



# City of Palo Alto

## City Council Staff Report

(ID # 5412)

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**Report Type: Action Items**

**Meeting Date: 6/8/2015**

**Summary Title: Fry's Grant Scope of Work**

**Title: Review of a Draft Scope of Work for the Fry's Master Plan and Adoption of a Resolution Regarding the Use of Regional Transportation Funding**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **Recommendation**

Staff recommends that Council review the Draft scope of work for the Fry's Master Plan and adopt the resolution included as Attachment C regarding the use of regional transportation funds from the Metropolitan Transportation Commission (MTC).

### **Executive Summary**

On April 21, 2014, the City Council met to review and comment on the draft California Avenue Concept Plan. As part of the Concept Plan discussion, the City Council authorized staff to submit an application for a Priority Development Area grant to the Santa Clara County Valley Transportation Authority (VTA) for the preparation of a master plan of the 15 acre Fry's Electronics store site, located at 340 Portage Avenue. The purpose of the master plan is to identify land use and transportation opportunities for a well-planned and designed mixed of uses for the site. In addition to authorizing the submittal of the application, the Council requested an opportunity to review and approve the scope of work prior to execution of any grant agreement or Memorandum of Understanding (MOU) for the VTA grant funds.

The application was submitted on April 28, 2014 and in August 2014, the City was awarded a \$265,000 grant to prepare the master plan. A local cash match of \$35,000 is required as part of the grant. Both the grant and the matching funds are included in the proposed budget for Fiscal Year (FY) 2016.

VTA proposed to fund the grant using federal highway funds from Caltrans, and took much longer than the City anticipated to make the funds available. Quite recently, in response to a request from City staff, the VTA determined that the funds could be provided directly to the City from the Metropolitan Transportation Commission (MTC), which will allow the City (rather than VTA) to contract for consultant services. The attached resolution is required for MTC to process the grant and make funding available.

The proposed scope of work envisions an 18 month community planning effort, resulting in a coordinated area plan, including development standards and design guidelines for the site. The property owner would be an important participant in the process, and was provided an opportunity to comment on the proposed scope of work. The property owner's representative has also informed City staff their lease with Fry's has been extended, such that Fry's is expected to remain on site through 2019 and has expressed hesitation about initiating the planning process right now.

## **Background**

In 2006, the City Council initiated the California Avenue Concept Plan (Concept Plan) study as part of the Comprehensive Plan update. The 115 acre California Avenue Plan Area includes the Fry's site. The purpose of the California Avenue Concept Plan was to identify appropriate development intensities, the potential for additional housing and plan for retention and enhancement of retail/service opportunities and improved pedestrian and bicycle connections in the California Avenue area. The Draft Concept Plan provided to the Council in early 2014 lays out a proposed vision to guide future development and redevelopment and is subject to review and revision during the balance of the Comprehensive Plan Update process.

The Draft Concept Plan focuses on three sub areas: 1) California Avenue, 2) Park Boulevard and 3) the Fry's site. For the Fry's subarea, the stated goal for the area is "Over the long term, foster the transformation of the Fry's site subarea into a walkable, human scale mixed use neighborhood that includes ample amenities."

In the Draft Concept Plan, there are a number of proposed policies that focus on the Fry's site, which is envisioned as a mixed use site with retail, office, and residential uses. There is a policy that encourages redevelopment of the site if the Fry's store leaves, and policies that stress the importance of improving vehicular, bicycle and pedestrian connection.

In the City's updated Housing Element, adopted in late 2014 and certified by the State in January 2015, the site is identified as an important location for multifamily housing consistent with its current Multiple Family (RM-30) zoning.

