Lavine v. Milne (1976) 424 U.S. 577, 585.) In the criminal context, however, a due process challenge to an evidentiary presumption requires us to distinguish between mandatory presumptions, which either can be conclusive or rebuttable, and permissive inferences. (Francis v. Franklin (1985) 471 U.S. 307, 313-315.) Mandatory presumptions will violate due process if they relieve the prosecution of the burden of persuasion on an element of the offense. (Patterson v. New York (1977) 432 U.S. 197, 215; see Sandstrom v. Montana (1979) 442 U.S. 510, 520-524.) Permissive inferences violate due process only if the permissive inference is irrational. (Francis, supra, at pp. 314-315; Ulster County Court v. Allen (1979) 442 U.S. 140, 157-163; People v. Moore (2011) 51 Cal.4th 1104, 1131-1132.) The rebuttable presumptions set forth in sections 1552 and 1553 affect the burden of producing evidence regarding a preliminary fact necessary for the admission of evidence. As their presumptions affect the admissibility of the described writings when offered by any party, but do not require any weight to be given to the evidence if admitted, sections 1552 and 1553 do not reduce the prosecution's burden of proof to show defendant's violation beyond a reasonable doubt. They establish only permissive inferences, which, being logically grounded on advances in technology, are not irrational. (Francis, supra, at pp. 314-315; Moore, supra, at p. 1132.)4 Contrary to defendant's

(Footnote continued on next page.)

Defendant contends it would be arbitrary in this case to assume that the ATES evidence is reliable because Redflex has previously —falsified evidence." In

argument, these presumptions do not deny defendant a fair opportunity to rebut the presumed accuracy or reliability of the offered evidence. (*Henderson, supra,* 279 U.S. at p. 642.)<sup>5</sup>

Although we reject defendant's constitutional challenge, it is important to recognize that the presumptions in sections 1552 and 1553 do not in themselves fully supply the necessary foundation for admission of ATES evidence. The secondary evidence rule does not —excuse[] compliance with Section 1401 (authentication)." (§ 1521, subd. (c).) —[T]o be \_otherwise admissible, 'secondary

(Footnote continued from previous page.)

support of this claim, defendant requested that we take judicial notice of documents she obtained from the Arizona secretary of state reflecting the investigation, and consequent revocation of the commission, of an Arizona notary public who was found to have improperly notarized a Redflex –deployment form" for a speed photo radar vehicle. It would be pure conjecture to conclude that all evidence generated by Redflex ATES technology and handled by Redflex employees for Inglewood is suspect because of the actions of a single errant notary public in a different state regarding a different type of technology and documentation. We have denied defendant's request for judicial notice and reject her argument that the involvement of Redflex in this case requires a different constitutional conclusion.

Claiming that traffic court defendants appear almost universally in propria persona and that they lack the motive, means, or opportunity to engage in discovery prior to trial or to spend thousands of dollars on expert fees, defendant argues the presumptions stated in sections 1552 and 1553 deny traffic court defendants a fair opportunity to —repel" the presumptions. We will not speculate that traffic defendants lack motivation to contest their tickets. And, contrary to defendant's claim, traffic defendants have sufficient means and opportunity to contest their alleged violation because individuals charged with infractions are accorded the same rights as individuals charged with misdemeanors to subpoena witnesses and documents, to present testimony and other evidence, and to cross-examine the prosecution's witnesses. (Pen. Code, § 19.7 [—Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions . . . . "].)

evidence must be authenticated." (*People v. Skiles, supra*, 51 Cal.4th at p. 1187; see § 1401, subd. (b) [—Authentication of a writing is required before secondary evidence of its content may be received in evidence."].)

