



**CITY OF PITTSBURG
AGENDA**

OCTOBER 05, 2020

**CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA**

**CLOSED SESSION
6:00 P.M.**

**REGULAR MEETINGS
7:00 P.M.**

**CITY COUNCIL
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II**

PRESIDING

**Jelani Killings, Mayor/Chair
Marilyn “Merl” Craft, Vice-Mayor/Chair
Holland Barrett White, Council Member/Board Member
Shanelle Scales-Preston, Council Member/Board Member
Juan Antonio Banales, Council Member/Board Member**

PLANNING COMMISSION MEMBERS (WORKSHOP ONLY)

**Sarah Foster, Chair
Christopher Moreno, Vice-Chair
Dr. Trinh Nguyen, Commissioner
Wolfgang Croskey, Commissioner
James Coniglio, Commissioner
Punita Bhasin, Commissioner
Elissa Robinson, Commissioner**

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City’s website at www.ci.pittsburg.ca.us. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk’s Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.



**PUBLIC ADVISORY:
THE CITY COUNCIL CHAMBER WILL NOT BE OPEN TO THE PUBLIC**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the meeting of the City Council for October 5, 2020 will be conducted electronically through Zoom and broadcast live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber will not be open for the meeting. Council Members will be participating electronically and will not be physically present in the Council Chamber.

Comments can be submitted via email to meetingcomments@ci.pittsburg.ca.us. If you wish to have your comments read to the Council Members during the appropriate Public Comment period, please indicate in the Subject Line "FOR PUBLIC COMMENT" and list the item number you wish to comment on. If your comment is for a non-agenda item, indicate "FOR PUBLIC COMMENT – NON AGENDA." Comments that you want read to the Council will be subject to the three minute time limitation (approximately 350 words). Written comments that are only to be provided to Council and not read at the meeting will be distributed to the Council prior to the meeting if received by 5:00 p.m. the date of the meeting. Comments via text and social media (Facebook, Twitter, etc.) will not be accepted. Just as in a live meeting inside the Council Chamber, only one comment per agenda item per person is allowed. If you comment more than once on a particular topic, only the first email will be read aloud.

The City of Pittsburg thanks you in advance for taking all precautions to prevent the spread of the COVID 19 virus.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.

6:00 P.M. - CONVENE IN CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION;
Significant exposure to litigation pursuant to Section 54956.9(d)(2)

Number of cases: one

7:00 P.M. - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

WORKSHOP - Joint with Planning Commission

2. Update on Senate Bill 743 Implementation

PRESENTATION

3. Code Enforcement Update

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

PUBLIC COMMENTS

See Public Advisory.

CITY COUNCIL MEETING

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members participate). (No Action Required)

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, AND SOUTHWEST PITTSBURG GHAD II CONSENT CALENDAR

4. Minutes of September 21, 2020
5. Adoption of a City Council Resolution to Authorize Allocation of U.S. Department of Justice – Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (J.A.G.)

The Pittsburg Police Department has submitted a preliminary application to the U.S. Department of Justice for funding under the Edward J. Byrne Memorial Justice Assistance Grant (J.A.G) Program in the amount of \$22,342.00.

6. Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Employees in the Pittsburg Police Managers' Group for the Period July 1, 2020–June 30, 2021

The Memorandums of Understanding between the City of Pittsburg and the Pittsburg Police Managers' Group (PMG) expired on June 30, 2020. The City and PMG representatives started negotiation sessions in March 2020 to develop a successor Memorandum of Understanding (MOU), and have reached a tentative agreement on the terms and conditions of employment for fiscal year 2020-2021 that provides for a contract term extension through June 30, 2021, a circumscribed reopening of the contract in November 2020, and specific revisions to certain articles of the MOU to be amended. Should Council approve these terms, staff will prepare a successor MOU that incorporates the agreed upon changes.

7. Adoption of a City Council Resolution to Authorize Allocation of U.S. Department of Justice – Coronavirus Emergency Supplemental Funding Program Grant

The Pittsburg Police Department has been awarded grant funding in the amount of \$63,695 from the U.S. Department of Justice for funding under the Coronavirus Emergency Supplemental Funding Program (C.E.S.F.).

8. Adoption of a City Council Resolution Authorizing the Fourth Amendment to a Consultant Service Agreement with JML Planning for the Diablo Energy Storage Project

The Diablo Energy Storage Project was approved by the City in 2018 (with modifications approved on May 26, 2020). The project includes construction of a cube and core energy storage facility at 701 Willow Pass Road, along with ancillary power connection infrastructure. Pittsburg contract planning staff (JML Planning) is requesting a fourth contract amendment to their contract in order to complete work on the project (primarily related to building permit and Habitat Conservation Plan reviews). Since this proposed 4th amendment exceeds City Manager signing authority, staff is requesting adoption of a resolution authorizing the 4th amendment to the JML Planning contract.

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)
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ADJOURNMENT to October 19, 2020

NOTICE TO PUBLIC

GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.ci.pittsburg.ca.us. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action take by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.ci.pittsburg.ca.us on the Streaming Media page. Past meetings are also archived on that webpage. City Council meetings are also broadcast live on CCTV, Channel 24 also re-run at a later date. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2020

Updated February 3, 2020

<u>OUTSIDE AGENCY BOARDS</u>	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
ABAG	Jelani Killings / Merl Craft Alternate	Standing	Annual	G. Evans
Delta Diablo**	Juan Banales / Shanelle Scales-Preston Alt.	Standing	2 nd Wednesday	F. McKinley
East Co. Co. County Habitat Conservancy	Juan Banales / Holland White Alternate	Standing	Monthly	K. Pollot
East County Water Management	Merl Craft / Holland White Alternate	Standing	Annual	F. McKinley
MCE Clean Energy Board	Shanelle Scales-Preston / Juan Banales Alt.	Standing	4 Per Year	D. Buchanan
TRANSPLAN / ECCRFFA	Juan Banales / Holland White Alternate	Standing	2 nd Thursday	J. Hecht
Tri-Delta Transit (2 reps)***	S. Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	Last Wednesday	J. Hecht
<u>LIAISON TO</u>	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
East Bay League of Calif. Cities	Jelani Killings / Juan Banales Alt.	Standing	3 rd Thursday	*Rotational
Mayor's Conference	Juan Banales / Jelani Killings Alt.	Standing	1 st Thursday	G. Evans
School Districts Committee (2x2)	Holland White & Jelani Killings / Merl Craft Alt.	Standing	4 th Thursday even months	G. Evans
<u>SUBCOMMITTEES</u>	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
CAC CDBG Subcommittee	S. Scales-Preston & Jelani Killings / Holland White Alt.	Standing	As needed	M. Aliotti
Camp Stoneman Anniversary Celebration	Merl Craft & Shanelle Scales-Preston	Ad Hoc	As needed	Evans/Simonton
City Infrastructure and Transportation	Juan Banales & S. Scales-Preston / Holland White Alt.	Standing	TBD	G. Evans
Community Services Subcommittee	Juan Banales & Holland White	Ad Hoc	As needed	G. Evans/M. Aliotti
Flag Protocols	Holland White & Shanelle Scales-Preston	Ad Hoc	As needed	J. Davis
Hills Committee	Juan Banales & Holland White / Merl Craft Alt.	Ad Hoc	As needed	G. Evans
Pittsburg Recognition Committee	Merl Craft / Juan Banales Alt.	Ad Hoc	As needed	J. Hecht
Economic Develop/Waterfront Subcommittee	Jelani Killings & Holland White / Juan Banales Alt.	Standing	Quarterly	K. Simonton
Finance Subcommittee	Jelani Killings & Juan Banales / Merl Craft Alt.	Standing	As needed	B. Farmer
Land Use Subcommittee	Juan Banales & Holland White / Merl Craft Alt.	Ad Hoc	As needed	K. Pollot
Pittsburg Arts & Community Foundation	Merl Craft & S. Scales-Preston / Jelani Killings Alt.	Standing	As needed	G. Evans
Pittsburg Police Activities League (PAL)	S. Scales-Preston & Holland White / Juan Banales Alt.	Standing	Monthly	B. Addington
Power Company Advisory	S. Scales-Preston & Holland White / Merl Craft Alt.	Standing	As needed	D. Buchanan
Sister City Committee	Jelani Killings & Merl Craft / Holland White Alt.	Ad Hoc	As needed	K. Simonton
Successor Agency Subcommittee	Merl Craft & Jelani Killings / S. Scales-Preston Alt.	Standing	As needed	M. Aliotti