The Fry's Master Plan grant application to the VTA described the intent of the master plan as providing a cohesive development program with more specific requirements and standards than the Draft Concept Plan. The 15 acre site is one of the City's largest underdeveloped sites and provides a unique opportunity to plan for a variety of uses. The coordinated area plan would identify land use and transportation opportunities, include a site plan with a mix of uses, and seek to enhance the site's transit oriented character by improving vehicular, pedestrian and transit opportunities. Components would include development standards (i.e. site specific zoning changes), a transportation demand management program, and design guidelines. (See the attached draft scope of work for more specifics.) For reference, the original VTA application is included as Attachment A.

In the Council's review of the Planning grant, the Council had some questions about the requirements of the grant. Some of the questions included:

- Would any constraints be placed on the City if the grant was awarded?
- What commitments, if any, about uses or densities would be required under the terms of the grant?

Staff explained that the application for the grant did not commit the City to any VTA requirements or constraints, and committed to review the scope of work and grant agreement (or MOU) with the Council prior to accepting grant funds. Staff having recently secured VTA's concurrence that the City could directly administer the grant and consultant services solidifies the City's ability to ensure that the work product reflects Palo Alto planning needs.

A proposed Scope of Work is provided for the Council's review in Attachment B and the proposed resolution contains the only commitments required as conditions of the grant, namely the need to provide local matching funds, the need to provide a single point of contact, and the need to staff the project appropriately.

### **Timeline**

Following transmittal of the adopted resolution to MTC, it's expected that funds for the planning effort will be available by the end of June or July 2015, at which time the City would issue a Request for Proposals and select a qualified planning consultant to execute the agreed-upon scope of work at the City's direction. The attached scope of work anticipates an 18 month schedule from the consultant's start date.

### **Resource Impact**

In the grant application, a local cash match was required and the City pledged to provide \$35,000, for a total project cost of \$300,000. This amount is included in the Planning and Community Environment Department's Fiscal Year 2016 budget request.

The department has many competing priorities and allocating staff to this planning effort may mean that other projects take longer than anticipated.

### **Policy Implications**

Development of a Fry's Master Plan would implement the California Avenue Area Concept Plan that is being developed as part of the Comprehensive Plan Update and the Master Plan would have to be consistent with the Comprehensive Plan. If the Master Plan did not accommodate the number of housing units (221-249 units) anticipated in the City's Housing Element, an amendment to the Housing Element would be required to identify an additional or alternative housing site(s).

### **Environmental Review**

The attached scope of work anticipates CEQA review as part of the Master Planning process.

**Attachments:**

- Attachment A: Palo Alto VTA Grant Application (DOC)
- Attachment B: Fry's Master Plan Draft Scope of Work (DOCX)
- Attachment C: Resolution PDA Planning Grant (PDF)

# ATTACHMENT A



## PDA PLANNING GRANT PROGRAM

*Applications due April 28, 2014*  
*Submit to: [Celeste.Fiore@VTA.org](mailto:Celeste.Fiore@VTA.org)*

<i>General Background Information</i>	
<b>Project Title</b>	Fry's Master Plan
<b>Brief Project Description</b>	<p>The Fry's Master Plan project is proposed to develop a comprehensive and forward thinking planning document to guide development of a significant 15 acre site (340 Portage) located in Palo Alto's designated California Avenue Planned Development Area, one of the few areas in Palo Alto intended for higher density development, proximity to multi-modal transportation. The purpose of the plan is identify land use and transportation opportunities for a well planned and designed mixed use area of residential, commercial, office and retail uses. It is also intended to enhance the site's transit oriented character by improving vehicular, pedestrian and transit opportunities. As a site within walking distance of Caltrain, multiple bus lines, El Camino Real, and one of Palo Alto's main bike boulevards (Park Boulevard), it represents a rare opportunity within this city for true transit oriented mixed-use.</p> <p>The master plan is designed to be a guide and strategy for future land use. It is intended for use by decision makers during the process of making choices between varied and often competing interests. It is intended to bridge between the goals and policies of the General Plan and individual development projects. The master plan will define a variety of land use opportunities of well planned and designed commercial, office, residential development, enhanced activity nodes, and safe and efficient circulation and access for all modes of transportation between activity centers that help focus and support activity in the centers.</p>

