

Council Questions

May 28, 2024 – City Council Meeting

ITEM 4.4 Downtown Utility Improvements, Project 22-41 - Various Actions

1. The staff report says that the project will construct 1,900 linear feet of 18" water transmission main to meet the City's projected future growth and increase in water demand. The staff report also says the project has been determined to be categorically exempt as it consists of the replacement of existing public facilities involving **negligible or no expansion of capacity at the same site**. Those two statements don't seem to be in sync. Is the capacity increase really negligible?

This project consists of relocating/replacing an existing water transmission main, as well as upsizing the relocated water transmission main from 16" to 18" diameter. This is a negligible physical size increase for the replaced line but provides needed capacity for the existing service area and future growth. Transmission mains are large diameter pipes and are often used as a backbone to transport water, not typically used to distribute water to individual customers.

A 2020 modeling analysis of the impacts associated with the Castro Grade Separation project indicated there is insufficient pipeline capacity in the Central Expressway/Moffett Boulevard area to convey adequate fire flow for existing customers. This necessitated the increase in pipe size. By accommodating the larger water capacity required for adequate fire flow in the service area, the new pipe can also support the growth in everyday water use. Therefore, the water transmission main work is being considered as replacement of existing facilities to serve existing uses, with the ability to support future growth being a beneficial outcome of ensuring adequate fire flow.

2. To clarify, is the staff recommendation to approve the construction contract for both Phase 1 and Phase 2?

The staff recommendation is to approve Phase 1 only, consisting of relocation of the water transmission main within the intersection of Central Expressway, Moffett Boulevard, and Evelyn Avenue.

3. If the total project budget is \$12,360,000, and the cost of the Phase 1 Utility Project is \$6,794,000, then is it correct to conclude that the cost of Phase 2 is \$5,566,000? If not, then can staff provide more information about the breakdown of costs beyond Phase 1 that would be included within the total project budget that will be approved by the Council with this action?

Yes, the estimated cost for Phase 2 is \$5,566,000. Since construction of Phase 2 is being deferred with an unknown timeframe to restart, staff cannot be certain if the current budget for Phase 2 will be adequate when it is eventually bid.

When construction of Phase 1 is completed and if Phase 2 construction is not slated to start, staff plans to close Project 22-41 and return remaining project funds to its funding sources. This will allow the returned funds to be evaluated for use in other water projects. During the development of the upcoming 5-Year CIP, staff will include Phase 2 as a planned project or future project for Council's consideration.

ITEM 4.6 Downtown Precise Plan Comprehensive Update, Project 20-66 - Professional Services Agreement

1. Why was the Downtown Precise Plan Update, Project 20-66, initially funded with \$1,750,000 from the Construction/Conveyance Tax Fund, if the Land Use Document Fee Reserve was the most appropriate funding source? Can staff provide information about how this was discovered? Are there other examples of land use planning projects that have been funded from the C/C Tax Fund?

The funding for the Downtown Precise Plan Update was appropriated in June 2019 as part of approving the Fiscal Year 2019-20 Capital Improvement Program (CIP). In preparing the Fiscal Impact section of the Council Report for tonight's agenda item, staff discovered the use of the C/C Tax Fund. Staff looked into why this occurred and discovered there was a misunderstanding about the allowed uses of the Development Services Fund's Land Use Documents Fee Reserve. This reserve is funded from a fee on building permits approved by City Council in 2015 based on a fee study memorandum. As documented in the fee study, the costs for preparing the 2030 General Plan, precise plans already underway/budgeted, and other past planning documents were used to calculate an appropriate fee amount for preparing future land use planning documents. It was misinterpreted that this fee could only be used on updates to the precise plans listed in the fee study rather than for future precise plans such as the Moffett Boulevard Precise Plan or the Downtown Precise Plan Update. The only land use planning project funded since 2015 that has used some C/C Tax was an amendment to the East Whisman Precise Plan (EWPP) for a total of \$45,000 in C/C Tax, which was also appropriated as part of the FY 2019-20 CIP.