*Rotational Staff as assigned by City Manager

**Stipend of \$209 per month

***Stipend of \$100 per month

COMMISSION/SUBCOMMITTEE MEETING SCHEDULE

Following is a tentative list of currently scheduled Commission meetings for the upcoming month. For further information, please visit our website at www.ci.pittsburg.ca.us and click on the CALENDAR link for meetings, dates, times and locations.

Commission	Tentative Meeting Dates
Planning Commission	2 nd and 4 th Tuesdays
Community Advisory Commission	1 st Wednesday

Planning Commission meetings are regularly held the second and fourth Tuesdays of the month in the Pittsburg City Hall Council Chambers.

Community Advisory Commission meetings are regularly held the first Wednesday of the month in the Pittsburg City Hall Council Chambers.

In addition to the Commission Meetings listed above, there are several Council Member Subcommittees that meet on an “as needed basis”. For a list of subcommittees that Council Members and staff are assigned to, please see the “Council Committee List” attached to the agenda.

Subcommittee Meetings that are anticipated to occur in the coming month vary. The meeting dates, times and locations for these meetings are yet to be determined. This information will be posted on the City’s website, www.ci.pittsburg.ca.us, as soon as it is determined. Please check the Calendar on the City’s website for information.

For further information, contact the City staff member assigned to that Commission or Subcommittee.

GMP Task Force: Update on SB 743 Implementation

Matt Kelly, CCTA and David Early, PlaceWorks

Pittsburg Planning Commission and City Council

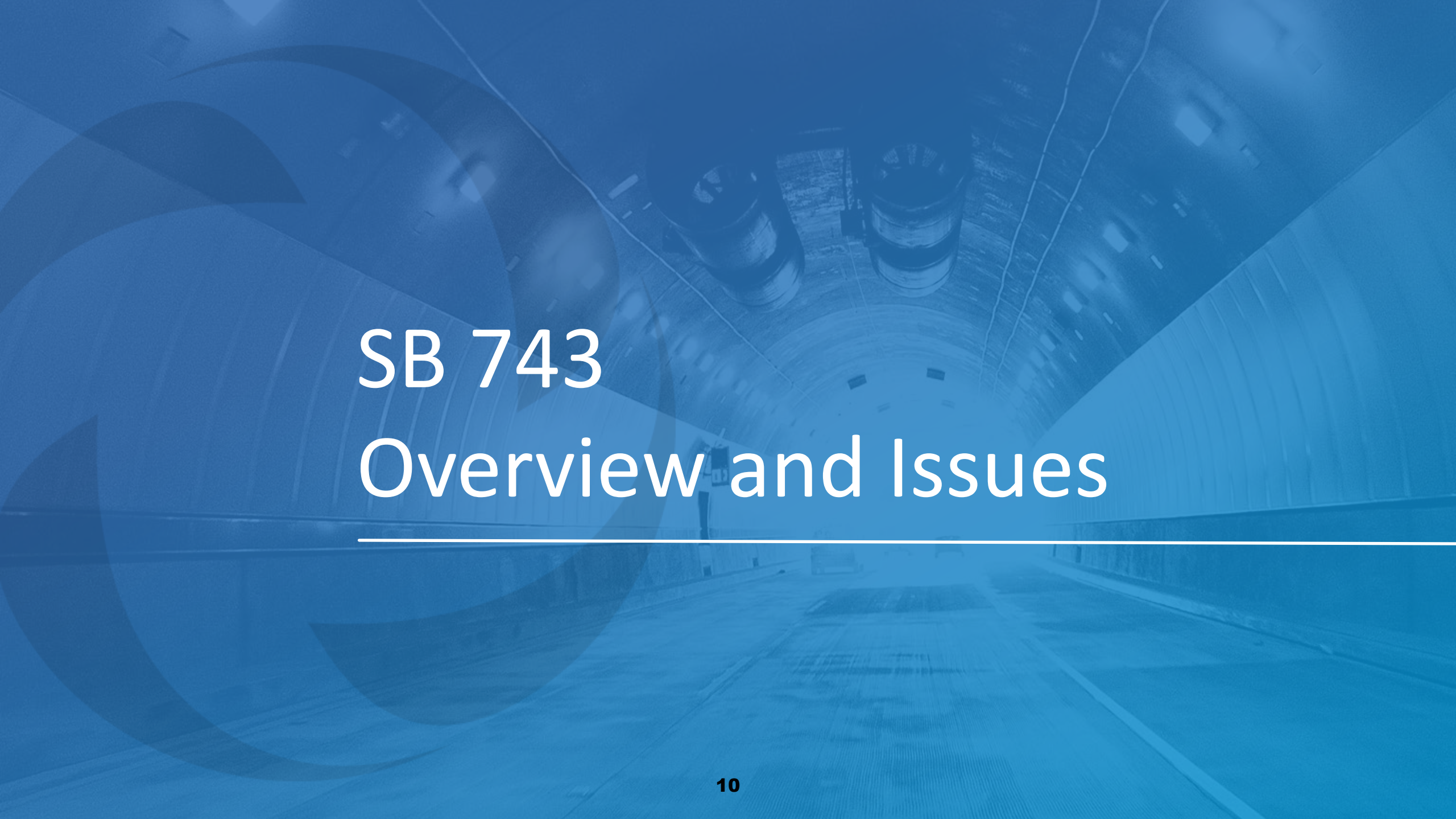
October 5, 2020



CONTRA COSTA
transportation
authority

Tonight's Presentation

- **SB 743 Overview**
- **VMT in Contra Costa County**
- **CCTA Growth Management Task Force Model VMT Policy**



SB 743 Overview and Issues

SB 743 Background and Legislative Intent

Ensure that the environmental impacts of traffic (noise, air, safety) continue to be addressed in CEQA

More appropriately balance the needs of congestion management with statewide goals related to:

- Infill development
- Transit investment
- Increasing the diversity of land uses
- Promotion of public health through active transportation, and
- Reduction of greenhouse gas emissions

SB 743 Background and Legislative Intent

What it Changes in CEQA:

- Eliminates vehicle delay as a measure of significant environmental impact
- Adds VMT as a measure of significant environmental impact