Here, Young's testimony was adequate to show that the ATES photographs at issue were from Inglewood's ATES equipment located at the corner of Centinela and Beach Avenues. From his explanation regarding the independent operation of the ATES camera system, it can be reasonably inferred that the ATES system automatically and contemporaneously recorded the images of the intersection and the data imprinted on the photographs when it was triggered. Young was not asked anything about the city's or the police department's records or supervision of Redflex's maintenance or certification of the equipment. Defendant does not argue that Young's testimony was insufficient to demonstrate that the evidence was properly received in the normal course and manner of Inglewood's operation of its ATES program. Finally, we note that the content of the photographs themselves may be considered and here the content supplied

Young was asked when the —photo system" was last calibrated. Young answered that —there is no calibration of this [photo] system." Defendant argues that such testimony revealed Inglewood's failure to comply with the statutory requirements that the ATES equipment be regularly inspected and certified to have been properly installed and calibrated and to be operating properly. (Veh. Code, § 21455.5, subds. (c)(2)(B), (C), d.) We do not read the testimony in this way. In context, it appears Young understood that question and the followup question regarding calibration to ask only about the connection between the ATES camera and the traffic signal. He responded that the systems operate independently and that the only connection is an electrical connection that lets the camera know that the light is in its red phase. Defense counsel did not clarify or pose further followup questions regarding calibration of the ATES system. Counsel did not ask any questions concerning Inglewood's or the police department's oversight of Redflex's maintenance and certification of the installed ATES equipment at this intersection.

further support for a finding that the images were genuine.<sup>7</sup> Indeed, at oral argument, defendant's counsel conceded that the ATES photographs in this case actually depicted his client in the intersection. Accordingly, we conclude that, in conjunction with the operation of the presumptions of sections 1552 and 1553, sufficient evidence was submitted to the court to sustain a finding (§ 403, subd. (a)(3)) that the ATES evidence —is the writing that the [prosecution] claimed it is" (§ 1400) and the trial court properly exercised its discretion to admit the evidence.

Defendant claims, however, that in this case involving *digital* images it was necessary for the prosecution as part of its foundational showing to additionally present the testimony of a Redflex technician regarding the operation and maintenance of the system that generated the ATES evidence because digital images are more readily and inexpensively subject to manipulation, and yet at the same time, such manipulations are more difficult to detect, compared with an analog alteration. We disagree that the testimony of a Redflex technician or other witness with special expertise in the operation and maintenance of the ATES computers was required as a prerequisite for authentication of the ATES evidence.

Contrary to defendant's assertion, the record contains no evidence that the ATES evidence was materially altered, enhanced, edited or otherwise changed;

Specifically, given Young's testimony regarding how the ATES system operates, the fact that in this case it produced a photograph showing defendant driving her vehicle at or before the limit line with the signal light in its red phase and then another photograph of defendant driving her vehicle in the intersection with the signal light in its red phase, as well as a 12-second video showing defendant's vehicle crossing the intersection and the transition of the traffic signal light phases, including a four-second yellow light, is circumstantial evidence that the system was working properly.

rather it consisted of entirely automatically produced photos and video and contemporaneously recorded data. No elaborate showing of accuracy is required. (See 2 McCormick, supra, § 227, p. 111 [accuracy of an individual computer's basic operations will not be scrutinized unless specifically challenged, and even perceived errors go to the weight of the evidence, not its admissibility].) We decline to require a greater showing of authentication for the admissibility of digital images merely because in theory they can be manipulated. (See Owens v. State (Ark. 2005) 214 S.W.3d 849, 854 [refusal to impose a higher burden of proof for admissibility of still photographs taken from a store surveillance camera's videotape merely because digital images are easier to manipulate].) We have not required testimony regarding the -acceptability, accuracy, maintenance, and reliability of . . . computer hardware and software "in similar situations. (People v. Martinez (2000) 22 Cal.4th 106, 132, quoting People v. Lugashi (1988) 205 Cal.App.3d 632, 642; accord, *People v. Nazary* (2010) 191 Cal.App.4th 727, 755.) The standard foundational showing for authentication of a photograph, video, or other writing will suffice for ATES images and data information.<sup>8</sup>

(Footnote continued on next page.)

the photographic image being offered into evidence and the purpose for which it is

People v. McWhorter (2009) 47 Cal.4th 318, 364-367, and State v. Swinton (Conn. 2003) 847 A.2d 921, 942-945, on which defendant relies for her contention that expert testimony regarding the accuracy and reliability of the ATES computer process should be required, are distinguishable because they involved computer-enhanced photographic images. Similarly, People v. Duenas (2012) 55 Cal.4th 1, 20-21, is inapposite because it involved a computer animation and the comments defendant relies on were directed at computer simulations. Computer animations and simulations are types of digital imaging technology distinctly different from the ATES-generated evidence involved here. Finally, People v. Beckley (2010) 185 Cal.App.4th 509, 514-516, is distinguishable because the issue there concerned the admission of a photograph found on a social media Web site, which presented questions of accuracy and reliability different from the evidence here. These cases serve to demonstrate the need to carefully assess the specific nature of

We conclude that the trial court did not abuse its discretion in overruling defendant's objection of lack of foundation.