2. The action summary from the 11/7/2023 Council meeting, item 3.1, indicates that a majority of the City Council "requested staff to return to the Council if the public indicated an interest in changing the Precise Plan boundary." Was there public outreach on this question, and when did it occur? How many members of the public participated in this outreach?

The public outreach to determine whether there is public interest in changing the Precise Plan boundary will be conducted as part of Task 2: Community Engagement. Following the approval of the professional services agreement, staff will initiate the project and conduct public outreach accordingly. Staff will return to the Council in Q1 2025 to discuss the draft vision and framework for the project and will also inform the Council as to whether there was support from the public to modify the Precise Plan boundary and request direction on the topic.

ITEM 4.7 California Street (West) Complete Street Improvements, Pilot, Project 21-40 - Various Actions

1. A portion of California between maybe Shoreline and Mariposa looks to have had slurry seal done. Is this a short-term fix? Or is it the final condition of the pavement?

The recent pavement work on California was repair patching to smooth out the damaged and uneven pavement surface and prevent water penetration through last winter. The California Street Pilot Project will be further building on this and installing a micro-surfacing treatment, which is similar to a slurry seal.

ITEM 4.8 Annual Street Maintenance (Middlefield Road Complete Streets), Project 22-01 - Professional Services Agreement

1. The staff report indicates that “the design time frame of approximately 18 months is needed for the required environmental clearance,” in part. Can staff provide more information about the environmental clearance required?

The Middlefield Road Complete Streets Project is subject to the National Environmental Policy Act (NEPA) requirements as a result of receiving federal funding through the One Bay Area Grant (OBAG) program. As a part of this program, Caltrans will act as the Lead Agency for the federal funding and environmental review, where the City is required to submit to the OBAG administrator, Caltrans, for NEPA clearance. Staff will be coordinating with Caltrans staff to provide the necessary documentation for the NEPA process. In comparison to the California Environmental Quality Act (CEQA) process where the City is the lead agency and makes the appropriate findings focused primarily on state and local regulations, the NEPA process is substantially longer due to its broad scope and more stringent compliance with federal requirements/regulations.

2. For the California Street (West) Complete Street Improvements, Pilot, Project 21-40, the project is “categorically exempt as Class 1, Maintenance and Minor Alteration of Existing Public Facilities, under CEQA Guidelines Section 15301.” What is different about the Middlefield Road Complete Streets project?

The California Street project is locally and regionally funded and is subject only to CEQA; unlike the Middlefield Road project that is subject to NEPA due to federal grant funding received. While staff expects Caltrans’ to make NEPA findings that the Middlefield Road project is categorically excluded or of no significant impact, as appropriate, the City is required to follow the NEPA process and submit to Caltrans for review, including its additional documentation effort, review, and timeline.

ITEM 6.1 Active Transportation Plan-Scoring Criteria

1. Can staff provide a progress report showing how many projects from the Pedestrian Master Plan (PMP) have been completed? What percentage of the projects are completed, and what percentage remains?

The outlined 10 Potential Project categories with at least 75 individual Candidate Locations for Potential Projects including feasibility studies (From this list, 28 of the Candidate Locations have been studied and 25 (33%) of the Potential Projects have been completed or are in active construction. An additional six projects have been completed that partially address a Potential Project. Not counting the studies or partially addressed projects, this results in 66% remaining.

2. Can staff provide a progress report showing how many projects from the Bicycle Transportation Plan (BTP) were completed? What percentage of the projects are completed, and what percentage remains?

The Bicycle Transportation Plan lists 183 total possible projects (Pages 72 to 77). Of these projects, 88 have been studied and 52 (28%) have been completed or are in active construction. An additional 34 have been partially completed. Not counting the partially completed projects, this leaves 72% remaining.

3. Does the City incorporate guidelines or standards from the Institute of Transportation Engineers (ITE) “Designing Walkable Urban Thoroughfares” report?