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<b>Planning Activity (Check One Box)</b>	Advanced Planning <input checked="" type="checkbox"/> Preliminary Planning <input type="checkbox"/> Policy Planning <input type="checkbox"/>
<b>Project Sponsor</b>	City of Palo Alto
<b>Project Contact</b>	Name: Elena Lee Title: Senior Planner Agency: City of Palo Alto Phone Number: (650) 617-3196 Email Address: Elena.Lee@CityofPaloAlto.org
<b>Other Project Partners</b>	

<i>Project Location</i>	
<b>Project Location/Target Population</b>	<p>If applicable, please attach project area maps:</p> <p>Map #1: Location within agency jurisdiction            Map #2: Project Area detail map</p> <p>Is the project in a Community of Concern or CARE Community?            See Attachments D and E.            ___ Yes  <u> x </u> No</p> <p>Does the project target low-income populations?  <u> x </u> Yes*            ___ No</p> <p>*Via BMR units as part of the City's RHNA allocation.</p>

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<i>Project Budget (Maximum Fund Request is \$1,000,000)</i>	
Total Project Cost	\$300,000
Grant Request (88.5% maximum)	\$265,000
Matching Funds	\$35,000
Project Timeline	<p>Submit E-76 Request to Caltrans (Projects &gt; \$500,000):</p> <p>Execute Funding Agreement with VTA (Projects &lt; \$500,000):</p> <p>Begin Reimbursable Work: August 11, 2014</p> <p>Interim Project Milestones (please add where applicable):</p> <p>Milestone #1: City Council approval of scope</p> <p>Milestone #2: Community and stakeholder meetings</p> <p>Milestone #3: Preparation of master plan and review before the Architectural Review Board, Planning and Transportation, and the City Council for final review.</p> <p>Project Completion: December 19, 2015</p> <p>City Council/Board of Supervisors Approval: December 15, 2015</p> <p>Grant Close-out: December 19, 2015</p>

**All Projects are expected to have a Caltrans E-76 Approval by February 1, 2016**

Project Questions
<p>1. Describe how the project or its implementation will help achieve One Bay Area Grant program goals and objectives and facilitate PDA implementation in the following categories:</p>

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- a. Increase housing supply, including affordable housing <sup>1</sup>for low-income residents.
- b. Increase and jobs within PDAs.
- c. Increase land use intensities in PDAs.
- d. Boost transit ridership within PDAs.
- e. Increase walking, bicycling, carpooling and/or car-sharing within PDAs.
- f. Manage parking and driving.
- g. Promote multimodal connections within the PDAs.
- h. Locate key services and retail businesses within PDAs.

Please highlight plan benefits, including (but not limited to):

- enhanced walkability and bikeability
- safety and security; enhanced economic activity
- protection of environmental resources
- public transit access or amenities
- parking design, streetscape design
- gap closure of an essential pedestrian/ bicycle route or network
- access to services that meet daily needs

The intent of the Fry's Master Plan is to develop a comprehensive and coordinated plan to foster mixed-use, improve the relationship of the site with the adjacent neighborhoods, enhance connectivity and circulation for pedestrians, cyclists and drivers and provide context-sensitive, pedestrian-scaled development consistent with its surroundings. The master plan would connect the site better with the California Avenue Business District, the Stanford Research Park, the businesses along Park Boulevard and El Camino Real. Consistent with the larger California Avenue Concept Plan, the master plan would encourage higher density, where appropriate and where impacts can be managed to ensure quality of life. The site is currently developed with commercial uses and has not been updated for many years. This plan provides an opportunity to proactively develop a plan for a more efficient use of the land with a variety of mixed uses and higher density housing within a key area of the California Avenue PDA.