### B. ATES evidence does not constitute hearsay

Defendant contends that some of the data bar information imprinted on the ATES photographs constitutes hearsay that does not come within either the business records or public records exception to the hearsay rule. She asserts that the trial court erred in overruling her objection raising that ground for exclusion of the evidence. We disagree.

As we have explained, the evidence before the trial court reflects that the digital photographs were taken automatically by the ATES. Admittedly, the ATES must be programmed to activate when certain criteria are met, but it is undisputed that at the time any images are captured by the digital image sensors in the ATES cameras, there is no Inglewood city employee, law enforcement officer or Redflex technician present watching the intersection and deciding to take the photographs and video. The ATES routinely monitors the intersection without

(Footnote continued from previous page.)

being offered in determining whether the necessary foundation for admission has been met.

Redflex has filed an amicus curiae brief with this court in which it describes its ATES technology in much more detail than provided to the trial court. We decline to consider the technical details of the ATES provided by Redflex in its brief. Not only is Redflex's description not a matter of —eommon knowledge" (§ 452, subd. (g)) or a proposition—not reasonably subject to dispute and . . . capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy" (*id.*, subd. (h)) so as to come within the parameters of permissible judicial notice, it would be inappropriate to take judicial notice of additional facts that the prosecution did not introduce at trial. (*People v. Davis* (2013) 57 Cal.4th 353, 360.)

human presence at the site. When the camera is activated and takes the video and the three digital photographs of the intersection, the computer also records various data regarding the captured incident, including the date, time, location, and length of time since the traffic signal light turned red. The information is imprinted on a data bar on the photographs. The photographs, video and data bar information are entirely computer produced.

Evidence Code section 1200 defines hearsay as —evidence of a *statement* that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated." (§ 1200, subd. (a), italics added.) A statement, in turn, is defined as an —oral or written verbal expression or . . . nonverbal conduct *of a person* intended by him as a substitute for oral or written verbal expression." (§ 225, italics added.) —Person' includes a natural person, firm, association, organization, partnership, business trust, corporation, limited liability company, or public entity." (§ 175.)

The ATES-generated photographs and video introduced here as substantive evidence of defendant's infraction are not statements of a person as defined by the Evidence Code. (§§ 175, 225.) Therefore, they do not constitute hearsay as statutorily defined. (§ 1200, subd. (a).) Because the computer controlling the ATES digital camera automatically generates and imprints data information on the photographic image, there is similarly no statement being made by a person regarding the data information so recorded. Simply put, —[t]he Evidence Code does not contemplate that a machine can make a statement." (*Hawkins*, *supra*, 98 Cal.App.4th at p. 1449; accord, *People v. Lopez* (2012) 55 Cal.4th 569, 583, agreeing with *United States v. Moon* (7th Cir. 2008) 512 F.3d 359, 362 [—\_the instruments' readouts are not —statements" "] & U.S. v. Washington (4th Cir. 2007) 498 F.3d 225, 231 [—\_the raw data generated by the machines do not constitute —statements," and the machines are not —declarants" "]; U.S. v.

Hamilton (10th Cir. 2005) 413 F.3d 1138, 1142-1143 [computer-generated header information on digital images does not constitute hearsay]; see Wolfson, "Electronic fingerprints": Doing Away with the Conception of Computer-Generated Records as Hearsay (2005) 104 Mich. L.Rev. 151, 159-160.)