<https://ecommerce.ite.org/imis/ItemDetail?iProductCode=RP-036A-E>

Yes, many aspects of the ITE “Designing and Walkable Urban Thoroughfares” report are being used as a resource for the City. To review, please see the current [City Standard Details \(starting on page 165\)](#).

4. Will the City be incorporating guidelines or standards from the ITE “Designing Walkable Urban Thoroughfares” report as part of the ATP? If yes, how do the recommendations from this report influence scoring criteria and project design?

Yes, the ATP scoring criteria are consistent with the ITE Walkable Urban Thoroughfares report, which will also be used to inform project design as indicated below.

ATP Criteria	ITE Walkable Urban Thoroughfares Guidance
Fills a gap in existing sidewalk network	Boulevard, Multiway Boulevard, Avenue, and Street thoroughfare types have sidewalks on both sides (Page 54)
Fills a gap in All Ages and Abilities (AAA) bicycle network	Addition of bicycle lanes on both sides of the roadway closes gaps in the bicycle network and improves safety (Page 101)
Improves pedestrian network density	Installing midblock crosswalks can help channel pedestrians to the safest midblock location, provide visual cues to allow approaching motorists to anticipate pedestrian activity and unexpected stopped vehicles and provide pedestrians with reasonable opportunities to cross during heavy traffic periods when there are few natural gaps in the approaching traffic streams (Page 150) Block lengths provided in Table 6.2 (Page 68)
Reduces pedestrian crossing distance	Minimize pedestrian exposure to moving traffic. Keep crossing distances as short as practical (Page 177) The document also mentions shorter crossing distances throughout including sections on: General Principles and Considerations; Medians; Intersections; Curb Return Radii; and Curb Extensions
Supports school children	The network should include a system of bicycle facilities with parallel routes, with direct connections to major trip generators such as schools, retail districts and parks (Page 32)
Supports other key destinations	The network should include a system of bicycle facilities with parallel routes, with direct connections to major trip generators such as schools, retail districts and parks. (Page 32)
Improves first/last mile	Sections on Transit Design and Planning for Transit (Pages 157 to 168)

ATP Criteria	ITE Walkable Urban Thoroughfares Guidance
connection to transit	
Reduces impervious surface area	The management of stormwater on walkable urban thoroughfares improves the walking and bicycling environment, aesthetics and the quality of the community as a whole. Green stormwater management practices add value and multiple functionality and should be considered in thoroughfare improvement projects (Page 168)
Provide Plantable Space	Landscaping also offers important ecological benefits. Trees are frequently the most visibly significant improvement, if properly selected, planted and maintained. They provide shade from the sun, intercept stormwater and buffer pedestrians from passing vehicle traffic (Page 126)

5. How do the National Association of City Transportation Officials (NACTO) “Urban Street Design Guide” and other NACTO standards and guidelines influence the ATP in development? Were these standards and guidelines used to develop scoring criteria, and if so, how?