Timing



Local Agency Actions

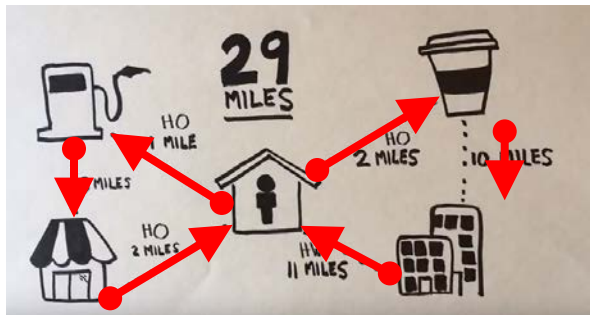
- Establish guidelines for how a project's VMT analysis should be conducted
- Adopt thresholds to define:
 - ▶ Projects requiring no detailed analysis (screening)
 - ▶ Significant VMT impacts
- Determine feasible mitigation measures



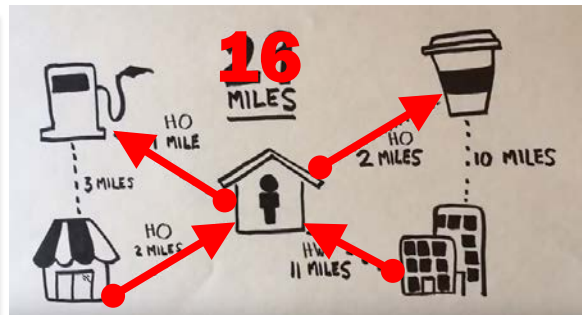
How to Express VMT

- VMT can capture all trips, or only certain types of trips such as home-based or work-based only
- VMT can be expressed in total or per capita
- CEQA Guidelines give lead agencies discretion to choose among these metrics