With excellent access to transit and the availability of larger vacant or underutilized land, the California Avenue area has been a popular area for redevelopment. As a 15-acre site, the Fry's property represents a uniquely sized parcel that provides an important opportunity to further influence and set the tone for land uses within the City's Priority Development Area. The existing area already provides a mix of uses, commercial uses along California Avenue, office uses along the Park Boulevard corridor, and a regional commercial center in the subject Fry's property. The area is occupied by several large employers, including the County Courthouse, AOL, and Microsoft.

The plan will include a diverse mix of land uses designed to create an important business, retail and mixed use center. It will serve to support Palo Alto's second largest commercial center, provide much needed housing, and help fulfill the City's Regional Housing Needs Assessment allocation, The plan will build upon the area's existing strengths and establish the

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<sup>1</sup> Affordable housing, for the purposes of this application is defined by the limits set by HUD for Santa Clara County, found at (website).



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direction to create the place that is envisioned by the community. The project would help to focus growth in a location that can provide multi-modal opportunities for future residents, visitors and employees. The plan would also emphasize better connectivity through the site and safety for all modes of travel. Because the site was developed for primarily one set of buildings, it does not include a street network that would better connect the site to either Park Boulevard or El Camino Real. The project area is located within walking distance of existing and future transit facilities of regional significance including the existing Caltrain - California Avenue Station, the existing El Camino Real transit routes, future El Camino Real Bus Rapid Transit Station, and local Stanford University Marguerite and VTA routes. These existing public transit systems provide direct access to significant destinations and employers, including Stanford University Research Park, the County Courthouse, and the California Avenue Business District. In addition, the plan would help support the City's Bike and Pedestrian Master Plan by encouraging development that would take advantage of one the City's primary bicycle corridors on Park Boulevard.

The City has also begun significant street improvements along the nearby California Avenue, including significant bicycle and pedestrian improvements. The City has also initiated parking related studies for the California Avenue area. Some options being considered are City wide transportation demand management programs and public-private partnerships to provide additional parking facilities. The City's proposed Comprehensive Plan Amendment also includes language for the implementation of a design competition to encourage innovative concepts for the City's public parking lots.

- 2. Describe how the jurisdiction in which the project is located has demonstrated a commitment to provide an increase in housing, employment, and transportation choices through its' existing policies.**

**These policies may include (but are not limited to) policies and regulations, such as innovative parking policies, TOD zoning, transportation demand management strategies, existing citywide affordable housing policies and approved projects, supportive general plan policies, sustainability policies, including green building policies and alternative energy policies.**

The project site has been the focus of number of recent planning initiatives and studies. The Fry's site is located within the California Avenue Concept Plan area. The California Avenue Concept Plan (Cal. Ave. Concept Plan) is one of two studies, along with the East Meadow Circle Concept Plan, that the City Council has initiated as part of the Comprehensive Plan Update as two areas that have been the subject of some of the most change in the City. The intent of the plan is to address land use and circulation and to provide policy guidance. The Draft Concept Plan

[http://www.paloaltocompplan2020.org/files/file/Documents/Cal%20Ave%20Area%20Concept%20Plan\\_Draft%20March%202014.pdf](http://www.paloaltocompplan2020.org/files/file/Documents/Cal%20Ave%20Area%20Concept%20Plan_Draft%20March%202014.pdf)) specifies land uses and development intensities, including the potential for additional housing, the desire to retain and enhance retail/service opportunities, and the desire for improved pedestrian and bicycle connections. The 15 acre Fry's site is one of the most important areas in the Concept Plan and has been identified as one where a land use change is being recommended. The Draft Concept Plan identifies this area as one that is suitable for growth and recommends that development happen at the higher end of the allowed density when appropriate, especially for housing.