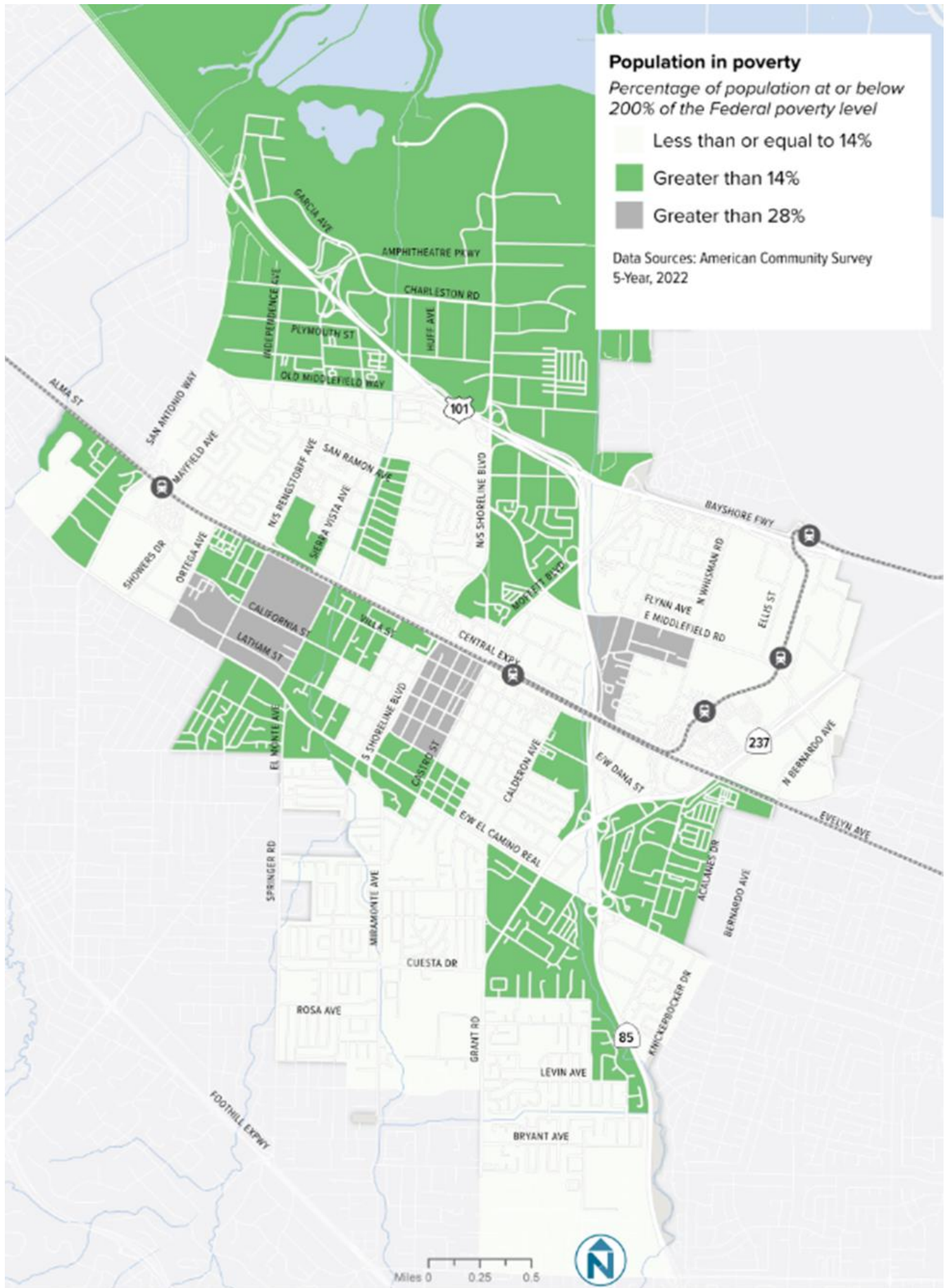
ATP scoring criteria are consistent with, and were informed by, various design guides from NACTO as shown in the table below. NACTO Design Guides will also be used to inform projects that emerge from the ATP.

ATP Criteria	NACTO Guide	Guidance
Addresses existing (historic) crash patterns	City Limits: Setting Safe Speed Limits on Urban Streets, 2020	Cities should use data about fatal and serious injury crashes (when and where they occurred, and what caused them) to both prioritize projects and make design and engineering decisions
Supports lower income residents	Complete Connections: Building Equitable Bike Networks, 2023	[apply] an equity lens to all aspects of bike project development—not just community engagement—and... pivot... planning and development practices from a focus on equal coverage across cities to a more impactful implementation strategy based on the needs of specific communities as well as the city as a whole.
Fills a gap in existing sidewalk network	Urban Street Design Guide (Sidewalks), 2013	Ensure that sidewalks are without major gaps or deformities that would make them non-traversable for wheel- chairs and other mobility devices.
Fills a gap in All Ages and Abilities (AAA) bicycle network	Designing for All Ages & Abilities.	Streets that are safe and comfortable for All Ages & Abilities bicycling are critical for urban mobility