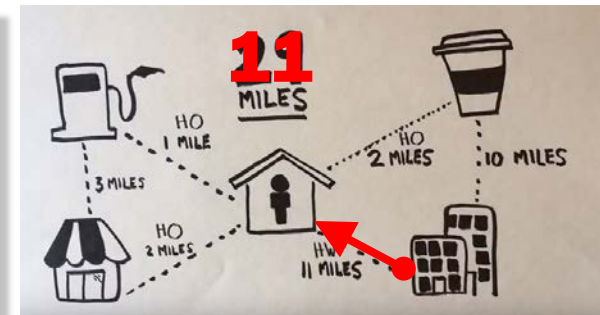
Total VMT



Home-Based VMT



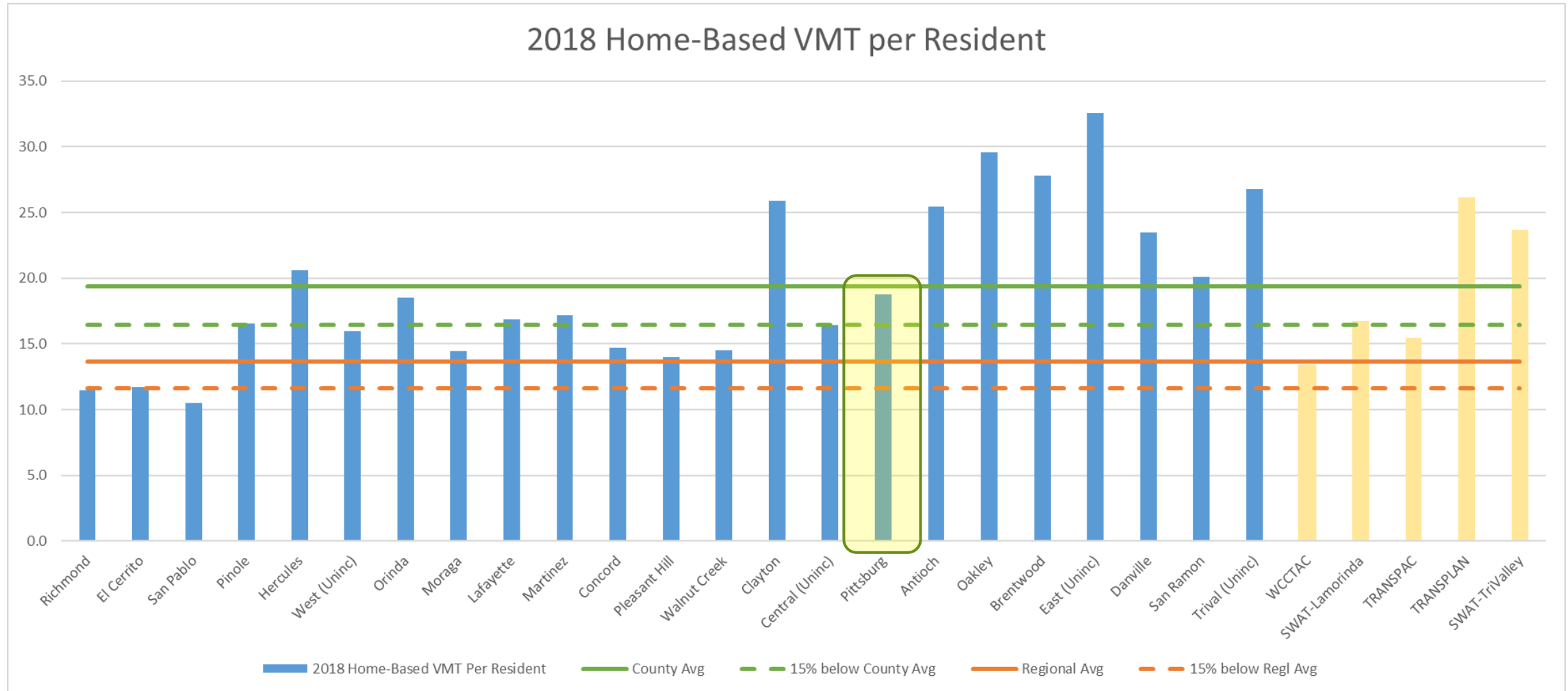
Commute VMT





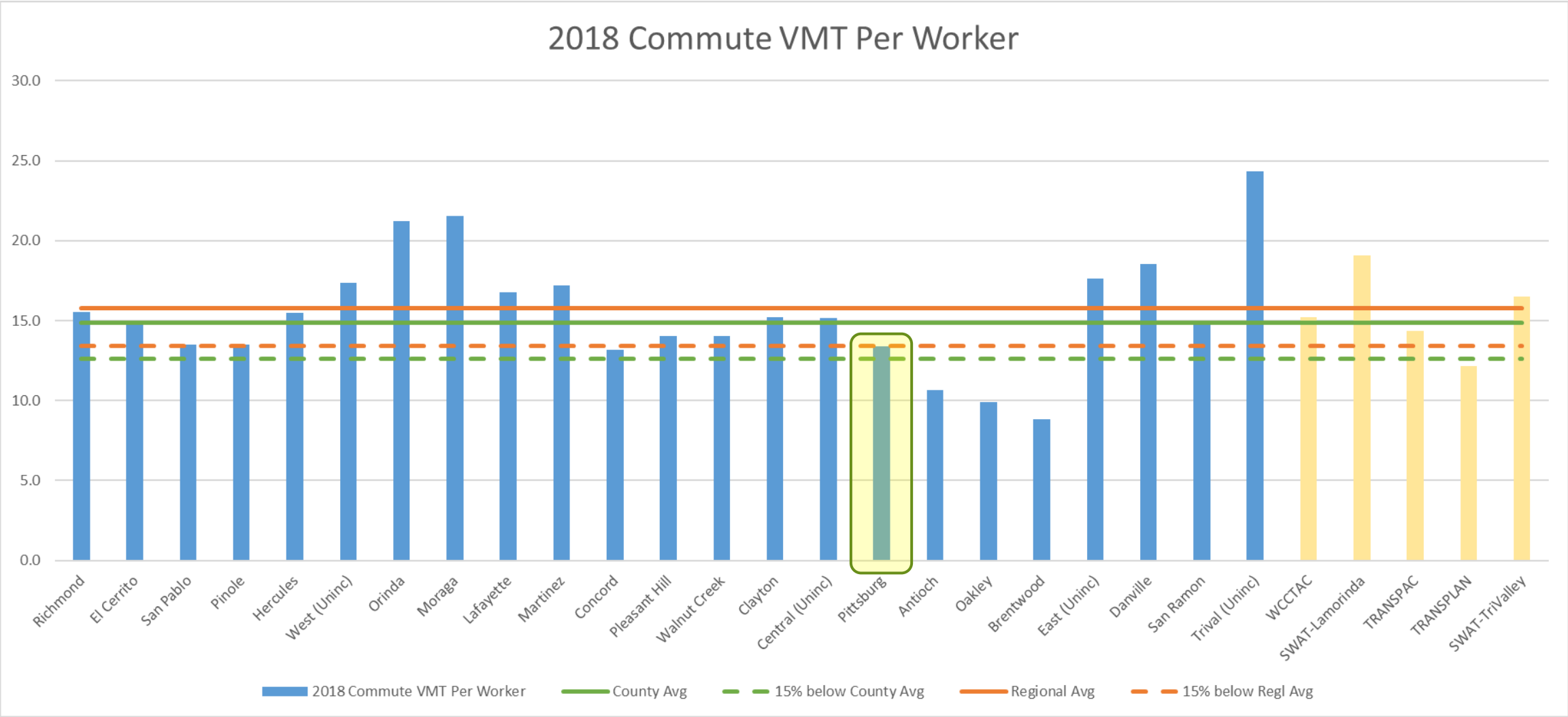
VMT in Contra Costa County

2018 Residential VMT per Capita



Draft – for Discussion Purposes Only

2018 Commute VMT per Worker



Draft – for Discussion Purposes Only



CCTA Growth Management Task Force Model VMT Policy

Overall Policy

- In order to comply with Growth Management Plan requirements, all local jurisdictions are required to conduct VMT analyses meeting minimum requirements created by CCTA
- Assessment and mitigation for roadway capacity will also continue under the GMP



VMT Screening

○ Projects exempt from VMT analysis:

- ▶ Any project that is exempt from analysis under CEQA
- ▶ Projects located in Transit Priority Areas
- ▶ “Small” projects of 10,000 square feet or less of non-residential space or 20 residential units or less
- ▶ Transportation projects that can be presumed to lower VMT (bike/ped/transit)
- ▶ Projects located in jurisdictions with low VMT, as follows:
 - ▶ ***Housing projects that have existing per capita home-based VMT that is 85% or less of the existing County-wide average***
 - ▶ ***Employment-generating projects that have existing per capita work commute VMT that is 85% or less of the existing regional average***

VMT Analysis Metrics

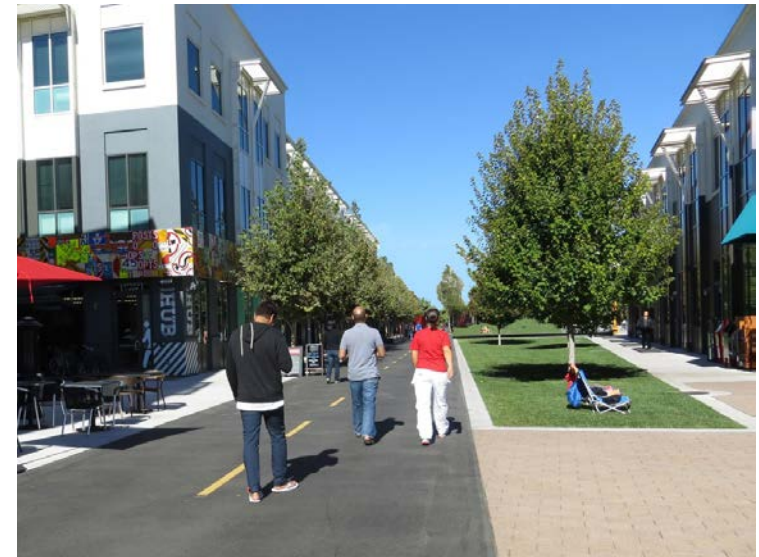
- Housing projects will use home-based VMT per resident (County-wide average)
- Employment-generating projects will use commute VMT per worker (Regional average)
- All other projects will be analyzed using modeling of generation of total additional VMT



VMT Significance and Mitigation Criteria

○ Minimum mitigation criteria for projects that are not exempted

- ▶ Housing projects are required mitigation to reduce their projected VMT down to either:
 - ▶ 85% of the County-wide average home-based VMT; or
 - ▶ 85% of the jurisdiction's existing home-based VMT (whichever existing VMT average is greater)
- ▶ Employment-generating projects are required to reduce their projected VMT down to either:
 - ▶ 85% of the Bay Area regional average work commute VMT; or
 - ▶ 85% of the jurisdiction's existing work commute VMT, (whichever existing VMT average is greater)



Mitigation of VMT Impacts

- CCTA will develop a set of tools to assist local jurisdictions in mitigating VMT including:
 - ▶ A toolkit of urban design and land use strategies
 - ▶ An expanded TDM program with VMT reductions
 - ▶ A potential future VMT Mitigation Program (grant funded)
- Jurisdictions may adopt a Finding of Overriding Consideration if no feasible mitigation can be identified (no change)



Other Policy Considerations

- Jurisdictions will need to comply with policy to receive Return to Source funds
- Assessment procedures memo is available for jurisdictions to adopt or incorporate into local procedures
- Continued Capacity and Operational Analysis Mitigation – traffic operational analysis (LOS) moving forward
- CCTA will revisit Draft VMT Policy after two years, or sooner if requested by the Authority Board, to determine if adjustments are needed

Next Steps

○ Forthcoming documents:

- ▶ New work on transportation objectives for:
 - ▶ Bikes and pedestrians
 - ▶ Transit
 - ▶ Safety
 - ▶ Equity
 - ▶ Climate
- ▶ Draft GMP Implementation Guide
- ▶ Draft CCTA Technical Procedures
- ▶ Action Plans Updates



Questions? Comments?

**CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

DATE: September 21, 2020

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL.AGENCY MEMBERS

Jelani Killings, Mayor/Chair
Marilyn Craft, Vice-Mayor/Chair
Holland Barrett White, Council/Agency Member
Shanelle Scales-Preston, Council/Agency Member
Juan Antonio Banales, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS

Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the regular meeting of the City Council for September 21, 2020 was conducted electronically for Closed Session and through Zoom with broadcasting live through Granicus on the City's website. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chamber was not open for the meeting. Council Members participated electronically or through Zoom and were not physically present in the Council Chamber.

Mayor Killings called the meeting of the City Council to order at 7:06 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening at 5:30 P.M. in Closed Session for the following items:

1. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION; Significant exposure to litigation pursuant to Section 54956.9(d)(2)
Number of cases: one

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION pursuant to Section 54957:
City Attorney

3. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:

City designated representatives: Garrett Evans, Stacy Shell, Fritz McKinley, Brad Farmer

Employee organizations: American Federation of State, County, and Municipal Employees Local 512 Management/Professional/Confidential Unit and Miscellaneous A

Unit; Pittsburg Police Officers' Association; Pittsburg Police Managers Group; Teamsters Local 856; International Brotherhood of Electrical Workers Local 1295

Unrepresented employees: Management Group; Senior Executive Team

There was no reportable action taken in Closed Session.