This area has been identified for mixed uses and increased development intensity because of

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its Zoning and Comprehensive Plan land use designations. The California Avenue area, including the subject property, is within the Transit-Oriented Residential land use designation (TOR). This designation allows high density residential development in areas that are within 2,000 feet of a multi-modal transit station. The goal would be to generate densities that would support substantial use of public transportation. A significant portion of the larger California Avenue area has been zoned Pedestrian Transit Oriented Development (PTOD). The PTOD designation is intended to allow higher density residential uses on commercial, industrial and multi-family parcels within a walkable distance of the Caltrain station.

This area is also an important component of the Palo Alto Bicycle and Pedestrian Transportation Plan. The plan guides public and private investment in non-motorized transportation facilities and related programs. The adjacent Park Boulevard is a critical bicycle boulevard that will provide an important access route to and through the site. The approved Rail Corridor Study also covers this portion of Palo Alto. The report establishes a community vision for land use, transportation and urban design opportunities along the Caltrain corridor. The Study identifies this area as an important one for strong pedestrian and transit-oriented uses, as well as one that can accommodate much of the City's future development. As discussed above, the City has also started significant streetscape improvements along California Avenue to create a better pedestrian and bicycle friendly environment, while continuing to provide adequate parking facilities.

- 3. What are the outcomes of this plan that the jurisdiction hopes to achieve through this grant?**
  - A) Please list and describe desired outcomes.**
  - B) What implementation actions will this planning effort lead to? (For example, capital project lists, zoning change, implementation of parking management practice, change of City design standards, LOS standards, etc.) What is the proposed schedule for these actions?**
  - C) How does the jurisdiction propose to measure whether housing and/or employment with the PDAs increased as a result of implementing the PDA Planning Grant funded project?**

The City's desired outcome of this project is to develop a comprehensive plan that will meet City's policies regarding development in this area. The intent of the Fry's Master Plan is to develop a comprehensive and coordinated plan to foster mixed-use, improve the relationship of the site with the adjacent neighborhoods, enhance connectivity and circulation for pedestrians, cyclists and drivers and provide context-sensitive, pedestrian-scaled development consistent with its surroundings. The plan would identify the land uses, intensity, and design guidelines that would encourage redevelopment and growth that would enhance the pedestrian, bicycle-friendly and transit oriented nature of the area through a robust public process. It would balance the needs of neighborhood residents as well as the daytime population of the area.

The desired implementation actions would lead to potential zoning changes, implementation of an area-wide transportation demand management program, enhancement of parking

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facilities within the area, and development of design guidelines. The intent would be to develop a development program that would receive public support and meet property owner's needs that would circumvent the recent increase in requests for site specific Planned development proposals that have often been seen as controversial projects that do not adequately consider the larger context. These programs would be developed concurrently with this project and adopted within the year after the adoption of the master plan. This would also coincide with the completion of the City's Comprehensive Plan Update.

The success of the program in regards to increase in housing or employment would be measured through a variety of methods. The success would be measured in terms of the increased number of housing units (as well as variety of type), and non-residential square footage. The site currently has a legal nonconforming commercial use, but is zoned and has a land use designation for multi-family residential. Due to land prices and development regulations, properties with the same multi-family residential designation have typically been developed at the lower range of density. The goal would be to encourage developed at the higher range, while also ensuring that negative impacts would be avoided. The City is also in process of implementing a business registry. As one of the few jurisdictions without a business license requirement, it has been difficult to measure the number of actual jobs. The new registry would provide a vehicle to develop and maintain an accurate database.