ATP Criteria	NACTO Guide	Guidance
Improves pedestrian network density	Transit Street Design Guide (Pedestrian Access and Networks), 2016.	Short block lengths and a high density of intersections will maximize the area reachable on foot in a reasonable length of time.
Reduces pedestrian crossing distance	Urban Street Design Guide – Conventional Crosswalks, 2013	Intersection crossings should be kept as compact as possible, facilitating eye contact by moving pedestrians directly into the driver’s field of vision. Keep crossing distances as short as possible using tight corner radii, curb extensions, and medians
Improves first/last mile connection to transit	Transit Street Design Guide (Pedestrian Access and Networks), 2016	Access to transit is improved with direct pedestrian paths of travel that provide the shortest distance to transit stops for the largest number of potential riders
Reduces impervious surface area	Stormwater Street Design, 2017	Water that falls on roofs, streets, and parking lots becomes stormwater runoff that, by design, is channeled and conveyed by city streets into stormwater management systems. Through more holistic designs, streets can also capture and infiltrate this stormwater back into the urban ecosystem, generating enormous ecological, economic, and public health benefits
Provide Plantable Space	Urban Street Stormwater Guide (Streets are Ecosystems), 2017	Forward-thinking planners, engineers, and designers are treating streets as part of the ecological fabric of cities, integrating green infrastructure into the street alongside transit infrastructure and safe places for people walking and biking

6. Can staff provide information about the relationship between the Access and Equity criteria and density? If possible, is there a map showing where in the City the Access and Equity criteria would help projects score most highly?

Equity criteria is related to low-income populations and designed to align with criteria from grant programs administered by the Metropolitan Transportation Commission (MTC), the regional Metropolitan Planning Organization that allocates federal funding (see the Equity Priority Communities definition on [page 15 of the Plan Bay Area 2050 Equity Report](#)). This definition uses census tracts, which are designed to normalize for population but do not provide a direct representation of population density. The **map** that will be used to evaluate the Access and Equity criteria for lower-income residents is shown on the next page.



7. What are the California Transportation Commission's latest ATP guidelines as referenced on page 2 of the staff report? What does it mean for the city to be consistent with the California Transportation Commission's latest ATP guidelines?

The ATP guidelines referenced on page 2 were the [Active Transportation Program Guidelines](#), which includes Guidance for Active Transportation Plans in Disadvantaged Communities. The elements listed in this Guidance reflect best practice for Active Transportation Plans and are largely covered in the scoping of the ATP.

8. How and why were the 12 organizations selected to be part of the ATPAC? (Page 3)

The ATPAC was formed to have an external advisory group that could provide diverse perspectives on the ATP and act as a liaison for their networks. City staff reached out to a range of local non-profit organizations and public agencies focused on pedestrian transportation, disability rights, bicycle transportation, green streets, and traditionally underrepresented communities.

9. How many of the 655 public responses cited on page 4 were from Mountain View residents?

Based on the number of completed surveys, 84% indicated that they live in Mountain View.

10. While the ATPAC's feedback included improving conditions for pedestrians and bicyclists in mobile home parks and condominium complexes, is this possible given existing mobile home parks and condominium complexes are privately owned, or was this a comment about future mobile home parks and condominium complexes? (Page 4)

ATPAC's feedback was provided in the context of the initial step of identifying problems and conditions for active transportation users throughout the City. Identification of the range of possible infrastructure and policy solutions has not yet occurred and will occur in the next stage of the plan development. While mobile home parks and condominium complexes are private, improving mobility conditions could potentially include a combination of features for new developments (such as interior paseos and connections), and improved connections to the surrounding network for existing mobile home parks and residential complexes.

11. We have been working on improving bike safety for many years which is very important. How many of the intersections that have high crash statistics have not already been approved? Are there still a lot of these that need to be improved? What are they?

This question will be addressed at the meeting. Staff needs additional time to cross reference data/information from the Bicycle Transportation Plan with information from the Vision Zero Action Plan.