ROLL CALL

Member Craft was absent and excused due to an extended medical leave.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATIONS

4. Quarterly Police Department Internal Affairs Investigations and Use of Force Report

Chief Addington introduced the Quarter 1 reports.

5. CORE (Coordinated Outreach Referral & Engagement) Team Overview and Response to Covid-19

Lavanna Morgan of Contra Costa Health Housing and Homeless Services presented a report on CORE's activities and the response to COVID-19.

CITY MANAGER REPORTS/REMARKS

City Manager Evans gave an update on the COVID-19 health order for the City of Pittsburg.

PUBLIC COMMENTS

There were no public comments.

COMMITTEE REPORTS

Mayor Killings attended the Economic Development, PACF, and Finance subcommittee meetings as well as the Mayors Conference.

Member Scales-Preston attended the Pittsburg Power Company subcommittee meeting and MCE board meetings, as well as the PACF subcommittee meeting. She thanked City Manager Evans for his involvement in the City Manager group's homeless and mental health services committee.

Member White attended the Economic Development Pittsburg Power Company and Community Services subcommittees.

PUBLIC HEARING

11. Adoption of a City Council Resolution Approving the 2019-2020 Community Development Block Grant Consolidated Annual Performance and Evaluation Report
Adoption of a Pittsburg Power Company Resolution Amending the Electric Tariff

Chair Killings opened the Public Hearing. There being no one to speak to the item, Chair Killings closed the Public Hearing.

On Motion by Member Scales-Preston, seconded by Mayor Killings to adopt and carried by the following vote:

AYES: Banales, Scales-Preston, White, Killings
ABSENT: Craft

CONSIDERATION

12. Adoption of a City Council Resolution Approving Possible Funding Options Related to Youth Services

On Motion by Member Scales-Preston, seconded by Member White to adopt and carried by the following vote:

AYES: Banales, Scales-Preston, White, Killings
ABSENT: Craft

CONFLICT OF INTEREST STATEMENT

There were no conflict of interest statements.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY AND SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR

On Motion by Member White, seconded by Member Scales-Preston to adopt and carried by the following vote:

AYES: Banales, Scales-Preston, White, Killings
ABSENT: Craft

13. Minutes of August 17, 2020

14. Adoption of a Pittsburg Arts and Community Foundation Resolution to approve the Budget for Fiscal Year 2020-21 and Appropriation of Funds for Fiscal Year 2020-21

15. Adoption of a Pittsburg Power Company Resolution Approving the 2019 Annual Power Source Disclosure Report to the California Energy Commission

16. Adoption of a Pittsburg Power Company Resolution Approving the Conduit Lease Agreement between Pittsburg Power Company and Factory OS LLC

17. Adoption of City Council and Geologic Hazard Abatement District II (GHAD) Resolutions Amending the Operating Budgets for Fiscal Year 2020-21
18. Adoption of a City Council Resolution Approving a Software Purchase and a Southwest Pittsburgh Geologic Hazard Abatement District II Resolution Approving a Loan to the City of Pittsburgh
19. Adoption of an Ordinance Amending the Municipal Code Chapter 2.80 Relating to the Establishment and Structure of the Pittsburgh Youth Advisory Commission
20. Adoption of a City Council Resolution Approving Contra Costa Transportation Authority's Measure J Growth Management Program Compliance Checklist for Calendar Years 2018 and 2019
21. Adoption of a City Council Resolution Amending City's Conflict of Interest Code
22. Adoption of a City Council Resolution Approving the Final Map, Subdivision Improvement Agreement and Improvement Plans for Subdivision 9480 San Marco Unit 13
23. Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Employees in the International Brotherhood of Electrical Workers Union, Local 1245 for the Period July 1, 2020 through June 30, 2021
24. Adoption of a City Council Resolution Authorizing the City Manager to Execute Agreement Between the City of Pittsburgh and Cole Pro Media, LLC

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

COUNCIL MEMBER REPORTS AND REMARKS

Mayor Killings announced the State of the City, hosted by the Chamber of Commerce, on Saturday, September 26.

ADJOURNMENT

The City Council meeting adjourned at 9:06 P.M. to October 5, 2020.

Respectfully submitted,

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Authorize Allocation of U.S. Department of Justice – Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (J.A.G.)

MEETING DATE: October 5, 2020

EXECUTIVE SUMMARY

The Pittsburg Police Department has submitted a preliminary application to the U.S. Department of Justice for funding under the Edward J. Byrne Memorial Justice Assistance Grant (J.A.G) Program in the amount of \$22,342.

FISCAL IMPACT

No impact to the City's General Fund. Upon award of grant funds, the Police Department is requesting appropriation of \$22,342 to the Fiscal Year 2020-21 budget in Fund 291 to fund an education, training and personal development program for police officers and to hire a consultant to lead the development of the Department's first three to five year strategic plan.

RECOMMENDATION

The City Council approve the attached resolution authorizing the appropriation of J.A.G. grant funds and authorizing the City Manager or his designee to act on the City's behalf relative to this grant including the establishment of necessary fiscal accounting.

BACKGROUND

The U.S. Department of Justice initiative titled the Edward Byrne Memorial Justice Assistance Grant Program was developed approximately 20-years ago in honor of Edward Byrne, a 22-year old New York City Police Officer who was killed in the line of duty. The J.A.G Program is the leading source of federal justice funding to state and local jurisdictions. The J.A.G Program provides states, tribes, and local governments with critical funding necessary to support a range of program areas including, but not limited to, law enforcement, prosecution, technology improvement, crime prevention, education, corrections and community corrections.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

The Department's overall goal is to use funds from the Edward Byrne Memorial Justice Assistance Grant to fund police officer training and professional development as well as hiring a consultant to lead the development of the Department's first three to five year strategic plan.

The purpose of strategic planning is to set overall goals for the Police Department and to develop a plan to achieve them. Members of the Police Department will work closely with Pittsburg community members, businesses, educators and city employees to produce a plan that will identify the organization's priorities, represent the department's vision for the future, and to address community concerns through an insightful examination into emerging issues.

In addition to strategic planning, the Police Department intends to utilize J.A.G Program funds for police officer training, education and professional development. Regular on-going training develops interpersonal skills through the department by improving communications, confidence and capability. Police training is an important and necessary part of evolving and innovating along with the community.

The training, education and professional development program will encompass areas and tackle important topics such as de-escalation, relationship-based policing, diversity, implicit bias and community interaction. A vital element of the program includes traveling to and experiencing important museums such as the Museum of Tolerance, a multimedia museum in Los Angeles, California, the National Museum of African American History and Culture and the United States Holocaust Memorial Museum located in Washington, D.C. Museums provide an effective way of learning. They can inspire and change perspectives.

The Police Department has applied for \$22,342 from the U.S. Department of Justice, Bureau of Justice Assistance through the Edward Byrne Memorial Justice Assistance Grant. The Department requests authorization to accept appropriate the grant funds.

ATTACHMENTS: Resolution

Report Prepared By: Brian Addington, Chief

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the matter of:

Approving Acceptance and Authorizing)
Use of Funds from the U.S. Department)
Of Justice Edward Byrne Memorial)
Justice Assistance Grant)

RESOLUTION NO. 20-

The Pittsburgh City Council FINDS AND DETERMINES as follows:

WHEREAS, the Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows local governments to support a broad range of activities to prevent crime and improve the criminal justice system; and

WHEREAS, the Police Department has applied for \$22,342 in program funds to fund an education, training and personal development program for police officers and to hire a consultant to lead the development of the Police Department's first three to five year strategic plan.