- 4. Please describe the project's community outreach component. Is it designed to involve the affected community, including existing residents and business owners, to ensure that community concerns are understood and reflected in the plan?**

The community outreach component is a very important aspect for Palo Alto. The City has already implemented significant outreach as part of the larger Concept Plan and Comprehensive Plan Update through resident and business stakeholder groups, property owners and business owners. This outreach has included four community meetings, multiple stakeholder meetings and seven public hearings. The concept of a master plan for this property has been discussed during the larger process with the public. As one of the larger parcels in the City and the site of a well-regarded retail business, there has been a lot of public concern regarding the future of this site. This project can take advantage of the robust program and contact list that has been already been established through the Cal Ave Concept Plan and Comprehensive Plan Update process. The City has engaged in regular communication with the property owners of the Fry's property as well as the Fry's Electronic business itself. This degree of public outreach will continue with this process. While multiple community workshops are envisioned, smaller groups would be established to develop a forum for the public to provide regular input and to engage in an ongoing discussion. The City would not only continue discussions with those that are immediately affected by any changes on the property itself, but also with stakeholder groups. An important aspect of the City's outreach process is the City's website. A webpage will be developed on this project to provide up to date information at any time for the public. An email list will be made available for people to sign up for regular updates.



## ATTACHMENT B

### DRAFT FRY'S SITE MASTER PLAN/COORDINATED AREA PLAN SCOPE OF WORK

The Fry's Site Master Plan project will develop a comprehensive and forward thinking planning document to guide development of a significant 15 acre site (340 Portage) located in Palo Alto's designated California Avenue Planned Development Area, one of the few areas in Palo Alto intended for higher density development due to its proximity to multi-modal transportation. [Note: we may want to use another name for the site, since there are multiple tenants and uses.]

The purpose of the plan is to specify desired land uses and densities, identify needed on- and off-site improvements to support redevelopment of the site, and provide standards and guidelines that will result in a well-designed mixed use area of residential, commercial, and public uses. The plan is also intended to enhance the site's transit oriented character and will assess and identify ways to improve vehicular, pedestrian, bicycle, and transit access to and from the area. As a site within walking distance of Caltrain, multiple bus lines, El Camino Real, and one of Palo Alto's main bike boulevards (Park Boulevard), the Fry's area represents a rare opportunity within a built-out city for true transit-oriented mixed-use with a substantial component of multifamily housing, including a variety of housing types.

The master plan is designed to be a coordinated area plan, similar to the SOFA Phase 1 and 2 Coordinated Area Plans, and the planning process and plan contents will comply with Section 19.10 of the Palo Alto Municipal Code. Significant community engagement and property-owner participation would be required early in the process and continue through implementation. Once adopted, the plan is intended to supplement the goals and policies of the Comprehensive Plan (General Plan), and provide development standards for the site.

The Comprehensive Plan Update, which includes the California Avenue Concept Plan, will likely lead to other zoning code updates. The City is also concurrently working on an update to its Sustainability/Climate Action Plan. The master plan must be carefully coordinated with all of these efforts to ensure consistency, and the CEQA document prepared for the Master Plan will "tier" from the program-level Environmental Impact Report (EIR) prepared for the Comprehensive Plan Update.

It is expected that the completed master plan will consist of the following chapters or components:

1. Planning Objectives and Site Context
2. Goals and Policies

3. Site Plan, Desired Land Uses
4. Development Standards and Criteria
5. Architectural and Site Design Objectives & Standards
6. Capital Improvements and Implementation Measures
7. Monitoring and Adaptation Plan

**Task One: Community Engagement (Month 1-18)**

- Formation of a citizens' working group with regular meetings
  - Comprised of interested stakeholders including property owners, neighborhood residents, local business representatives and others
  - Review baseline data
  - Develop goals and policies
  - Serve as a conduit and resource for larger community input
- Development and implementation of a community engagement effort
  - Plan and conduct a minimum of three community meetings. The meetings should educate the public about the issues for the study area and solicit the public's desires for the master plan.
  - Solicit regular feedback from key stakeholder groups
    - Property owners of subject site and adjacent properties
    - Area commercial tenants
    - Area residents
  - Develop public outreach materials that can be used by neighborhood groups and other community organizations to solicit broad community involvement
  - Create Fry's Master Plan website
  - Prepare electronic noticing list for public to receive Master Plan updates