ITEM 6.2 Flock Public Safety Cameras

1. When a law enforcement or prosecutorial agency outside of Mountain View requests access to Mountain View ALPR data, what information must they provide regarding the “intended purpose of the request?” How much information must the agency provide, and what information will the Chief or authorized designee require prior to authorization of access?

Only California law enforcement agencies could be granted access to MVPD’s ALPR data. Requesting law enforcement partner agencies will need to have an administrator acknowledge our MVPD policy and agree to only use the data consistent with our policy. If approved, each request will still require information about the reason for the system query, and the unique user ID for the person who is making the query. Approved law enforcement partner agencies would still be confined to the limited ALPR data of the MVPD Flock Safety program.

2. Once an outside agency secures access following approval by the Chief or designee, for how long will that agency have access to Mountain View ALPR data? Will the outside agency have unrestricted access to ALPR data?

The power of the Flock Safety system is the collaboration and sharing of information by law enforcement partners. In general, agencies requesting data access will be asked to reciprocate and grant access to their ALPR data, as well. There are two ways in which access can be requested, a one-time search or continuous access. Most agencies request continuous access as it is more efficient and is not impaired by the Chief or Captain’s office hours. All access will be reviewed in the twice-yearly audits.

3. Will outside agencies be required to provide a request for each query, or will they only need to request permission once for access to all ALPR data?

Due to the access limitations created by our approval process, as well as the fact that law enforcement agencies often do not know where a vehicle under investigation has traveled or when and to whom access should be requested, continuous access is generally preferred for the best public safety outcomes. However, there may be instances where only limited access is granted.

4. How will MVPD hold outside agencies accountable for the use (or mis-use) of Mountain View ALPR data?

All California agencies granted access will first be required to acknowledge adherence to MVPD’s policy when using our ALPR data. As proposed, Flock access audits will be performed twice yearly. Any violation of the law related to MV ALPR data will be reported to the District Attorney or Attorney General’s Office. Additionally, access may be rescinded at any time if our policy is violated.

5. Can MVPD revoke access by outside agencies to Mountain View ALPR data once granted? Under what circumstances would the City revoke access?

Yes, access is revokable. Violations of our MVPD policy may result in a temporary or permanent revocation of ALPR data access. The severity of the violation would inform the decision to revoke access on either a permanent or temporary basis.

6. How will we know if an outside agency shares Mountain View ALPR data for federal immigration enforcement?

It is illegal to share ALPR data with federal law enforcement agencies, including immigration enforcement. The MVPD proposed to audit partner law enforcement use of the data twice yearly, which would help identify any violations. Additionally, MVPD policy 460 prohibits collaboration with federal immigration enforcement as do our terms of service with Flock Safety.

7. Can the Council instead request that renewal or extensions of the agreement with Flock appear as a consent item, rather than never see this again?

Yes, this could return to Council on consent if Council provides that direction. As proposed, updates to the ALPR program would be made public both on the Transparency portal and in the twice-yearly reporting to the PSAB.

8. Police Department Policy 460, "Automated License Plate Readers" ("ALPRs"), indicates that the technology "may also be used to gather information related to active warrants, homeland security, criminal investigations, suspect interdiction, and stolen property recovery." Is "homeland security" related to federal immigration enforcement?

No, but the language is somewhat confusing as it relates to a type of investigation versus a branch of government. For clarification, Homeland Security Investigations (HSI) is part of the Department of Homeland Security (DHS) and is a Federal branch of law enforcement and it is unlawful for MVPD to provide them access to our ALPR data, additionally, MVPD policy 460 prohibits collaboration with federal immigration enforcement as do our terms of service with Flock Safety.

9. PD Policy 460 includes section requiring: "A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information." Which independent contractors would be authorized? Are non-City employees able to access the ALPR data?

In short, this is language used to authorize California DOJ or IT security to work on and access the database. See below for more specifics.