NOW, THEREFORE, the City Council DOES RESOLVE as follows:

- Section 1. The City Council finds and determines that the above recitals are true and correct and are incorporated herein.
- Section 2. The Police Department is authorized to accept grant funds from the U.S. Department of Justice Bureau of Justice Assistance and allocate their expenses to fund an education, training and personal development program for police officers and to hire a consultant to lead the development of the Police Department's first three to five year strategic plan.
- Section 3. The City Manager or his designee is authorized to accept the grant on the City's behalf, including the establishment of necessary fiscal accounting from Fund 291 and execution of all necessary documents.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 5TH day of October 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

ATTEST:

Jelani Killings, Mayor

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Approving the Terms and Conditions of Employment for Employees in the Pittsburg Police Managers' Group for the Period July 1, 2020–June 30, 2021

MEETING DATE: October 5, 2020

EXECUTIVE SUMMARY

The Memorandum of Understanding between the City of Pittsburg and the Pittsburg Police Managers' Group (PMG) expired on June 30, 2020. The City and PMG representatives started negotiation sessions in March 2020 to develop a successor Memorandum of Understanding (MOU), and have reached a tentative agreement on the terms and conditions of employment for Fiscal Year 2020-2021 that provides for a contract term extension through June 30, 2021, a circumscribed reopening of the contract in November 2020, and specific revisions to certain articles of the MOU to be amended. Should the City Council approve these terms, staff will prepare a successor MOU that incorporates the agreed upon changes.

FISCAL IMPACT

There is no fiscal impact for the proposed amendments to the MOU.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving the September 9, 2020 tentative agreement, authorizing the City Manager to prepare and execute a successor MOU between the City of Pittsburg and PMG for the period of July 1, 2020 – June 30, 2021.

BACKGROUND

With the onset of the COVID-19 pandemic and resulting economic impacts, the City expects a marked decrease in revenue for Fiscal Year 2020-2021. As a result, the City's fiscal uncertainty has severely limited its current ability to achieve productive labor negotiation on compensation matters with its employee bargaining units.

The City and PMG representatives started meeting in March 2020 to negotiate a successor MOU. During the parties' negotiation sessions, two (2) tentative agreements were reached for amendments to language of the current MOU and a one-year contract extension with a circumscribed reopening of the MOU in November 2020.

The PMG membership ratified the parameters of the tentative agreement package on September 10, 2020. For additional details and changes to terms and conditions of employment, please refer to the Staff Analysis section of this report and Exhibit A – Tentative Agreements between the City of Pittsburgh and the PMG bargaining unit.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

PMG unit members are deeply committed to providing a level of excellence in public service and responding effectively and efficiently to the needs of the Pittsburgh community. While the City's ability to effectively recruit and retain qualified employees is related to the quality of the total compensation package offered, the City and PMG also recognize that current unprecedented financial challenges and anticipated budget shortfalls call for a temporary pause in labor negotiation efforts on compensation matters.

In accordance with the Meyers-Milias-Brown Act, the City Council is asked to approve the terms and conditions of employment for employees in the PMG bargaining unit for the period July 1, 2020 through June 30, 2021.

The terms and conditions of the tentative agreement include the following amendments to the current MOU:

- 1) 12-month extension of the current MOU;
- 2) Section 2.1 – Reopener: New section to provide an opportunity to reopen the MOU in November 2020 if initiated by either party; and
- 3) Section 7.1 – Uniform Allowance: Modifies frequency of allowance payments

For additional details of the changes agreed upon, please refer to Exhibit A – Tentative Agreements between the City of Pittsburgh and the PMG bargaining unit.

ATTACHMENTS: Exhibit A – Tentative Agreements between the City of Pittsburgh and the PMG bargaining unit
Exhibit B – Resolution

Report Prepared By: Stacy Shell, Director of Human Resources

COLLECTIVE BARGAINING BETWEEN

CITY OF PITTSBURG

AND

POLICE MANAGERS' GROUP

CITY COUNTER PROPOSAL

June 25, 2020

Modified: September 3, 2020

12-month extension of the current MOU, with all tentative agreements the parties may reach with respect to language clean-up.

2.1 Reopener (New Section)

Either party to the MOU may reopen a maximum of two (2) sections in the MOU by notifying the other party in writing between November 15, 2020 and December 1, 2020, inclusive, of their desire to negotiate the items. If neither party triggers the reopener, negotiations regarding the MOU will be for the successor MOU. If either party triggers the reopener by December 1, 2020. The party shall identify the specific sections to be reopened, provide their respective proposals for the particular sections, and promptly return to the collective bargaining table (within 10 days) to begin negotiations over the proposals presented by either side. Each party will present initial counter proposals to the other party's proposals no later than the parties first meeting date.

TA 
Date: 9/8/20

TA 
Date: 9/7/20

COLLECTIVE BARGAINING BETWEEN

CITY OF PITTSBURG

AND

POLICE MANAGERS' GROUP

CITY PROPOSAL

June 25, 2020

7.1 Uniform Allowance

The annual uniform allowance is one thousand dollars (\$1,000). The uniform allowance is prorated every pay period ~~payable twice a year with a regular paycheck, for the first pay period in June and the first pay period in December, representing payment for the prior six (6) month period. Employees not employed for the full six (6) month period will be entitled to a prorate share of the six (6) month allowance.~~

The Chief of Police shall prescribe minimum standards of appearance for police department employees. Different standards may be applied to different classes, depending upon the type of work required of the employees. Employees shall be neatly groomed and suitably dressed for their duties, so that they present a favorable appearance to the public.

If the City provides at City expense either a uniform allowance or uniforms, the Chief of Police shall ordinarily require the employee to wear the prescribed uniform on duty. The Chief of Police may require some employees who receive uniform allowances or who are furnished with uniforms, to wear other clothing on duty, either regularly or occasionally, if the needs of the department require it.

TA

Date: 9/8/20

TA

Date: 9/9/20

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

A Resolution Approving the Terms and)	RESOLUTION NO. 20-
Conditions of Employment for Employees)	
in the Pittsburgh Police Managers' Group for)	
the period of July 1, 2020 through)	
<u>June 30, 2021</u>)	

The Pittsburgh City Council FINDS AND DETERMINES as follows:

WHEREAS, the Memorandum of Understanding between the City of Pittsburgh and the Pittsburgh Police Managers' Group (PMG) expired on June 30, 2020; and

WHEREAS, City representatives and the duly appointed representatives of the PMG bargaining unit have met and conferred in accordance with Section 3500 et seq. of the California Government Code; and

WHEREAS, the membership of the PMG bargaining unit ratified the attached agreement on September 10, 2020; and

WHEREAS, the staff recommend the terms and conditions of the agreement to be approved by the City Council; and

WHEREAS, the staff will prepare a successor MOU that incorporates the agreed upon changes upon adoption of this Resolution.

NOW, THEREFORE the City Council DOES RESOLVE as follows:

Section 1. The recitals set forth above are true and correct statements and are hereby incorporated in conjunction with the staff report.

Section 2. The City Council hereby approves the attached terms and conditions and directs staff to prepare a Memorandum of Understanding setting forth the terms and conditions.

Section 3. The Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 5th day of October, 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Authorize Allocation of U.S. Department of Justice – Coronavirus Emergency Supplemental Funding Program Grant

MEETING DATE: October 5, 2020

EXECUTIVE SUMMARY

The Police Department has been awarded grant funding in the amount of \$63,695 from the U.S. Department of Justice for funding under the Coronavirus Emergency Supplemental Funding Program (C.E.S.F.).