Our conclusion that the ATES evidence does not constitute hearsay is confirmed by recent legislative action intended to clarify the non-hearsay status of ATES evidence. (Assem. Com. on Judiciary, Analysis of Sen. Bill No. 1303 (2011-2012 Reg. Sess.), *supra*, p. 14.) As amended in 2012, Vehicle Code section 21455.5, subdivision (e), now specifically provides that —[t]he printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system does *not* constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code." (Italics added.)<sup>10</sup>

Nevertheless, defendant argues that the ATES evidence is —unquestionably testimonial" and as a result, she contends, its admission violated her federal constitutional right to confrontation. As defendant later appears to acknowledge, *People v. Lopez, supra*, 55 Cal.4th at page 583, undermines both her hearsay and confrontation clause arguments. Consistent with *Lopez*, we conclude that our determination that the ATES evidence is not hearsay necessarily requires the rejection of defendant's confrontation claims. (*Ibid.* [—Because, unlike a person, a machine cannot be cross-examined, here the prosecution's introduction into evidence of the machine-generated printouts . . . did not implicate the Sixth Amendment's right to confrontation."].)

Again, because we find the statute to be declarative of existing law, no question of retroactive application is presented. (*McClung v. Employment Development Dept., supra,* 34 Cal.4th at pp. 471-472.)

# C. There is no reason to adopt a heightened requirement for red light camera traffic cases

Defendant contends that the dynamics of the traffic court system — which she contends routinely rushes defendants through trial of their cases before traffic commissioners who generally discount a defendant's individual recollection of the events and accept the prosecution's evidence as —gspel" — provides a basis for imposing and enforcing strict evidentiary requirements for obtaining red light camera convictions. Defendant asks that, in order to restore the public's trust in the integrity of the traffic court system, we exercise our inherent powers to —regulate criminal procedure" by requiring —proper" testimony regarding —questionable" ATES photos and data prepared by Redflex before the photos and data may be admitted into evidence. Any other rule would, according to defendant, allow a relaxed standard for red light camera infractions.

Although defendant claims to be advocating an evidentiary standard commensurate with the standard applicable in other criminal contexts, she is in essence asking that we adopt a special rule for red light camera cases based on her suspicions regarding the operation of ATES by local jurisdictions contracting with Redflex. As we have earlier noted, the Penal Code provides that —[e]xcept as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions" (Pen. Code, § 19.7), but we find no legal ground for adopting heightened evidentiary requirements for infractions, specifically one type of alleged infraction — traffic violations in red light camera cases. Nor does the relative speed and informality of traffic court support imposing unique requirements for the admission of ATES evidence. Years ago we recognized that —it is in the interests of the defendant, law enforcement, the courts, and the public to provide simplified and expeditious procedures for the adjudication of less serious traffic offenses." (People v. Carlucci (1979) 23 Cal.3d 249, 257.)

We decline to adopt special rules for the ATES digital evidence offered in trials of red light traffic camera cases.

### **CONCLUSION**

The judgment of the Court of Appeal is affirmed.

CANTIL-SAKAUYE, C. J.

WE CONCUR:

BAXTER, J. WERDEGAR, J. CHIN, J. CORRIGAN, J. LIU, J. KENNARD, J.\*

-

<sup>\*</sup> Retired Associate Justice of the Supreme Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

See next page for addresses and telephone numbers for counsel who argued in Supreme Court.

### Name of Opinion People v. Goldsmith

Unpublished Opinion
Original Appeal
Original Proceeding
Review Granted XXX 203 Cal.App.4th 1515
Rehearing Granted

Opinion No. S201443 Date Filed: June 5, 2014

Court: Superior County: Los Angeles

Judge: John Robert Johnson, Commissioner

#### **Counsel:**

Wilson, Elser, Moskowitz, Edelman & Dicker, Robert Cooper; Law Offices of John J. Jackman and John J. Jackman for Defendant and Appellant.

Kin Wah Kung as Amicus Curiae on behalf of Defendant and Appellant.

Law Offices of Joseph W. Singleton and Joseph William Singleton for Mishel Rabiean as Amicus Curiae on behalf of Defendant and Appellant.

The Law Office of Richard Allen Baylis, R.A. Baylis & Associates, R. Allen Baylis; The Ticket Dump and Patrick T. Santos as Amici Curiae on behalf of Defendant and Appellant.

Wilson, Elser, Moskowitz, Edelman & Dicker and Robert Cooper for David Martin as Amicus Curiae on behalf of Defendant and Appellant.

Cal Saunders, City Attorney; Best Best & Krieger, Dean R. Derleth, John D. Higginbotham and Kira L. Klatchko for Plaintiff and Respondent.