**Tasks Two: Scoping, Data Collection & Analysis (Month 2-3)**

1. Conduct meetings with the City's Planning & Transportation Commission and the City Council to refine the scope of work as well as the plan goals, objectives, and schedule.
2. Data/background collection and analysis
  - Compile existing Comprehensive Plan goals, policies and programs, proposals in the Draft California Avenue/Fry's Area Concept Plan, and current zoning and development standards that apply to the site and its immediate vicinity.
  - Compile data on existing uses and development patterns, including the unused development capacity of sites in the area. Gather information on existing traffic, parking, transit, bicycle, and pedestrian activities in the area, cultural and natural resources, natural and man-made hazards, and other relevant data.

**Task Three: Preparation and Review of Draft Plan (Month 4-6)**

1. Develop plan policies and parameters to include:

- Specific land uses and densities
  - Site plan and configuration of street network
  - Pedestrian and transit oriented uses and connections
  - Public spaces and amenities incl. public art component
  - Economic analysis and project feasibility
  - Development standard and criteria
2. Develop draft design objectives and standards
  3. Present draft materials to Planning & Transportation Commission and City Council

**Task Four: Refinement of the Draft and Development of an Implementation/Monitoring Plan, Concurrent with CEQA Review (Month 6-12)**

- Refine draft materials from Task Three
- Develop implementation plan to achieve identified goals
- Develop fiscal study to quantify (public and private) costs and benefits
- Draft project-specific CEQA document tiered from the Comp Plan EIR
- Draft monitoring & adaptation plan

**Task Five: Plan Adoption (Month 12-18)**

- Circulate final draft for public review
- Review by the Architectural Review Board
- Review by the Planning and Transportation Commission
- Review and Adoption of Plan by City Council





## Resolution of Local Support

Resolution No. \_\_\_\_\_

### Authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds and stating assurance to complete the Fry's Master Plan

**WHEREAS**, CITY OF PALO ALTO (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$265,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding, Transportation Alternatives Program (TAP)/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the FRY'S MASTER PLAN (herein referred to as PROJECT) for the PDA PLANNING GRANT PROGRAM (herein referred to as PROGRAM); and

**WHEREAS**, the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (Public Law 112-141, July 6, 2012) and any extensions or successor legislation for continued funding (collectively, MAP 21) authorize various federal funding programs including, but not limited to the Surface Transportation Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives Program (TA) (23 U.S.C. § 213); and

**WHEREAS**, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

**WHEREAS**, pursuant to MAP-21, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

**WHEREAS**, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

**WHEREAS**, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

**WHEREAS**, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution

- No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
  - that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
  - that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
  - that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and
  - in the case of a transit project, the PROJECT will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; and
  - in the case of a highway project, the PROJECT will comply with MTC Resolution No. 4104, which sets forth MTC's Traffic Operations System (TOS) Policy to install and activate TOS elements on new major freeway projects; and
  - in the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and

**WHEREAS**, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

**WHEREAS**, there is no legal impediment to APPLICANT making applications for the funds; and

**WHEREAS**, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

**WHEREAS**, APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

**WHEREAS**, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

**NOW, THEREFORE, BE IT RESOLVED** that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under MAP-21 or continued funding; and be it further

**RESOLVED** that APPLICANT will provide any required matching funds; and be it further

**RESOLVED** that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

**RESOLVED** that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

**RESOLVED** that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

**RESOLVED** that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it further

**RESOLVED** that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

**RESOLVED** that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and be it further

**RESOLVED** that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and be it further

**RESOLVED** that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and be it further

**RESOLVED** that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

**RESOLVED** that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

**RESOLVED** that there is no legal impediment to APPLICANT making applications for the funds; and be it further

**RESOLVED** that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

**RESOLVED** that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

**RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

**RESOLVED** that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

INTRODUCED and PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Senior Asst. City Attorney

\_\_\_\_\_  
Mayor

APPROVED:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Planning & Community  
Environment