FISCAL IMPACT

No impact to the City General Fund. The Police Department is requesting appropriation of \$63,695 to the Fiscal Year 2020-21 budget to be used for the purchase of Personal Protective Equipment, necessary sanitation products and equipment to protect persons handling biohazard evidence.

RECOMMENDATION

The City Council approve the attached resolution authorizing the appropriation of funds and authorizing the City Manager or his designee to act on the City's behalf relative to this grant including the establishment of necessary fiscal accounting.

BACKGROUND

The U.S. Department of Justice, Bureau of Justice Assistance, Coronavirus Emergency Supplemental Funding (C.E.S.F.) Program was established to assist eligible states and local units of government in preventing, preparing for, and responding to the Coronavirus.

The Police Department has been awarded \$63,695 from the U.S. Department of Justice, Bureau of Justice Assistance through the Coronavirus Emergency Supplemental Funding Program.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

COVID-19 exposure is the new, unseen danger that law enforcement officers now face in the line of duty. A single case of COVID-19 within an agency has the potential to paralyze critical services. If a significant proportion of first responders contract COVID-19 at the same time, the ability to provide services that are critical to saving lives and property will be reduced significantly. Protecting the health of first responders is a top priority while also continuing to provide timely response to calls for service.

Based on the Centers for Disease Control (C.D.C.) guidelines, a first responder should use Personal Protective Equipment (P.P.E.) to decrease the likelihood of contracting Covid-19. In order to mitigate the risk of exposure, and ensure the safety of its officers, the Police Department will allocate a portion of the program funds to purchase P.P.E. The P.P.E. will include protective gloves, N95 masks, and eye protection. Prevention also requires frequently sanitizing work areas, therefore necessary sanitation products such as hand sanitizer, disinfectant wipes and sprays are also included.

The greatest risk of infection to personnel processing evidence is through skin or mucus membrane contact. To prevent aerosol exposure, evidence should be handled and stored under conditions where dried blood, bacteria, viruses or fungi do not become airborne. The health and safety of persons handling biohazard evidence is the utmost importance.

Utilizing these grant funds, the Police Department will purchase two blood drying cabinets equipped with ultra violet lighting. Evidence drying cabinets address health and safety issues of drying evidence that may contain biohazards. By isolating and containing biohazards to a specific area that can easily be decontaminated and preventing the biohazards from becoming airborne, the use of evidence drying cabinets greatly increase the safety of evidence personnel, police officers and others working in the building. In addition to the blood drying cabinets, the Police Department will purchase two air purifiers and one filtered hood for the safety of evidence personnel and police officers to reduce odor and other harmful contaminants and airborne viruses emitted from dried blood evidence.

To mitigate the risk of Covid-19 exposure to law enforcement officers, the Department's overall goal is to use funds from C.E.S.F. to purchase necessary P.P.E. and sanitation products, two blood drying cabinets, one filtered hood and two air purifiers. The Department requests City Council authorization to accept and appropriate the grant funds.

ATTACHMENTS: Resolution

Report Prepared By: Brian Addington, Chief

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the matter of:

Approving Acceptance and Authorizing)
Use of Funds from the U.S. Department)
Of Justice Coronavirus Emergency)
Supplemental Funding Program Grant)

RESOLUTION NO. 20-

The Pittsburgh City Council FINDS AND DETERMINES as follows:

WHEREAS, the Coronavirus Emergency Supplemental Funding Program (C.E.S.F.) was established to assist states and local units of government in preventing, preparing for, and responding to the Coronavirus.; and

WHEREAS, the Police Department has applied for and was awarded \$63,695 in program funds to be used for the purchase of Personal Protective Equipment (P.P.E.), sanitation products and equipment to protect persons handling biohazard evidence.

NOW, THEREFORE, the City Council DOES RESOLVE as follows:

- Section 1. The City Council finds and determines that the above recitals are true and correct and are incorporated herein.
- Section 2. The Police Department is authorized to accept grant funds from the U.S. Department of Justice Bureau of Justice Assistance and allocate their expense to the purchase of protective equipment, sanitation products and equipment to protect persons handling biohazard evidence.
- Section 3. The City Manager or his designee is authorized to accept on the City's behalf relative to this grant, including the establishment of necessary fiscal accounting and execution of all necessary documents.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 5TH day of October 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

ATTEST:

Jelani Killings, Mayor

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the Fourth Amendment to a Consultant Service Agreement with JML Planning for the Diablo Energy Storage Project

MEETING DATE: October 5, 2020

EXECUTIVE SUMMARY

The Diablo Energy Storage Project was first approved by the City in 2018 for construction of an energy storage facility at 701 Willow Pass Road. Staff is recommending approval of a fourth contract amendment requested by the City's consultant, JML Planning, in order to complete its work on the project, primarily related to building permits and Habitat Conservation Plan reviews. Costs will be reimbursed by the project developer.

FISCAL IMPACT

The City Council is being requested to allocate to the consultant budget an additional \$21,500, to be deposited by the applicant, and authorize the City Manager to execute Amendment Four to the contract with JML Planning for a new total contract amount not to exceed \$90,000.

RECOMMENDATION

City Council adopt the attached resolution authorizing execution of the 4th amendment to the consultant service agreement with JML Planning for contract planning services related to the Diablo Energy Storage Project.

BACKGROUND

On September 12, 2017, the City and Consultant entered into the initial agreement ("Principal Agreement") to perform planning services not to exceed \$25,000, to process a planning application for the proposed installation of an energy storage facility on an approximate 14-acre site located at 701 Willow Pass Road.

On April 6, 2018, the City and Consultant executed a First Amendment to the contract to increase the compensation to \$46,000, to cover additional work associated with the project including the review of several drafts of the Initial Study/MND, several drafts of the noise study, a request for public records, and additional clarification needed for the project description.

On October 1, 2018, the project was approved by the City Council; however, following this approval, the applicant began discussions with staff on potential project modifications. As a result of this additional project review, the City and Consultant executed a Second Amendment increasing the compensation to \$53,500.

On March 9, 2020, the applicant filed a new planning application to modify their existing design review approval to accommodate requested project changes and on March 12, 2020, the City and Consultant executed a Third Amendment increasing the maximum compensation to \$68,500 for the additional work that would be needed to process the newly submitted planning application.

This subsequent application was approved by the Planning Commission on May 26, 2020; however, review of building permit submittals and Habitat Conservation Plan compliance documents has been more time-consuming than was expected. To cover the costs associated with this additional work and complete the permitting process, the Consultant submitted a request for a fourth contract amendment for this work, and an increase to the maximum compensation to \$90,000.

The applicant has reviewed the requested increase and agreed to deposit funds with the City of Pittsburgh to cover the cost of the fourth contract amendment.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

The City's consultant, JML Planning, requested a contract amendment in order to complete its work on the project, primarily related to building permit and Habitat Conservation Plan reviews. Since this proposed fourth amendment exceeds the City Manager's signing authority, the amendment requires City Council approval.

Staff believes that the additional funds requested by JML Planning are warranted. The applicant has agreed to deposit the funds for the budget increase, and as such, it is recommended that the City Council authorize execution of the Fourth Amendment to the Agreement (attached).