Joseph Straka, Interim City Attorney (Santa Ana), José Sandoval, Chief Assistant City Attorney, and Melissa Crosthwaite, Deputy City Attorney, for City of Santa Ana as Amicus Curiae on behalf of Plaintiff and Respondent.

Dapeer, Rosenblit & Litvak, William Litvak and Caroline K. Castillo for City of West Hollywood, City of Beverly Hills and City of Culver City as Amici Curiae on behalf of Plaintiff and Respondent.

Sheppard, Mullin, Richter & Hampton, Gregory P. Barbee, Michael D. Stewart, John M. Hynes, Jessica A. Johnson; Woodruff, Spradlin & Smart and Jason McEwen for Redflex Traffic Systems, Inc., and City of Garden Grove as Amici Curiae on behalf of Plaintiff and Respondent.

Richards, Watson & Gershon, T. Peter Pierce and Andrew J. Brady for League of California Cities as Amicus Curiae on behalf of Plaintiff and Respondent.

### Counsel who argued in Supreme Court (not intended for publication with opinion):

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Kira L. Klatchko Best Best & Krieger 74-760 Highway 111, Suite 200 Indian Wells, CA 92210 (760) 568-2611

# **ATTACHMENT 7**Philadelphia Bill 18081801 Full Text



### City of Philadelphia

City Council Chief Clerk's Office 402 City Hall Philadelphia, PA 19107

BILL NO. 180818 (As Amended, 3/4/19)

Introduced September 20, 2018

Councilmember Greenlee for Council President Clarke

Referred to the Committee on Law and Government

### AN ORDINANCE

Providing for the submission to the qualified electors of the City of Philadelphia of the proposal set forth in a Resolution approved by Council proposing an amendment to The Philadelphia Home Rule Charter relating to the mandatory establishment and hiring of a new class of employees within the civil service system to be designated as "Public Safety Enforcement Officers"; setting forth the duties of such employees; and authorizing the appropriate officers to publish notice and to make arrangements for the special election.

### THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. There shall be submitted for the approval or disapproval of the qualified electors of the City of Philadelphia at the election to be held May 21, 2019, the amendment to The Philadelphia Home Rule Charter contained in Resolution No. 180830 approved by Council on \_\_\_\_\_\_, 20\_\_, and filed in the Office of the Clerk of Council.

SECTION 2. There shall be placed on the ballot the following question to be answered "Yes" or "No" by the qualified electors participating in the election:

Shall The Philadelphia Home Rule Charter be amended to require the establishment of "Public Safety Enforcement Officers" to assist the Police Department in regulating the flow of traffic; to enforce and assist the appropriate City officers in the enforcement of ordinances relating to the quality of life in the City's neighborhoods; and to perform such other related duties as the Managing Director or Council may require?

### City of Philadelphia

BILL NO. 180818, as amended continued

SECTION 3. The Clerk of Council is hereby directed to (i) certify to the Board of Elections, within five days of this Ordinance becoming law, a copy of this Ordinance and Resolution No. 180830; and (ii) to have printed in pamphlet form, in sufficient number for general distribution, the proposed amendment to The Philadelphia Home Rule Charter as set forth in Resolution No. 180830 together with the ballot question set forth in Section 2 of this Ordinance.

SECTION 4. The Clerk of Council is hereby directed to cause to be published one time, during the three (3) weeks preceding the election on May 21, 2019, in three (3) newspapers of general circulation in the City and in The Legal Intelligencer, the proposed amendment to The Philadelphia Home Rule Charter, together with the ballot question set forth in Section 2 of this Ordinance; and further, at such other time and in such other manner as the Clerk may consider desirable.

SECTION 5. The Mayor is hereby authorized and directed to issue a proclamation giving at least thirty (30) days' notice of such election. The Clerk of Council shall cause a copy of the proclamation to be published in at least two (2) newspapers of general circulation in the City, and in The Legal Intelligencer, once a week for three consecutive weeks during the period of thirty days prior to the election. One such publication may be combined with the publication of the notice required by Section 4 of this Ordinance.

SECTION 6. The appropriate officers are authorized and directed to take such action as may be required for the holding of an election on the ballot question set forth in Section 2 of this Ordinance as provided for by the laws of the Commonwealth of Pennsylvania.