The California Department of Justice (DOJ) conducts both scheduled and random audits of various law enforcement databases, to ensure compliance with various laws. The California DOJ use contractors to help in these audits, who have standard background checks, training and clearance to audit law enforcement data. Flock may also be needed to assist in maintenance, assistance, or resolve any issues we have.

Civil Code § 1798.90.53

This section is for law enforcement to ensure the protection and proper usage of ALPR data. The key points:

1. **Security Measures:** Entities must implement reasonable security procedures and practices to protect ALPR data from unauthorized access, destruction, use, modification, or disclosure.

2. **Accountability Measures:** Entities must establish processes to review and assess the security measures in place, ensuring that independent contractors and employees comply with these measures.
3. **Audit Trails:** Entities must maintain an audit trail of all access to the ALPR data, including access by independent contractors.

Civil Code § 1798.90.51

This civil code section establishes requirements for law enforcement that use ALPR systems. The key points include:

1. **Privacy and Usage Policy:** Entities must implement and maintain a usage and privacy policy to ensure the data collected through ALPR systems is properly handled. This policy must include:
 - The purpose for the use of ALPR systems.
 - The authorized users and the training requirements for these users.
 - Security measures to protect ALPR data.
 - Retention and destruction policies for the data collected.
2. **Access and Accountability:** It requires maintaining records of individuals who access the ALPR data and providing oversight to ensure compliance with the policy.

For independent contractors, this means that if they are authorized to use or access ALPR data, they must comply with the entity's usage and privacy policy. Contractors must be trained according to the standards set forth in the policy and follow all security and privacy protocols.

10. Can staff provide information about data retention and use associated with the Council Policy regarding "USE OF UNMANNED AIRCRAFT SYSTEMS"? Have there been any audits of this data? Have there been any instances of misuse or non-compliance with this Policy?

The MVPD's current Unmanned Aircraft System (UAS) Program adheres to the UAS Policy approved by the City Council in 2019. To date, there have been no instances of misuse or non-compliance with this policy. The MVPD has not received any complaints from the public regarding our use of our Unmanned Aircraft Systems.

Our UAS devices are equipped with video cameras that record video and Flight Data Information (flight distance, altitude, date/time, etc.) locally on the device controller. Any retained video and Flight Data complies with the City's records retention schedule and California Evidence Code. Annual audits and periodic audits have regularly been conducted. No violations have been noted.

11. Can MVPD provide on the proposed Dashboard some information about individuals who receive authorization to access ALPR data?

MVPD will publish the agencies who are granted access (access is not granted to an individual) and a report on the number and reason for the queries.

12. On page 4, there appears to be an incomplete section: “(h) The Mountain View Police Department will, consistent with Government Code § 7284.8 (b), ensure that databases are governed in a manner that limits to the fullest extent practicable the availability of information for assistance with immigration enforcement, consistent with federal and, state law.,.”

This should read “consistent with federal and state law.” The content is correct but there appears to be a formatting error that has been corrected.

13. Is the Special Services Captain the same person as the Special Operations Division Captain? (Policy – top of page 2)

No, they are different, the Special Operations Division Caption Oversees investigations and the Special Services Captain is now called the Support Services Captain and that position manages Records and the Emergency Communications Center. This has been updated in the policy.

14. What is an example of an independent contractor who might have access to the ALPR data? (Policy – page 2)

IT security or the California DOJ are likely examples.

15. What are can files? (Policy – page 5)

The proper term is “scan” files. The policy has been corrected.

16. What would be an example of a request for data by a non-law enforcement or non-prosecutorial agency, and under what circumstances and to who would that data be released? (Policy – page 6)

A Public Records Act request could be an example of such a request, however, Civ. Code, Section 1798.90.55 (b) requires that the data not be shared except with other public agencies:

“A public agency shall not sell, share, or transfer ALPR information, except to another public agency, and only as otherwise permitted by law. For purposes of this section, the provision of data hosting or towing services shall not be considered the sale, sharing, or transferring of ALPR information.”

Therefore, the data would not be produced as part of a Public Records Act Request.