ATTACHMENTS

1. Proposed Resolution
2. Resolution Exhibit A: 4th Amendment to the Contract

Report prepared by: Kristin Pollot, AICP, Planning Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Authorizing the Fourth	)	
Amendment to a Consultant Service	)	RESOLUTION NO. 20-
Agreement with JML Planning for the	)	
Diablo Energy Storage Project	)	

The Pittsburg City Council FINDS AND DETERMINES as follows:

WHEREAS, on September 12, 2017, the City and Consultant entered into an agreement ("Principal Agreement") to perform planning services to process a planning application for the proposed installation of an energy storage facility on an approximate 14-acre site located at 701 Willow Pass Road; and

WHEREAS, the Principal Agreement compensation maximum was \$25,000, and included processing of a use permit and design review application, rezoning request to modify the allowable uses within the existing overlay district, development agreement, California Environmental Quality Act (CEQA) compliance review, and any other additional entitlements that may be required in association with the proposed project; and

WHEREAS, on March 30, 2018, the Consultant encountered unanticipated additional work associated with the project including the review of several drafts of the Initial Study/MND, several drafts of the noise study, a request for public records, and additional clarification needed for the project description; and

WHEREAS, on April 6, 2018, the City and Consultant executed a First Amendment to increase the compensation to \$46,000; and

WHEREAS, on June 24, 2019, the City and Consultant executed a Second Amendment increasing the compensation to \$53,500 for additional time spent to review potential project changes submitted by the applicant in June 2019; and

WHEREAS, on March 9, 2020, the applicant filed a new planning application to modify their existing design review approval to accommodate requested project changes; and

WHEREAS, on March 12, 2020, the City and Consultant executed a Third Amendment increasing the maximum compensation to \$68,500 for the additional work of processing the newly submitted planning application; and

WHEREAS, on September 2, 2020, the Consultant submitted a fourth contract amendment request seeking to increase the maximum compensation to \$90,000 in order to cover additional costs primarily associated with reviewing the building plans (which include three separate submittal sets: project site foundation, tie line plans and building plans) and review of both the project site and the construction staging area for compliance with the Habitat Conservation Plan; and

WHEREAS, the applicant, Diablo Energy Storage, LLC, has agreed to deposit funds

with the City of Pittsburg sufficient to reimburse the cost of all project management services.

NOW, THEREFORE, the City Council DOES RESOLVE as follows:

Section 1.

The above Recitals are true and correct and incorporated herein.

Section 2.

The Fourth Amendment to the Agreement with JML Planning, as substantially presented in "Exhibit A" of this Resolution, is hereby approved.

Section 3.

The City Manager is hereby authorized to execute the Fourth Amendment to the Agreement with JML Planning on behalf of the City of Pittsburg up to the limits specified in the Agreement.

Section 4.

The Finance Director is hereby authorized to issue a new purchase order to JML Planning to implement the approved Fourth Amendment to the Agreement.

Section 5.

The Agreement shall be administered by the Planning Manager.

Section 6.

This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 5th day of October 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk

**FOURTH AMENDMENT TO
CONTRACT FOR PLANNING SERVICES AGREEMENT
FOR DIABLO ENERGY STORAGE PROJECT
BETWEEN
CITY OF PITTSBURG AND JML PLANNING**

This Fourth Amendment to the Principal Agreement made and entered into on September 12, 2017, hereafter referred to as Agreement, between JML Planning, therein referred to as Consultant, and the City of Pittsburg, a municipal corporation, therein referred to as City, is made and entered into on this ____ day of October, 2020.

RECITALS

WHEREAS, on September 12, 2017, the City and Consultant entered into an agreement ("Principal Agreement") to perform planning services to process a planning application for the proposed installation of an energy storage facility on an approximate 14-acre site located at 701 Willow Pass Road; and

WHEREAS, the Principal Agreement compensation maximum was \$25,000, and included processing of a use permit and design review application, rezoning request to modify the allowable uses within the existing overlay district, development agreement, California Environmental Quality Act (CEQA) compliance review, and any other additional entitlements that may be required in association with the proposed project; and

WHEREAS, on March 30, 2018, the Consultant encountered unanticipated additional work associated with the project including the review of several drafts of the Initial Study/MND, several drafts of the noise study, a request for public records, and additional clarification needed for the project description; and

WHEREAS, on April 6, 2018, the City and Consultant executed a First Amendment to increase the compensation to \$46,000; and

WHEREAS, on June 24, 2019, the City and Consultant executed a Second Amendment increasing the compensation to \$53,500 for additional time spent to review potential project changes submitted by the applicant in June 2019; and

WHEREAS, on March 9, 2020, the applicant filed a new planning application to modify their existing design review approval to accommodate requested project changes; and

WHEREAS, on March 12, 2020, the City and Consultant executed a Third Amendment increasing the maximum compensation to \$68,500 for the additional work of processing the newly submitted planning application; and

WHEREAS, on September 2, 2020, the Consultant submitted a fourth contract amendment request seeking to increase the maximum compensation to \$90,000 in order to cover additional costs primarily associated with reviewing the building plans (which include three separate submittal sets: project site foundation, tie line plans and building

plans) and review of both the project site and the construction staging area for compliance with the Habitat Conservation Plan.

NOW, THEREFORE, JML Planning and City do mutually agree as follows:

1. Compensation. Section 3A of the Agreement is hereby amended to read as follows:

The Consultant shall be paid for the actual fees, costs and expenses for all time and materials required and expended pursuant to Exhibit A, but in no event shall total compensation exceed Ninety Thousand Dollars (\$90,000), without City's prior written approval.

2. Exhibit A. Exhibit A is hereby replaced with Attachment 1 of this Fourth Amendment.

3. Integration. This Fourth Amendment contains the entire agreement between the parties with respect to its subject matter and supersedes whatever oral or written understanding they may have had prior to the execution of this Fourth Amendment. This Fourth Amendment shall not be amended or modified except by a written agreement executed by each of the parties. Except as specifically revised herein, all terms and conditions of the Agreement shall remain in full force and effect, and Consultant shall perform all duties, obligations and conditions required under the Agreement.

4. Inconsistencies. In the event of any conflict or inconsistency between the provisions of this Fourth Amendment, Third Amendment, Second Amendment, First Amendment, and the Agreement, the provisions of this Fourth Amendment shall control in all respects.

5. Ambiguities. The parties have each carefully reviewed this Fourth Amendment and have agreed to each term of this Fourth Amendment. No ambiguity shall be presumed to be construed against either party.

6. Counterparts. This Fourth Amendment may be executed by the parties in one or more counterparts all of which collectively shall constitute one document and agreement.

7. Authority. The person signing this Fourth Amendment for JML Planning hereby represents and warrants that he or she is fully authorized to sign this Fourth Amendment on behalf of JML Planning.

IN WITNESS WHEREOF, the parties have entered into this Fourth Amendment on the day and year first hereinabove appearing.

CONSULTANT:

JML PLANNING

By: _____

Joan Lamphier, Consulting Planner

CITY:

CITY OF PITTSBURG, a municipal
corporation of the State of California

By: _____

Garrett Evans, City Manager

ATTEST:

By: _____

Alice Evenson, City Clerk

APPROVED AS TO FORM:

By: _____

Donna Mooney, City Attorney

EXHIBIT A

Consultant shall perform the following services:

Process planning application for the proposed installation of an energy storage facility on an approximate 14-acre site located at 701 Willow Pass Road, including a use permit and design review application and rezoning request to modify allowable uses within the existing overlay district, development agreement, California Environmental Quality Act compliance review, and any other additional entitlements that may be required in association with the proposed project.

Process design review planning application submitted March 9, 2020, to replace the building with modular batteries, review revised plans and adopted Negative Declaration, prepare staff report, attend Planning Commission meeting.

Additional work related to reviewing the building plans (which include three separate submittal sets: project site foundation, tie line plans and building plans) and review of both the project site and the construction staging area for compliance with the Habitat Conservation Plan.

Hourly rate: \$250