# **ATTACHMENT 8**

Cambridge POR 2020 #178 Full Text





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### **Cambridge City** MA

### **Policy Order** POR 2020 #178

The City Manager look into transferring primary traffic enforcement responsibilities from the Cambridge Police Department to unarmed, trained enforcement personnel in the Traffic & Parking Department, Department of Public Works, Health & Human Services, or another suitable department

### Information

**Department:** 

City Clerk's Office

Sponsors:

Councillor Quinton Zondervan, Councillor Jivan Sobrinho-Wheeler

Category:

Policy Order

### **Attachments**

#### Printout

#### Body

WHEREAS:

Routine traffic stops disproportionately impact Black and Brown drivers, who are pulled over and searched more often than white drivers, leading to potentially stressful

interactions with the police; and

WHEREAS: This racist outcome is not the result of biases by individual officers, although those may

play a role, but rather is primarily the result of systemic biases, including over-policing in Black neighborhoods, and training of police officers to be hypervigilant and to expect

violent resistance, despite such incidents being very rare; and

WHEREAS: The presence of an armed police officer during a routine traffic stop raises the tension of

the encounter unnecessarily and can itself lead to conflict, causing harmful stress to both

parties and damaging the relationship between police and the community; and

Routine traffic enforcement can be conducted by unarmed employees of the city, which WHEREAS:

would reduce the possibility of violence during such encounters; and

WHEREAS: The police would still be responsible for apprehending known criminals, dangerous or

erratic drivers, and other related situations that clearly go beyond routine traffic

enforcement; now therefore be it

ORDERED: That the City Manager look into transferring primary traffic enforcement responsibilities

from the Cambridge Police Department to unarmed, trained enforcement personnel in the Traffic & Parking Department, Department of Public Works, Health & Human Services,

or another suitable department; and be it further

ORDERED: That the City Manager be and hereby is requested to report back to the City Council on

this matter as soon as possible.

### Meeting History

Jul 27, 2020 5:30 PM Video

City Council

Council 22 - 280 Special Meeting

Draft

by Vice Mayor Mallon

RESULT: CHARTER RIGHT

**Regular Meeting** 



Next: 9/14/2020 5:30 PM

Referred to public safety committee

RESULT:

REFERRED TO COMMITTEE [8 TO 1]
Dennis J. Carlone, Patricia Nolan, Jivan Sobrinho-Wheeler, Alanna Mallon, Marc C. McGovern, Sumbul Siddiqui, E. Denise Simmons, Quinton Zondervan Timothy J. Toomey YEAS:

NAYS:

Public Safety Committee **Committee Meeting** Oct 14, 2020 10:00 AM Video

Powered by Granicus

# **ATTACHMENT 9**

South Pasadena 2014 Traffic Flow Study

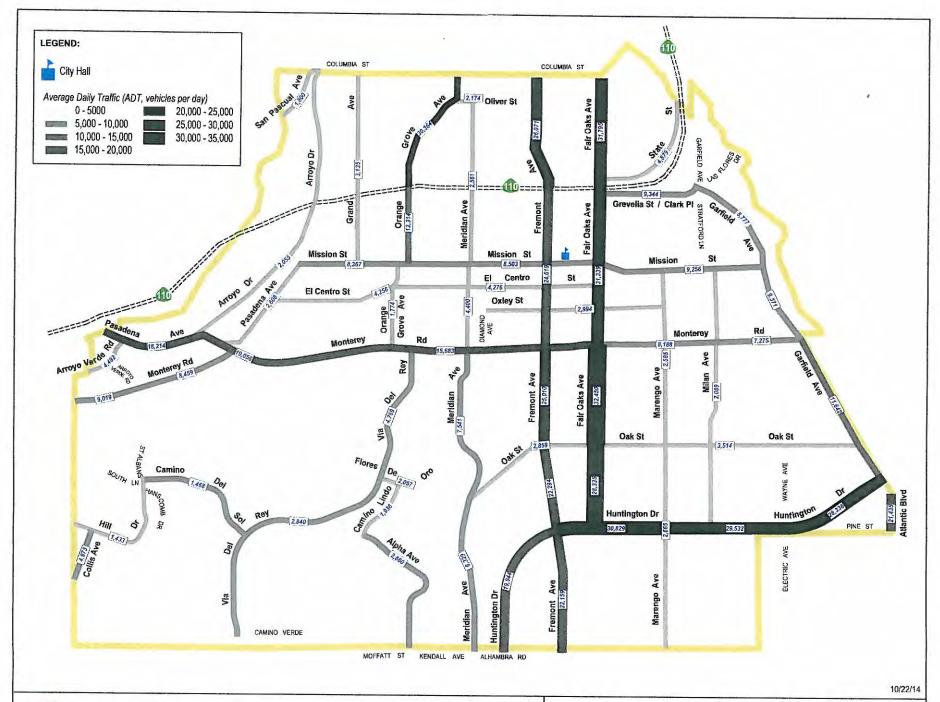




Figure 2. Average Daily Traffic Flow, September 2014
City of South Pasadena 2014-15 Citywide Engineering & Traffic Survey (E&TS)



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# **ATTACHMENT 10**

SPPD Traffic Function and Responsibility Policy

### South Pasadena Police Department

South Pasadena PD CA Policy Manual

# **Traffic Function and Responsibility**

### **500.1 PURPOSE AND SCOPE**

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

### 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the South Pasadena Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

### **500.3 ENFORCEMENT**

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

### South Pasadena Police Department

South Pasadena PD CA Policy Manual

### Traffic Function and Responsibility

#### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

#### **500.3.2 CITATIONS**

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

### 500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

### 500.4 SUSPENDED OR REVOKED DRIVERS LICENSES

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

#### 500.5 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

### South Pasadena Police Department

South Pasadena PD CA Policy Manual

### Traffic Function and Responsibility

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

### 500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

### 500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Support Services Lieutenant should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

# **ATTACHMENT 11**

PSC UTE Sub-Committee Chart of Contacts

### Unarmed Traffic Stops: Correspondence with Other Municipalities

| Jurisdiction         | Unarmed Officers?      | What they can do                                  | What they can't do |
|----------------------|------------------------|---|--------------------|
| UK                   | Uniformed and          | -Control traffic flow                             | -Law enforcement   |
| Contact: Nicola Bell | unarmed, patrol in     | -Call police if they                              | -Traffic stops     |
| (Regional Director,  | marked cars            | witness illegal activity                          | -Issue citations   |
| Southeast UK         |                        | -Respond to accidents                             |                    |
| Highways)            |                        | -Manage traffic for                               |                    |
|                      |                        | major public events                               |                    |
| New Zealand          | No longer              | They were absorbed into the National Police in    |                    |
| Contact: National    |                        | 1992 out of concerns for officer safety and       |                    |
| Police Media Team    |                        | administrative efficiency                         |                    |
| Cambridge, MA        | Proposal for           | Massachusetts law dictates that citations can     |                    |
| Contact: Jivan       | unarmed traffic        | only be issued by a sworn officer. The program    |                    |
| Sobrnho-Wheeler,     | patrol                 | is on hold until the law is amended.              |                    |
| Quinton Zondervan    |                        |   |                    |
| Berkeley, CA         | Ordinance passed       | CA Penal Code 830 delineates that only sworn      |                    |
| Contact: Tano        | that precludes         | officers can issue traffic citations. The program |                    |
| Trachtenberg         | police from            | is on hold until the law is amended to allow for  |                    |
|                      | enforcing minor        | civilian patrols.                                 |                    |
|                      | traffic violations     |   |                    |
| Philadelphia, PA     | Ordinance was          | -Issue citations                                  | -Carry guns        |
| Contact: none.       | passed in 2019, it     | -Regulate traffic flow                            | -Make arrests      |
|                      | is unclear if it is in |   |                    |
|                      | effect.                |   |                    |
| California           | Speed Cameras          | In February 2021 AB550 was introduced and         |                    |
|                      |                        | would allow the use of speed cameras for          |                    |
|                      |                        | enforcement. The ACLU has voiced opposition.      |                    |
| California           | Red Light              | Red light cameras are legal, but citations are    |                    |
|                      | Cameras                | issued by mail, unenforceable, and have no        |                    |
|                      |                        | impact on the driver's DMV record.                |                    |